

**ONTARIO
SUPERIOR COURT OF JUSTICE (Divisional Court)**

B E T W E E N:

FRIENDS OF SIMCOE FORESTS INC.

Applicant

- and -

**MINISTER OF MUNICIPAL AFFAIRS AND HOUSING, LOCAL
PLANNING APPEAL TRIBUNAL, CORPORATION OF THE COUNTY
OF SIMCOE, TOWNSHIP OF SPRINGWATER, NICHOLYN FARMS
INC., EDWARD KRAJCIR and SCARLETT GRAHAM KRAJCIR**

Respondents

APPLICATION RECORD

**CANADIAN ENVIRONMENTAL LAW
ASSOCIATION**

1500 - 55 University Avenue
Toronto, Ontario M5J 2H7

**Ramani Nadarajah (LSO # 30023U)
Jacqueline Wilson (LSO # 60330R)**

Tel: 416-960-2284, ext. 7217 / 7213

Fax: 416-960-9392

Email: ramani@cela.ca / jacqueline@cela.ca

Counsel for the Applicant

Table of Contents

Tab		Page
1	Amended Notice of Application for Judicial Review, November 19, 2020	1
2	Local Planning Appeal Tribunal Decision, September 18, 2020	17
3	Ontario Regulation 305/19 made under <i>Places to Grow Act, 2005</i> , Amending Ontario Regulation 311/06, September 6, 2019	26
4	Ontario Regulation 311/06 made under <i>Places to Grow Act, 2005</i> , Transitional Matters – Growth Plans as amended	27
5	Affidavit of Amanda Polley Montgomery, October 29, 2020	30
A	Exhibit A – Original Proposal - ERO 019-0018 Posted by Ministry of Municipal Affairs and Housing, May 2, 2019	45
B	Exhibit B - Decision - ERO 019-0018 Posted by Ministry of Municipal Affairs and Housing, September 6, 2019	49
C	Exhibit C - Order in Council 221/2015, February 18, 2015	56
D	Exhibit D – Freedom of Information Request to Ministry of Municipal Affairs and Housing, June 15, 2019 (unsigned)	62
E	Exhibit E – Letter from Mallory Hosam, Ministry of Municipal Affairs and Housing to Mary Wagner, Re: Fee Estimate for Records, July 12, 2019	64
F	Exhibit F – Letter from Amanda Montgomery to Mallory Hosam, Ministry of Municipal Affairs and Housing, Re: Revised Freedom of Information and Protection of Privacy Act Request, August 15, 2019	67
G	Exhibit G – Letter from Mallory Hosam, Ministry of Municipal Affairs and Housing to Mary Wagner, Re: Notice of Due Date, December 2, 2019	69
H	Exhibit H - Local Planning Appeal Tribunal - Notice of Written Motion PL190022, December 13, 2019	70
I	Exhibit I – Friends of Simcoe Forests Inc. Letter to Ryan Co, Local Planning Appeal Tribunal, Filing Objection to Written Hearing, December 16, 2019	77

J	Exhibit J – Email from Amanda Montgomery to Mallory Hosam, Ministry of Municipal Affairs and Housing, Re: File # MMAH 201925, January 8, 2020	80
	Reply Email from Mallory Hosam, Ministry of Municipal Affairs and Housing to Amanda Montgomery, dated January 13, 2020	
K	Exhibit K - Letter from Amanda Montgomery to Mallory Hosam, Ministry of Municipal Affairs and Housing, Re File # MMAH 201925, January 22, 2020	82
	Letter to Mallory Hosam, Ministry of Municipal Affairs and Housing, Re: File #MMAH 201925, January 22, 2020	
	Reply Email from Mallory Hosam, Ministry of Municipal Affairs and Housing to Amanda Montgomery, January 24, 2020	
L	Exhibit L – Letter of Appeal to Information and Privacy Commissioner, re: Deemed Refusal, February 3, 2020	86
M	Exhibit M - Letter from Mallory Hosam, Ministry of Municipal Affairs and Housing to Mary Wagner, Re: Records Release, March 9, 2020	89
N	Exhibit N – Appeal Form, Information and Privacy Commissioner, March 11, 2020 (unsigned)	90
	Letter of Appeal from Amanda Montgomery to Registrar, Information and Privacy Commissioner, March 11, 2020	
O	Exhibit O - Acknowledgement of Appeal from Information and Privacy Commissioner, August 17, 2020	96
P	Exhibit P - Notice of Mediation from Information and Privacy Commissioner, October 21, 2020	98
Q	Exhibit Q - Email from Tiffany Thompson, County of Simcoe to Charles O’Hara, Ministry of Municipal Affairs and Housing, March 6, 2019	100
R	Exhibit R - Letter from David Parks, County of Simcoe, to Ontario Growth Secretariat, Ministry of Municipal Affairs and Housing, Re: County of Simcoe Comments on the Proposed Amendment to the Growth Plan, 2017 and Transitional Rules for the Environmental Resource Recovery Centre, February 28, 2019	101

S	Exhibit S - Letter from David Parks, County of Simcoe to Ontario Growth Secretariat, Ministry of Municipal Affairs and Housing, Re: County of Simcoe Comments on the Proposed Modification to Ontario Regulation 311/06 (Transitional Matters – Growth Plan), May 29, 2019	102
T	Exhibit T - Email from Darryl Lyons, Ministry of Municipal Affairs and Housing to Michael Elms et al., Ministry of Municipal Affairs and Housing, Re: GPA 1 Transition Requests, March 21, 2019	103
U	Exhibit U - Email from Allyson Switzman, Ministry of Municipal Affairs and Housing to Ross Lashbrook et al., Ministry of Municipal Affairs and Housing, Re: Simcoe County OPA 2 – Transition – OGS Comments, March 26, 2019	105
	County of Simcoe Official Plan Amendment 2 Transition One Pager, March 26, 2019	
V	Exhibit V - Email from Aly Alibhai, Ministry of Municipal Affairs and Housing to Marcia Wallace, Ministry of Municipal Affairs and Housing, Re: Transition One Pagers, April 17, 2019	113
	County of Simcoe Official Plan Amendment 2 Transition Paper, April 17, 2019	
W	Exhibit W - Email from Allyson Switzman, Ministry of Municipal Affairs and Housing to MMA Media, Re: Media Inquiry from Barrie Today, May 30, 2019	118
X	Exhibit X - Email from Allyson Switzman, Ministry of Municipal Affairs and Housing to Mirrun Zaveri, Ministry of Municipal Affairs and Housing, Re: Media Inquiry from Barrie Today, May 30, 2019	119
	Reply Email from Mirrun Zaveri, Ministry of Municipal Affairs and Housing to Allyson Switzman, Ministry of Municipal Affairs and Housing, Re: Media Inquiry from Barrie Today, May 30, 2019	
Y	Exhibit Y - Email from Allyson Switzman, Ministry of Municipal Affairs and Housing to Mirrun Zaveri, Re: Media Inquiry from Barrie Today, May 30, 2019	120
Z	Exhibit Z - Email from Christina Thomas, Ministry of Municipal Affairs and Housing to Rachel Widakdo et al., Ministry of Municipal Affairs and Housing, Re: Media Inquiry from Barrie Today, May 31, 2019	122
AA	Exhibit AA – Chart, Phase 2 - Submissions on the 11 Proposed Planning Matters to be Transitioned, June 13, 2019	123

**ONTARIO
SUPERIOR COURT OF JUSTICE (Divisional Court)**

BETWEEN:

FRIENDS OF SIMCOE FORESTS INC.

Applicant

- and -

MINISTER OF MUNICIPAL AFFAIRS AND HOUSING, LOCAL PLANNING
APPEAL TRIBUNAL, CORPORATION OF THE COUNTY OF SIMCOE,
TOWNSHIP OF SPRINGWATER, NICHOLYN FARMS INC.,
EDWARD KRAJCIR and SCARLETT GRAHAM KRAJCIR

Respondents

**(AMENDED) NOTICE OF APPLICATION TO DIVISIONAL COURT FOR
JUDICIAL REVIEW**

TO THE RESPONDENTS:

A LEGAL PROCEEDING HAS BEEN COMMENCED by the Applicant. The claim made by the Applicant appears on the following pages.

THIS APPLICATION for Judicial Review will come on for a hearing before the Divisional Court on a date to be fixed by the Registrar at the place of hearing requested by the Applicant. The Applicant requests that this application be heard at Osgoode Hall, 130 Queen Street West, Toronto, Ontario, M5H 2N5.

IF YOU WISH TO OPPOSE THIS APPLICATION, to receive notice of any step in the application or to be served with any documents in the application, you or an Ontario lawyer acting for you must forthwith prepare a notice of appearance in Form 38A prescribed by the Rules of Civil Procedure, serve it on the Applicant's lawyer or, where the Applicant does not have a lawyer, serve it on the Applicant, and file it, with proof of service, in the office of the Divisional Court, and you or your lawyer must appear at the hearing.

IF YOU WISH TO PRESENT AFFIDAVIT OR OTHER DOCUMENTARY EVIDENCE TO THE COURT OR TO EXAMINE OR CROSS-EXAMINE WITNESSES ON THE APPLICATION, YOU OR YOUR LAWYER MUST, IN ADDITION TO SERVING YOUR NOTICE OF APPEARANCE, SERVE A COPY OF

THE EVIDENCE ON THE Applicant's lawyer or, where the Applicant does not have a lawyer, serve it on the Applicant, and file it, with proof of service, in the office of the Divisional Court within thirty days after service on you of the Applicant's application record, or not later than 2 p.m. on the day before the hearing, whichever is earlier.

IF YOU FAIL TO APPEAR AT THE HEARING, JUDGMENT MAY BE GIVEN IN YOUR ABSENCE AND WITHOUT FURTHER NOTICE TO YOU. IF YOU WISH TO DEFEND THIS PROCEEDING BUT ARE UNABLE TO PAY LEGAL FEES, LEGAL AID MAY BE AVAILABLE TO YOU BY CONTACTING A LOCAL LEGAL AID OFFICE.

Date: October 19, 2020
(Amended November 18, 2020)

Issued by _____

Registrar
Divisional Court
Superior Court of Justice
Osgoode Hall
130 Queen Street West
Toronto, Ontario M5H 2N5

TO: Ministry of the Attorney General
Crown Law Office – Civil
8th Floor, 720 Bay Street
Toronto, Ontario M7A 2S9

Alexandra Mingo
Robert Ratcliffe
Email: alexandra.mingo@ontario.ca
robert.ratcliffe@ontario.ca

Counsel for the Respondent, Minister of Municipal Affairs and Housing

AND TO: The Corporation of the County of Simcoe
c/o Legal Services Department
1110 Highway 26
Midhurst, Ontario L9X 1N6

Marshall Green
Mark Vernon
Email: marshall.green@simcoe.ca
mvernon@chcbarristers.com

Counsel for the Respondent, Corporation of the County of Simcoe

AND TO: WeirFoulds LLP
4100 – 66 Wellington Street West
PO Box 35, TD Bank Tower
Toronto, Ontario M5K 1B7

Barnet Kussner
Email: bkussner@weirfoulds.com

Counsel for the Respondent, Township of Springwater

AND TO: Local Planning Appeal Tribunal Ontario – Environment and Land
Division
1500 - 655 Bay Street
Toronto, Ontario M5G 1E5

Gun Koleoglu
Kathryn Chung
Email: gun.koleoglu@ontario.ca
kathryn.chung@ontario.ca

Counsel for the Respondent, Local Planning Appeal Tribunal

AND TO: McCague Borlack LLP
59 Collier Street
Barrie, Ontario L4M 1G7

Eric W.D. Boate
Email: eboate@mccagueborlack.com

Counsel for the Respondent, Edward Krajcir & Scarlett Graham-Krajcir

AND TO: Devry Smith Frank LLP
100 - 95 Barber Greene Road
Toronto ON M3C 3E9

David S. White, Q.C.
Email: david.white@devrylaw.ca

Counsel for the Respondent, Nicholyn Farms Inc.

APPLICATION

(a) Overview

1. This is an application for judicial review of: (i) the Local Planning Appeal Tribunal's ("Tribunal") decision dated September 18, 2020; and (ii) subsection 4(4) of O. Reg 311/06 as amended by O. Reg 305/19 ("Transitional Regulation") enacted by the Minister of Municipal Affairs and Housing ("Minister). The Tribunal struck out certain issues from the Applicant's Issues List based on subsection 4(4) of the Transitional Regulation, which was invalidly enacted by the Minister.
2. Prior to the enactment of the Transitional Regulation, the Minister approved Amendment No. 2 to the County of Simcoe's Official Plan ("OPA 2"). OPA 2 allows the establishment of a waste processing complex in the Freele County Forest.
3. The Applicant appealed OPA 2 to the Tribunal. The crux of the Applicant's appeal was based on the environmental protections for natural heritage features in subsections 4.2.2, 4.2.3 and 4.2.4 of the *Growth Plan for the Greater Golden Horseshoe, 2017* ("2017 Growth Plan").
4. Subsequently, the 2017 Growth Plan was replaced with *A Place to Grow: Growth Plan for the Greater Golden Horseshoe* ("2019 Growth Plan"). The natural heritage policies in subsections 4.2.2, 4.2.3 and 4.2.4 in the 2019 Growth Plan are identical to the 2017 Growth Plan insofar as they relate to OPA 2.

5. Although there were no transitional matters to address in this case due to the replacement of the 2017 Growth Plan with the 2019 Growth Plan, the Minister exempted OPA 2 from subsections 4.2.2, 4.2.3 and 4.2.4 of the 2019 Growth Plan under subsection 4(4) of the Transitional Regulation.
6. The County of Simcoe (“County”) and the Minister, thereafter, brought a joint motion before the Tribunal to strike out all issues related to the Growth Plan from the Applicant’s Issues List. The Tribunal granted the motion and thereby finally determined the core issues in the Applicant’s appeal. The Tribunal relied on subsection 4(4) of the Transitional Regulation as the basis for its decision.
7. The Transitional Regulation was enacted by the Minister pursuant to section 19(1)(d) of the *Places to Grow Act, 2005*, SO 2005, c 13 (“*PGA*”). Under that section, the Minister must meet two statutory requirements: (i) the regulation must address a “transitional matter”; and (ii) in the opinion of the Minister, it must be necessary or desirable to facilitate the implementation of the *PGA*, a provision of the *PGA* or a growth plan. The Minister failed to meet both these statutory requirements and thereby exceeded his jurisdiction by enacting subsection 4(4) of the Transitional Regulation.
8. The Tribunal’s decision, in turn, was unreasonable as it relied on subsection 4(4) of the Transitional Regulation which is *ultra vires* the *PGA*.

THE APPLICANT MAKES THIS APPLICATION FOR:

- (a) An order declaring that subsection 4(4) of the Transitional Regulation is *ultra vires* the *PGA*;
- (b) An order declaring that subsection 4(4) of the Transitional Regulation constitutes an improper exercise of statutory power by the Minister and that the Minister exceeded his jurisdiction under section 19(1)(d) of the *PGA*;
- (c) An order quashing the decision of the Tribunal dated September 18, 2020, finding that subsections 4.2.2, 4.2.3 and 4.2.4 of the 2019 Growth Plan do not apply to OPA 2;
- (d) An order quashing the decision of the Tribunal dated September 18, 2020, striking Issue 2 insofar as it relates to the 2019 Growth Plan and Issue 7 from the Applicant's Issues List;
- (e) An order remitting the matter back to the Tribunal with the direction that subsections 4.2.2, 4.2.3 and 4.2.4 of the 2019 Growth Plan apply to the Tribunal's review of OPA 2;
- (f) An order remitting the matter back to the Tribunal with the direction that the Tribunal restore Issue 2 insofar as it relates to the 2019 Growth Plan and Issue 7 to the Applicant's Issues List;
- (g) An interim order staying the decision of the Tribunal described in subparagraphs (c) and (d) herein pending the hearing of this application for judicial review;

- (h) An order extending the time for filing of this application with the Court pursuant to subsection 5(2) of the *Judicial Review Procedure Act*, RSO 1990, c J 1, if necessary;
- (i) An order requiring the Respondents to pay the Applicant's costs of this application for judicial review if requested or, in the alternative, an order that all parties shall bear their own costs;
- (j) Such further and other relief as counsel may advise and this Honourable Court may permit.

THE GROUNDS FOR THE APPLICATION ARE:

(b) Proposed Waste Processing Complex in the Freele County Forest

9. On November 30, 2018, the Minister approved OPA 2 to allow for the development of a waste processing complex by the County of Simcoe ("County") in the Freele County Forest ("proposed site").

10. The waste processing complex is infrastructure that consists of a waste management facility; an organics processing facility; a materials recovery facility; a storm water management facility; a waste vehicle facility; and an administrative building.

11. The proposed site is within the Natural Heritage System of the Growth Plan, a provincial plan issued under section 7 of the *PGA*. The Natural Heritage System

is an area that is compromised of natural heritage features such as significant woodlands and significant wildlife habitat.

(c) The Planning Regime

12. The Minister has authority over the *PGA* as per Order in Council 221/2015.
13. Under section 4 of the *PGA*, the Minister is required to prepare a growth plan for designated areas.
14. Subsection 14(1) of the *PGA* requires that a decision made under the *Planning Act* that relates to the growth plan area shall conform to the Growth Plan.
15. Similarly, section 3(5)(b) of the *Planning Act* provides that a decision by a municipal council, the Minister, or the Tribunal in relation to a planning matter shall conform with provincial plans. The Growth Plan constitutes such a provincial plan.
16. Subsection 4.2.2 of the Growth Plan deals with natural heritage systems; subsection 4.2.3 deals with key hydrologic features and areas, and natural heritage features; and subsection 4.2.4 deals with lands adjacent to key hydrologic features and natural heritage features.

(d) The Applicant's Appeal and the 2017 Growth Plan

17. The Applicant, Friends of Simcoe Forests Inc., is an incorporated not-for-profit citizens group with a mandate to protect the forests of Simcoe County and to preserve and extend parks and greenbelts.

18. On or about January 19, 2019, the Applicant filed a Notice of Appeal of OPA 2 with the Tribunal.

19. The 2017 Growth Plan was in effect when the Applicant filed its Notice of Appeal.

20. The Applicant relied on the environmental protections for natural heritage features in the 2017 Growth Plan as its main grounds of appeal. In particular, the Applicant noted that a new development within the Natural Heritage System must demonstrate that there are no negative impacts on key natural heritage features, such as the significant woodlands, the significant wildlife habitat, and potentially the habitat of endangered and threatened species at the proposed site.

21. The Applicant retained three ecological experts to examine the natural heritage features of the proposed site and undertake a peer review of the County's expert reports. In their report, the Applicant's ecological experts concluded that the County experts had repeatedly understated the significance of the forest habitat. The ecological experts also concluded that the proposal to construct a waste processing complex at the proposed site would have a negative impact on

significant wildlife and would result in the fragmentation of significant woodland and loss of 19 hectares of the forest interior.

22. The Applicant also retained a professional planner to provide an expert opinion on whether the proposal to construct the waste processing complex in the Freele County Forest conforms to the natural heritage protections in the 2017 Growth Plan. In preparing her report the planner considered and relied on the analysis and findings of the ecological experts. The planner concluded that the proposal to establish a waste processing complex within the Freele County Forest was not consistent with the natural heritage provisions in the 2017 Growth Plan.
23. On March 26, 2019, the Applicant served its expert reports and its written legal argument on all parties, including the County and the Minister, and filed the documents with the Tribunal. In its legal argument, the Applicant argued that OPA 2 did not conform with subsections 4.2.2, 4.2.3 and 4.2.4 of the 2017 Growth Plan.
24. On or about May 1, 2019, the County and the Minister jointly filed their expert reports and written legal argument with the Tribunal, which also included analysis of the natural heritage protections in the 2017 Growth Plan.

(e) The 2019 Growth Plan and the Transitional Regulation

25. On May 16, 2019, the Lieutenant Governor in Council issued Order in Council 641/2019 revoking the 2017 Growth Plan and approving its replacement with the 2019 Growth Plan.

26. The Minister also enacted a Transitional Regulation on May 16, 2019, following the approval of the 2019 Growth Plan.

27. On September 6, 2019, approximately five months after the Applicant filed its expert reports and legal arguments with the Tribunal, the Minister amended the Transitional Regulation by adding subsection 4(4).

28. Subsection 4(4) of the Transitional Regulation singles out OPA 2 from all other planning matters in the Greater Golden Horseshoe region and states that the 2019 Growth Plan applies to OPA 2 “except subsections 4.2.2, 4.2.3 and 4.2.4 of the Plan”.

29. The natural heritage policies in subsections 4.2.2, 4.2.3 and 4.2.4 in the 2019 Growth Plan, however, are identical to the 2017 Growth Plan insofar as they relate to the proposed site.

30. Subsections 4.2.2, 4.2.3 and 4.2.4 are fundamental to the Applicant's appeal at the Tribunal as outlined in its Notice of Appeal, its expert reports, and its written legal arguments, all of which had been previously filed with the Tribunal.

(f) The Tribunal's Decision on Motion to Strike the Applicant's Issues List

31. At the Tribunal's direction, the Applicant filed an Issues List with the Tribunal on December 10, 2019.

32. On December 30, 2019, the County and the Minister filed a joint motion with the Tribunal to strike out a number of issues from the Applicant's Issues List, including issues 2 and 7. These issues relate to the applicability of the natural heritage protections of the Growth Plan to OPA 2.

33. On September 18, 2020, the Tribunal issued its decision and held that the natural heritage policies in subsections 4.2.2, 4.2.3 and 4.2.4 of the 2019 Growth Plan did not apply to OPA 2.

34. The Tribunal erred by finding that subsections 4.2.2, 4.2.3 and 4.2.4 of the 2019 Growth Plan did not apply to OPA 2 because it relied on subsection 4(4) of the Transitional Regulation, which is *ultra vires* the *PGA*.

35. The Tribunal's ruling is a final determination on the main grounds of the Applicant's appeal.

36. The Tribunal’s decision does not meet the standard of justification, transparency or intelligibility. Both the reasons for the Tribunal’s decision, and the outcome, are unreasonable.

(g) The Transitional Regulation is *ultra vires* the *PGA*

37. To enact a regulation under section 19(1)(d) of the *PGA* the Minister must meet two statutory requirements: (i) the regulation must address a “transitional matter”; and (ii) in the opinion of the Minister, it must be necessary or desirable to facilitate the implementation of the *PGA*, a provision of the *PGA* or a growth plan. In this case, the Minister failed to meet both these statutory requirements.

38. Section 19(1)(d) of the *PGA* provides authority to the Minister in relation to planning matters, including proceedings, only in circumstances where there has been a change in the applicable provisions of a growth plan. The existence of a “transitional matter” is a necessary precondition which must be met before the Minister can exercise his powers under s. 19(1)(d).

39. There were no transitional matters that needed to be addressed in relation to OPA 2 due to the 2019 Growth Plan coming into effect because the natural heritage provisions in subsections 4.2.2, 4.2.3 and 4.2.4 of the 2017 Growth Plan and the 2019 Growth Plan, insofar as they apply to OPA 2, are identical. Consequently, the Minister failed to meet a necessary precondition in s.19(1)(d) of the *PGA*

before enacting subsection 4(4) of the Transition Regulation, and thereby exceeded his jurisdiction.

40. The Transitional Regulation was also enacted by the Minister at the behest of the County to facilitate the development of the waste processing complex and to promote the goals and objectives of the *Waste Free Ontario Act, 2016*, the *Resource Recovery and Circular Economy Act* and *Ontario's Food and Organics Waste Policy Statement, 2016*. These statutes and policy, however, are beyond the scope of the jurisdiction of the Minister and the purposes of s. 19(1)(d) of the *PGA*.

41. The Minister's decision to enact the Transitional Regulation was unreasonable and without jurisdiction. The Tribunal's decision, in turn, was unreasonable as it relied on subsection 4(4) of the Transitional Regulation.

THE APPLICANT RELIES ON:

- a. *Judicial Review Procedure Act*, RSO 1990, c J 1, ss. 5(2) and 10.
- b. *Places to Grow Act, 2005*, SO 2005, c 13, ss. 4, 14(1) and 9(1)(d).
- c. *Planning Act*, RSO 1990, c P 13, s.3(5)(b).
- d. *Transitional Matters – Growth Plans*, O. Reg 311/06, as amended by O. Reg 305/19, subs.4(4).
- e. Such further and other grounds as counsel may advise and this Honourable Court permit.

THE FOLLOWING DOCUMENTARY EVIDENCE WILL BE USED AT THE HEARING OF THE APPLICATION:

- a. The record to be filed by the Tribunal pursuant to section 10 of the *Judicial Review Procedure Act*, RSO 1990 c J 1;
- b. Affidavit of Amanda Montgomery to be sworn;
- c. Supplementary Affidavit of Amanda Montgomery, to be sworn in the future, if the Information and Privacy Commissioner orders the Ministry of Municipal Affairs and Housing to disclose any further relevant records relating to subsection 4(4) of the Transitional Regulation;
- d. Such further or other material as counsel may advise and this Honourable Court may permit.

October 19, 2020
(November 18, 2020)

**CANADIAN ENVIRONMENTAL LAW
ASSOCIATION**
55 University Avenue, 15th Floor
Toronto, Ontario
M5J 2H7

Ramani Nadarajah (LSO # 30023U)
Jacqueline Wilson (LSO # 60330R)
Tel: (416) 960-2284 ext. 7217 / 7213
Fax: (416) 960-9392
Email: ramani@cela.ca
jacqueline@cela.ca

**Counsel for the Applicant, Friends of Simcoe
Forests Inc.**

FRIENDS OF SIMCOE FORESTS INC.
Applicant

v. **MINISTER OF MUNICIPAL AFFAIRS AND HOUSING et al.**
Respondents

ONTARIO
DIVISIONAL COURT
SUPERIOR COURT OF JUSTICE

PROCEEDING COMMENCED AT: TORONTO

(AMENDED) NOTICE OF APPLICATION

Canadian Environmental Law Association
1500 – 55 University Avenue
Toronto, Ontario M5J 2H7

Ramani Nadarajah (LSO # 30023U)
Jacqueline Wilson (LSO # 60330R)

Tel: 416-960-2284, ext. 7217 / 7213
Fax: 416-960-9392

Email: ramani@cela.ca / jacqueline@cela.ca

Counsel for the Applicant

Local Planning Appeal Tribunal
Tribunal d'appel de l'aménagement
local



ISSUE DATE: September 18, 2020

CASE NO(S):

PL190022

The Ontario Municipal Board (the “OMB”) is continued under the name Local Planning Appeal Tribunal (the “Tribunal”), and any reference to the Ontario Municipal Board or Board in any publication of the Tribunal is deemed to be a reference to the Tribunal.

PROCEEDING COMMENCED UNDER subsection 17(36) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended

Appellant: Friends of Simcoe Forests Inc.
Appellant: Edward Krajcir
Appellant: Nicholyn Farms
Subject: Proposed Official Plan Amendment No. OPA 2
Municipality: Township of Springwater
OMB Case No.: PL190022
OMB File No.: PL190022
OMB Case Name: Edward Krajcir v. Springwater (Township)

PROCEEDING COMMENCED UNDER subsection 12(1) of the *Local Planning Appeal Tribunal Act, 2017*, S.O. 2017, c. 23, Sched. 1, and Rule 9.01 of the Tribunal’s Rules of Practice and Procedure

Motion By: Corporation of the County of Simcoe
and the Minister of Municipal Affairs and
Housing
Purpose of Motion: Request for Directions
Appellant: Friends of Simcoe Forests Inc.
Appellant: Edward Krajcir
Appellant: Nicholyn Farms
Subject: Consolidation
Property Address/Description: 2976 Horseshoe Valley Road
Municipality: Township of Springwater
LPAT Case No.: PL190022
LPAT File No.: PL190022
LPAT Case Name: Edward Krajcir v. Springwater
(Township)

Heard: Written Submissions

APPEARANCES:

Parties

Counsel

Minister of Municipal Affairs and
Housing

Kenneth Hare
Ugljesa Popadic

Corporation of the County of Simcoe

Marshall Green
Mark Vernon

Friends of Simcoe Forests Inc.

Ramani Nadarajah
Joseph Castrilli

Nicholyn Farms Inc.

David S. White

Edward Krajcir and Scarlett Graham-
Krajcir

Eric W.D. Boate

**DECISION DELIVERED BY SUSAN de AVELLAR SCHILLER AND ORDER OF
THE TRIBUNAL**

[1] The Corporation of the County of Simcoe (“County”) adopted Official Plan Amendment 2 (“OPA 2”). OPA 2 was approved by the Minister of Municipal Affairs and Housing (“MMAH”). The MMAH decision has been appealed to this Tribunal by three interests, referred to in the aggregate as the Appellants: Friends of Simcoe Forests Inc. (“Friends”), Nicholyn Farms Inc. (“Nicholyn”) and Edward Krajcir and Scarlett Graham-Krajcir (together “Krajcir”).

[2] These appeals have been the subject of two Case Management Conferences (“CMCs”) before a panel differently constituted. The CMCs were unable to settle the Issues List for the hearing of the merits. Before the Tribunal in this current written proceeding is a motion brought jointly by the County and MMAH (“Joint Motion”) to:

1. Strike certain issues placed on the Issues List by the individual Appellants

2. Add an issue to the Issues List

3. Direct certain individual Appellants to re-phrase and re-cast certain issues

[3] Responses in opposition to the Joint Motion were filed by each of the Appellants.

[4] The Tribunal grants the Joint Motion. These are the Tribunal's reasons.

Requirements for a Valid and Appropriate Issue

[5] The Tribunal has often repeated the basic requirements for an issue to be placed on the Issues List. In *Spring Village Inc. v. Waterloo (City)*, 2009 CarswellOnt 4314, the Ontario Municipal Board set this out as follows:

In considering the appropriateness of issues to be placed on the Issue List, the Board must be satisfied that the issues are genuine, triable, possess a clear nexus to the matters before the Board, be capable of adjudication within the jurisdiction of the Board, and for land use planning matters, rest within the relevant planning framework.

[6] Where an issue has no relevance to the hearing, no chance of success, or where the Tribunal has no jurisdiction to deal with the issue, then that proposed issue should be struck from the Issues List.

Tribunal Jurisdiction to Adjudicate in this Matter

[7] The Tribunal's jurisdiction in these appeals of OPA 2 is set out in the *Planning Act* ("Act") at s. 17(50). In summary, the Tribunal may approve OPA 2, may modify OPA 2 or may refuse to approve OPA 2.

[8] In making its decision, s. 3(5) of the Act requires that the decision be consistent with the provincial policy statement in effect at the time of the decision and conform to the applicable provincial plans.

Provincial Policy Statements

[9] For this matter, a decision of the Tribunal must be consistent with the Provincial Policy Statement 2020 (“PPS 2020”).

[10] The proposed issues were drafted before the PPS 2020 came into effect and simply refer to the Provincial Policy Statement 2014 (“PPS 2014”). Where a proposed issue references the PPS 2014, the Tribunal directs that the issue is to be amended to reference the PPS 2020.

[11] Where planning affidavits have already been filed dealing with the question of consistency with the PPS 2014, the Tribunal directs the party who filed such an affidavit to file a supplementary affidavit from the same planner that deals with the question of whether the PPS 2020 has in any way changed that planner’s professional opinion in this matter. If the expert professional opinion is changed as a result of the PPS 2020, the affiant is to set out the details of that change. Such affidavits are to be filed within 15 days of the date of this decision.

[12] An additional provincial policy statement to which a decision in this matter must be consistent is the Food and Organic Waste Policy Statement (“FOWPS”), which came into effect on April 30, 2018.

[13] No transition regulation or requirement takes consideration of OPA 2 out from the requirement of being consistent with the applicable provincial policy statements.

[14] The County and MMAH have asked for an order of the Tribunal to add an issue to the Issues List requiring consideration of the FOWPS. The Friends have objected to the possible addition to their issues.

[15] The Tribunal is required by the Act to make a finding of consistency with the provincial policy statements in effect at the time of the decision. As such, the Tribunal is

required to consider, and make a finding on, whether OPA 2 is consistent with the FOWPS. Since this is a statutory requirement, the Tribunal must do so whether any party places the issue on the Issues List.

[16] On its own initiative, the Tribunal adds to the Issues List the following question: Is OPA 2 consistent with the Ontario Food and Organic Waste Policy Statement?

[17] Since the Tribunal is not attaching this issue to the issues of any particular party, the Tribunal invites any party that has not filed an affidavit of an expert opining on the question of consistency with the FOWPS to do so within 15 days of this decision. Where a party elects not to file such an affidavit, the Tribunal directs that party to file with the Tribunal within 15 days of this decision a statement that it does not intend to make any submissions on the question of consistency with the FOWPS.

No Application of Growth Plan 2017

[18] A provincial plan to which OPA 2 must conform is the Growth Plan for the Greater Golden Horseshoe 2019 (“Growth Plan 2019”). The Growth Plan for the Greater Golden Horseshoe 2017 (“Growth Plan 2017”) has been revoked by Order in Council 641/2019, effective May 16, 2019. That is the same date on which the Growth Plan 2019 came into effect.

[19] Since the Growth Plan 2017 has been revoked, no issue purporting to engage a policy in the Growth Plan 2017 is a matter on which the Tribunal is able to adjudicate.

Conform to All Except Three Policies of Growth Plan 2019

[20] The Growth Plan 2019 is made under the *Places to Grow Act, 2005*. The transition regulation for the *Places to Grow Act, 2005* states that the Growth Plan 2019 applies except as otherwise provided. The general provision is the circumstance where the Tribunal has completed the hearing of the merits but the decision has not yet

issued. In that case, the Growth Plan 2017 applies. There has been no hearing of the merits on OPA 2 that has been completed. The general provision does not apply in this matter.

[21] Section 4(4) of the transition regulation contains a specific provision dealing with OPA 2:

Despite section 3, Amendment No. 2 to the Official Plan for the County of Simcoe shall be continued and disposed of in accordance with the Plan, except subsections 4.2.2, 4.2.3 and 4.2.4 of the Plan ...

[22] The effect of this specific provision is that all of the Growth Plan 2019 applies in this matter with the exception of the three named sections. What this provision does not say is that these provisions as they appeared in the Growth Plan 2017 do apply to this matter. To read into this provision that these sections of the Growth Plan 2017 apply in this matter is not reasonable and the Tribunal dismisses any assertion that OPA 2 is to be tested for conformity with any policy contained in the Growth Plan 2017.

[23] These three policies of the Growth Plan 2019 deal with natural heritage matters and the protection of natural heritage features. Policy 4.2.2 deals with the natural heritage system. Policy 4.2.3 deals with key hydrologic features and areas, and natural heritage features. Policy 4.3.4 deals with lands adjacent to key hydrologic features and natural heritage features. While these three policies in the Growth Plan 2019 do not apply to OPA 2, OPA 2 must still be consistent with the PPS 2020 and the policies dealing with natural heritage policies and protection.

Role of Lower Tier Official Plan

[24] OPA 2 is an upper tier official plan amendment. The order of conformity, set out by the provincial paradigm for planning matters, is top down conformity. Upper and lower tier municipal official plans must conform to applicable provincial plans. Lower tier official plans must conform to upper tier official plans, not the reverse. Section 27(4) of the Act makes this clear:

Amendments to conform to official plan

Conflicts

27(4) In the event of a conflict between the official plan of an upper-tier municipality and the official plan of a lower-tier municipality, the plan of the upper-tier municipality prevails to the extent of the conflict but in all other respects the official plan of the lower-tier municipality remains in effect.

[25] The Tribunal strikes any issue that raises a question of conformity with the lower tier official plan.

Site Selection Process

[26] The site selection process is not before the Tribunal for adjudication in this matter.

[27] *CAMPP Windsor Essex Residents Association v Windsor (City)*, 2019 CanLII 114467 (ON LPAT) dealt with the appeals regarding the official plan amendment and zoning by-law amendment for the Windsor Regional Hospital. A residents' association appellant challenged the site selection process for the new hospital. In its decision, the Tribunal made clear that the site selection process was not before it.

Also for context, of importance is what is not before the Tribunal. This case is a land use planning appeal. It is not an appeal to the health care planning process, its criteria for site selection or the alternative sites evaluated but not chosen... The Tribunal's task is to ascertain whether the planning instruments before [the Tribunal] satisfy the tests under [Planning] Act...

[28] What is before the Tribunal in this matter are the planning merits of OPA 2 and not whether there may be other sites.

[29] The Tribunal notes that the site selection process was referenced in the appeals of Nicholyn and Krajcirs. The suggestion put to the Tribunal is that such a reference is sufficient support to place an issue on the Issues List. The Tribunal is not persuaded by these submissions.

[30] If a proposed issue seeks adjudication by the Tribunal of a matter that is not before the Tribunal in the case at hand, then the issue is neither valid nor appropriate for this proceeding. Referencing a matter that is not within the jurisdiction of the Tribunal to decide in the context of the case at hand does not result in bringing that matter within the jurisdiction of the Tribunal to decide at this hearing of the merits.

[31] The Tribunal strikes any issue, or part thereof, that engages the site selection process.

Issues Must Have Sufficient Specificity

[32] Issues on the Issues List must have sufficient specificity to signal to parties opposite, and the Tribunal, the case that will be called. The Tribunal set this out in *Alliance Homes Inc. v. Clearwater (Township)*, [2008] O.M.B.D. No. 769:

The clear purpose of the Board in setting out the Issue List ... well in advance of the commencement of the hearing, is to ensure that all Parties know what matters will be put before the Board and what case they must meet...

[33] Where an issue is framed to make a broad statement of, for example, whether OPA 2 is consistent with the PPS, the issue must reasonably include specific reference to the policies the appellant will cite in its position regarding the question of consistency.

[34] The Tribunal agrees with the County and MMAH that issues 1 and 4 proposed by the Friends require additional specificity. The Tribunal directs the Friends to provide that additional specificity by filing a revised set of issues within 15 days of the date of this decision.

ORDER

[35] The Tribunal grants the relief sought by the Joint Motion brought by the Corporation of the County of Simcoe and the Minister of Municipal Affairs and Housing.

[36] The Tribunal orders the changes to the Issues List as set out in the Joint Motion and orders the filings set out in paragraphs 10, 11, 16, 17, 19, 25 31 and 34 above.

“Susan de Avellar Schiller”

SUSAN de AVELLAR SCHILLER
VICE-CHAIR

If there is an attachment referred to in this document,
please visit www.olt.gov.on.ca to view the attachment in PDF format.

Local Planning Appeal Tribunal

A constituent tribunal of Ontario Land Tribunals

Website: www.olt.gov.on.ca Telephone: 416-212-6349 Toll Free: 1-866-448-2248

ONTARIO REGULATION 305/19

made under the

PLACES TO GROW ACT, 2005

Made: August 28, 2019

Filed: September 6, 2019

Published on e-Laws: September 6, 2019

Printed in *The Ontario Gazette*: September 21, 2019

Amending O. Reg. 311/06

(TRANSITIONAL MATTERS - GROWTH PLANS)

1. Section 2.0.1 of Ontario Regulation 311/06 is amended by striking out “3.1” in the portion before the definitions and substituting “4”.

2. The Regulation is amended by adding the following section:

Transition rules, specific matters

4. (1) Despite section 3, the following matters shall be continued and disposed of in accordance with the 2006 Growth Plan as it read on June 16, 2006:

1. Amendment Number OP 2006-126 to the Official Plan of the City of Brampton Planning Area.
2. Amendment Number OP 2006-127 to the Official Plan of the City of Brampton Planning Area.
3. Amendment Number OP 2006-128 to the Official Plan of the City of Brampton Planning Area.
4. Amendment Number OP 2006-129 to the Official Plan of the City of Brampton Planning Area.
5. Amendment Number OP 2006-130 to the Official Plan of the City of Brampton Planning Area.
6. Amendment Number OP 2006-133 to the Official Plan of the City of Brampton Planning Area.
7. Amendment No. 231 to the Official Plan of the City of Toronto.
8. Amendment No. 137 to the Official Plan for the Town of Whitchurch-Stouffville Planning Area.

(2) Despite section 3, Amendment Number 2 to the Official Plan of the Regional Municipality of Waterloo shall be continued and disposed of in accordance with the 2006 Growth Plan as it read immediately before its revocation.

(3) Despite section 3, Amendment No. 47 to the Official Plan for the Halton Planning Area shall be continued and disposed of in accordance with the 2019 Growth Plan, except policy 2.2.8.6 of the Plan.

(4) Despite section 3, Amendment No. 2 to the Official Plan for the County of Simcoe shall be continued and disposed of in accordance with the 2019 Growth Plan, except subsections 4.2.2, 4.2.3 and 4.2.4 of the Plan.

Commencement

3. This Regulation comes into force on the day it is filed.

Made by:
Pris par :

Le ministre des Affaires municipales et du Logement,

STEVE CLARK
Minister of Municipal Affairs and Housing

Date made: August 28, 2019
Pris le : 28 août 2019

Places to Grow Act, 2005

ONTARIO REGULATION 311/06 TRANSITIONAL MATTERS — GROWTH PLANS

Consolidation Period: From August 28, 2020 to the [e-Laws currency date](#).

Last amendment: 470/20.

Legislative History: 324/06, 223/09, 38/11, 8/12, 22/13, 183/13, 204/17, 373/18, 85/19, 305/19, 470/20.

This is the English version of a bilingual regulation.

Definitions

1. (1) In this Regulation,

“joint board” means a joint board under the *Consolidated Hearings Act*; (“commission mixte”)

“matter” includes an application, proceeding and request. (“affaire”) O. Reg. 311/06, s. 1 (1); O. Reg. 38/11, s. 2 (1); O. Reg. 204/17, s. 1.

(2) REVOKED: O. Reg. 38/11, s. 2 (2).

Deemed day of commencement

2. For the purposes of this Regulation, a matter is deemed to have been commenced,

- (a) in the case of a request for an official plan amendment, on the day the request is received;
- (b) in the case of an official plan, an amendment to it or a repeal of it, on the day the by-law adopting the plan, amendment or repeal is passed;
- (c) in the case of a zoning by-law or an amendment to it, on the day the by-law is passed;
- (d) in the case of an application for an amendment to a zoning by-law, on the day the application is made;
- (e) in the case of an application for an approval of development in a site plan control area under subsection 41 (4) of the *Planning Act*, on the day the application is made;
- (f) in the case of an application for a minor variance under section 45 of the *Planning Act*, on the day the application is made;
- (g) in the case of an application to amend or revoke an order under section 47 of the *Planning Act*, on the day the application is made;
- (h) in the case of an application for the approval of a plan of subdivision under section 51 of the *Planning Act* or an application for the approval of, or an exemption from an approval of, a condominium under section 9 of the *Condominium Act, 1998*, on the day the application is made; and
- (i) in the case of an application for a consent under section 53 of the *Planning Act*, on the day the application is made. O. Reg. 311/06, s. 2.

Definitions

2.0.1 In sections 2.1 to 4,

“2006 Growth Plan” means the Growth Plan for the Greater Golden Horseshoe, 2006 that was approved under subsection 7 (6) of the Act on June 7, 2006 and came into effect on June 16, 2006 and that was revoked under subsection 7 (7) of the Act effective July 1, 2017; (“Plan de croissance de 2006”)

“2017 Growth Plan” means the Growth Plan for the Greater Golden Horseshoe, 2017 that was approved under subsection 7 (6) of the Act on May 16, 2017 and came into effect on July 1, 2017 and that was revoked under subsection 7 (7) of the Act effective May 16, 2019; (“Plan de croissance de 2017”)

“2019 Growth Plan” means the Growth Plan for the Greater Golden Horseshoe 2019 that was approved under subsection 7 (6) of the Act on May 1, 2019 and came into effect on May 16, 2019. (“Plan de croissance de 2019”)

“Amendment 1 (2020)” means Amendment 1 (2020) to the Growth Plan for the Greater Golden Horseshoe 2019 that was approved under subsection 7 (6) of the Act on August 27, 2020 and came into effect on August 28, 2020. O. Reg. 204/17, s. 2; O. Reg. 85/19, s. 1; O. Reg. 305/19, s. 1; O. Reg. 470/20, s. 1.

GROWTH PLAN FOR THE GREATER GOLDEN HORSESHOE

Application of ss. 3, 3.1 and 4

2.1 (1) Where section 3 or 4 requires a matter to be continued and disposed of in accordance with the Plan, the requirement shall be read as a requirement that the matter be continued and disposed of in accordance with the 2019 Growth Plan as it read after Amendment 1 (2020) came into effect, except as otherwise provided. O. Reg. 470/20, s. 2 (1).

(2) Where section 3 requires a matter to be continued and disposed of in accordance with the Plan and the matter was commenced before May 16, 2019, the requirement shall be read as a requirement that the matter be continued and disposed of in accordance with the 2017 Growth Plan as it read before its revocation if, on May 16, 2019, the Local Planning Appeal Tribunal or a joint board has completed its hearing of the matter but reserved its final decision. O. Reg. 85/19, s. 2.

(2.1) Subject to subsection (2.2), where section 3 or 4 requires a matter to be continued and disposed of in accordance with the Plan and the matter was commenced before August 28, 2020, the requirement shall be read as a requirement that the matter be continued and disposed of in accordance with the 2019 Growth Plan as it read before Amendment 1 (2020) came into effect if, on August 28, 2020, the Local Planning Appeal Tribunal or a joint board has completed its hearing of the matter but reserved its final decision. O. Reg. 470/20, s. 2 (2).

(2.2) Subsection (2.1) does not apply if, on May 16, 2019, the Local Planning Appeal Tribunal or a joint board had completed its hearing of the matter but reserved its final decision. O. Reg. 470/20, s. 2 (2).

(3) Where section 3 or 3.1 requires that a matter be continued and disposed of as if the Plan had not come into effect, the requirement shall be read as a requirement that the matter be continued and disposed of as if the 2006 Growth Plan, the 2017 Growth Plan and the 2019 Growth Plan had not come into effect. O. Reg. 85/19, s. 2.

Transition rules

3. (1) A matter that is described in clause 2 (a) or (b), is commenced before June 16, 2006 and would add any amount of land to an area of settlement or designate a new area of settlement of any size, shall be continued and disposed of in accordance with the Plan, subject to subsection (2). O. Reg. 204/17, s. 4 (1); O. Reg. 85/19, s. 3 (1).

(1.1) A matter that is described in clause 2 (a) or (b), is commenced before June 16, 2006 and is not described in subsection (1) shall be continued and disposed of as if the Plan had not come into effect, subject to subsection (3). O. Reg. 204/17, s. 4 (1); O. Reg. 85/19, s. 3 (1).

(2) A matter that is described in clause 2 (a) or (b) and commenced before June 16, 2006 shall be continued and disposed of as if the Plan had not come into effect if, on that date, the Ontario Municipal Board or a joint board has completed its hearing of the matter but reserved its final decision. O. Reg. 311/06, s. 3 (2).

(3) A matter that is described in clause 2 (a) or (b) and commenced before June 16, 2006 shall be continued and disposed of in accordance with the Plan if,

- (a) the matter is revised on or after June 16, 2006 during consideration by the Ontario Municipal Board or a joint board; and
- (b) the effect of the revision is that,
 - (i) any amount of land would be added to an area of settlement, or
 - (ii) a new area of settlement of any size would be designated. O. Reg. 311/06, s. 3 (3).

(4) A matter that is described in any of clauses 2 (c) to (i) and commenced before June 16, 2006 shall be continued and disposed of as if the Plan had not come into effect. O. Reg. 311/06, s. 3 (4).

(5) Subject to subsection (6), a matter that is described in section 2 and commenced on or after June 16, 2006 shall be continued and disposed of in accordance with the Plan. O. Reg. 204/17, s. 4 (2); O. Reg. 373/18, s. 1 (1); O. Reg. 85/19, s. 3 (2).

(6) A matter that is described in clause 2 (b) and commenced by an upper-tier or single-tier municipality after June 15, 2006 and before May 18, 2017 that would add any amount of land to an area of settlement shall be continued and disposed of in accordance with the 2006 Growth Plan as it read on June 16, 2006. O. Reg. 204/17, s. 4 (2).

(7), (8) REVOKED: O. Reg. 85/19, s. 3 (3).

Transition rules, continued

3.1 (1) Despite section 3, any part of a matter that is described in section 2 and commenced before, on or after June 16, 2006 shall be continued and disposed of as if the Plan had not come into effect if,

- (a) the part of the matter is being undertaken to establish uses permitted by a minister's order made under section 47 of the *Planning Act*; and
- (b) the minister's order mentioned in clause (a) has not been revoked. O. Reg. 223/09, s. 1; O. Reg. 204/17, s. 5.

(2) For greater certainty, subsection (1) applies even if the minister's order mentioned in clause (1) (a) has been made but is not yet in effect. O. Reg. 223/09, s. 1; O. Reg. 8/12, s. 2.

Transition rules, specific matters

4. (1) Despite section 3, the following matters shall be continued and disposed of in accordance with the 2006 Growth Plan as it read on June 16, 2006:

1. Amendment Number OP 2006-126 to the Official Plan of the City of Brampton Planning Area.
2. Amendment Number OP 2006-127 to the Official Plan of the City of Brampton Planning Area.
3. Amendment Number OP 2006-128 to the Official Plan of the City of Brampton Planning Area.
4. Amendment Number OP 2006-129 to the Official Plan of the City of Brampton Planning Area.
5. Amendment Number OP 2006-130 to the Official Plan of the City of Brampton Planning Area.
6. Amendment Number OP 2006-133 to the Official Plan of the City of Brampton Planning Area.
7. Amendment No. 231 to the Official Plan of the City of Toronto.
8. Amendment No. 137 to the Official Plan for the Town of Whitchurch-Stouffville Planning Area. O. Reg. 305/19, s. 2.

(2) Despite section 3, Amendment Number 2 to the Official Plan of the Regional Municipality of Waterloo shall be continued and disposed of in accordance with the 2006 Growth Plan as it read immediately before its revocation. O. Reg. 305/19, s. 2.

(3) Despite section 3, Amendment No. 47 to the Official Plan for the Halton Planning Area shall be continued and disposed of in accordance with the Plan, except policy 2.2.8.6 of the Plan. O. Reg. 305/19, s. 2; O. Reg. 470/20, s. 3.

(4) Despite section 3, Amendment No. 2 to the Official Plan for the County of Simcoe shall be continued and disposed of in accordance with the Plan, except subsections 4.2.2, 4.2.3 and 4.2.4 of the Plan. O. Reg. 305/19, s. 2; O. Reg. 470/20, s. 3.

5. REVOKED: O. Reg. 204/17, s. 6.

GROWTH PLAN FOR THE GREATER GOLDEN HORSESHOE — SIMCOE SUB-AREA

Simcoe Sub-area, transition rules

5.1 If any of sections 5.1 to 5.7, as they read immediately before July 1, 2017, applied to a matter that is described in section 2 and that was not finally disposed of on or before June 30, 2017, the matter shall be continued and disposed of in accordance with section 3. O. Reg. 204/17, s. 7.

5.2-5.7 REVOKED: O. Reg. 204/17, s. 7 (1).

GROWTH PLAN FOR NORTHERN ONTARIO

Transition rules

6. (1) This section applies with respect to the Growth Plan for Northern Ontario, 2011, that was approved under subsection 7 (6) of the Act on February 16, 2011 to come into effect on March 3, 2011. O. Reg. 38/11, s. 4.

(2) All matters described in section 2 that commenced before March 3, 2011 shall be continued and disposed of as if the Plan had not come into effect. O. Reg. 38/11, s. 4.

(3) Any part of a matter described in section 2 that commences on or after March 3, 2011 shall be continued and disposed of as if the Plan were not in effect if,

- (a) the part of the matter is being undertaken to establish uses permitted by a minister's order made under section 47 of the *Planning Act*, whether or not the minister's order has come into effect; and
- (b) the minister's order has not been revoked. O. Reg. 38/11, s. 4.

**ONTARIO
SUPERIOR COURT OF JUSTICE
(Divisional Court)**

B E T W E E N:

FRIENDS OF SIMCOE FORESTS INC.

Applicant

- and -

**MINISTER OF MUNICIPAL AFFAIRS AND HOUSING, LOCAL PLANNING
APPEAL TRIBUNAL, CORPORATION OF THE COUNTY OF SIMCOE, TOWNSHIP
OF SPRINGWATER, NICHOLYN FARMS INC., EDWARD KRAJCIR and SCARLETT
GRAHAM KRAJCIR**

Respondents

AFFIDAVIT OF AMANDA POLLEY MONTGOMERY

I, Amanda Polley Montgomery, of the City of Toronto in the Province of Ontario,
AFFIRM THAT:

1. I was a Student-at-Law at the Canadian Environmental Law Association (“CELA”) from July 2019 to July 2020 and I have been counsel at CELA since August 2020. Since July 2019 I have been working with CELA counsel representing the Applicant, the Friends of Simcoe Forests Inc. (“FSF”). Therefore, I have knowledge of the matters hereinafter deposed to.

2. FSF appealed Simcoe County Official Plan Amendment 2 (“OPA 2”) to the Local Planning Appeal Tribunal (“Tribunal”) on January 22, 2019.
3. On or about May 2, 2019, the Ministry of Municipal Affairs and Housing (“MMAH”) posted a notice of a regulation (ERO 019-0018) pursuant to the *Environmental Bill of Rights, 1993* on the Environmental Registry of Ontario (ERO). The ERO is an electronic registry through which government ministries give notice about proposed changes to legislation, regulations, policies and instruments that affect the environment, and the public is provided with an opportunity to provide comment.
4. ERO 019-018 indicates that the government proposed to modify O. Reg. 311/06 to exempt OPA 2 from subsections 4.2.2, 4.2.3 and 4.2.4 of the 2019 Growth Plan. ERO 019-0018 further states that the Minister would make modifications to O. Reg. 311/06 “such as to not unduly disrupt ongoing planning matters that may be impacted by the policy changes in the new Plan.” ERO 019-0018 is attached as **Exhibit “A”**.
5. On or about September 6, 2019, O. Reg. 305/19 amended O. Reg. 311/06 (“Transitional Regulation”) by adding subsection 4(4), which states that the appeal of OPA 2 “shall be continued and disposed of in accordance with the 2019 Growth Plan, except subsections 4.2.2, 4.2.3 and 4.2.4 of the Plan.”
6. On or about September 6, 2019, a notice of decision related to ERO 019-0018 was also posted on the ERO. The notice of decision confirmed that OPA 2 would not be subject to subsections 4.2.2, 4.2.3 and 4.2.4 of the 2019 Growth Plan. Under the heading “Impacts on the Environment” the notice states “[t]here are no changes to

existing A Place to Grow policies that protect the environment and health and safety of Ontarians.” The notice of decision for ERO 019-0018 is attached as **Exhibit “B”**.

7. The Transitional Regulation was passed under the *Places to Grow Act, 2005*, SO 2005, c 13 (“*Places to Grow Act, 2005*”). The Minister of Municipal Affairs and Housing (“Minister”) has authority over the *Places to Grow Act, 2005* as per Order In Council 221/2015, which is attached as **Exhibit “C”**.

Request for documents from Ministry of Municipal Affairs and Housing

8. I am advised by Mary Wagner, the President of FSF, and do verily believe that on or about June 3, 2019, Mary Wagner sent a request to MMAH for access to documents pursuant to the *Freedom of Information and Protection of Privacy Act* (“FOI request”). The request was for all records in the possession of MMAH that pertain to: the proposal to exempt the County of Simcoe OPA 2 from the 2019 Growth Plan; the proposal to exempt the 2017 Growth Plan from OPA 2; and, the proposed modifications to the Transitional Regulation insofar as it relates to OPA 2. A copy of the FOI Access Request that Mary Wagner sent to MMAH (unsigned) is attached as **Exhibit “D”**.
9. I am advised by Mary Wagner and do verily believe that Mary Wagner received a letter from Mallory Hosam, MMAH, acknowledging receipt of the FOI request on July 12, 2019. The letter from Mallory Hosam dated July 12, 2019 is attached as **Exhibit “E”**.

10. In response to Mallory Hosam's July 12, 2019 letter, I filed a revised FOI request with MMAH on Mary Wagner's behalf on August 15, 2019. The revised FOI request dated August 15, 2019 is attached as **Exhibit "F"**.

MMAH's Decision Due Date

11. I am advised by Mary Wagner and do verily believe that on December 2, 2019, Mallory Hosam sent a letter to Mary Wagner and advised that the final decision due date for her FOI request was January 7, 2020. A copy of Mallory Hosam's letter dated December 2, 2019 is attached as **Exhibit "G"**.

Motion to Strike Issues from the Issues List

12. On December 13, 2019, I participated in a case management conference via telephone with Sharon Vincent, Member of the Tribunal. Counsel for the County of Simcoe indicated that the County and MMAH would be bringing a joint motion to strike several issues from the issues list filed by FSF and the other two appellants, including those issues related to O. Reg. 311/06. Ramani Nadarajah, counsel for FSF, advised Member Vincent that the FOI materials requested of MMAH may be relevant to the joint motion and that it would be prejudicial to FSF if the motion were heard prior to receiving the documents from MMAH.

13. On December 13, 2019, the Tribunal sent a letter to all parties indicating that the Tribunal had agreed to hear the motion in writing and directing the responding parties, including FSF, to serve a response to the County and MMAH's joint motion by

January 7, 2020. A copy of the order from the Tribunal dated December 13, 2019 is attached as **Exhibit “H”**.

14. On December 16, 2019, Ramani Nadarajah sent a letter to the Tribunal pursuant to Rule 21.3 of the Tribunal’s *Rules of Practice and Procedure*, objecting to the decision to have the motion heard in writing. In her letter, Ramani Nadarajah reiterated her concern that it was “premature to argue the motion to strike issues from the issues list prior to the opportunity to review [the FOI documents].” Ramani Nadarajah further stated in her letter that the FOI materials are “directly relevant to the motion to strike, specifically to the question of the legislative intent of the transitional regulation” and that it would be “extremely prejudicial and unfair” to FSF to argue the motion prior to reviewing the FOI materials. A copy of Ramani Nadarajah’s letter to Ryan Co, Case Coordinator at the Tribunal, dated December 16, 2019 is attached as **Exhibit “I”**.

15. Ramani Nadarajah has informed me that she did not receive a response to her letter of December 16, 2019.

16. FSF filed its Motion Record on January 7, 2020 without the FOI materials from MMAH.

Further correspondence to access documents in the outstanding FOI request

17. On January 8, 2020, I sent an email to Mallory Hosam advising her that, as per her letter of December 2, 2019, the final decision date for disclosure of MMAH’s records was on January 7, 2020, yet neither Mary Wagner nor CELA had received a decision letter from MMAH. I also inquired as to when we could expect the final decision and

the release of the requested documents. On January 13, 2020, Mallory Hosam sent me an email stating that “[w]e are processing the request and will issue a decision shortly”. A copy of the email I sent Mallory Hosam dated January 8, 2020 and a copy of Mallory Hosam’s reply email dated January 13, 2020 is attached as **Exhibit “J”**.

18. On January 22, 2020, I sent a letter to Mallory Hosam by email inquiring again about the status of Mary Wagner’s FOI request. On January 24, 2020, Mallory Hosam replied to my email and stated that “the ministry is processing the request, and will have a decision to the requester shortly.” A copy of my email to Mallory Hosam dated January 22, 2020, my letter to Mallory Hosam dated January 22, 2020, and Mallory Hosam’s reply email dated January 24, 2020 is attached as **Exhibit “K”**.

Appeal to the Information and Privacy Commissioner

19. On February 3, 2020, I filed an appeal to the Information and Privacy Commissioner (“IPC”) on the grounds of a deemed refusal by MMAH to disclose the requested documents. A copy of the cover letter to the appeal I filed with the IPC dated February 3, 2020 is attached as **Exhibit “L”**.
20. On March 9, 2020, Mallory Hosam provided Mary Wagner with the documents pursuant to the FOI request. The cover letter from Mallory Hosam dated March 9, 2020 is attached as **Exhibit “M”**.
21. On March 11, 2020, I filed a second appeal with the IPC on behalf of Mary Wagner on two grounds: (1) inappropriate exemptions claimed on the requested records; and (2) lack of information about the nature of the records (i.e. no accompanying Officer’s

Report or Index) with which we could assess the exemption claims. A copy (unsigned) of the second appeal and accompanying cover letter I filed with the IPC dated March 11, 2020 is attached as **Exhibit “N”**.

22. On August 17, 2020, I received an Acknowledgement of Appeal from the IPC. I was informed that as a result of delays caused by the closure of the IPC office due to COVID-19 the appeal was just at the “Initial Processing stage” of the appeal process. The Acknowledgement of Appeal dated August 17, 2020 is attached as **Exhibit “O”**.
23. On October 21, 2020, I received a Notice of Mediation from the IPC, which is attached as **Exhibit “P”**.

County of Simcoe’s Request for Transition Regulation

24. The documents that were provided to Mary Wagner by MMAH on March 9, 2020 included two letters from David Parks, Director of Planning, Economic Development and Transit, County of Simcoe to the Ontario Growth Secretariat at MMAH.
25. The first letter from David Parks dated February 28, 2019 was forwarded to MMAH by Tiffany Thompson, Senior Policy Advisor, County of Simcoe, Planning Department on March 6, 2019. In her cover email, Tiffany Thompson states: “The amendment will facilitate the development of a waste management facility.” A copy of the email from Tiffany Thompson dated March 6, 2019 is attached as **Exhibit “Q”**.
26. David Parks’ letter, which was attached to Tiffany Thompson’s email, states:

With the importance of this critical piece of infrastructure, the County requests that the Secretariat consider introducing transitional policies or regulations to

address the approval that was recently given by the Ministry. The County is supportive of the Secretariat providing additional clarity through revisions to the Growth Plan to ensure that this facility is developed in a timely manner. This infrastructure is fundamental in furthering the goals and objectives of the Province's *Waste Free Ontario Act, 2016*, *Resource Recovery and Circular Economy Act, 2016* and *Ontario's Food and Organics Waste Policy Statement, 2018*.

A copy of David Parks' letter dated February 28, 2019 is attached as **Exhibit "R"**.

27. David Parks wrote a second letter to the Ontario Growth Secretariat, MMAH on May 29, 2019, which reiterates the points he made in his earlier letter:

With the importance of this critical piece of waste management infrastructure, the County strongly supports the modification to the transitional regulation to provide greater clarity on the applicable Growth Plan policies as this matter is addressed through the Local Planning Appeal Tribunal process. The County is supportive of any further policy modifications to ensure that similar waste management facilities can develop in a timely and efficient manner. This infrastructure is fundamental in furthering the goals and objectives of the *Province's Waste Free Ontario Act, 2016*, *Resource Recovery and Circular Economy Act, 2016* and *Ontario's Food and Organics Waste Policy Statement, 2018*.

A copy of the letter from David Parks to the Ontario Growth Secretariat, MMAH dated May 29, 2019 is attached as **Exhibit "S"**.

28. The *Waste Free Ontario Act, 2016*, *Resource Recovery and Circular Economy Act, 2016* and *Ontario's Food and Organics Waste Policy Statement, 2018* are statutes and policy that fall within the mandate of the Ministry of Environment, Conservation and Parks. The *Waste Free Ontario Act, 2016* has been repealed.

Internal Staff Emails at MMAH

The records obtained by FSF through the FOI request include documents prepared by MMAH staff about the Transitional Regulation related to the County of Simcoe's OPA

2. These documents are identified below:

- i. Darryl Lyons, MMAH, sent an email to four MMAH staff on March 21, 2019 at 11:23 am. The subject matter of the email is "GPA 1 Transition Requests." The email states that "help will be needed to craft one pager type notes similar to what was prepared in December with fact based information related to stakeholder requests for transition." At the bottom of the email is a chart with the heading "Group A: Specific Planning Matters Requested by Stakeholder to be Considered for Transition." The County of Simcoe Official Plan Amendment 2 is listed under "Stakeholder and Planning Matter" along with the comment "With the importance of this critical piece of infrastructure, the County requests that the Secretariat consider introducing transitional policies or regulations to address the approval that was recently given by the Ministry." A copy of the email Darryl Lyons sent to other MMAH staff on March 21, 2019 at 11:23 am is marked as **Exhibit "T"**.
- ii. Allyson Switzman, MMAH forwarded an email chain to Ross Lashbrook, MMAH and two other MMAH staff on March 26, 2019 at 5:40 pm with the "one pager" as referenced above in subparagraph (i) attached. In the

email, Allyson Switzman writes that the Assistant Deputy Minister has asked for some additional facts:

Thanks again for pulling these together so quickly! To help inform decision-making, our ADM has asked for some additional facts about each – see attached for questions...

At the bottom of the second page of the attachment the last bullet point states “MMAH’s decision was subsequently appealed to the Local Planning Appeal Tribunal by 3 neighbors/citizen groups. The appellants assert that OPA 2 does not conform with the Growth Plan, 2017 as it would permit the development of the ERRC in the woodland within the provincial Natural Heritage System (NHS) mapping. Growth Plan, Policy 2017 4.2.3.1 prohibits most types of development in key natural heritage features, such as significant woodlands, that are located within the provincial NHS mapping...”

On the third page of the attachment under the Heading “ANTICIPATED OUTCOME FROM TRANSITION:” a comment on the right-hand side of the page states: “Is there anything we can say based on rationale provided in County’s submission?”

A copy of the email sent by Allyson Switzman dated March 26, 2019 at 5:40 pm with the attachment “County of Simcoe OPA 2 Transition - OGS Comments.docx” is marked as **Exhibit “U”**.

- iii. Aly Alibhai, MMAH, sent an email on April 17, 2019 at 11:56 am to Marcia Wallace, MMAH with the attached One Pager. The One Pager attached to Aly Alibhai's email appears to be identical to the one noted in subparagraph (ii) above except that under the Heading "ANTICIPATED OUTCOME FROM TRANSITION:" it now states: "[t]he County requested that the Ministry consider introducing transitional policies or regulations to address the approval that was recently given by the Ministry." A copy of Aly Alibhai's email sent on April 17, 2019 at 11:56 am is attached as **Exhibit "V"**.
- iv. Allyson Switzman, MMAH, sent an email on May 30, 2019 at 2:50 pm to MMA Media. The email states that a reporter from *Barrie Today* left a voicemail with "a question about the current EBR posting on the proposed changes to the Growth Plan transition regulation. She is specifically interested in the proposal to provide transition for Simcoe Regional Official Plan Amendment 2 and what this would mean for that matter." A copy of the email from Allyson Switzman sent on May 30, 2019 at 2:50 pm to MMA Media is attached as **Exhibit "W"**.
- v. Allyson Switzman, MMAH, also sent an email on May 30, 2019 at 2:55 pm to Mirrun Zaveri, MMAH, which states "I've just received a voicemail from a reporter in Barrie about a specific matter proposed for transition in the current EBR posting that we have out there on the transition regulation.

For context, we anticipated (and flagged for DM and MO) that this aspect of the proposal might be somewhat contentious, and ... we have received several submissions from members of the public about this specific matter. I have flagged the request for comms (see below) and we've quickly drafted the following brief response. If you're ok with this I'll move it forward for ADM approval." Mirrun Zaveri, MMAH replied by email to Allyson Switzmans May 30, 2019 at 5:24 pm. The email states "Hi - will the journalist understand what we mean by transition?" A copy of Allyson Switzman's email to Mirrun Zaveri sent on May 30, 2019 at 2:55 pm and a copy of Mirrun Zaveri's reply email sent on March 30, 2019 at 5:24 pm is attached as **Exhibit "X"**.

vi. Allyson Switzman, MMAH replied by email to Mirrun Zaveri, MMAH on May 30, 2019 at 5:29 pm. The email states: "I think I was contacted because the reporter read the EBR submission (on which I am named as contact), which includes an explanation of what the transition regulation is and how it is proposed to be used. However, I agree that the meaning of the word "transition" as a verb is not always clear, so I've suggested some minor clarifying edits highlighted below." The clarifying edits are as follows:

- Through consultation on Proposed Amendment 1 and the proposed technical and housekeeping changes to the transition regulation, the Ministry received requests **to use**

the regulation to help facilitate ~~transition~~ specific planning matters that are far along in their approvals.

- One of the matters raised through this process was County of Simcoe Official Plan Amendment 2
- The government is now consulting on a proposal to use the regulation to address ~~transition~~ this matter and several others so that they can continue without needing to apply the policy changes in this new Plan. It is anticipated that this will support timely resolution of these matters.

The email from Allyson Switzman sent on May 30, 2019 to Mirrun Zaveri at 5:29 pm is attached as **Exhibit “Y”**.

vii. Christina Thomas, Executive Assistant (A), Ontario Growth Secretariat, MMAH, sent an email to Rachel Widakdo on May 31, 2019 at 9:51 am. The email was copied to several Ministry staff, including Allyson Switzman. The introduction to the email states “Hi Rachel, Please find below the OGS ADM(A)-approved response to this media inquiry.” The approved response to the media inquiry adopted the change proposed above in subparagraph (vii) and no longer has the crossed-out word “~~transition~~”:

- Through consultation on Proposed Amendment 1 and the proposed technical and housekeeping changes to the transition regulation, the Ministry received requests to use the regulation to help facilitate specific planning matters that are far along in their approval.

- One of the matters raised through this process was County of Simcoe Official Plan Amendment 2.
- The government is now consulting on a proposal to use the regulation to address this matter and several others so that they can continue without needing to apply the policy changes in this new Plan. It is anticipated that this will support timely resolution of these matters.

A copy of the email of Christina Thomas sent to Rachel Widakdo on May 31, 2019 at 9:51 am is attached as **Exhibit “Z”**.

- viii. A chart marked updated as of June 13, 2019 is titled “Phase 2 – Submissions on the 11 Proposed Planning Matters to be Transitioned” and marked “DRAFT AND CONFIDENTIAL – NOT FOR CIRCULATION.” The first “Planning Matter” in the chart is “County of Simcoe Official Plan Amendment 2”. In the column titled “Current Ministry Involvement and Proposed Transition Approach” the chart contains the following information:

Proposed Resource Recovery Centre

Approval Authority, Party at LPAT

Proposed Transition: GP, 2019 with exception of policies in sections 4.2.2, 4.2.3 and 4.2.4

According to the chart, the submitter, Simcoe County, is supportive of the proposed approach. In the column titled "Submission Comments", the entry for Simcoe County says:


Strongly supports the modification to the transitional regulation to provide clarity on the applicable Growth plan policies as this matter is addressed through the LPAT process.

This chart is attached as **Exhibit "AA"**.

29. I affirm this affidavit in support of the within application for judicial review, and for no other or improper purpose.

AFFIRMED before me in the City of
Toronto, in the province of Ontario, on this
29th day of October 2020.

)
)
)
)
)
)
)
)
)
)



Commissioner for Taking Affidavits
(J. Wilson)



Amanda Polley Montgomery

Original proposal

ERO number

019-0018

Notice type

Regulation

Act

Places to Grow Act, 2005

Posted by

Ministry of Municipal Affairs and Housing

Proposal posted

May 2, 2019

Comment period

May 2, 2019 - June 1, 2019 (30 days)

This is Exhibit.....'A'.....referred to in the
affidavit of..... Amanda Polley Montgomery.....
affirmed before me, this..... twenty-ninth.....
day of..... October..... 20..... 20.....


.....
A COMMISSIONER FOR TAKING AFFIDAVITS
(J. Wilson)

Proposal details

O. Reg. 311/06 is a Minister's regulation under the *Places to Grow Act, 2005* that prescribes transition provisions for growth plans under that Act. This regulation only applies to the growth plans under the *Places to Grow Act, 2005* such as A Place to Grow: Growth Plan for the Greater Golden Horseshoe 2019 (the Plan). The provisions in this regulation are distinct from and not related to the transition provisions that apply to the Greenbelt Plan and the Oak Ridges Moraine Conservation Plan.

This regulation was last modified on May 2, 2019 to provide clarity on how to apply the Plan policies. Other than the modifications proposed in this notice, no further modifications to this regulation are being considered at this time.

Purpose of regulation

It is proposed that the Minister would make the following modifications to the transition regulation such as to not unduly disrupt ongoing planning matters that may be impacted by the policy changes in the new Plan:

- Provide that the following official plan and official plan amendments are subject to the Growth Plan, 2006 as it read on June 16, 2006:
 - City of Brampton Official Plan Amendments 126, 127, 128, 129, 130 and 133
 - City of Toronto Official Plan Amendment 231
 - Town of Whitchurch–Stouffville Official Plan Amendment 137.
- Provide that the following official plan amendment is subject to the Growth Plan, 2006, as amended:
 - Region of Waterloo Regional Official Plan Amendment 2

- Provide that the following official plan amendment is subject to the Growth Plan for the Greater Golden Horseshoe 2019 with the exception of policy 2.2.8.6:
 - Region of Halton Regional Official Plan Amendment 47.
- Provide that the following official plan amendment is subject to the Growth Plan for the Greater Golden Horseshoe 2019 with the exception of policies in subsections 4.2.2, 4.2.3 and 4.2.4:
 - County of Simcoe Official Plan Amendment 2.

The Minister is seeking feedback regarding these proposed matters to be transitioned. Prescribing such matters or types of matters in the regulation could allow them to be approved in conformity with an earlier version of the Plan and/or provide for an exemption from some policies in A Place to Grow: Growth Plan for the Greater Golden Horseshoe 2019.

Other provincial plans, including the Greenbelt Plan and the Oak Ridges Moraine Conservation Plan, would still apply in those areas. The Minister is not considering making any changes to the applicability of the policies in those plans in connection with this proposal.

Other information

Questions about the proposed changes to the regulation, including the consultation process and collection of information may be directed to: growthplanning@ontario.ca

Feedback can be provided by

- email at growthplanning@ontario.ca
- Environmental Registry online form
- mail to:

Ontario Growth Secretariat
Ministry of Municipal Affairs and Housing
777 Bay Street
23rd Floor, Suite 2304
Toronto ON M5G 2E5

The consultation closes on June 1, 2019.

Notice regarding collection of information

Any collection of personal information will be in accordance with subsection 39(2) of the *Freedom of Information and Protection of Privacy Act*. It will be collected under the authority of the *Places to Grow Act, 2005* for the purpose of obtaining input on the Proposed Modifications to O. Reg. 311/06 made under the *Places to Grow Act, 2005*.

If you have questions about the collection, use, and disclosure of this information please contact:

Ministry of Municipal Affairs and Housing
Senior Information and Privacy Advisor
777 Bay Street, 17th Floor
Toronto, Ontario, M5G 2E5
416-585-7094

Organizations and businesses

Comments or submissions made on behalf of an organization or business may be shared or disclosed. By submitting comments, you are deemed to consent to the sharing of information contained in the comments and your business contact information. Business contact information is the name, title and contact information of anyone submitting comments in a business, professional or official capacity.

Individuals

Personal contact information will only be used to contact you and will not be shared. Please be aware that any comments provided may be shared or disclosed once personal information is removed. Personal information includes your name, home address and personal e-mail address.

Supporting materials

Related ERO notices

- [Bill 108 - \(Schedule 12\) – the proposed More Homes, More Choice Act: Amendments to the Planning Act](#)
- [Bill 108 - \(Schedule 3\) – the proposed More Homes, More Choice Act: Amendments to the Development Charges Act, 1997](#)

Related links

- [Growth Plan for the Greater Golden Horseshoe, 2017](#)

View materials in person

Some supporting materials may not be available online. If this is the case, you can request to view the materials in person.

Get in touch with the office listed below to find out if materials are available.

Ontario Growth Secretariat, Ministry of Municipal Affairs

Address

777 Bay Street
c/o Business Management Division, 17th floor
Toronto, ON
M5G 2E5
Canada

Office phone number

416-325-1210

Comment

Commenting is now closed.

This consultation was open from May 2, 2019
to June 1, 2019

Connect with us

Contact

Allyson Switzman

Phone number

416-325-7327

Email address

allyson.switzman@ontario.ca

Proposed Modifications to O. Reg. 311/06 (Transitional Matters - Growth Plans) made under the Places to Grow Act, 2005 to implement A Place to Grow: Growth Plan for the Greater Golden Horseshoe 2019

ERO number
019-0018
Notice type
Regulation
Act
Places to Grow Act, 2005
Posted by
Ministry of Municipal Affairs and Housing
Notice stage
Decision
Decision posted
September 6, 2019
Comment period
May 2, 2019 - June 1, 2019 (30 days) Closed
Last updated
September 6, 2019

This is Exhibit.....'B'.....referred to in the
affidavit of..... Amanda Polley Montgomery.....
affirmed before me, this..... twenty-ninth.....
day of..... October..... 20.20..


.....
A COMMISSIONER FOR TAKING AFFIDAVITS
(J. Wilson)

This consultation was open from:
May 2, 2019
to **June 1, 2019**

[Follow this notice](#)

Decision summary

A Place to Grow: Growth Plan for the Greater Golden Horseshoe 2019 came into effect on May 16, 2019 replacing the Growth Plan for the Greater Golden Horseshoe, 2017. Modifications to *O. Reg. 311/06* support the implementation of the plan by providing transitional treatment for certain planning matters currently in process.

On this page

1. [Decision details](#)
2. [Comments received](#)
3. [Effects of consultation](#)
4. [Supporting materials](#)
5. [Connect with us](#)
6. [Original proposal](#)

Decision details

On August 28, 2019, *O. Reg. 305/19* amended *O. Reg. 311/06* under the *Places to Grow Act, 2005*.

[O. Reg. 305/19: TRANSITIONAL MATTERS - GROWTH PLANS](#)

Ontario Regulation 311/06 was modified in response to requests concerning the following specific planning matters. The regulation now:

- Provides that the following official plan amendments are subject to the Growth Plan, 2006 as it read on June 16, 2006:
 - City of Brampton Official Plan Amendments 126, 127, 128, 129, 130 and 133
 - City of Toronto Official Plan Amendment 231
 - Town of Whitchurch-Stouffville Official Plan Amendment 137.
- Provides that the following official plan amendment is subject to the Growth Plan, 2006, as it read on June 30, 2017:
 - Region of Waterloo Regional Official Plan Amendment 2.
- Provides that the following official plan amendment is subject to the A Place to Grow 2019 with the exception of policy 2.2.8.6:
 - Region of Halton Regional Official Plan Amendment 47.
- Provides that the following official plan amendment is subject to A Place to Grow 2019 with the exception of policies in subsections 4.2.2, 4.2.3, and 4.2.4:
 - County of Simcoe Official Plan Amendment 2.

Other provincial plans, including the Greenbelt Plan and the Oak Ridges Moraine Conservation Plan, will still apply to these matters. The Minister has not made any changes to the applicability of the policies in those plans.

Impacts on the Environment

There are no changes to existing A Place to Grow policies that protect the environment and health and safety of Ontarians. The modifications to the regulation would not impact protections in the Greenbelt Area including the Oak Ridges Moraine and the Niagara Escarpment. Transitioning matters to previous versions of the Growth Plan may result in these matters being subject to lesser environmental standards than the policies that are currently in effect.

Comments received

Through the registry

By email

7

By mail

1

[View comments submitted through the registry](#)

Effects of consultation

In finalizing the proposed modifications to the regulation, all comments received were carefully considered. The final modifications to the regulation provide for greater certainty in the land use planning system.

Through this consultation, the Ministry received requests for the transition of additional specific planning matters. These requests are still being considered.

Supporting materials

Related links

- [A Place to Grow: Growth Plan for the Greater Golden Horseshoe 2019](#)
- [O. Reg. 305/19: TRANSITIONAL MATTERS - GROWTH PLANS](#)

View materials in person

Some supporting materials may not be available online. If this is the case, you can request to view the materials in person.

Get in touch with the office listed below to find out if materials are available.

Ontario Growth Secretariat, Municipal Affairs and Housing

Address

23rd Flr Suite 2304, 777 Bay St
Toronto, ON
M5G 2E5
Canada

Office phone number

[416-325-1210](tel:416-325-1210)

Connect with us

Contact

Ontario Growth Secretariat, Ministry of Municipal Affairs and Housing

Phone number

416-325-1210

Email address

growthplanning@ontario.ca

Sign up for notifications

We will send you email notifications with any updates related to this consultation. You can change your notification preferences anytime by visiting settings in your profile page.

[Follow this notice](#)

Original proposal

ERO number

019-0018

Notice type

Regulation

Act

Places to Grow Act, 2005

Posted by

Ministry of Municipal Affairs and Housing

Proposal posted

May 2, 2019

Comment period

May 2, 2019 - June 1, 2019 (30 days)

Proposal details

O. Reg. 311/06 is a Minister's regulation under the *Places to Grow Act, 2005* that prescribes transition provisions for growth plans under that Act. This regulation only applies to the growth plans under the *Places to Grow Act, 2005* such as A Place to Grow: Growth Plan for the Greater Golden Horseshoe 2019 (the Plan). The provisions in this regulation are distinct from and not related to the transition provisions that apply to the Greenbelt Plan and the Oak Ridges Moraine Conservation Plan.

This regulation was last modified on May 2, 2019 to provide clarity on how to apply the Plan policies. Other than the modifications proposed in this notice, no further modifications to this regulation are being considered at this time.

Purpose of regulation

It is proposed that the Minister would make the following modifications to the transition regulation such as to not unduly disrupt ongoing planning matters that may be impacted by the policy changes in the new Plan:

- Provide that the following official plan and official plan amendments are subject to the Growth Plan, 2006 as it read on June 16, 2006:
 - City of Brampton Official Plan Amendments 126, 127, 128, 129, 130 and 133
 - City of Toronto Official Plan Amendment 231
 - Town of Whitchurch–Stouffville Official Plan Amendment 137.
- Provide that the following official plan amendment is subject to the Growth Plan, 2006, as amended:
 - Region of Waterloo Regional Official Plan Amendment 2
- Provide that the following official plan amendment is subject to the Growth Plan for the Greater Golden Horseshoe 2019 with the exception of policy 2.2.8.6:
 - Region of Halton Regional Official Plan Amendment 47.
- Provide that the following official plan amendment is subject to the Growth Plan for the Greater Golden Horseshoe 2019 with the exception of policies in subsections 4.2.2, 4.2.3 and 4.2.4:
 - County of Simcoe Official Plan Amendment 2.

The Minister is seeking feedback regarding these proposed matters to be transitioned. Prescribing such matters or types of matters in the regulation could allow them to be approved in conformity with an earlier version of the Plan and/or provide for an exemption from some policies in A Place to Grow: Growth Plan for the Greater Golden Horseshoe 2019.

Other provincial plans, including the Greenbelt Plan and the Oak Ridges Moraine Conservation Plan, would still apply in those areas. The Minister is not considering making any changes to the applicability of the policies in those plans in connection with this proposal.

Other information

Questions about the proposed changes to the regulation, including the consultation process and collection of information may be directed to: growthplanning@ontario.ca

Feedback can be provided by

- email at growthplanning@ontario.ca
- Environmental Registry online form

- mail to:

Ontario Growth Secretariat
Ministry of Municipal Affairs and Housing
777 Bay Street
23rd Floor, Suite 2304
Toronto ON M5G 2E5

The consultation closes on June 1, 2019.

Notice regarding collection of information

Any collection of personal information will be in accordance with subsection 39(2) of the *Freedom of Information and Protection of Privacy Act*. It will be collected under the authority of the *Places to Grow Act, 2005* for the purpose of obtaining input on the Proposed Modifications to O. Reg. 311/06 made under the *Places to Grow Act, 2005*.

If you have questions about the collection, use, and disclosure of this information please contact:

Ministry of Municipal Affairs and Housing
Senior Information and Privacy Advisor
777 Bay Street, 17th Floor
Toronto, Ontario, M5G 2E5
416-585-7094

Organizations and businesses

Comments or submissions made on behalf of an organization or business may be shared or disclosed. By submitting comments, you are deemed to consent to the sharing of information contained in the comments and your business contact information. Business contact information is the name, title and contact information of anyone submitting comments in a business, professional or official capacity.

Individuals

Personal contact information will only be used to contact you and will not be shared. Please be aware that any comments provided may be shared or disclosed once personal information is removed. Personal information includes your name, home address and personal e-mail address.

Supporting materials

Related ERO notices

- [Bill 108 - \(Schedule 12\) – the proposed More Homes, More Choice Act: Amendments to the Planning Act](#)
- [Bill 108 - \(Schedule 3\) – the proposed More Homes, More Choice Act: Amendments to the Development Charges Act, 1997](#)

Related links

- [Growth Plan for the Greater Golden Horseshoe, 2017](#)

View materials in person

Some supporting materials may not be available online. If this is the case, you can request to view the materials in person.

Get in touch with the office listed below to find out if materials are available.

Ontario Growth Secretariat, Ministry of Municipal Affairs

Address

777 Bay Street
c/o Business Management Division, 17th floor
Toronto, ON
M5G 2E5
Canada

Office phone number

416-325-1210

Comment

Commenting is now closed.

**This consultation was open from May 2, 2019
to June 1, 2019**



Ontario
Executive Council
Conseil exécutif

Order in Council
Décret

This is Exhibit.....'C'.....referred to in the
affidavit of..... Amanda Polley Montgomery.....
affirmed before me, this.....twenty-ninth.....
day of.....October.....20..20....

Jaqueline Wilson (J. Wilson)
A COMMISSIONER FOR TAKING AFFIDAVITS

On the recommendation of the undersigned, the
Lieutenant Governor, by and with the advice and
concurrence of the Executive Council, orders that:

Sur la recommandation de la personne soussignée,
le lieutenant-gouverneur, sur l'avis et avec le
consentement du Conseil exécutif, décrète ce
qui suit :

WHEREAS pursuant to subsection 2(1) of the *Executive Council Act*,
R.S.O. 1990, c. E.25, a member of the Executive Council has been appointed
under the Great Seal to hold office as the Minister of Municipal Affairs and
Housing;

THEREFORE, PURSUANT TO subsections 2 (2), 5 (1) and 8 (1) of the
Executive Council Act:

Minister to preside over Ministry

1. The Minister of Municipal Affairs and Housing (the "Minister") shall preside
over a ministry known as the Ministry of Municipal Affairs and Housing (the
"Ministry").

Minister

2. The Minister shall exercise the powers and perform the duties, functions
and responsibilities that are assigned by law to the Minister or that may otherwise
be assigned to or undertaken by the Minister in respect of municipal affairs,
housing and any other matters related to the Minister's portfolio.

3. The Minister shall exercise the powers and perform the duties, functions
and responsibilities that had previously been assigned and transferred to the

Minister of Infrastructure under Order in Council O.C. 1376/2011 dated July 19, 2011 under the following Acts:

- a) *Places to Grow Act, 2005*, S.O. 2005, c. 13; and
- b) *Ministry of Infrastructure Act, 2011*, S.O. 2011, c. 9 in respect of clause 7(1)(b) with respect to growth management, clause 7(1)(c) and subsection 7(4) with respect to growth management and growth plans,

and such powers, duties, functions and responsibilities are assigned and transferred to the Minister accordingly.

Ministry

4. The Ministry shall carry out the functions, responsibilities and programs that are assigned by law to the Ministry or that may otherwise be assigned to or undertaken by the Ministry in respect of municipal affairs, housing and any other matters related to the Minister's portfolio.

5. The Ministry shall carry out the functions, responsibilities and programs that had previously been carried out by the Ministry of Infrastructure under Order in Council O.C. 1376/2011 dated July 19, 2011 under the following Acts:

- a) *Places to Grow Act, 2005*, S.O. 2005, c. 13; and
- b) *Ministry of Infrastructure Act, 2011*, S.O. 2011, c. 9 in respect of clause 7(1)(b) with respect to growth management, clause 7(1)(c) and subsection 7(4) with respect to growth management and growth plans,

and such functions, responsibilities and programs are assigned and transferred to the Ministry accordingly.

Administration of Statutes

6. Despite any provision of a statute or Order in Council, the administration of the statutes set out in the Appendix to this Order in Council is assigned to the Minister.

Revocation of Order in Council


7. Order in Council O.C. 844/2005 dated May 18, 2005 and published in the Ontario Gazette on June 4, 2005, as revised by Order in Council O.C. 1490/2005 dated September 21, 2005, Order in Council O.C. 2355/2006 dated November 22, 2006, Order in Council O.C. 489/2010 dated April 14, 2010, Order in Council O.C. 39/2011 dated January 19, 2011 and Order in Council O.C. 1307/2011 dated June 22, 2011, is hereby revoked.

Amendment to Previous Order in Council

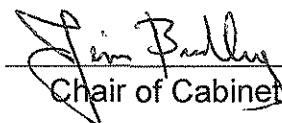
8. The Attorney General shall exercise the powers and perform the duties, functions and responsibilities in respect of Part XI; Part XII except for subsection 194(3), section 203 and section 203.1; and paragraphs 61-67 and 69-71 of subsection 241(1) of the *Residential Tenancies Act, 2006*, S.O. 2006, c. 17.

9. Order in Council O.C. 1705/2003 dated November 24, 2003 and published in the Ontario Gazette on January 10, 2004, as revised by Order in Council O.C. 39/2011 dated January 19, 2011, is hereby amended and shall be interpreted accordingly.

Recommended


Premier and President
of the Council

Concurred


Chair of Cabinet

Approved
and Ordered

FEB 18 2015

Date



Administrator of the Government

**APPENDIX
STATUTES ADMINISTERED BY THE
MINISTER OF MUNICIPAL AFFAIRS AND HOUSING**

- Barrie-Innisfil Boundary Adjustment Act, 2009, S.O. 2009, c. 29*
- Building Code Act, 1992, S.O. 1992, c. 23*
- City of Greater Sudbury Act, 1999, S.O. 1999, c. 14, Sched. A*
- City of Hamilton Act, 1999, S.O. 1999, c. 14, Sched. C*
- City of Kawartha Lakes Act, 2000, S.O. 2000, c. 43*
- City of Ottawa Act, 1999, S.O. 1999, c. 14, Sched. E*
- City of Toronto Act, 2006, S.O. 2006, c. 11, Sched. A*
- Commercial Tenancies Act, R.S.O. 1990, c. L.7*
- Development Charges Act, 1997, S.O. 1997, c. 27*
- Elderly Persons' Housing Aid Act, R.S.O. 1990, c. E.5*
- Geographic Township of Creighton-Davies Act, 1997, S.O. 1997, c.33*
- Greenbelt Act, 2005, S.O. 2005, c. 1*
- Housing Development Act, R.S.O. 1990, c. H.18*
- Housing Services Act, 2011, S.O. 2011, c. 6, Sched. 1*
- Line Fences Act, R.S.O. 1990, c. L.17*
- Ministry of Municipal Affairs and Housing Act, R.S.O. 1990, c. M.18*
- Ministry of Infrastructure Act, 2011, S.O. 2011, c. 9, Sched. 27, in respect of clause 7(1)(b) with respect to growth management, clause 7(1)(c) and subsection 7(4) with respect to growth management and growth plans.*
- Municipal Act, 2001, S.O. 2001, c. 25*
- Municipal Affairs Act, R.S.O. 1990, c. M.46*
- Municipal Arbitrations Act, R.S.O. 1990, c. M.48*
-

Municipal Conflict of Interest Act, R.S.O. 1990, c. M.50

Municipal Corporations Quieting Orders Act, R.S.O. 1990, c. M.51

Municipal Elections Act, 1996, S.O. 1996, c. 32, Sched.

Municipal Extra-Territorial Tax Act, R.S.O. 1990, c. M.54

Municipal Franchises Act, R.S.O. 1990, c. M.55

Municipal Tax Assistance Act, R.S.O. 1990, c. M.59

Municipality of Shuniah Act, 1936, S.O. 1936, c. 83

Oak Ridges Moraine Conservation Act, 2001, S.O. 2001, c. 31

Oak Ridges Moraine Protection Act, 2001, S.O. 2001, c. 3

OC Transpo Payments Act, 2000, S.O. 2000, c. 19

Ontario Mortgage and Housing Corporation Act, R.S.O. 1990, c. O.21

Ontario Municipal Employees Retirement System Act, 2006, S.O. 2006, c. 2

Ontario Municipal Employees Retirement System Review Act, 2006, S.O. 2006, c. 9, Sched. K

Ontario Planning and Development Act, 1994, S.O. 1994, c. 23, Sched. A

Planning Act, R.S.O. 1990, c. P.13

Places to Grow Act, 2005, S.O. 2005, c. 13

Public Utilities Act, R.S.O. 1990, c. P.52

Regional Municipality of Peel Act, 2005, S.O. 2005, c. 20

Residential Tenancies Act, 2006, S.O. 2006, c. 17, except in respect of Part XI; Part XII except for subsection 194 (3), section 203 and section 203.1; and paragraphs 61-67 and 69-71 of subsection 241 (1)

Road Access Act, R.S.O. 1990, c. R.34

Shoreline Property Assistance Act, R.S.O. 1990, c. S.10

Statute Labour Act, R.S.O. 1990, c. S.10

Territorial Division Act, 2002, S.O. 2002, c. 17, Sched. E

Toronto Islands Residential Community Stewardship Act, 1993, S.O. 1993, c. 15

Town of Haldimand Act, 1999, S.O. 1999, c. 14, Sched. B

Town of Moosonee Act, 2000, S.O. 2000, c. 5, Sched.

Town of Norfolk Act, 1999, S.O. 1999, c. 14, Sched. D

Access or Correction Request

*Freedom of Information and Protection of Privacy Act
Municipal Freedom of Information and Protection of Privacy Act*

Please see instructions on page 2 before filling out this form

A. Type of Request

- Access to general records (non-personal information)
 Access to own personal information
 Access to other's personal information by authorized party
 Correction of own personal information

Name of institution request made to
Ministry of Municipal Affairs and Housing

B. Requester's Information

Last name WAGNER		First name MARY		Middle initial T
Unit/Apt. no.	Street no. 2928	Street name HORSESHOE VALLEY ROAD		PO box
City/Town PHELPSTON		Province ON		Postal code L0L 2K0
Home phone no. (include area code) 705-716-6564		Business/Mobile phone no. (include area code & extension) 705-737-0970		

C. Description of Records or Correction Requested

- (1) All records in print, electronic format, or sound recording (voice messages) that pertain to the following:
- (i) the proposal to exempt the County of Simcoe's Official Plan Amendment No. 2 from the Growth Plan for the Greater Golden Horseshoe, 2019;
- (ii) the proposal to exempt the County of Simcoe's Official Plan Amendment No. 2 from the Growth Plan for the Greater Golden Horseshoe, 2017; and
- (iii) Proposed modification to O. Reg. 311/06 (Transitional Matters - Growth Plan) under Places to Grow Act, 2005, insofar as it relates to the County of Simcoe's Official Plan Amendment No. 2.

This is Exhibit.....'D'.....referred to in the affidavit of..... Amanda Polley Montgomery..... affirmed before me, this.....twenty-ninth..... day of..... October..... 20 20.....

Jaqueline W. (J.W. Wilson)
A COMMISSIONER FOR TAKING AFFIDAVITS

Time period of the records From (yyyy/mm/dd) To (yyyy/mm/dd) 2018/11/30 2019/06/15		Method of access <input checked="" type="checkbox"/> Receive copy <input type="checkbox"/> Examine original (on site only)	
--	--	---	--

D. Payment and Signature

\$5 application fee <input checked="" type="checkbox"/> Cheque <input type="checkbox"/> Cash (in person only)	Signature	Date (yyyy/mm/dd)
--	-----------	-------------------

Personal information contained on this form is collected under the *Freedom of Information and Protection of Privacy Act* or *Municipal Freedom of Information and Protection of Privacy Act* and will be used to answer your request.

Questions about this collection should be directed to the Freedom of Information and Privacy Coordinator at the institution where you make the request.

E. Institution Use Only

Date received (yyyy/mm/dd)	Request no.	Comments
----------------------------	-------------	----------

Instructions for Completing Access or Correction Request

Informal Access to Records

Many records of public institutions are available to you without making a request under the *Freedom of Information and Protection of Privacy Act* or the *Municipal Freedom of Information and Protection of Privacy Act*. Contact the Freedom of Information and Privacy (FOIP) Coordinator at the institution that holds the records to determine whether you need to make a formal request.

A. Type of Request

Check the box that indicates what you are requesting. (Records that do not contain personal information are general records.)

The FOIP Coordinator is required to verify your identity before giving you access to your own personal information.

If you are requesting another person's personal information records, you must provide proof that you have the authority to act for them (e.g., power of attorney, guardian or trusteeship order).

B. Requester's Information

Please ensure you have entered your name, address and telephone numbers accurately.

C. Description of Records or Correction Requested

Provide as much detail as possible about the requested general records, own personal information, other's personal information or correction of own personal information. Use a separate sheet of paper if you need more space and attach it to this form.

If you are requesting personal information records, provide the name that should appear on them.

Specify the time period for the records as precisely as possible, e.g., from 2008/07/21 to 2009/11/30.

If you are requesting a correction of your own personal information records, describe the correction you want and provide any supporting documents. If possible, provide copies of the information to be corrected and the information you wish to have it replaced with.

Check a box to indicate whether you want to examine original documents (which may only be done on site) or receive copies.

D. Payment and Signature

A \$5 application fee is required. Cash payments must be made in person.

Make cheques payable to the appropriate payee of the institution that holds the records. The payee for Government of Ontario ministries is the Minister of Finance.

Sign and date the form and mail it or submit it in person to the institution that holds the records.

Corporate Services Branch
777 Bay Street, 17th Floor
Toronto ON M5G 2E5
Tel.: 416-585-7513

Direction des services généraux
777, rue Bay, 17^e étage
Toronto ON M5G 2E5
Tél.: 416-585-7513

July 12, 2019

Mary Wagner
2928 Horseshoe Valley Road
Phelpston, ON L0L 2K0

Dear Mary Wagner,

This is Exhibit.....'E'.....referred to in the
affidavit of..... Amanda Polley Montgomery.....
affirmed before me, this.....twenty-ninth.....
day of.....October.....20, 20.....


A COMMISSIONER FOR TAKING AFFIDAVITS

**Re: Freedom of Information and Protection of Privacy Act Request,
Our File #: MMAH 201925**

This letter is in response to your request made pursuant to the Freedom of Information and Protection of Privacy Act (the Act). Your complete request was received on June 12, 2019 seeking access to the following:

All records in print, electronic format, or sound recording (voice messages) between November 30, 2018 to June 15, 2019 that pertain to the following:

- The proposal to exempt the County of Simcoe's Official Plan Amendment No. 2 from the Growth Plan for the Greater Golden Horseshoe, 2019;
- The proposal to exempt the County of Simcoe's Official Plan Amendment No. 2 from the Growth Plan for the Greater Golden Horseshoe, 2017; and
- Proposed modification to O. Reg. 311/06 (Transitional Matters – Growth Plan) under Places to Grow Act, 2005, insofar as it relates to the County of Simcoe's Official Plan Amendment No.2.

After a search through the ministry's files, records were located in response to your request. Our preliminary review of the records indicates some of the records may be exempt from disclosure. Some or all of the following exemptions, as provided for under the Act, may apply to the records you have requested:

- s.12 Cabinet records
- s.13 Advice to government
- s.21 Personal information

In accordance with section 57 of the Act, the estimated fee for the records requested is \$925.00 and is calculated as follows:

Description	Cost per Item or Hour	Quantity	Totals
Search Time	\$30/hour	10 hours	\$ 300.00
Preparation and/or Severing	\$30/hour	7.5 hours	\$ 225.00
Reproduction/Photocopies	\$0.20/page	2000 pages	\$ 400.00
TOTAL			\$ 925.00

Your written acceptance of this fee estimate together with a deposit of \$462.50 (50% of the estimated fee) is requested prior to proceeding with the request. Please make your cheque or money order payable to the "Minister of Finance" and mail to:

Mallory Hosam
Senior Information Management and Privacy Advisor
Ministry of Municipal Affairs and Housing
Corporate Services Branch
777 Bay Street, 17th Floor
Toronto, Ontario
M5G 2E5

Please note that this is a fee estimate only. Once we complete processing your request, we will issue a final decision and a final fee.

The Freedom of Information and Protection of Privacy Act (the Act) requires the Ministry to issue a decision on access within 30 calendar days from the date the request was received. However, in certain circumstances, the Ministry may extend the prescribed 30 days by a reasonable amount of time. In accordance with Section 27(1) (a) and (b) of the Act (attached), a 62-day extension has been applied to this request. Upon receipt of your deposit, we will notify you of the new final due date.

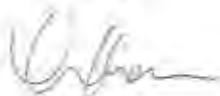
Under section 57(4) of the Act and section 8 of Regulation 460, all or part of the fee can be waived if, in the opinion of the head of the requested institution, it is fair and equitable to do so, in certain circumstances. You may be required to provide evidence in support of any fee waiver request. Please notify me as soon as possible if you wish to proceed with a request for a fee waiver.

If we do not hear from you within 30 days from the date of this letter with regard to the above fee, your request shall be considered abandoned and the file closed. Requesting the same information at a future date will require the submission of a new access request along with the prescribed \$5.00 application fee.

You may, within 30 days from the date of this letter, request a review of this decision by contacting the Information & Privacy Commissioner, 2 Bloor Street East, Suite 1400, Toronto, ON M4W 1A8, Tel: (416) 326-3333. You must include a copy of your original request for information, a copy of this decision letter and an appeal fee in the amount of \$25.00 made payable to the "Minister of Finance".

The ministry remains open to working with you to narrow the search and provide access to the records you are seeking. Should you have any questions or require clarification of any matter, please contact me at (416) 585-7225.

Sincerely,



Mallory Hosam
Senior Information Management and Privacy Advisor

Extension of time

27 (1) A head may extend the time limit set out in section 26 for a period of time that is reasonable in the circumstances, where,

- (a) the request is for a large number of records or necessitates a search through a large number of records and meeting the time limit would unreasonably interfere with the operations of the institution; or
- (b) consultations with a person outside the institution are necessary to comply with the request and cannot reasonably be completed within the time limit. R.S.O. 1990, c. F.31, s. 27 (1).



Canadian
Environmental Law
Association
EQUITY. JUSTICE. HEALTH.

This is Exhibit.....'F'.....referred to in the
affidavit of.....Amanda Polley Montgomery.....
affirmed before me, this.....twenty-ninth.....
day of.....October.....20.20.....

August 15, 2019

Mallory Hosam
Senior Information Management and Privacy Advisor
Ministry of Municipal Affairs and Housing
Corporate Services Branch
777 Bay Street, 17th Floor
Toronto, Ontario
M5G 2E5


.....
A COMMISSIONER FOR TAKING AFFIDAVITS

Dear Ms. Hosam,

**RE: Revised *Freedom of Information and Protection of Privacy Act* Request
File #: MMAH 201925**

I am writing on behalf of Mary Wagner regarding the *Freedom of Information and Protection of Privacy Act* Request, File #: MMAH 201925.

As per our conversation on August 9, 2019 and your recommendation that we narrow the scope of our request, we are proposing to revise the original FOI request.

The original request was as follows:

- (1) All records in print, electronic format, or sound recording (voice messages) that pertain to the following:
 - (i) the proposal to exempt the County of Simcoe's Official Plan Amendment No. 2 from the Growth Plan for the Greater Golden Horseshoe, 2019;
 - (ii) the proposal to exempt the County of Simcoe's Official Plan Amendment No. 2 from the Growth Plan for the Greater Golden Horseshoe, 2017; and
 - (iii) Proposed modification to O. Reg. 311/06 (Transitional Matters - Growth Plan) under *Places to Grow Act, 2005*, insofar as it relates to the County of Simcoe's Official Plan Amendment No. 2.
- (2) Time period of records: 2018/11/30 to 2019/06/15

We propose to modify this request in the following ways:

- (1) Exclude Cabinet records and personal information; and
- (2) Receive the documents in electronic form.

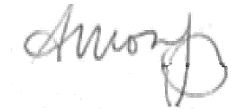
Canadian Environmental Law Association

T 416 960-2284 • 1-844-755-1420 • F 416 960-9392 • 55 University Avenue, Suite 1500 Toronto, Ontario M5J 2H7 • cela.ca

Finally, we wish to emphasize that we are only interested in documents related to the proposed modification to O. Reg. 311/06 as it relates to the County of Simcoe's Official Plan Amendment No. 2 and not in documents related to the proposed modification of the Regulation generally.

On the basis of the above revisions, please provide a revised fee estimate for this request.

Sincerely,

A handwritten signature in black ink, appearing to read "Amanda Montgomery". The signature is written in a cursive, flowing style.

Amanda Montgomery
Student-at-Law
CANADIAN ENVIRONMENTAL LAW ASSOCIATION

Enclosures

Ministry of
Municipal Affairs
and Housing

Ministère des
Affaires municipales
et du Logement



Corporate Services Branch

Direction des services généraux

777 Bay Street, 17th Floor
Toronto ON M7A 2J3
Tel.: 416 585-7513

777, rue Bay, 17^e étage
Toronto ON M7A 2J3
Tél. : 416 585-7513

December 2, 2019

Mary Wagner
2928 Horseshoe Valley Road
Phelpston, Ontario
L0L 2K0

This is Exhibit.....'G'.....referred to in the
affidavit of..... Amanda Polley Montgomery.....
affirmed before me, this.....twenty-ninth.....
day of..... October..... 20. 20.....

A handwritten signature in blue ink that reads "Jaypol Wls (J. Wilson)". Below the signature is a dotted line, and underneath that, the text "A COMMISSIONER FOR TAKING AFFIDAVITS" is printed in a small, black, sans-serif font.

Dear Mary Wagner,

Re: Freedom of Information and Protection of Privacy Act Request
Our File #: MMAH 201925
Notice of Due Date

Further to our letter dated August 30, 2019, we advised that a 55-day time extension would be required to process your request upon receipt of your 50% deposit.

As we have received your deposit as of November 13, 2019, we are writing to advise you that the final decision due date is January 7, 2020.

Should you have any questions or require clarification of any matter, please contact me at (416) 585-7225 or by email at mallory.hosam@ontario.ca.

Sincerely,

A handwritten signature in black ink that reads "Mallory Hosam".

f. | Mallory Hosam
Senior Information Management and Privacy Advisor

**Environment and Land Tribunals
Ontario**

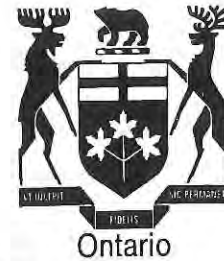
Local Planning Appeal Tribunal

655 Bay Street, Suite 1500
Toronto ON M5G 1E5
Telephone: (416) 212-6349
Toll Free: 1-866-448-2248
Website: www.elto.gov.on.ca

**Tribunaux de l'environnement et de
l'aménagement du territoire Ontario**

Tribunal d'appel de l'aménagement
local

655 rue Bay, suite 1500
Toronto ON M5G 1E5
Téléphone: (416) 212-6349
Sans Frais: 1-866-448-2248
Site Web: www.elto.gov.on.ca



VIA EMAIL

December 13, 2019

Ugo Popadic
Legal Counsel
Ministry of Municipal Affairs and Housing
Provincial Planning Services Branch
777 Bay Street, 13th Floor
Toronto, ON M5G 2E5
ken.hare@ontario.ca

This is Exhibit.....'H'.....referred to in the
affidavit of.....Amanda Polley Montgomery.....
affirmed before me, this.....twenty-ninth.....
day of.....October.....20..20.....

Jaqueline (J. Wilson)
.....
A COMMISSIONER FOR TAKING AFFIDAVITS

Marshall Green
County of Simcoe
Administration Centre
1110 Highway 26
Midhurst, ON L0L1X0
marshall.green@simcoe.ca

Re: Case Number: PL190022
File Number: PL190022
Municipality: Township of Springwater
Official Plan Number: OPA 2
Property Location: 2976 Horseshoe Valley Road
Applicant: County of Simcoe
Appellants: Friends of Simcoe Forests Inc., Edward Krajcir,
Nicholyn Farms

I am responding to your request for the Local Planning Appeal Tribunal to appoint a date for the hearing of a motion for directions under Rule 10 of the Tribunal's *Rules of Practice and Procedure*.

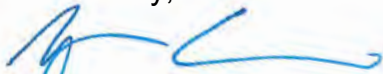
The Tribunal has agreed to hear this motion by written submissions.

The Tribunal directs that a copy of your notice of motion, a supporting affidavit and a copy of the Tribunal's Rules 10.01 to 10.11 be served in accordance Rule 10.03, which requires the moving parties to serve a notice of written motion by Monday, December 30, 2019. Parties wishing to respond to a written motion shall serve a response by Tuesday, January 7, 2020. A moving party may reply to a response by Friday, January 10, 2020.

The Motion Materials should be served on all persons indicated on the enclosed SCHEDULE "A". A copy of your Motion Materials must also be forwarded to the

undersigned for the Tribunal's file. This should include an affidavit showing compliance with the Tribunal's directions and it is required to be filed three days after notice of motion has been served.

Sincerely,



Ryan Co
Case Coordinator, Planner
(416) 326-8946

Encl.

c.c.
Ramani Nadarajah, ramani@cela.ca
David White, David.White@devrylaw.ca
Eric Boate, eboate@mccagueborlack.com

SCHEDULE "A"

Ramani Nadarajah
Canadian Environmental Law Association
55 University Avenue 15th floor
Toronto, ON M5J 2H7
ramani@cela.ca

David White
Devry Smith Frank LLP
95 Barber Greene Road Suite 100
Toronto, ON M3C 3E9
David.White@devrylaw.ca

Eric Boate
McCague Borlack LLP
59 Collier Street
Barrie, ON L4M 7H1
eboate@mccagueborlack.com

LOCAL PLANNING APPEAL TRIBUNAL RULES ON ADJOURNMENTS

17.1 Hearing Dates Fixed Hearing events will take place on the date set unless the Tribunal agrees to an adjournment. Adjournments will not be allowed that may prevent the Tribunal from completing and disposing of its proceedings within any applicable prescribed time period.

17.1 Requests for Adjournment if All Parties Consent If all of the parties agree, they may make a written request to adjourn a hearing event. The request must include the reasons, a suggested new date, and the written consents of all parties. However, the Tribunal may require that the parties attend in person or convene an electronic hearing to request an adjournment, even if all of the parties consent. The consenting parties are expected to present submissions to the Tribunal on the application of any prescribed time period to dispose of the proceeding.

17.2 Requests for Adjournment without Consent If a party objects to an adjournment request, the party requesting the adjournment must bring a motion at least 15 days before the date set for the hearing event. If the reason for an adjournment arises less than 15 days before the date set for the hearing event, the party must give notice of the request to the Tribunal and to the other parties and serve their motion materials as soon as possible. If the Tribunal refuses to consider a late request, any motion for adjournment must be made in person, at the beginning of the hearing event.

17.3 Emergencies Only The Tribunal will grant last minute adjournments only for unavoidable emergencies, such as illnesses so close to the hearing date that another representative or witness cannot be obtained. The Tribunal must be informed of these emergencies as soon as possible.

17.4 Powers of the Tribunal upon Adjournment Request The Tribunal may,

- (a) grant the request;
- (a) grant the request and fix a new date or, where appropriate, the Tribunal will schedule a case management conference on the status of the matter;
- (b) grant a shorter adjournment than requested;
- (c) deny the request, even if all parties have consented;
- (d) direct that the hearing proceed as scheduled but with a different witness, or evidence on another issue;
- (e) grant an indefinite adjournment, if the Tribunal finds no substantial prejudice to the other parties or to the Tribunal's schedule and the Tribunal concludes the request is reasonable for the determination of the issues in dispute. In this case a party must make a request, or the Tribunal on its own initiative may direct, that the hearing be rescheduled or resumed as the case may be;
- (f) convert the scheduled date to a mediation or case management conference;
- (g) issue a Notice of Postponement, in the event the proceeding is an appeal of a *Planning Act* matter subject to O. Reg. 102/18 under LPATA; or
- (h) make any other appropriate order.

September 3, 2019

LOCAL PLANNING APPEAL TRIBUNAL RULES ON MOTIONS

10.01 Notice of Motion A motion brought before the commencement of a hearing event shall be made by notice of motion.

10.02 Date for Motion A moving party shall obtain from Tribunal staff a motion date if the motion is to be heard in person or by electronic hearing. A person may request, or the Tribunal may order, that the motion be heard in person or by electronic hearing.

10.03 Motion in Writing A party bringing a motion before the commencement of a hearing event may request a motion be held in writing, or the Tribunal may make its own determination that the motion be held in writing, in which case the Tribunal will notify the moving party and all other parties. The moving party shall serve a notice of written motion within 15 days of receipt of this notice. Parties wishing to respond to a written motion shall serve a response within 7 days of the date of the moving party's notice of written motion. A moving party may reply to a response within 3 days of the date of the written response.

10.04 Content of Motion Material The notice of motion to be heard orally, by electronic hearing, or in writing shall:

- (a) state the day, time and location of the hearing of the motion;
- (a) state the precise relief sought;
- (b) state the grounds to be argued, including a reference to any statutory provision or rule to be relied on;
- (c) list the documentary evidence to be used at the hearing of the motion;
- (d) be accompanied by an affidavit setting out a brief and clear statement of the facts upon which the moving party will rely; and
- (e) state the names and addresses of the responding parties or their representatives and all persons to whom the notice of motion is to be given.

10.05 Service of the Notice of Motion A notice of motion and all supporting material, as set out in Rule 10.4, shall be served at least 15 days before the date of the motion to be held in person or by electronic hearing unless the Tribunal orders otherwise. A notice of motion shall be served on all parties, on any other person as directed by the Tribunal, and on the Registrar. An affidavit of service shall be filed with the Tribunal prior to or at the hearing of the motion.

10.06 The Notice of Response to Motion A responding party shall serve a notice of response that:

- (a) states the response to be made, including a reference to any statutory provision or rule to be relied on;
- (a) lists the documentary evidence to be used at the hearing of the motion; and
- (b) includes an affidavit setting out a brief and clear statement of the facts upon which the responding party will rely.

10.07 Service of the Notice of Response to Motion The notice of response to motion and all supporting material as set out in Rule 10.6 shall be served no later than 7 days before the date of the motion to be held in person or by electronic hearing unless the Tribunal orders otherwise. The notice of response shall be served on all parties, on any other person as directed by the Tribunal, and on the Registrar. An affidavit of service shall be filed with the Tribunal prior to or at the hearing of the motion.

10.08 Reply Submission A moving party may serve a reply submission, 3 days prior to the commencement of the hearing of the motion.

10.09 Oral Submissions All the parties to a motion which is heard in person or by electronic hearing may make oral submissions.

10.10 Motions Made at Oral Hearing Events A motion may be made at an oral hearing event with leave of and in accordance with any procedures ordered by the presiding Member.

10.11 Tribunal May Initiate a Motion The Tribunal may, at any time in a proceeding, initiate a motion to inquire into any matter or question of law that is within its jurisdiction, and may determine the parties to that motion and issue directions necessary to inquire into the matter.

September 3, 2019



**Canadian
Environmental Law
Association**
EQUITY. JUSTICE. HEALTH.

BY EMAIL

December 16, 2019

Mr. Ryan Co
Case Coordinator
Local Planning Appeal Tribunal
Suite 1500, 655 Bay St.
Toronto, ON
M5G 1E5
Ryan.Co@ontario.ca

This is Exhibit.....^T.....referred to in the
affidavit of..... Amanda Polley Montgomery
affirmed before me, this..... twenty-ninth
day of..... October..... 20 20


.....
A COMMISSIONER FOR TAKING AFFIDAVITS

Dear Mr. Co:

RE: LPAT Case No.: PL190022-Objection to written hearing pursuant to Rule 21.3 of the LPAT Rules of Practice and Procedure

In response to the notice of a written hearing issued December 13, 2019, and pursuant to Rule 21.3 of the LPAT Rules of Practice and Procedure (“LPAT Rules”), the Friends of Simcoe Forests (“FSF”) is filing an objection to the Tribunal’s decision to hold a written hearing for the motion to strike issues from the issues list to be brought by the County of Simcoe (“the County”) and the Ministry of Municipal Affairs and Housing (“MMAH”). We are also filing this written submission to ensure that there is a formal record of FSF’s objection.

According to Rule 21.1 of the LPAT Rules the Tribunal has the discretion to hear a motion in writing unless there is good reason not to do so. In reaching this decision the Tribunal may consider any relevant factors including those set out at Rule 21.2. It is our client’s position that, in reference to the factors at Rule 21.2, there are good reasons that the motion to strike issues from the issues list should be heard as an oral hearing:

1. It would not be fair to my client to conduct this motion as a written hearing

Rule 21.2(a) considers the fairness and convenience to the parties. We submit that it would be unfair to our client for the motion to strike to be heard as a written hearing because the County and the MMAH seek to strike issues from the issues list that deal with the Growth Plan. These issues are at the heart of our client’s appeal. In fact, 3 out of 8 issues on FSF’s issues list deal with the Growth Plan. Striking these issues from the issues list would significantly impact our client’s right of appeal and the scope of this hearing. The removal of the rights of an appellant should not be done lightly.¹ Given the seriousness of the impact that striking these issues would have on our client’s appeal rights, we submit that this is not the type of matter that should be heard through a

¹ 840966 Ontario Ltd v Peel (Region), 2007 CarswellOnt 2252 (OMB) at para 8.

Canadian Environmental Law Association

T 416 960-2284 • 1-844-755-1420 • F 416 960-9392 • 55 University Avenue, Suite 1500 Toronto, Ontario M5J 2H7 • cela.ca

written hearing. Instead, the motion should be conducted through an oral hearing, which would accord a fair process to all parties.

2. The issues identified to be struck from the issues list are not straightforward legal issues

Rule 21.2(e) considers whether most of the issues are legal issues. Our position is that the issue of which Growth Plan applies to this appeal is not a simple legal issue that can be dealt with in writing. Rather, as the interpretation of the transitional regulation would involve an understanding of legislative intent, this exercise would involve both factual and legal matters.

The issues in question relate to a transitional regulation that was passed after this appeal was filed and written submissions completed. This regulation states that the natural heritage provisions of the Growth Plan 2019 do not apply to this appeal. Our position is that the natural heritage provisions in Growth Plan 2017 must then apply, given that the forest in question is part of the natural heritage system. We submit that stripping a natural heritage system of all of the protections afforded by the Growth Plans would be an absurd outcome and cannot have been the intent of the Minister. However, our understanding of the position of the MMAH and the County is that, in fact, the forest in which OPA2 proposes to establish a waste disposal site is not protected by any natural heritage provisions at all. Resolving this issue is not straightforward and it is possible that the Tribunal may benefit from posing questions to counsel, something that could not be done in a written hearing.

In addition, and further to the oral submissions I made to Ms. Vincent on December 13, 2019 by teleconference, I want to inform you that my client's outstanding request pursuant to the *Freedom of Information and Protection of Privacy Act* will be fulfilled by January 7, 2020. This is the same date by which my client's response to the motion must be filed. As I informed Ms. Vincent in my submissions, these materials are directly relevant to the motion to strike, specifically to the question of the legislative intent of the transitional regulation. Accordingly, I reiterate my submission that it is premature to argue the motion to strike issues from the issue list prior to having the opportunity to review these materials. It would also be extremely prejudicial and unfair to my client to do so.

3. A written motion would restrict the public's access to the Tribunal's process

Rules 21.2(c) considers the effect of holding a written hearing on public access to the Tribunal's process. We submit that holding a written hearing will restrict the public's access. This restriction on access is particularly important as there is considerable interest in this case by members of the public. Indeed, the two case management conferences held to-date have been well-attended by local community members and other stakeholders beyond the actual parties. It is our assertion that, given that this motion to strike could seriously shape the scope of the proceedings, the public will also be interested in this motion and will certainly be impacted by the decision.

Although the materials filed in a written motion become part of the public record a written hearing is not as accessible to the public as an oral hearing held in the affected community and which interested members of the public could attend. Given the nature of the issues in question and the potential impact to the appellant's rights, we submit that the public should be afforded fulsome

access to the Tribunal's process in reaching a decision on the issues list through an oral hearing. To do otherwise may suggest to the public that important decisions regarding the scope of this appeal are being made behind closed doors.

4. The parties do not agree on the facts and evidence

Finally, Rule 21.2(d) considers whether the facts and evidence of the hearing will be agreed upon by the parties. Given the above submissions we submit that this is not the case for this motion. As we are unlikely to find agreement with the County and MMAH on the relevant facts and evidence related to this motion, an oral hearing is the most prudent format for reaching a determination.

Therefore, we request that the Tribunal schedule an oral hearing on the motion to strike issues from FSF's issues list.

Sincerely,

CANADIAN ENVIRONMENTAL LAW ASSOCIATION



Ramani Nadarajah, Counsel

cc.

Ugljesa Popadic
Marshall Green
David White
Eric W.D. Boate
Barnett Kussner
Bev Agar



Amanda Montgomery <articling@cela.ca>

File # MMAH 201925

Amanda Montgomery <articling@cela.ca>
To: "Hosam, Mallory (MMAH)" <Mallory.hosam@ontario.ca>

8 January 2020 at 15:58

Dear Ms. Hosam,

Happy New Year!

I am writing on behalf of Mary Wagner with regard to the status of the File# MMAH 201925.

As per your letter of December 2, 2019 (please see attached), the final decision due date on this file was yesterday, January 7, 2020.

Please advise as to when we can expect to receive the final decision and the release of the requested documents.

Best regards,

Amanda

Amanda Montgomery
Student-at-Law
Please note that I am an articling student and cannot provide legal advice.

Canadian Environmental Law Association
1500-55 University Ave., Toronto, ON M5J 2H7
T: 416-960-2284 ext. 7216 / Toll-free: 1-844-755-1420 F: 416-960-9392
articling@cela.ca www.cela.ca
Pronouns: she, her, hers

facebook.com/CanadianEnvironmentalLawAssociation twitter.com/CanEnvLawAssn
Subscribe to the CELA Bulletin

Our facilities Co-op is a scent/fragrance-reduced environment. We ask that everyone avoid using any chemical-based scented products when visiting our offices.

DISCLAIMER:

This e-mail is intended for the use of the addressee(s) only and may contain privileged or confidential information. If you have received this message in error, please let me know by reply email, delete the email and destroy any copy. Thank you.

MMAH Response - FOI due date.pdf
137K

This is Exhibit.....'J'.....referred to in the
affidavit of..... Amanda Polley Montgomery.....
affirmed before me, this.....twenty-ninth.....
day of..... October.....20.20.....

.....
A COMMISSIONER FOR TAKING AFFIDAVITS



Amanda Montgomery <articling@cela.ca>

File # MMAH 201925

Hosam, Mallory (MMAH) <Mallory.Hosam@ontario.ca>
To: Amanda Montgomery <articling@cela.ca>
Cc: "Bruno, Nadia (MMAH)" <Nadia.Bruno@ontario.ca>

13 January 2020 at 08:47

Hi Amanda,

Thank you for your email.

We are processing the request and will issue a decision shortly.

Happy New Year to you as well!

Thank you,

Mallory Hosam

Senior Information Management and Privacy Advisor | Corporate Services Branch | Telephone 416.585.7225

Ministry of Municipal Affairs and Housing | [777 Bay Street](#), 17th Fl. Toronto ON M5G 2E5

From: Amanda Montgomery <articling@cela.ca>
Sent: January-08-20 3:59 PM
To: Hosam, Mallory (MMAH) <Mallory.Hosam@ontario.ca>
Subject: File # MMAH 201925

CAUTION -- EXTERNAL E-MAIL - Do not click links or open attachments unless you recognize the sender.

[Quoted text hidden]



Amanda Montgomery <articling@cela.ca>

Re: File #: MMAH 201925

Amanda Montgomery <articling@cela.ca>
To: "Hosam, Mallory (MMAH)" <Mallory.hosam@ontario.ca>

22 January 2020 at 12:59

Hello Ms. Hosam,

Please see the attached letter pertaining to the above file.

I look forward to hearing from you soon.

Best regards,

Amanda

Amanda Montgomery
Student-at-Law
Please note that I am an articling student and cannot provide legal advice.

Canadian Environmental Law Association
1500-55 University Ave., Toronto, ON M5J 2H7
T: 416-960-2284 ext. 7216 / Toll-free: 1-844-755-1420 F: 416-960-9392
articling@cela.ca www.cela.ca
Pronouns: she, her, hers

facebook.com/CanadianEnvironmentalLawAssociation twitter.com/CanEnvLawAssn
Subscribe to the CELA Bulletin

Our facilities Co-op is a scent/fragrance-reduced environment. We ask that everyone avoid using any chemical-based scented products when visiting our offices.

DISCLAIMER:

This e-mail is intended for the use of the addressee(s) only and may contain privileged or confidential information. If you have received this message in error, please let me know by reply email, delete the email and destroy any copy. Thank you.

MMAH Letter - Jan 22 2020 .pdf
132K

This is Exhibit.....'K'.....referred to in the
affidavit of..... Amanda Polley Montgomery.....
affirmed before me, this..... twenty-ninth.....
day of..... October..... 20.20.....

.....
A COMMISSIONER FOR TAKING AFFIDAVITS

January 22, 2020

Mallory Hosam
Senior Information Management and Privacy Advisor
Ministry of Municipal Affairs and Housing
Corporate Services Branch
777 Bay Street, 17th Floor
Toronto, Ontario M5G 2E5

Dear Ms. Hosam:

RE: File #: MMAH 201925

I am writing to inquire about the status of the above Freedom of Information (“FOI”) request and to ask the Ministry of Municipal Affairs and Housing (“Ministry”) to issue a final decision and release the requisite documents as soon as possible.

According to your letter to Mary Wagner dated December 2, 2019, a final decision on this file was to have been provided by January 7, 2020. In that letter you also informed Ms. Wagner that the Ministry would be taking a time extension to complete the FOI request, extending the time limit from 30 days to 55 days. In your email to me dated January 13th, 2020, you stated a decision on this file would be issued shortly but did not provide a date when this would occur, nor have you provided any explanation as to why a further delay is warranted. To date, Ms. Wagner has not received a final decision from the Ministry, bringing the total processing time to at least 65 days.

This FOI request was initiated over 6 months ago. As you are aware, Ms. Wagner’s initial request was received by the Ministry on June 12, 2019. I appreciate that this request captures a large volume of responsive documents and that we requested a fee waiver; however, 6 months seems like an excessive amount of time to complete Ms. Wagner’s request.

Moreover, as you are also aware, this request concerns a matter currently before the Local Planning Appeal Tribunal. The Friends of Simcoe Forests Inc. (“FSF”), the organization Ms. Wagner represents, is an appellant in this case. The transitional regulation that is the focus of this FOI request directly concerns the Friends of Simcoe Forests’ appeal and was a key issue in a motion brought by the respondents at the end of 2019. Indeed, we informed the Tribunal of this FOI request and that we were expecting to receive the documents in early January 2020. All materials for this motion have now been filed and we were not able to draw upon the documents from this FOI request for our response to the motion. Therefore, the ongoing delay in processing this FOI request is potentially substantially prejudicial to FSF’s case.

Therefore, we ask that the MMAH complete this Freedom of Information request as soon as possible, given the urgency of this matter. We are prepared to facilitate this process by hand-delivering the final payment and picking up the documents in person.

Please advise when we can expect to receive the final decision and the requisite documents. If we do not receive a final decision by January 24, 2020, we will treat this matter as a deemed refusal.

Sincerely,

A handwritten signature in black ink, appearing to read "Amanda Montgomery". The signature is fluid and cursive, with a large, stylized initial "A" and "M".

Amanda Montgomery
Student-at-Law
Canadian Environmental Law Association



Amanda Montgomery <articling@cela.ca>

Re: File #: MMAH 201925

Hosam, Mallory (MMAH) <Mallory.Hosam@ontario.ca>
To: Amanda Montgomery <articling@cela.ca>
Cc: "Bruno, Nadia (MMAH)" <Nadia.Bruno@ontario.ca>

24 January 2020 at 15:34

Hi Amanda,

Thank you for your email.

The ministry is processing the request, and will have a decision to the requester shortly.

Thank you and have a great weekend.

Mallory Hosam

Senior Information Management and Privacy Advisor | Corporate Services Branch | Telephone 416.585.7225

Ministry of Municipal Affairs and Housing | [777 Bay Street](#), 17th Fl. Toronto ON M7A 2J3

From: Amanda Montgomery <articling@cela.ca>
Sent: January-22-20 1:00 PM
To: Hosam, Mallory (MMAH) <Mallory.Hosam@ontario.ca>
Subject: Re: File #: MMAH 201925

CAUTION -- EXTERNAL E-MAIL - Do not click links or open attachments unless you recognize the sender.

[Quoted text hidden]



**Canadian
Environmental Law
Association**
EQUITY. JUSTICE. HEALTH.

This is Exhibit.....'L'.....referred to in the
affidavit of..... Amanda Polley Montgomery.....
affirmed before me, this..... twenty-ninth.....
day of..... October..... 20. 20.....

February 3, 2020

Jaqueline Wilson (J. Wilson)
.....
A COMMISSIONER FOR TAKING AFFIDAVITS

Registrar
Information and Privacy Commissioner/Ontario
1400-2 Bloor Street East
Toronto, Ontario M4W 1A8

Dear Sir or Madame:

RE: Deemed Refusal – File # MMAH 201925

On behalf of Mary Wagner, we are submitting an appeal to the Information and Privacy Commissioner (“IPC”) on the grounds of a deemed refusal by the Ministry of Municipal Affairs and Housing (“MMAH”) of Ms. Wagner’s request for access to documents pursuant to the *Freedom of Information and Protection of Privacy Act* (“FOI Request”).

Ms. Wagner is the president of the Friends of Simcoe Forests, Inc. (“FSF”), a non-profit organization with a mandate to protect, conserve and expand forests in the County of Simcoe. The Canadian Environmental Law Association (“CELA”) represents FSF in a matter that is currently before the Local Planning Appeal Tribunal (“LPAT”).

Ms. Wagner submitted the FOI Request on or around June 12, 2019. Following conversations with MMAH, an amended request was submitted on or around August 15, 2019 and a fee waiver request was submitted on September 24, 2019. As per a letter from MMAH dated August 30, 2019, a 55-day extension was applied to this request. Accordingly, on December 2, 2019 the MMAH informed Ms. Wagner that the due date for the final decision would be January 7, 2020. FSF’s requests and MMAH’s responses are all attached to this appeal, and we have attached a list of relevant correspondence and emails to this letter as Appendix A.

However, Ms. Wagner has not yet received a final decision on the FOI Request. We have written to MMAH twice since January 7 to inquire when Ms. Wagner will receive the decision and the requisite documents. On both occasions, and despite the fact that the deadline had already passed, we were informed that the request was being processed and that a final decision would be released shortly.

We have advised MMAH that the documents FSF is seeking are relevant to the case before LPAT (See attached letters from myself to Ms. Mallory Hosam, Senior Information Management and Privacy Advisor at MMAH dated September 24, 2019 and January 22, 2020). In my most recent letter to Ms. Hosam, dated January 22, 2020, I advised her that the ongoing delay was “potentially substantially prejudicial to FSF’s case,” and stressed the urgency of providing the FOI documents expeditiously.

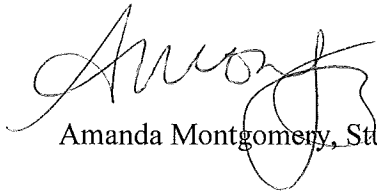
Canadian Environmental Law Association

T 416 960-2284 • 1-844-755-1420 • F 416 960-9392 • 55 University Avenue, Suite 1500 Toronto, Ontario M5J 2H7 • cela.ca

We respectfully request that the IPC expedite the FOI Request by ordering the MMAH to immediately issue a final decision and release the relevant documents.

Sincerely,

CANADIAN ENVIRONMENTAL LAW ASSOCIATION

A handwritten signature in black ink, appearing to read 'Amanda Montgomery', written in a cursive style.

Amanda Montgomery, Student-at-Law

Encl/

Appendix A

List of Relevant Correspondence with the Ministry of Municipal Affairs and Housing

1. Access Request Form submitted to the Ministry of Municipal Affairs and Housing by Ms. Mary Wagner
2. Letter from Ms. Mallory Hosam, Senior Information Management and Privacy Advisor, Ministry of Municipal Affairs and Housing to Ms. Mary Wagner, dated July 12, 2019 – First Fee Estimate
3. Revised FOI Request submitted by Ms. Amanda Montgomery to Ms. Hosam, dated August 15, 2019
4. Letter from Ms. Hosam to Ms. Wagner dated August 30, 2019 – Second Fee Estimate
5. Letter from Ms. Montgomery to Ms. Hosam dated September 24, 2019 – Fee Waiver Request
6. Letter from Ms. Hosam to Ms. Wagner dated October 31, 2019 – Fee Waiver Decision
7. Letter from Ms. Hosam to Ms. Wagner dated December 2, 2019 – Notice of Due Date
8. Email from Ms. Montgomery to Ms. Hosam dated January 8, 2020 and Ms. Hosam's response email dated January 13, 2020
9. Email and letter from Ms. Montgomery to Ms. Hosam dated January 22, 2020 and Ms. Hosam's response email dated January 24, 2020

Ministry of
Municipal Affairs
and Housing

Ministère des
Affaires municipales
et du Logement



Corporate Services Branch

Direction des services généraux

777 Bay Street, 17th Floor
Toronto ON M7A 2J3
Tel.: 416 585-7513

777, rue Bay, 17^e étage
Toronto ON M7A 2J3
Tél. : 416 585-7513

March 9, 2020

Mary Wagner
2928 Horseshoe Valley Road
Phelpston, Ontario
L0L 2K0

Dear Mary Wagner,

This is Exhibit.....'M'.....referred to in the
affidavit of..... Amanda Polley Montgomery
affirmed before me, this..... twenty-ninth
day of..... October..... 20 20


A COMMISSIONER FOR TAKING AFFIDAVITS

RE: Freedom of Information and Protection of Privacy Act Request,
Our File #: MMAH 2019-25
Records Release

Further to our letter dated February 6, 2020, your payment in the amount of \$133.75 was received on February 26, 2020.

The records responsive to your access to information request under the *Freedom of Information and Protection of Privacy Act* (the Act) are enclosed on the USB key. The USB key is password protected. Password is: **FOImmah2019-25**

Should you have any questions or require clarification of any matter, please contact me at (416) 585-7225.

Sincerely,



Mallory Hosam
Senior Information Management and Privacy Advisor

Appeal Form

Appeal under the
Freedom of Information and Protection of Privacy Act (FIPPA)
or the
Municipal Freedom of Information and Protection of Privacy Act (MFIPPA)

Note: An appeal must be sent in writing to the Registrar within 30 days after the institution has given notice of its decision.

The government organization which dealt with your request is referred to as an "institution" under the Acts.

Your Information

This is Exhibit.....'N'.....referred to in the
affidavit of.....Amanda Polley Montgomery.....
affirmed before me, this.....twenty-ninth.....
day of.....October.....20 20.....

Mr. Mrs. Ms. Miss

SURNAME OR Wagner
NAME OF COMPANY, ASSOCIATION OR ORGANIZATION

Jacqueline L. C. J. Carlson
A COMMISSIONER FOR TAKING AFFIDAVITS

GIVEN NAME Mary INITIALS _____

ADDRESS 2928 Horseshoe Valley Road UNIT _____

CITY Phelpson PROVINCE Ontario POSTAL CODE L0L 2K0

TELEPHONE DAYTIME 705-716-6564 EVENING 705-737-0970

If this appeal is not being made in a personal capacity, please provide the following information:

NAME OF CONTACT _____

TITLE _____ TELEPHONE _____

E-MAIL ADDRESS* yramrengaw@hotmail.com

*I consent to being contacted at this e-mail address or through that of my representative on my behalf. I acknowledge that sending e-mail over the Internet is not secure, in that it can be intercepted and/or manipulated and retransmitted.

Please select *one* of the following:

- I made a request for access to a general record, and have enclosed the required \$25.00 appeal fee.
- I made a request for access to my own personal information and have enclosed the required \$10.00 appeal fee.
- I made a request to correct my own personal information and have enclosed the required \$10.00 appeal fee.
- I received a notice that the institution intends to disclose a record/personal information that may relate to me. (No appeal fee required.)



Representative Information (Complete only if you will be represented.)

I authorize the following person to act on my behalf and to receive any personal information pertaining to me, as necessary for the purposes of this appeal.

REPRESENTATIVE IS A: LAWYER AGENT MR. MRS. MS. MISS

SURNAME Montgomery

GIVEN NAME Amanda INITIALS _____

NAME OF COMPANY, ASSOCIATION OR ORGANIZATION Student-at-Law, Canadian Environmental Law Association

ADDRESS 55 University Avenue, 15th Floor UNIT _____

CITY Toronto PROVINCE Ontario POSTAL CODE M5J 2H7

TELEPHONE DAYTIME 416-960-2284 x 7216 EVENING _____

E-MAIL ADDRESS articling@cela.ca

Institution Information (if available)

NAME OF INSTITUTION Ministry of Municipal Affairs and Housing

INSTITUTION FILE NUMBER MMAH 2019-25

Consent to Provide a Copy of Documentation to the Institution

Please select *one* of the following:

I consent to a copy of this form and all attachments being provided to the institution.

I do not consent to a copy of this form and all attachments being provided to the institution.

Attachments

The following documents have been attached (if available):

Copy of the request.

Copy of the institution's decision letter.

Appeal fee made payable to the Minister of Finance (if required).

Details of the Appeal

Please select the box(es) that explain why the appeal is being made.

- Deemed Refusal** – It is more than 30 days since I made my request and I have not received a decision.
- Failure to Disclose Records** – The institution decided to grant access to requested records but I have not received them.
- Time Extension** – The institution decided to extend the time limit for responding to my request, and I disagree.
- No Jurisdiction** – The institution indicated that the requested records are excluded from the *Act* and I disagree.
- Reasonable Search** – The institution indicated that some or all of the requested records do not exist and I believe that more records do exist.
- Frivolous or Vexatious** – The institution indicated my request is frivolous or vexatious and I disagree.
- Exemptions** – The institution has exempted all or part of the requested records and I believe that more of them should be disclosed.
- Interim Decision** – Because of the number of records at issue, the institution reviewed a sample of the records or consulted an experienced employee, advised me of the exemptions that might apply, and provided me with a fee estimate. I disagree with the amount of the fee estimate.
- Fee/Fee Estimate** – The institution sent me an access decision that included a fee or fee estimate that I feel is excessive.
- Fee Waiver** – The institution has refused to grant my request to waive the fees.
- Refusal to Confirm or Deny** – The institution has refused to confirm or deny the existence of the requested records.
- Correction** – The institution has refused to make corrections to my personal information.
- Third Party** – The institution has indicated it will grant access to a record/personal information that may relate to me or the appellant, and I feel this information should not be disclosed.
- Other** – please explain:

In the second decision letter (dated August 31, 2019), the Ministry of Municipal Affairs and Housing ("MMAH") responded to our revised request and stated that our request captured 1621 pages of documents. The final decision letter (dated February 6, 2020) stated that partial access to the records was granted, amounting to only 455 pages. To date, no further information has been provided about the nature of the exempted documents (i.e. a description of the record, date, author, recipient, etc.). Therefore, we have no way of determining whether the exemptions are reasonable or not.

Resolution of Appeal

Please describe how you feel this appeal could be resolved.

We have not received any information from MMAH regarding the nature of the records that have been withheld. Until we receive details on all responsive records, including a description of the record, the date, author and the recipient of the exempted records, it is premature for us to comment on how this appeal could be resolved.

We are seeking release of the remaining 1166 pages.

Previous Appeals

Please list any previous appeals with the Information and Privacy Commissioner/Ontario that may relate to this matter.

We filed an appeal in relation to this matter on February 3, 2020 (Appeal Number PA20-00083). The grounds of that appeal was a deemed refusal, as the MMAH had informed us that we would receive a final decision by January 7, 2020.

Information about the Appeal Process

For more information about the processes of the Information and Privacy Commissioner/Ontario and the Code of Procedure for appeals, please contact our office at 416-326-3333, toll-free at 1-800-387-0073, or visit our website at www.ipc.on.ca.

Where to Send this Form

This form, the applicable fee, and any additional documentation must be sent in writing to the Registrar within 30 days after the institution has given notice of its decision. The cheque should be payable to the Minister of Finance.

DO NOT SEND CASH. Mail the above to:

Registrar
Information and Privacy Commissioner/Ontario
1400-2 Bloor Street East
Toronto, Ontario
M4W 1A8

Signature

YOUR SIGNATURE _____

March 11, 2020

DATE _____

DELIVERED BY HAND

March 11, 2020

Registrar
Information and Privacy Commissioner/Ontario
1400-2 Bloor Street East
Toronto, Ontario M4W 1A8

Dear Sir or Madame:

RE: Appeal of disclosure from the Ministry of Municipal Affairs and Housing MMAH 2019-25

Please accept this letter of appeal of the Ministry of Municipal Affairs and Housing (“MMAH”) final decision on file number MMAH 2019-25. This letter provides details about the grounds for appeal.

Enclosed with this letter are the following documents:

- The Appellant’s first request form (undated)
- The Appellant’s revised request letter (dated August 15, 2019)
- MMAH’s initial decision letter (dated July 12, 2019)
- MMAH’s decision letter related to the revised request (dated August 30, 2019)
- MMAH’s response to the Appellant’s fee waiver request (dated October 31, 2019)
- MMAH’s Notice of Due Date (dated December 2, 2019)
- MMAH’s Final Decision and Balance of Fee letter (dated February 6, 2020)

As indicated in the Appeal Form, our primary grounds for this appeal are the exemptions that the MMAH has applied to the requested records. These exemptions are a matter of concern for the following reasons:

- (1) **The MMAH has exempted an unusually high number of pages from the requested records** – The MMAH initially identified approximately 2000 pages of responsive records. Upon submitting a revised request, the MMAH then identified 1621 pages of responsive records. However, in the final decision letter, the MMAH stated that it is granting only partial access to the requested records and will release only 455 pages. We have been denied access to nearly 75% of the requested records.
- (2) **Some exemptions had already been applied** – In the revised request (dated August 15, 2019), we explicitly asked that protected cabinet records and records containing personal information be omitted from the request. The solicitor-client privilege exemption (section

Canadian Environmental Law Association

T 416 960-2284 • 1-844-755-1420 • F 416 960-9392 • 55 University Avenue, Suite 1500 Toronto, Ontario M5J 2H7 • cela.ca

19 of the *Freedom of Information and Protection of Privacy Act* (“*FIPPA*”)) was not mentioned by MMAH in previous correspondence. As a result, the number of responsive documents was reduced from 2000 pages to 1621 pages. Therefore, we believed that cabinet records and records with personal information had not been included in the estimated 1621 pages of responsive records.

- (3) **MMAH provided no information on the exempted records** – MMAH’s Final Decision and Balance of Fee letter was received by our client, Ms. Mary Wagner, on February 13, 2020. Ms. Wagner was not provided with any information about the records to which access was denied, such as a description, date, author or recipient of the exempted records. Therefore, it is not possible to identify the documents which have been withheld pursuant to sections 13 and 19 of *FIPPA* in order to assess whether the exemptions in these sections were properly applied to the records or whether they should have been disclosed under sections 13(2) or 23 of *FIPPA*.
- (4) **MMAH removed “non-responsive information” from the records** – In light of the above, it is similarly not possible to assess whether the information removed was non-responsive or whether it was improperly removed.

We respectfully request that the IPC expedite this *FIPPA* request by ordering the MMAH to immediately provide further details on the nature of the exempted records and to investigate whether exemptions were properly applied to nearly 75% of the requested records. We are seeking release of the remaining 1166 pages.

Sincerely,

CANADIAN ENVIRONMENTAL LAW ASSOCIATION

Amanda Montgomery, Student-at-Law

Encl/



Information and Privacy
Commissioner of Ontario
Commissaire à l'information et à la
protection de la vie privée de l'Ontario

ACKNOWLEDGEMENT OF APPEAL

DATE: August 17, 2020

TO: Ms. Amanda Montgomery
Student-at-Law
Canadian Environmental Law Association
55 University Avenue
15th Floor
Toronto, ON M5J 2H7

This is Exhibit.....'O'.....referred to in the
affidavit of..... Amanda Polley Montgomery.....
affirmed before me, this.....twenty-ninth.....
day of..... October.....20.20.....

Jaqueline Wilson (J. Wilson)
A COMMISSIONER FOR TAKING AFFIDAVITS

Note: In response to the COVID-19 epidemic, the Ontario government has issued a suspension order under the *Emergency Management and Civil Protection Act*. The order remains in effect until September 11, 2020. The order “freezes” the time limits for initiating appeals to the IPC.

Our Appeal Number:	PA20-00159
Appellant 's Name:	Mary Wagner
Name of Appellant 's Representative \ Contact:	Amanda Montgomery
Name of Institution:	Ministry of Municipal Affairs and Housing
Institution 's File Number:	MMAH 2019-25

This is to confirm that our office received your appeal.

Your appeal is in the Initial Processing stage of the appeal process. During this stage all relevant information and documentation will be reviewed in order to determine how to process your appeal.

As a result of the COVID-19 pandemic, the IPC's physical office closed on March 16, 2020, limiting our ability to advance existing and new appeals.

Over the past months the IPC has implemented technological solutions to allow greater capacity to process appeal files remotely. Unfortunately, appellants and institutions should still expect delays for several more months, while we restructure our workplace processes to keep our staff and the community safe during this pandemic.



Tribunal Services Department
2 Bloor Street East
Suite 1400
Toronto, Ontario
Canada M4W 1A8

Services de tribunal administratif
2, rue Bloor Est
Bureau 1400
Toronto (Ontario)
Canada M4W 1A8

Tel/Tél: (416) 326-3333
1 (800) 387-0073
Fax/Télé: (416) 325-9188
TTY/ATS: (416) 325-75096
Web: www.ipc.on.ca

While the IPC is now able to begin processing this appeal, there will be delays in the assignment of a Mediator to this file, as we continue to restructure our workplace processes. You will be notified when a Mediator has been assigned.

It is essential that you provide us with your current address and telephone number if this information is not already indicated in your letter of appeal.

If you have any questions, please contact Norma Thorney, Assistant Registrar at (416) 326-0004 or Norma.Thorney@ipc.on.ca.



Information and Privacy
Commissioner of Ontario
Commissaire à l'information et à la
protection de la vie privée de l'Ontario

NOTICE OF MEDIATION

Our Appeal Number:	PA20-00159
Appellant's Name:	Mary Wagner
Name of Appellant's Representative/Contact:	Amanda Montgomery
Name of Institution:	Ministry of Municipal Affairs and Housing
Institution File Number:	MMAH 2019-25

Please note that as a result of the COVID-19 pandemic, the IPC's physical office closed on March 16, 2020, limiting our ability to advance existing and new files.

Over the past months the IPC has implemented technological solutions to allow greater capacity to process files remotely. While a mediator has now been assigned to this file, parties should expect delays while we continue to restructure our workplace processes to keep our staff and the community safe during this pandemic.

DATE: October 21, 2020

TO: Ms. Amanda Montgomery
Counsel
Canadian Environmental Law Association
55 University Avenue, 15th Floor
Toronto, ON M5J 2H7

This is Exhibit.....'P'.....referred to in the
affidavit of.....Amanda Polley Montgomery.....
affirmed before me, this.....twenty-ninth.....
day of.....October.....20.20.....

J. Wilson
.....
A COMMISSIONER FOR TAKING AFFIDAVITS



Tribunal Services Department
2 Bloor Street East
Suite 1400
Toronto, Ontario
Canada M4W 1A8

Services de tribunal administratif
2, rue Bloor Est
Bureau 1400
Toronto (Ontario)
Canada M4W 1A8

Tel/Tél: (416) 326-3333
1 (800) 387-0073
Fax/Télé: (416) 325-9188
TTY/ATS: (416) 325-0988
Web: www.ipc.on.ca

NOTICE OF MEDIATION

This is to confirm that our office recently received your appeal. Please note: Since this is an appeal of a decision arising from a deemed refusal appeal, the institution is not permitted to claim any new discretionary exemptions.

The Mediator who will be dealing with your file is **Suzy Hodge**, who can be reached at **(416) 326-4356**. If you are calling from outside Toronto, the toll free number is 1-800-387-0073. The Mediator will be contacting you to discuss this appeal with you.

The Office of the Information and Privacy Commissioner (IPC) is committed to mediation as the preferred method of dispute resolution. Enclosed is some information which describes mediation at the IPC.

If the appeal is not resolved through mediation, it may proceed to inquiry. During the Inquiry stage of your appeal, you will be entitled to submit representations on the issues remaining in dispute. The representations you provide to this office should include all of the arguments, documents and other evidence you rely on to support your position in this appeal. Your representations will be shared with the other party or parties, unless there is an overriding confidentiality concern.

To avoid delay, it is essential that you provide us with your current address and telephone number if this information is not already indicated in your letter of appeal. When contacting our office, please refer to **Appeal PA20-00159**.

For additional information about the Appeal Process, please try our interactive Appeal Process flow chart located on our Web site at www.ipc.on.ca. You can locate the flow chart by clicking on Search, and typing the words "flow chart" in the Search field.

You might be contacted by our office, as part of our efforts to evaluate the services we provide to the public.

Enclosure

From: [Thompson, Tiffany](#)
To: charles.o'hara@ontario.ca
Cc: [Parks, David](#); [Korolnek, Debbie](#)
Subject: County of Simcoe Supplemental Letter on Proposed Growth Plan Amendment
Date: Wednesday, March 06, 2019 10:49:00 AM
Attachments: [County of Simcoe Letter Proposed Growth Plan Amendment ERRC 28-FEB-2019.pdf](#)

Good Morning Charles,

Please find attached a supplemental letter from the County of Simcoe related to the proposed Amendment 1 to the Growth Plan for the Greater Golden Horseshoe, 2017 (ERO Number 013-4504) as it relates to a County initiated official plan amendment referred to as the Environmental Resource Recovery Centre (ERRC).

The ERRC is Amendment No. 2 to the County Official Plan and was approved by the Ministry on January 2, 2019. The amendment will facilitate the development of a waste management facility.

If you require further information on this correspondence, do not hesitate to contact David Parks, Director of Planning, Economic Development and Transit for the County of Simcoe.

Regards, Tiffany

Tiffany Thompson BES MCIP RPP
Senior Policy Advisor
County of Simcoe, Planning Department
1110 Highway 26, Midhurst, Ontario L9X 1N6
Phone: 705-726-9300 Ext. 1185 Fax: 705-727-4276
Email: tiffany.thompson@simcoe.ca
www.simcoe.ca

This is Exhibit.....'Q'.....referred to in the
affidavit of..... Amanda Polley Montgomery.....
affirmed before me, this..... twenty-ninth.....
day of..... October..... 20 20.....


.....
A COMMISSIONER FOR TAKING AFFIDAVITS



County of Simcoe
 Planning Department
 1110 Highway 26,
 Midhurst, Ontario L9X 1N6

Main Line (705) 726-9300
 Toll Free (866) 893-9300
 Fax (705) 727-4276
 simcoe.ca



February 28, 2019

Ontario Growth Secretariat
 Ministry of Municipal Affairs and Housing
 777 Bay Street, 23rd Floor,
 Toronto, ON M5G 2E5

This is Exhibit.....'R'.....referred to in the
 affidavit of..... Amanda Polley Montgomery.....
 affirmed before me, this.....twenty-ninth.....
 day of..... October.....20.20.....

Dear Sirs,


 A COMMISSIONER FOR TAKING AFFIDAVITS

RE: County of Simcoe Comments on the Proposed Amendment to the Growth Plan, 2017 and
 Transitional Rules for the Environmental Resource Recovery Centre

Thank you for the opportunity to provide comments on the proposed amendment to the *Growth Plan for the Greater Golden Horseshoe, 2017*. This letter is supplemental to the County's general comments related to the potential revisions to the Growth Plan.

The County would like to highlight the importance of a County initiated waste management project referred to as the Environmental Resource Recovery Centre (ERRC). The ERRC is a facility to effectively manage, process and transfer waste, recycling and organics for the County's sixteen lower tier municipalities. The County initiated a comprehensive siting process for the ERRC in 2014. Applications for a County official plan amendment and a local official plan and zoning by-law amendment were made in late 2016. County Council adopted the official plan amendment (OPA No. 2) on June 26, 2018 and the Ministry of Municipal Affairs and Housing approved the amendment on January 2, 2019.

With the importance of this critical piece of infrastructure, the County requests that the Secretariat consider introducing transitional policies or regulations to address the approval that was recently given by the Ministry. The County is supportive of the Secretariat providing additional clarity through revisions to the Growth Plan to ensure that this facility is developed in a timely manner. This infrastructure is fundamental in furthering the goals and objectives of the Province's *Waste Free Ontario Act, 2016*, *Resource Recovery and Circular Economy Act, 2016* and *Ontario's Food and Organics Waste Policy Statement, 2018*.

If you have any questions or require further information with respect to this correspondence, please do not hesitate to contact the undersigned at 705-726-9300 Ext.1004 or david.parks@simcoe.ca.

Sincerely,
 The Corporation of the County of Simcoe



David Parks, MCIP RPP
 Director of Planning, Economic Development and Transit

cc: Debbie Korolnek, General Manager, Engineering, Planning and Environment – County of Simcoe
 Charles O'Hara, Director of Growth Planning and Analysis Branch – Ontario Growth Secretariat



County of Simcoe
 Planning Department
 1110 Highway 26,
 Midhurst, Ontario L9X 1N6

Main Line (705) 726-9300
 Toll Free (866) 893-9300
 Fax (705) 727-4276
 simcoe.ca



May 29, 2019

Ontario Growth Secretariat
 Ministry of Municipal Affairs and Housing
 777 Bay Street, 23rd Floor,
 Toronto, ON M5G 2E5

Dear Sirs,

**RE: County of Simcoe Comments on the Proposed Modification to Ontario Regulation 311/06
 (Transitional Matters – Growth Plans)
 A Place to Grow: Growth Plan for the Greater Golden Horseshoe, 2019
 ERO No. 019-0018**

This is Exhibit.....'S'.....referred to in the
 affidavit of..... Amanda Polley Montgomery.....
 affirmed before me, this.....twenty-ninth.....
 day of..... October.....20.....20.....

Jaquid U (J. Wilson)

 A COMMISSIONER FOR TAKING AFFIDAVITS

Thank you for the opportunity to provide comment on the proposed modification to Ontario Regulation 311/06 (Transitional Matters) made under the *Places to Grow Act, 2005* to implement A Place to Grow: *Growth Plan for the Greater Golden Horseshoe, 2019* (Growth Plan).

The proposed regulation, as modified on May 2, 2019, will provide clarity on how to apply the Plan policies. It is proposed that the Minister would make modifications to the transition regulation to not disrupt ongoing planning matters. The modified regulation addresses six ongoing matters including County of Simcoe Official Plan Amendment No. 2 for the Environmental Resource Recovery Centre (ERRC). The proposed regulation identifies that OPA No. 2 will be subject to the Growth Plan with the exception of policies in subsection 4.2.2, 4.2.3 and 4.2.4 (Natural Heritage System).

With the importance of this critical piece of waste management infrastructure, the County strongly supports the modification to the transitional regulation to provide greater clarity on the applicable Growth Plan policies as this matter is addressed through the Local Planning Appeal Tribunal process. The County is supportive of any further policy modifications to ensure that similar waste management facilities can develop in a timely and efficient manner. This infrastructure is fundamental in furthering the goals and objectives of the Province's *Waste Free Ontario Act, 2016*, *Resource Recovery and Circular Economy Act, 2016* and *Ontario's Food and Organics Waste Policy Statement, 2018*.

If you have any questions or require further information with respect to this correspondence, please do not hesitate to contact the undersigned at 705-726-9300 Ext.1004 or david.parks@simcoe.ca.

Sincerely,
The Corporation of the County of Simcoe

David Parks, MCIP RPP
 Director of Planning, Economic Development and Transit

cc: Debbie Korolnek, General Manager, Engineering, Planning and Environment – County of Simcoe
 Charles O'Hara, Director of Growth Planning and Analysis Branch – Ontario Growth Secretariat

From: Lyons, Darryl (MMAH)
Sent: March-21-19 11:23 AM
To: Elms, Michael (MMAH); Lashbrook, Ross (MMAH); Boyd, Erick (MMAH)
Cc: Alibhai, Aly (MMAH)
Subject: GPA 1 Transition Requests

Confidential

Hi all,

I wanted to give a heads up that help will be needed to craft one pager type notes similar to what was prepared in December with fact based information related to stakeholder requests for transition (very draft list below and some of the matters we had provided material on already, would just need to update).

This list and groups is evolving as more information is reviewed and once I have the final list we will need to help supply factual information about the various matters within your respective geography (template will be provided when received). Please let me know if there are any transition requests you are aware of from the consultation that are not included in the below (just in case something was missed).

Timing will be short as usual, likely needing this sometime early next week and I should have the next iteration of the list later today or tomorrow in case you want to start familiarizing or pulling information on any of the items below. If any of the below catch your attention please give me a quick call to discuss.

Thanks,
 Darryl

Group A: Specific Planning Matters Requested by Stakeholders to be Considered for Transition	
Stakeholder and Planning Matter	Comments

Not Responsive

This is Exhibit.....'T'.....referred to in the affidavit of..... Amanda Polley Montgomery..... affirmed before me, this.....twenty-ninth..... day of..... October..... 20 20.....


 A COMMISSIONER FOR TAKING AFFIDAVITS

County of Simcoe Official Plan Amendment 2	Applications for a County official plan amendment and a local official plan and zoning by-law amendment were made in late
---	---

2016. County Council adopted the official plan amendment (OPA No. 2) on June 26, 2018 and the Ministry of Municipal Affairs and Housing approved the amendment on January 2, 2019.

With the importance of this critical piece of infrastructure, the County requests that the Secretariat consider introducing transitional policies or regulations to address the approval that was recently given by the Ministry.

Not Responsive

Group B: Other Non-specific Transition Requests or Planning Matters that are out of Scope for Transition

Stakeholder	Comments
-------------	----------

Not Responsive

From: Switzman, Allyson (MMA)
Sent: March-26-19 5:40 PM
To: Lashbrook, Ross (MMAH)
Cc: Lyons, Darryl (MMAH); Mills, Kathryn (MMA)
Subject: RE: Confidential - Transition matters
Attachments: Not Responsive 2019-03-25
 Simcoe County OPA 2 Transition - OGS Comments.docx; Not Responsive

Hi Ross –

Thanks again for pulling these together so quickly! To help inform decision-making, our ADM has asked for some additional facts about each – see attached for questions. I spoke with Darryl and we agreed that in the interest of time I would send to you directly. Could you please update the notes accordingly and send back to me by EOD tomorrow? I know that these are meant to be factual, no planning opinion - so just let me know if anything I've asked for crosses that line and you can skip. Also – I bundled all of my comments so there are a few where I asked for additional detail be pulled from submission – either you can do (if you don't mind) or Kathryn can do.

Happy to discuss further if any of our questions or comments are unclear – let me know.

Thanks again for all of your help with this!
 Allyson

From: Lashbrook, Ross (MMAH)
Sent: March 25, 2019 1:41 PM
To: Switzman, Allyson (MMA) <Allyson.Switzman@ontario.ca>; Mills, Kathryn (MMA) <Kathryn.Mills@ontario.ca>
Cc: Lyons, Darryl (MMAH) <Darryl.Lyons@ontario.ca>
Subject: RE: Confidential - Transition matters

This is Exhibit 'U' referred to in the
 affidavit of Amanda Polley Montgomery
 affirmed before me, this twenty-ninth
 day of October 20..20 ..

Please use this version, we updated the map, FYI.


 A COMMISSIONER FOR TAKING AFFIDAVITS

From: Lashbrook, Ross (MMAH)
Sent: March 25, 2019 12:18 PM
To: Switzman, Allyson (MMA) <Allyson.Switzman@ontario.ca>; Mills, Kathryn (MMA) <Kathryn.Mills@ontario.ca>
Cc: Alibhai, Aly (MMAH) <Aly.Alibhai@ontario.ca>; Lyons, Darryl (MMAH) <Darryl.Lyons@ontario.ca>
Subject: RE: Confidential - Transition matters

Hi!

Attached are new notes for Not Responsive and Simcoe County OPA 2, and updates for the Not Respon- sive note in track changes. Let me know if any questions!

Thanks

From: Switzman, Allyson (MMA)
Sent: March 25, 2019 11:10 AM
To: Elms, Michael (MMAH) <Michael.Elms@ontario.ca>; Mills, Kathryn (MMA) <Kathryn.Mills@ontario.ca>
Cc: Alibhai, Aly (MMAH) <Aly.Alibhai@ontario.ca>; Lyons, Darryl (MMAH) <Darryl.Lyons@ontario.ca>; Lashbrook, Ross (MMAH) <Ross.Lashbrook@ontario.ca>; Boyd, Erick (MMAH) <Erick.Boyd@ontario.ca>
Subject: RE: Confidential - Transition matters

Great, thanks very much Mike!

From: Elms, Michael (MMAH)
Sent: March 25, 2019 10:26 AM
To: Mills, Kathryn (MMA) <Kathryn.Mills@ontario.ca>; Switzman, Allyson (MMA) <Allyson.Switzman@ontario.ca>
Cc: Alibhai, Aly (MMAH) <Aly.Alibhai@ontario.ca>; Lyons, Darryl (MMAH) <Darryl.Lyons@ontario.ca>; Lashbrook, Ross (MMAH) <Ross.Lashbrook@ontario.ca>; Boyd, Erick (MMAH) <Erick.Boyd@ontario.ca>
Subject: RE: Confidential - Transition matters
Importance: High

Allyson/Kathryn,

As per the request below, please find an updated one-pager for **Not Responsive** UPDATES are in YELLOW.

Mike

From: Lyons, Darryl (MMAH)
Sent: March 24, 2019 12:59 PM
To: Elms, Michael (MMAH) <Michael.Elms@ontario.ca>; Lashbrook, Ross (MMAH) <Ross.Lashbrook@ontario.ca>; Boyd, Erick (MMAH) <Erick.Boyd@ontario.ca>
Cc: Alibhai, Aly (MMAH) <Aly.Alibhai@ontario.ca>; Mills, Kathryn (MMA) <Kathryn.Mills@ontario.ca>; Switzman, Allyson (MMA) <Allyson.Switzman@ontario.ca>
Subject: RE: Confidential - Transition matters

Hi all,

Once you have the one pager notes complete please send them directly to Allyson Switzman and Kathryn Mills by noon on Monday, or earlier if possible, copying Aly and I.

Not Responsive

Not Responsive

Thanks,
Darryl

From: Lyons, Darryl (MMAH)
Sent: March 22, 2019 4:45 PM
To: Elms, Michael (MMAH) <Michael.Elms@ontario.ca>; Lashbrook, Ross (MMAH) <Ross.Lashbrook@ontario.ca>; Boyd, Erick (MMAH) <Erick.Boyd@ontario.ca>
Cc: Alibhai, Aly (MMAH) <Aly.Alibhai@ontario.ca>
Subject: RE: Confidential - Transition matters

To clarify looking for the notes on Monday (preferably before noon if possible).

Not Responsive

From: Lyons, Darryl (MMAH)
Sent: March 22, 2019 4:37 PM
To: Elms, Michael (MMAH) <Michael.Elms@ontario.ca>; Lashbrook, Ross (MMAH) <Ross.Lashbrook@ontario.ca>; Boyd, Erick (MMAH) <Erick.Boyd@ontario.ca>
Cc: Alibhai, Aly (MMAH) <Aly.Alibhai@ontario.ca>
Subject: FW: Confidential - Transition matters

Confidential

Further to my earlier email things are moving very quickly and we have been asked to prepare/update factual transition one pagers (this is not for planning opinion). I have attached all of the One Pagers from the last round for updating. Please update them asap with any new information and prepare new ones for the those that don't exist for your area from the list below and compare against what I shared yesterday. I understand the overarching note is moving on Monday so please send these one pagers asap. Sorry about the short turnaround.

New notes from yesterday's list (let me know I missed any)

Simcoe Official Plan Amendment 2

Not Responsive

Happy to discuss and thanks,

Darryl

COUNTY OF SIMCOE OFFICIAL PLAN AMENDMENT 2 TRANSITION ONE PAGER

MUNICIPALITY/LOCATION (see map):

2976 Horseshoe Valley Road in the Township of Springwater, County of Simcoe

KEY ISSUE

- On November 30, 2018, the Ministry of Municipal Affairs and Housing (MMAH) approved Official Plan Amendment No. 2 (OPA 2) to the County of Simcoe (County) Official Plan with one modification.
- OPA 2 seeks to facilitate the development of a waste management facility referred to as the Environmental Resource Recovery Centre (ERRC) on a property located at 2976 Horseshoe Valley Road in the Township of Springwater (Township).
- MMAH's decision was subsequently appealed to the Local Planning Appeal Tribunal by 3 neighbours/citizen groups.

Commented [SA(1): Why did this come to Ministry for approval?

BRIEF DESCRIPTION OF SITE/MATTER:

- In 2010, County adopted a Solid Waste Management Strategy which provided the framework for the County's solid waste management system and diversion programs.
- In 2014, guided by the strategy and subsequent decisions from County Council, the County initiated a siting process to identify a site for the development of an Organics Processing Facility for the long-term processing of source-separated organics. The siting process was subsequently expanded to also identify a site for the development of a Materials Management Facility for the transfer of garbage, recyclables, and organics and a Materials Recovery Facility to process and separate co-mingled recyclable materials into core components to ship to end-user manufacturers. Collectively, these facilities are referred to as the ERRC.
- In August 2015, the County released and consulted on a long-list of 502 properties (302 of which were County-owned and 200 were privately-owned) screened ideal sites County-wide using 20 technical (e.g., minimum lot size; strategically central location for servicing the entire county) and environmental/land use (e.g., avoiding areas of drinking water threats, wetlands, floodplains) criteria that were also developed with public and stakeholder input.
 - Many of these environmental criteria align with the policy direction in the Provincial Policy Statement (e.g., no development in significant wetlands; avoiding development in vulnerable areas where the proposed use may be a significant drinking water threat) which informed County decision-making of potential development and land use policy constraints.
- In March 2016, County Council selected the property located at 2976 Horseshoe Valley Road in the Township as the preferred site after evaluating the 7 short-listed sites.
 - The subject lands are approximately 84 hectares (207.6 acres) in size and the approximate footprint of the ERRC is estimated at 4.5 hectares (11.12 acres) with an additional 1.0 hectares (2.5 acres) for the access road.
 - The subject lands were purchased by the County in 1948 and reforested in 1949 with smaller amounts of infill planting in subsequent years. The forest on this property, known as the Freele Tract, is managed by the County for the purposes of

timber harvesting with a portion of the site reforested with a plantation of pine and spruce species.

- In November 2016, the County formally initiated amendment to its Official Plan and submitted corresponding applications to the Township to amend the local Official Plan and Zoning By-law to facilitate development of facilities on 2976 Horseshoe Valley Road West, Springwater.
- On July 1, 2017, the Growth Plan 2017 came into effect. The Growth Plan, 2017 included a new policy for the province to develop a Natural Heritage System (NHS) map for the Greater Golden Horseshoe and included enhanced policy protection of natural heritage features that are located within the provincial NHS mapping.
 - Upon the provincial NHS being released (on February 9, 2018), significant natural heritage features, such as significant woodlands, located in this provincial system map are considered key natural heritage features.
 - Until the provincial NHS map came into effect, provincially significant natural features, such as woodlands and wildlife habitat, were protected by the Provincial Policy Statement which provided policy direction that no development or site alteration can occur in these significant features unless it can be demonstrated there will be no negative impacts on these features and their ecological function.
- In October 2017, the County provided MMAH with a memorandum from their consultant describing how the ERRC, pursuant in the Waste Management Projects Regulation (O. Reg. 101/07) under the *Environmental Assessment Act*, is "infrastructure authorized under an environmental assessment process". This memo this is in response to the selected site being located within the (then proposed) provincial NHS map.
 - Pursuant to Growth Plan, 2017 policy 4.2.3.1, no development or site alteration is permitted in key natural heritage features that are located within the provincial NHS, except for noted exemptions. One of these exemptions, includes: "activities that create or maintain infrastructure authorized by an environmental assessment process." (Growth Plan 2017 policy 4.2.3.1 c))
- In November 2017, as confirmed by MECP staff, MMAH notifies the County that this project is considered infrastructure authorized under an environmental process by exemption pursuant to O. Reg. 101/07 under the *Environmental Assessment Act*.
- On November 30, 2018, the Ministry of Municipal Affairs and Housing (MMAH) approved Official Plan Amendment No. 2 (OPA 2) to the County of Simcoe (County) Official Plan with one modification.
 - The technical modification recognizes the County will be relying on ecological enhancement of the contiguous woodland feature at a 2:1 ratio through a combination of reforestation and afforestation measures to mitigate loss of the woodland feature on the subject property.
- MMAH's decision was subsequently appealed to the Local Planning Appeal Tribunal by 3 neighbours/citizen groups.
 - The appellants assert that OPA 2 does not conform with the Growth Plan, 2017 as it would permit the development of the ERRC in a woodland within the provincial Natural Heritage System (NHS) mapping. Growth Plan, 2017 policy 4.2.3.1 prohibits most types of development in key natural heritage features, such as significant woodlands, that are located within the provincial NHS mapping. The appellants also contend that as the ERRC should have been located on industrial lands in a settlement area.

ANTICIPATED OUTCOME FROM TRANSITION:

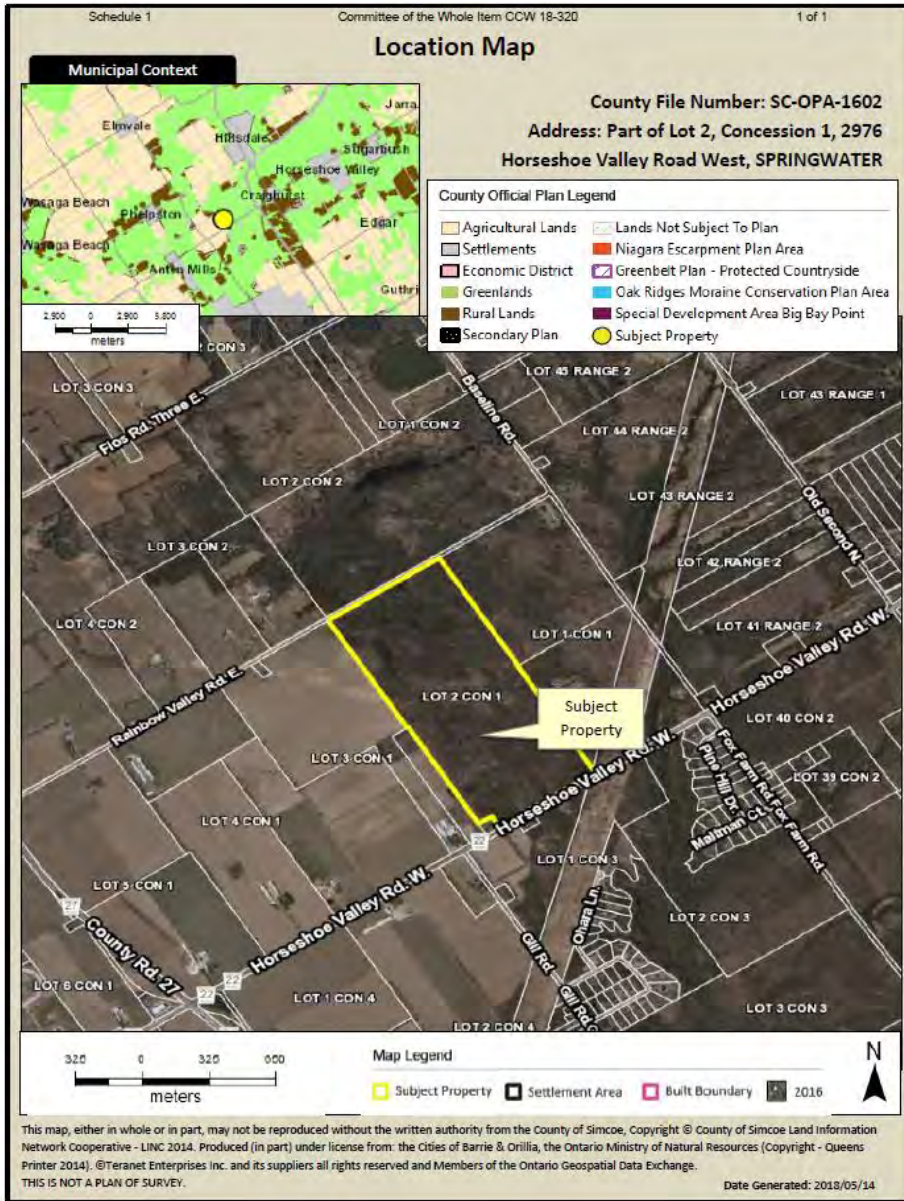
-

ANY ADDITIONAL RELEVANT BACKGROUND:

- Between December 2016 and May 2018, the County consulted with MMAH on two drafts of OPA 2 prior to its adoption in June 2018.
- The two drafts of OPA 2 were reviewed by MMAH and relevant partner ministries through provincial One-Window planning services during the early consultation stage. Along with these drafts, partner ministry staff also reviewed the accompanying technical studies that the County's retained consultants produced in support of the OPA, as it related to their respective provincial land use planning interests.
- Recognizing that the County will need to seek complementary approvals (e.g., site plan, Environmental Compliance Approval application) and undertake mitigation and management plans/measures (e.g., Fire Prevention Plan, Emergency Response Plan, Environmental Management Plan and Wildlife Management Plan) to build the ERRC and ensure there are no adverse impacts related to its construction and long-term operation, partner ministries had no objection with MMAH's approval of OPA 2 that would establish the principle of development of the ERRC on the subject lands.

Commented [SA(2)]: Is there anything we can say based on rationale provided in County's submission?

Site Location Map



From: Alibhai, Aly (MMAH)
Sent: April-17-19 11:56 AM
To: Wallace, Marcia (MMAH)
Subject: FW: Transition One Pagers
Attachments: Not Responsive
Transition.docx

2019-04-17 Simcoe County OPA 2

FYI and just to keep you in the loop, I understand that the MO asked OGS for a couple of the "one pager" transition notes that were previously developed. Darryl advises that they were updated this morning with more current information (as set out in the attached).

-Aly

From: Switzman, Allyson (MMA)
Sent: April 17, 2019 11:11 AM
To: Lyons, Darryl (MMAH) <Darryl.Lyons@ontario.ca>
Cc: Mills, Kathryn (MMA) <Kathryn.Mills@ontario.ca>
Subject: Transition One Pagers

Thanks for your help! Here are the latest clean versions that are now with our ADMO (and will be sent to DMO/MO)

This is Exhibit.....^{'V'}.....referred to in the
affidavit of..... Amanda Polley Montgomery.....
affirmed before me, this..... twenty-ninth.....
day of..... October..... 20. 20..


.....
A COMMISSIONER FOR TAKING AFFIDAVITS

COUNTY OF SIMCOE OFFICIAL PLAN AMENDMENT 2 TRANSITION PAPER

MUNICIPALITY/LOCATION (see map):

2976 Horseshoe Valley Road in the Township of Springwater, County of Simcoe

KEY ISSUE

- On November 30, 2018, the Ministry of Municipal Affairs and Housing (MMAH), as the approval authority, approved Official Plan Amendment No. 2 (OPA 2) to the County of Simcoe (County) Official Plan with one modification.
- OPA 2 seeks to facilitate the development of a waste management facility referred to as the Environmental Resource Recovery Centre (ERRC) on a property located at 2976 Horseshoe Valley Road in the Township of Springwater (Township).
- MMAH's decision was subsequently appealed to the Local Planning Appeal Tribunal by 3 neighbours/citizen groups.

BRIEF DESCRIPTION OF SITE/MATTER:

- In 2010, County adopted a Solid Waste Management Strategy which provided the framework for the County's solid waste management system and diversion programs.
- In 2014, guided by the strategy and subsequent decisions from County Council, the County initiated a siting process to identify a site for the development of an Organics Processing Facility for the long-term processing of source-separated organics. The siting process was subsequently expanded to also identify a site for the development of a Materials Management Facility for the transfer of garbage, recyclables, and organics and a Materials Recovery Facility to process and separate co-mingled recyclable materials into core components to ship to end-user manufacturers. Collectively, these facilities are referred to as the ERRC.
- In August 2015, the County released and consulted on a long-list of 502 properties (302 of which were County-owned and 200 were privately-owned) screened ideal sites County-wide using 20 technical (e.g., minimum lot size; strategically central location for servicing the entire county) and environmental/land use (e.g., avoiding areas of drinking water threats, wetlands, floodplains) criteria that were also developed with public and stakeholder input.
 - Many of these environmental criteria align with the policy direction in the Provincial Policy Statement (e.g., no development in significant wetlands; avoiding development in vulnerable areas where the proposed use may be a significant drinking water threat) which informed County decision-making of potential development and land use policy constraints.
- In March 2016, County Council selected the property located at 2976 Horseshoe Valley Road in the Township as the preferred site after evaluating the 7 short-listed sites.
 - The subject lands are approximately 84 hectares (207.6 acres) in size and the approximate footprint of the ERRC is estimated at 4.5 hectares (11.12 acres) with an additional 1.0 hectares (2.5 acres) for the access road.
 - The subject lands were purchased by the County in 1948 and reforested in 1949 with smaller amounts of infill planting in subsequent years. The forest on this property, known as the Freele Tract, is managed by the County for the purposes of

timber harvesting with a portion of the site reforested with a plantation of pine and spruce species.

- In November 2016, the County formally initiated an amendment to its Official Plan and submitted corresponding applications to the Township to amend the local Official Plan and Zoning By-law to facilitate development of facilities on 2976 Horseshoe Valley Road West, Springwater.
- On July 1, 2017, the Growth Plan 2017 came into effect. The Growth Plan, 2017 included a new policy for the province to develop a Natural Heritage System (NHS) map for the Greater Golden Horseshoe and included enhanced policy protection of natural heritage features that are located within the provincial NHS mapping.
 - Upon the provincial NHS being released (on February 9, 2018), significant natural heritage features, such as significant woodlands, located in this provincial system map are considered key natural heritage features.
 - Until the provincial NHS map came into effect, provincially significant natural features, such as woodlands and wildlife habitat, were protected by the Provincial Policy Statement which provided policy direction that no development or site alteration can occur in these significant features unless it can be demonstrated there will be no negative impacts on these features and their ecological function.
- In October 2017, the County provided MMAH with a memorandum from their consultant describing how the ERRC, pursuant in the Waste Management Projects Regulation (O. Reg. 101/07) under the *Environmental Assessment Act*, is “infrastructure authorized under an environmental assessment process”. This memo this is in response to the selected site being located within the (then proposed) provincial NHS map.
 - Pursuant to Growth Plan, 2017 policy 4.2.3.1, no development or site alteration is permitted in key natural heritage features that are located within the provincial NHS, except for noted exemptions. One of these exemptions, includes: “activities that create or maintain infrastructure authorized by an environmental assessment process.” (Growth Plan 2017 policy 4.2.3.1 c))
- In November 2017, as confirmed by MECP staff, MMAH notified the County that this project was considered infrastructure authorized under an environmental process by exemption pursuant to O. Reg. 101/07 under the *Environmental Assessment Act*.
- On November 30, 2018, MMAH approved OPA 2 to the County Official Plan with one modification.
 - The technical modification recognizes the County will be relying on ecological enhancement of the contiguous woodland feature at a 2:1 ratio through a combination of reforestation and afforestation measures to mitigate loss of the woodland feature on the subject property.
- MMAH’s decision was subsequently appealed to the Local Planning Appeal Tribunal by 3 neighbours/citizen groups.
 - The appellants assert that OPA 2 does not conform with the Growth Plan, 2017 as it would permit the development of the ERRC in a woodland within the provincial NHS mapping. Growth Plan, 2017 policy 4.2.3.1 prohibits most types of development in key natural heritage features, such as significant woodlands, that are located within the provincial NHS mapping. The appellants also contend that as the ERRC should have been located on industrial lands in a settlement area.
- The Local Planning Appeal Tribunal has not scheduled a hearing date on this matter yet.

- In response to the appellants filed appeal records, MMAH staff are working with staff from the County to prepare a joint record to support MMAH's decision that will have to be filed by May 1, 2019.

ANTICIPATED OUTCOME FROM TRANSITION:

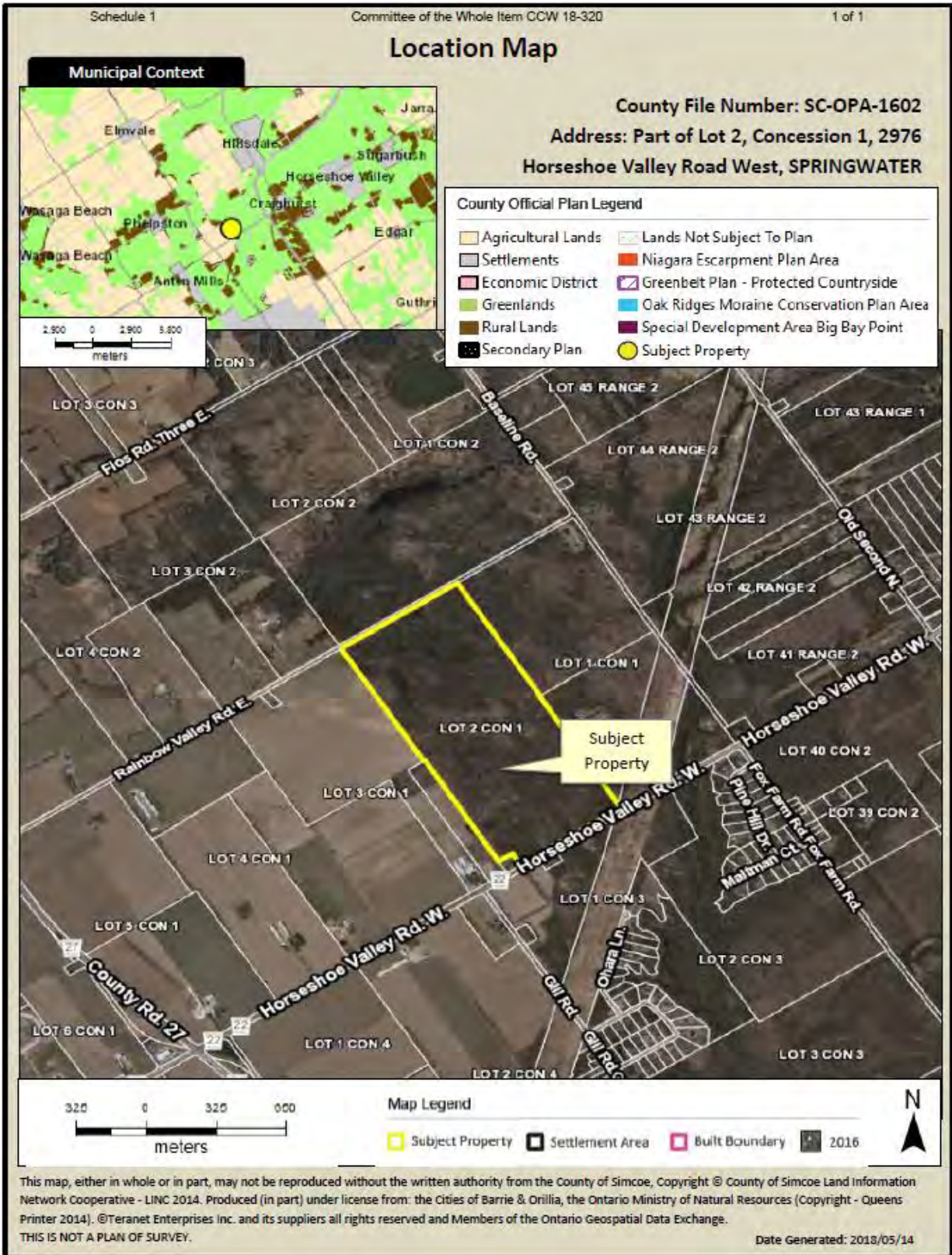
- The County requested that the Ministry consider introducing transitional policies or regulations to address the approval that was recently given by the Ministry.

s.13 Advice to government

ANY ADDITIONAL RELEVANT BACKGROUND:

- Between December 2016 and May 2018, the County consulted with MMAH on two drafts of OPA 2 prior to its adoption in June 2018.
- The two drafts of OPA 2 were reviewed by MMAH and relevant partner ministries through provincial One-Window planning services during the early consultation stage. Along with these drafts, partner ministry staff also reviewed the accompanying technical studies that the County's retained consultants produced in support of the OPA, as it related to their respective provincial land use planning interests.
- Recognizing that the County will need to seek complementary approvals (e.g., site plan, Environmental Compliance Approval application) and undertake mitigation and management plans/measures (e.g., Fire Prevention Plan, Emergency Response Plan, Environmental Management Plan and Wildlife Management Plan) to build the ERRC and ensure there are no adverse impacts related to its construction and long-term operation, partner ministries had no objection with MMAH's approval of OPA 2 that would establish the principle of development of the ERRC on the subject lands.

Site Location Map



- Through consultation on Proposed Amendment 1 and the proposed technical and housekeeping changes to the transition regulation, the Ministry received requests to use the regulation to help facilitate transition specific planning matters that are far along in their approvals.
- One of the matters raised through this process was County of Simcoe Official Plan Amendment 2.
- The government is now consulting on a proposal to use the regulation to address transition this matter and several others so that they can continue without needing to apply the policy changes in this new Plan. It is anticipated that this will support timely resolution of these matters.
- Consultation on the proposed changes to the transition regulation closes on June 1, 2019.
- As this matter is currently before the Local Planning Appeal Tribunal, it would be inappropriate to comment on the specific details of what the proposed changes to the regulation, if approved, would mean for this planning matter.

From: Switzman, Allyson (MMA)
Sent: May 30, 2019 2:50 PM
To: MMA Media (MMAH) <MMA.Media@ontario.ca>
Cc: Thomas, Christina (MMA) <Christina.Thomas@ontario.ca>
Subject: Media Inquiry from Barrie Today
Importance: High

Hi – I’ve left a voicemail for Conrad about this. I just received a voicemail from a reporter from Barrie Today (Jessica Owen s.21(1) Personal) with a question about the current EBR posting on proposed changes to the Growth Plan transition regulation. She is specifically interested in the proposal to provide transition for Simcoe Regional Official Plan Amendment 2 and what this would mean for that matter. I’m not sure what time the voicemail was left but I just received it and she indicated a 5pm deadline. I have not returned her call as it is my understanding that our media protocol is for comms to be the ones to do so – can you confirm?

In the meantime until we hear back from you, we’ll expedite drafting a response.

Thanks,
 Allyson

This is Exhibit.....'W'.....referred to in the
 affidavit of..... Amanda Polley Montgomery.....
 affirmed before me, this.....twenty-ninth.....
 day of.....October.....20..20.....

Jaqueline Wilson (J. Wilson)

 A COMMISSIONER FOR TAKING AFFIDAVITS

Looks great to me. Christina – over to you.

From: Switzman, Allyson (MMA)
Sent: May 30, 2019 5:29 PM
To: Zaveri, Mirrun (MMA) <Mirrun.Zaveri@ontario.ca>
Cc: Woolley, Davida (MMAH) <Davida.Woolley@ontario.ca>; Mills, Kathryn (MMA) <Kathryn.Mills@ontario.ca>; Thomas, Christina (MMA) <Christina.Thomas@ontario.ca>
Subject: RE: Media Inquiry from Barrie Today

I think that I was contacted because the reporter read the EBR submission (on which I am named as contact), which includes an explanation of what the transition regulation is and how it is proposed to be used. However, I agree that the meaning of the word “transition” as a verb is not always clear, so I’ve suggested some minor clarifying edits highlighted below.

From: Zaveri, Mirrun (MMA)
Sent: May 30, 2019 5:24 PM
To: Switzman, Allyson (MMA) <Allyson.Switzman@ontario.ca>
Cc: Woolley, Davida (MMAH) <Davida.Woolley@ontario.ca>; Mills, Kathryn (MMA) <Kathryn.Mills@ontario.ca>; Thomas, Christina (MMA) <Christina.Thomas@ontario.ca>
Subject: RE: Media Inquiry from Barrie Today

Hi – will the journalist understand what we mean by transition?

From: Switzman, Allyson (MMA)
Sent: May 30, 2019 2:55 PM
To: Zaveri, Mirrun (MMA) <Mirrun.Zaveri@ontario.ca>
Cc: Woolley, Davida (MMAH) <Davida.Woolley@ontario.ca>; Mills, Kathryn (MMA) <Kathryn.Mills@ontario.ca>; Thomas, Christina (MMA) <Christina.Thomas@ontario.ca>
Subject: Media Inquiry from Barrie Today
Importance: High

Hi Mirrun –

As briefly mentioned before you headed into your meeting, I’ve just received a voicemail from a reporter in Barrie about a specific matter proposed for transition in the current EBR posting that we have out there on the transition regulation. For context, we anticipated (and flagged for DM and MO) that this aspect of the proposal might be somewhat contentious, and Michael has just let me know that we have received several submissions from members of the public about this specific matter.

I’ve flagged the request for comms (see below) and we’ve quickly drafted the following brief response. If you’re ok with this I’ll move it forward for ADM approval.

Thanks,
Allyson

- Thank you for your inquiry.

This is Exhibit.....'X'.....referred to in the
affidavit of..... Amanda Polley Montgomery.....
affirmed before me, this..... twenty-ninth.....
day of..... October..... 20..... 20.....

Jaqueline Wilson (J. Wilson)
.....
A COMMISSIONER FOR TAKING AFFIDAVITS

Looks great to me. Christina – over to you.

From: Switzman, Allyson (MMA)
Sent: May 30, 2019 5:29 PM
To: Zaveri, Mirrun (MMA) <Mirrun.Zaveri@ontario.ca>
Cc: Woolley, Davida (MMAH) <Davida.Woolley@ontario.ca>; Mills, Kathryn (MMA) <Kathryn.Mills@ontario.ca>; Thomas, Christina (MMA) <Christina.Thomas@ontario.ca>
Subject: RE: Media Inquiry from Barrie Today

I think that I was contacted because the reporter read the EBR submission (on which I am named as contact), which includes an explanation of what the transition regulation is and how it is proposed to be used. However, I agree that the meaning of the word “transition” as a verb is not always clear, so I’ve suggested some minor clarifying edits highlighted below.

From: Zaveri, Mirrun (MMA)
Sent: May 30, 2019 5:24 PM
To: Switzman, Allyson (MMA) <Allyson.Switzman@ontario.ca>
Cc: Woolley, Davida (MMAH) <Davida.Woolley@ontario.ca>; Mills, Kathryn (MMA) <Kathryn.Mills@ontario.ca>; Thomas, Christina (MMA) <Christina.Thomas@ontario.ca>
Subject: RE: Media Inquiry from Barrie Today

Hi – will the journalist understand what we mean by transition?

From: Switzman, Allyson (MMA)
Sent: May 30, 2019 2:55 PM
To: Zaveri, Mirrun (MMA) <Mirrun.Zaveri@ontario.ca>
Cc: Woolley, Davida (MMAH) <Davida.Woolley@ontario.ca>; Mills, Kathryn (MMA) <Kathryn.Mills@ontario.ca>; Thomas, Christina (MMA) <Christina.Thomas@ontario.ca>
Subject: Media Inquiry from Barrie Today
Importance: High

Hi Mirrun –

As briefly mentioned before you headed into your meeting, I’ve just received a voicemail from a reporter in Barrie about a specific matter proposed for transition in the current EBR posting that we have out there on the transition regulation. For context, we anticipated (and flagged for DM and MO) that this aspect of the proposal might be somewhat contentious, and Michael has just let me know that we have received several submissions from members of the public about this specific matter.

I’ve flagged the request for comms (see below) and we’ve quickly drafted the following brief response. If you’re ok with this I’ll move it forward for ADM approval.

Thanks,
Allyson

- Thank you for your inquiry.

This is Exhibit.....'Y'.....referred to in the
affidavit of..... Amanda Polley Montgomery.....
affirmed before me, this.....twenty-ninth.....
day of.....October.....20..20.....

.....

.....
A COMMISSIONER FOR TAKING AFFIDAVITS

- Through consultation on Proposed Amendment 1 and the proposed technical and housekeeping changes to the transition regulation, the Ministry received requests to **use the regulation to help facilitate transition** specific planning matters that are far along in their approvals.
- One of the matters raised through this process was County of Simcoe Official Plan Amendment 2.
- The government is now consulting on a proposal to **use the regulation to address transition** this matter and several others so that they can continue without needing to apply the policy changes in this new Plan. It is anticipated that this will support timely resolution of these matters.
- Consultation on the proposed changes to the transition regulation closes on June 1, 2019.
- As this matter is currently before the Local Planning Appeal Tribunal, it would be inappropriate to comment on the specific details of what the proposed changes to the regulation, if approved, would mean for this planning matter.

From: Switzman, Allyson (MMA)
Sent: May 30, 2019 2:50 PM
To: MMA Media (MMAH) <MMA.Media@ontario.ca>
Cc: Thomas, Christina (MMA) <Christina.Thomas@ontario.ca>
Subject: Media Inquiry from Barrie Today
Importance: High

Hi – I've left a voicemail for Conrad about this. I just received a voicemail from a reporter from Barrie Today (Jessica Owen **s.21(1) Personal**) with a question about the current EBR posting on proposed changes ~~to the~~ Growth Plan transition regulation. She is specifically interested in the proposal to provide transition for Simcoe Regional Official Plan Amendment 2 and what this would mean for that matter. I'm not sure what time the voicemail was left but I just received it and she indicated a 5pm deadline. I have not returned her call as it is my understanding that our media protocol is for comms to be the ones to do so – can you confirm?

In the meantime until we hear back from you, we'll expedite drafting a response.

Thanks,
 Allyson

From: Thomas, Christina (MMA)
Sent: May-31-19 9:51 AM
To: Widakdo, Rachel (MMAH)
Cc: Alderson, Lee (MMAH); O'Neill, Kevin (MMAH); Riar, Subhraj (MMAH); Senthinathan, Praveen (MMAH); Spezowka, Conrad (MMAH); Stromberg, Richard (MMAH); Switzman, Allyson (MMA); Zaher, Sami (MMA); Chisholm, Stewart (MMA)
Subject: RE: Media Inquiry from Barrie Today - Proposed changes to the Growth Plan for the GGH

Hi Rachel,


Please find below the OGS ADM(A)-approved response to this media inquiry:

- Thank you for your inquiry.
- Through consultation on Proposed Amendment 1 and the proposed technical and housekeeping changes to the transition regulation, the Ministry received requests to use the regulation to help facilitate specific planning matters that are far along in their approvals.
- One of the matters raised through this process was County of Simcoe Official Plan Amendment 2.
- The government is now consulting on a proposal to use the regulation to address this matter and several others so that they can continue without needing to apply the policy changes in this new Plan. It is anticipated that this will support timely resolution of these matters.
- Consultation on the proposed changes to the transition regulation closes on June 1, 2019.
- As this matter is currently before the Local Planning Appeal Tribunal, it would be inappropriate to comment on the specific details of what the proposed changes to the regulation, if approved, would mean for this planning matter.

Thanks,
Christina

Christina Thomas
 Executive Assistant (A), Ontario Growth Secretariat
 Ministry of Municipal Affairs and Housing
 416-325-7360
 (Filling in for Jude Gurudevan until June 3rd)

This is Exhibit.....'Z'.....referred to in the
 affidavit of..... Amanda Polley Montgomery.....
 affirmed before me, this.....twenty-ninth.....
 day of.....October.....20..20..


 A COMMISSIONER FOR TAKING AFFIDAVITS
 (J. Wilson)

DRAFT AND CONFIDENTIAL – NOT FOR CIRCULATION

Phase 2 – Submissions on the 11 Proposed Planning Matters to be Transitioned					
Planning Matter	Current Ministry Involvement and Proposed Transition Approach	Submitter	Supportive	Submission Comments	Consideration/Notes
1. County of Simcoe Official Plan Amendment 2	Proposed Resource Recovery Centre	Simcoe County	Yes	Strongly supports the modification to the transitional regulation to provide clarity on the applicable Growth Plan policies as this matter is addressed through the LPAT process.	County is also the landowner and operator of facility
	Approval Authority, Party at LPAT	Township of Springwater	n/a	Municipal position TBC	Proposed facility is within Township
	Proposed Transition: GP, 2019 with exception of policies in sections 4.2.2, 4.2.3 and 4.2.4	Friends of Simcoe Forests	No	Not consistent with the PPS or the natural heritage system policies in the Growth Plan. The area is protected under the Greenbelt Plan.	Appellants at LPAT hearing
		Aware Simcoe	No	Not consistent with the PPS or the natural heritage system policies in the Growth Plan. Site of significant woodlands, significant wetlands, habitat, endangered species.	
		s.21 Personal (Individual)	No	Friends of Simcoe Forests have legitimate appeal before LPAT to determine whether or not a waste disposal complex contravenes natural heritage policies, 2017.	
		Various Individual – Writing Campaign	No	Not consistent with the PPS or the natural heritage system policies in the Growth Plan. Site of significant woodlands, significant wetlands, habitat, endangered species.	

This is Exhibit 'AA' referred to in the affidavit of Amanda Polley Montgomery affirmed before me, this twenty-ninth day of October 20, 2019.

Jeanelle Wilson
 (J. Wilson)
 A COMMISSIONER FOR TAKING AFFIDAVITS

Not Responsive

FRIENDS OF SIMCOE FORESTS INC.

v.

MINISTER OF MUNICIPAL AFFAIRS AND HOUSING et al

Applicant

Respondents

**ONTARIO
DIVISIONAL COURT**

PROCEEDING COMMENCED AT TORONTO

**AFFIDAVIT OF
AMANDA POLLEY MONTGOMERY**

Affirmed October 29, 2020

CANADIAN ENVIRONMENTAL LAW ASSOCIATION
1500 – 55 UNIVERSITY AVENUE
TORONTO, ONTARIO M5J 2H7

Ramani Nadarajah (30023U)

Tel: 416-960-2284, ext. 7217

Fax: 416-960-9392

ramani@ccla.ca

Jacqueline Wilson (60330R)

Tel: 416-960-2284, ext. 7213

Fax: 416-960-9392

jacqueline@ccla.ca

Counsel for the Applicant, Friends of Simcoe Forests Inc.

FRIENDS OF SIMCOE FORESTS INC.

v.

MINISTER OF MUNICIPAL AFFAIRS AND HOUSING et al.

Applicant

Respondents

**ONTARIO
DIVISIONAL COURT
SUPERIOR COURT OF JUSTICE**

**PROCEEDING COMMENCED AT:
TORONTO**

APPLICATION RECORD

**CANADIAN ENVIRONMENTAL LAW
ASSOCIATION**

1500 – 55 University Avenue
Toronto, Ontario M5J 2H7

Ramani Nadarajah (LSO # 30023U)
Jacqueline Wilson (LSO # 60330R)

Tel: 416-960-2284, ext. 7217 / 7213

Fax: 416-960-9392

Email: ramani@cela.ca / jacqueline@cela.ca

Counsel for the Applicant