

THE CORPORATION OF THE TOWN OF GEORGINA

COUNCIL AGENDA ADDENDUM

Wednesday, August 24, 2016
9:00 AM

12. REPORTS

(2) REPORTS REQUIRING SEPARATE DISCUSSION

Reports from the Development Services Department:

Pages 1-6

- (D) Provincial Co-ordinated Land Use Planning Review: Proposed Growth Plan, 2016 and Greenbelt Plan, 2016

Report No. DS-2016-0060

- *Pages 20-25 of Report No. PB-2016-0026 outlining Options 2 to 5, alternative options considered by Council on May 13, 2015 with respect to commenting on Maple Lake Estates in relation to the Greenbelt Plan.*

Option 2 – (Support MLE Re-Design – Request No Changes to GBP)

If Council is in support of trying to facilitate a more environmentally sensitive re-design of MLE, then it also makes sense to maintain the existing designations within the Greenbelt Plan, and then direct staff to commence negotiations with the various parties to develop a redesigned MLE. If that negotiation process proved successful, the next step would be to proceed with amending the existing York Region and Town Official Plans accordingly. Should these documents be amended, then the other local planning processes involving applications for plan of subdivision or condominium or site plan, along with an application to amend the Zoning By-law could take place.

Council may recall that this was previous Council's direction to staff, stemming out of Council's consideration of Report No. PB-2013-0032 on March 25, 2013. But that direction changed as a result of Report No. PB-2013-0062, which is included as Attachment '5'. This report advised of the opportunity for a MLE development rights exchange to other lands located south of Deer Park Road under the MLE ownership group, ("Deer Park South Lands"), as shown on Schedule '4' in Report No. PB-2013-0062 included as Attachment '5'. Staff was directed to consult further on this new opportunity and then report back to Council.

Option 3 – (Neither Support Nor Oppose MLE – No comment on GBP)

Another option may be for Council to provide no comment or indifferent feedback with respect to the current status of MLE within the GBP. This could be an option should Council not have a strong opinion, one way or the other, in terms of building or not building MLE. Similarly, Council may be of the position that the pros and cons of either developing or not developing MLE are on balance equally acceptable.

Option 4 – (Do Not Support MLE – Request Changes to GBP)

If Council does not support the existing approved MLE because it desires to protect the wetlands and woodlands, it should request the Province to remove the Towns and Villages designation from the subject land, and include the land within the Protected Countryside and Natural Heritage System (NHS) designations in the GBP, and to also remove any transition provisions as may currently apply and permit MLE.

If the Province implements the above request, then this would allow the Region and the Town to proceed with amending their respective planning documents to include designations and policies which would not permit MLE on the subject land.

Option 5 – (Do Not Support MLE – Request Changes to GBP to facilitate Development Rights Transfer)

If Council does not support the approved MLE because it wants to protect the wetlands and woodlands, it should request the Province to remove the Towns and Villages designation and include the land within the Protected Countryside and NHS designations, and to remove any conflicting transition provisions. Council should as well, simultaneously request changes to the GBP which would facilitate the transfer of the MLE development rights onto Deer Park South Lands.

More specifically, this would be a request to the Province to designate the portions of the Deer Park South Lands that do not contain any significant environmental features as Towns and Villages, while removing the Towns and Villages designation from the MLE lands and protecting the environmental features on both the MLE lands and the Deer Park South Lands through the NHS designation.

Analysis of Options:

Section 2 of the Planning Act sets out eighteen matters of provincial interest for which the Minister, the council of a municipality, a local board, a planning board and the Municipal Board shall have regard to in carrying out their responsibilities under the Act. The first matter of provincial interest is under Section 2(a) which states:

“the protection of ecological systems, including natural areas, features and functions,”

Part I: Preamble of the PPS, 2014 states:

“The Provincial Policy Statement provides policy direction on matters of provincial interest related to land use planning and development...”

Section 2.0, Wise Use and Management of Resources of the PPS, 2014, provides the primary policy direction with respect to the above noted provincial interest. A copy of this policy direction from the PPS, 2014 is included as Attachment '6'.

Based on the Planning Act and the PPS, 2014, it is clearly a matter of provincial, regional and local interest, that the MLE lands not be developed, but rather that the lands be protected as a natural area. However, it must be recognized that notwithstanding what the PPS, 2014 directs, the Greenbelt Plan currently permits

the development of MLE. It is also important to note that under the provisions of the PPS, 2014 and the Greenbelt Plan legislation, the Greenbelt Plan prevails over the PPS, 2014 to the extent of any conflict.

In view of the above, it is staff's opinion that in assessing the options presented earlier, the preferred option is the one that provides the greatest chance (or least amount of downside risk) of being successful in protecting the MLE lands from any development, and preserving it as natural area in perpetuity.

Furthermore, good planning would dictate that all of the existing MLE approvals in the Greenbelt Plan, the Region's Official Plan and the Town's Official Plan and Zoning By-law, must be changed to the appropriate protective land use designations, policies and zoning. The dedication of the MLE property to a public authority is also a highly desirable outcome in terms of ensuring the property's long term protection as a natural area.

In consideration of the above, Options 1 and 2 should be eliminated as these do not serve to adequately protect the wetlands and woodlands.

Option 3 is only appropriate if Council is satisfied with the development possibly happening. If Council has a desire to protect the property, as staff believes it should, then Option 3 is not recommended. Also, this option fails to deal with the fact that the population from MLE is part of the Region and Town's projected population targets that need to be accommodated within Georgina.

This leaves Options 4 and 5. They are essentially the same, but with one significant difference - Option 5 includes support for a development rights exchange, while Option 4 does not.

Option 4 might appear appropriate in that it requests the Province to change the Greenbelt Plan in a manner intended to protect the MLE lands from development. If the intention is that development of the property should not occur (as it shouldn't according to the PPS, 2014), then the Towns and Villages designation must be removed, and the property included within the NHS designation. While this option seems on the surface to make sense, an important question to ask is: Why would the Province do something now that it intentionally did not do 10 years ago when it created the Greenbelt Plan? It's not like the planning landscape has changed, as the PPS policies back then were equally protective of wetlands and woodlands. Clearly, the Province must have had regard to other factors in designating the MLE property as Towns and Villages and not including the land within the NHS. Staff are very concerned that the Province would not implement changes to the GBP unless such changes were accompanied by a development rights exchange, which leads to the consideration of Option 5.

Before addressing the merits of that Option, pursuant to discussions with the Town Solicitor, it is important to note that the owners of the MLE lands have made substantial investments in the infrastructure necessary to service the site, and that the Town has an agreement with the landowner to allocate servicing capacity to MLE when such capacity is available and the development is ready to proceed. It seems likely, then, that if the Province were to decline to amend the GBP, and the Town purported to revoke the existing MLE approvals without supporting the transfer of development rights contemplated in Option 5, the owner would challenge the Town's ability to resile from this agreement, both in the courts and in appeals before the OMB relating to the changes to the Town's and Region's planning documents that would be necessary to eliminate the owner's ability to develop the site. Such a challenge would place the Town's ability to prevent the development at risk, not to mention the potentially large costs the Town would incur in maintaining its position before both the courts and the Board.

Option 5 certainly is not something new, but has been the subject of a report to previous Council and a number of meetings with the various parties. Such meetings were suspended as a result of the last Provincial and municipal elections, and have not yet re-started.

Through the Ministry of Municipal Affairs, the previous provincial government had advised Town officials that it was in support of helping to facilitate a development rights transfer from the MLE lands to the Deer Park South Lands. York Region and the LSRCA were also supportive of this development rights transfer. In the course of the meetings between the parties which took place in 2014, however, representatives from the North Gwillimbury Forest Alliance (NGFA) presented an alternative location for a MLE development rights transfer, being to the undeveloped Metrus lands in South Keswick. In response to this proposal, a lawyer representing MLE, Mr. David Bronskill, submitted a letter to the Town confirming that "the lands owned by Maple Lake and the lands in south Keswick are under different ownership", and that there is therefore "no opportunity to 'exchange' development approvals between these two projects". Subsequently, the Town solicitor, Mr. Michael Bigioni, provided a letter to the CAO that was then presented to Council in closed session, which addresses Mr. Bronskill's letter, and the impact the position he (Mr. Bronskill) has expressed on behalf of Maple Lake Estates Inc. is likely to have on the goal of preserving the MLE lands free of development. Based on the solicitors' comments, staff do not see the lands in south Keswick as being a viable developments rights transfer alternative, as there is a high likelihood of such a transfer not being successfully implemented.

Following careful consideration of all five options, staff are of the opinion that Option 5 is the preferred option, as it meets the goal of preserving the natural features on the MLE lands, while providing the greatest certainty of being

successful. Staff recognize that this option will result in a loss of some farmland, but that is the trade-off that appears to be necessary in order to remove the long standing planning approvals on the MLE lands, with the least risk involved. It should also be understood that from a provincial policy perspective, urban development is not absolutely prohibited from occurring on prime agricultural lands. In this regard, the Greenbelt Plan provides for the possible expansion of Towns and Villages on prime agricultural lands that are not specialty crop areas. The pertinent policies in this regard are included as Attachment '7'.

In staffs view, there is considerable risk in relying on the decision of an outside agency, which in this case means a LSRCA decision on a Section 28 development permit, in order to try to stop the MLE development. And even if the LSRCA staff and Board refuse to issue a permit, that refusal can be appealed to another decision making body, and there is no guarantee that the refusal will be upheld. This risk is further enhanced by the LSRCA Board's recent adoption of a resolution directing that the start date for the implementation of the Authority's new Watershed Development Policy guidelines is June 1, 2015.

There has also been some concern raised about the lack of information on what the design of a new development on the Deer Park South Lands would look like, and the process that would or should be undertaken in this regard. While in some sense this concern is understandable, on the other hand it would be premature to begin designing the details of a development when the more general land use principles and policies have yet to be established. The Province has previously indicated that should the principle of development of the Deer Park South Lands be permitted under the GBP, the lands would then need to go through all of the required Planning Act applications/ approvals processes, including public consultation and possible appeals to the OMB, in order to arrive at the final development design. Certainly, one can see the potential and opportunity that exists in designing the site in terms of implementing Low Impact Development (LID) design features through the assistance of the LSRCA. Another idea may be to preserve a portion of the farmland for the purpose of a local food/market garden for future residents of the development.

In summary, Option 5 provides the best opportunity to:

1. Permanently protect the MLE lands from any development through appropriate changes to the planning documents at the Provincial, Regional and Town levels;
2. Accommodate the projected MLE population/growth as required under the Region and Town Official Plans, in a more compact form of development that would utilize considerably less land than the 500+ acres that would have been consumed by the existing approved MLE;

3. Transfer the MLE lands into public (municipal) ownership, which provides for greater long term protection; and
4. Accommodate the MLE growth within the same general area of the MLE lands.

Finally, correspondence from both the LSRCA and York Region indicate continued support for transfer of development rights to the Deer Park South Lands as being the best option to protect and preserve the MLE lands as a natural area (refer to Attachments '8' and '9').

5. PUBLIC CONSULTATION AND NOTICE REQUIREMENTS:

Formal public consultation and notification for this report is not required. However, a number of individuals and organizations had previously requested notification of the Town's review of the Greenbelt Plan. These individuals and organizations were contacted by email to advise them of this report coming before Council. (refer to Attachment '10'). As of the date of the completion of this report (May 5, 2015), the writer has not received any correspondence from these notified individuals or organizations.

6. FINANCIAL AND BUDGETARY IMPACT:

There are no direct financial or budgetary impacts stemming from this report.

7. CONCLUSION:

The GPGGH and GBP are important documents in the Ontario Planning System. Staff strongly support the purpose and intent of each Plan, and with certain changes and revisions these Plans can be improved to better serve the needs of Georgina. In this regard, the recommendations in Section 1 are respectfully submitted to Council for consideration of support and submission to the Province.

Submitted by:



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Approved by:



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5 May 2015