



June 20, 2007

Mr. Bill Fisch
Regional Chair and C.E.O.
The Regional Municipality of York
17250 Yonge St.
Newmarket, ON
L3Y 6Z1

**RE: The Summit Golf and Country Club – Application to remove trees
Under By-law TR-0004-2005-036
File No. P10-By-laws Special Permits**

Dear Chairman Fisch,

Please excuse the length of this letter, but after five years of trying to resolve a matter which has plagued our Club is boiled down to this single opportunity to offer any input into our application, offer the indulgence and accept that its content is worthy of reading.

I write on behalf of the membership of the Summit Golf and Country Club with respect to our application to remove trees from 2.6 ha of our property, replacing these with 6.0 ha of new plantings and transplantings, contiguous with the same blocks of woodland from which we have applied to remove trees.

As you are aware, planned and actual road widening by Regional authorities have necessitated us to consider the routing of our course and close one of our golf holes, a hole that many golf notables considered one of the best short par fours in all of Canada. For about four years now, we have been working with Regional officials in an effort to resolve our dilemma so that we can simply continue the legal use of our property consistent with its zoning and as recognized by the Oak Ridges Moraine Conservation Act. As you know our efforts have met with numerous delays and necessitated more than enough meetings.

On June 13, 2007 Summit's application was discussed at the Region's Transportation and Works Committee. At this committee meeting the Committee members heard representations from several "interested" parties and from the staff member who prepared the staff report on our application. I write to you and the entire Council to suggest that several of the facts presented both by Mr. Buchanan in his report and verbally as well as by other interested parties were both inaccurate representations and perhaps purposefully misrepresentative of the actual facts of our application. Our concern is that armed with these misrepresentations alone Council may be reacting to our application without accurate knowledge of its substance or content.

September of 2006 representatives from The Summit met with several commenting agencies at a meeting convened by Mr. Ian Buchanan of the Region's Transportation and Works Department. An outcome of that meeting was to be inputs from the interested peer parties including the TRCA, MNR and MAH. Interested party comments were not immediately released to us, providing yet

another delay in our application however once they were provided through Mayor Barrow's office we responded thoroughly to each concern identified. The MNR had some comments on the EIS designed by Mr. Buchanan and completed by Beacon Environmental, which we have addressed through an additional letter from our environmental consultant (copy attached). When presenting the negative staff report to the Committee, Mr Buchanan failed to indicate that we had addressed these issues, and that comments from the TRCA on similar issues were also addressed. It seems peculiar to our Club, that none of the answers to concerns were provided to the Committee, only the negative comments.

Concerns from the MAH were related to the extent of the "existing use" of our property. On the matter of "existing use", representation has been made by the TRCA, that Summit has produced plans which suggest that we would undertake future works which would encompass greater portions of our property and our forest would eventually "die of a thousand cuts". The drawing to which the TRCA referred was in fact a starting point for a negotiation requested as an outcome of the "in camera" session held immediately following the September 2006 pier review meeting, as the Region's staff asked us to prepare a document which identified our "existing use".

Summit has never suggested that it had any intention of additional works removing trees from the areas detailed, we have voluntarily provided an undertaking which provided that we would not apply for further changes of any sort on our property outside a line, which defined our "existing use" of our property.

After several meetings and conversations with Victor Doyle of MAH we have received a letter (copy attached, also not provided for the committee or Council's consideration), which concludes that the MAH feel that our existing use is not in conflict with the existing use clauses in the ORMCA Act and that under the ORMCP our existing use should not stand as a hurdle to the issuance of the required tree removal permits. In short, the province has no further interest in the matter.

The Regional staff have previously explained that they were concerned that they would be "dashing their environmental credibility" with the province if they spoke favourably about our application. We believe this concern has now been removed.

Finally, Mr. Buchanan has offered up a reason to recommend denial of our application caused by a decision tree, which now forms the template to determine acceptability of application. It is our understanding that applications are usually heard in the environment of the day in which application is made, otherwise we will assume that any and all future development of housing around our course by developers will be cancelled, as the environment changed with the implementation of the Oak Ridges Moraine Conservation Plan. You will recall that when we met originally to discuss this matter, with among others, then Mayor Bell, Ian Buchanan, Kees Schiffer, Bryan Tuckey and our environmental consultant, Brian Henshaw we discussed what needed to be done to satisfy environmental concerns for our application. At that meeting Mr. Buchanan indicated that there was no precedent for our application nor was there any established process for application, but it would definitely require some environmental study. As a consequence of these remarks from Mr. Buchanan, you directed him to work with the Club in developing criteria for an EIS, which would enable the staff to produce a positive staff report on our application.

If a decision tree of any description were in use or available at the time of our application one would assume that Mr. Buchanan would have identified the need to meet specific criteria in that template. I would expect that this template would also be readily available to those making application at the time of application. As this decision tree has never been identified to the Club

prior to a May 10th, 2007 telephone call advising that the Summits application would be heard at the June 13th Committee and subsequently at the June 21st Council meeting, one can only wonder when this new policy tool was developed. Surely if you were asked by your employer what process was in place to make application and had a tool such as this template, you would have provide it as an answer.

I will not bore you with the Club's view on the TRCA concerns for the Jefferson Salamander, which was defended vigorously at Transportation and Works, I will however draw your attention to the TRCA letter that was circulated with the staff report. One can only wonder as to the credibility of this highly esteemed environmental agency, when reading the thinly veiled corporate extortion encompassed in the conclusions and recommendations.

The Summit is concerned that there appears to be an applied double standard where we are concerned. When finally on May 10, 2007, I was informed that our application would be heard at the June 13th Transportation and Works Committee meeting, I called to request of the Regional Clerk the opportunity to make deputation to the Committee and subsequently the Council. I was informed that less than one hour after having been informed as the applicant that we were on the agenda, that the others offering deputation had all been told that they could only make deputation to the Committee. I don't suggest that others should not be allowed to make deputation, I just wonder why as the applicants, we were not officially informed of our being placed on the agenda until two days after the decision was made, and clearly subsequent to those opposed to our application.

Mr. Chairman, I implore you to consider that Summit's application to remove trees is not some frivolous agenda item which warrant only a cursory glance and no thought. Please be informed that you have been misinformed by some of those who have offered opinion on our application. Consider that we would not have wasted two or three years of the Club's time and money to pursue an avenue which is as clearly closed as the now present decision tree makes our application. That Summit has worked diligently toward making application, which was a win for all concerned, improving the quality of our forest over time and removing our liability issues by retreating inside the boundaries of our own property.

Thank you for taking the time to read our concerns. We urge the Council to support our application and grant us the requested permit notwithstanding the negative staff report and recommendations of the Transportation and Works Committee.

Yours very truly,

Dave Martin
General Manager/COO

C.c. Regional Councillors

February 3, 2007

File No. 205027

Dave Martin
General Manager / C.O.O.
The Summit Golf and Country Club
11901 Yonge Street
Richmond Hill, ON L4E 3N9

**Re: Ministry of Natural Resources' Comments on the Summit Golf and Country Club
Application for Special Permit Under the York Region Forest Conservation By-law**

Dear Mr. Martin:

We are pleased to provide you with this response to the Ministry of Natural Resources' (MNR's) comments, dated December 04, 2006, that were provided to Mr. Ian Buchanan of the Regional Municipality of York.

As you are aware, Beacon Environmental prepared a report in November 2005 entitled *Environmental Impact Study in Support of a Special Permit Application under the Forest Conservation By-law*, and a subsequent addendum to that document dated June 30, 2006.

In this response, we are only addressing the MNR comments that relate to the natural sciences. The MNR have chosen to raise several other issues (such as golf course design and alternatives to the proposed undertaking) which we feel we are not qualified to address.

We would like to provide a commentary on the general direction of the MNR's comments. The MNR seeks through its programs and activities to foster good land stewardship in the province. It is generally recognized that many, in fact the majority, of important natural areas in southern Ontario are located on private lands. In this particular case, the good stewardship of the forested lands on the Summit property since 1912, have allowed the property to sustain and even expand important natural heritage features, even as many lands surrounding the property have been developed. The genetic diversity and habitats on site are likely to be increasingly important in the future. However, if good stewardship of lands results in an inability to use the lands for their intended purpose and there is vigorous opposition by public agencies to relatively minor adjustments that have little overall ecological negative effects, it may raise

serious doubts in the minds of prospective good stewards regarding the advisability of engaging in stewardship activities on their private lands. Beacon Environmental is already aware of one private landowner that has declined an opportunity to construct a salamander breeding pond as a direct consequence of this particular case.

In the following paragraphs, the MNR's concern is paraphrased in bold italics after the point number taken from the December letter. Beacon's response follows each point in regular text.

3. It appears that MNR's Aurora District was not consulted and that MNRs inventory of the Jefferson Forest ANSI published May 2001 was not considered. The MNR inventory could have provided a basis for more species that deserve special searches or consideration...Consequently, it does not seem that the EIS inventory placed any special emphasis on looking for these species.

The scope of work for the project was confirmed at a meeting with Mr. Ian Buchanan of the Regional Municipality of York. This scope of work was then executed and even exceeded.

The field personnel involved in this study have over 40 years of experience in executing studies of this kind and are fully aware of the range of Oak Ridges Moraine rare plant species. They are also capable of locating such obvious species as Burning Bush *Eunonymus atropurpurea* or Butternut *Juglans cinerea* having found them on many previous occasions. Similarly, they were on the lookout for other unusual asters and goldenrods among others, that could occur in this area.

The Summit Golf and Country Club stated that no access had been granted to the subject property for the purposes of inventory of flora or fauna in the recent past (ten years at least). In addition, Beacon checked the MNR's Natural Heritage Information Centre website which showed only that ANSI information was available from 1990, 1994 and 1998. Only the Red-shouldered Hawk appeared on the rare species geographic query for this area (this species was directly addressed in the EIS).

It is also known that ANSI reports apply to large areas and they typically do not contain site-specific information that could be applied to highly restricted areas.

Furthermore, even if these species were present, they would likely not be considered a constraint to the application: neither the Sharp-leaved Goldenrod *Solidago arguta* nor the Burning Bush are considered even provincially rare (NHIC lists them as S3 which is described as "Vulnerable") nor are they Endangered or Threatened which would for example, be the primary test under the Provincial Policy Statement.

It is also pertinent to reiterate that the scope of work undertaken for this study was to address a Special Permit Application under the Forest Conservation By-law and that the scope of the study was confirmed, in advance, with the Manager of Natural Heritage and Forestry Services for the Region.

4. The EIS does not appear to have made any special searches for the threatened Jefferson Salamander...found in smaller woodlands in the vicinity.

The EIS directly addressed the salamander issue in one of the largest sections of the report, Section 4.7. As there are no potential breeding ponds within the known traveling range of this species and as the habitat is generally less than ideal in the proposed cut areas and as many barriers are present to

salamander movement, we believe that we have demonstrated that the salamanders are not an issue for this specific application. We stand by our assessment which was based on habitat surveys, salamander searches and a literature review.

We did not extend our survey to the entire property and even beyond as suggested by others, as this application is for the removal of trees in a restricted area that is surrounded by, and part of, an active golf course. This is not a property-wide redevelopment project.

5. *The quantitative description of the proposed tree removal on pages 19-20 of the EIS only provides species percentages and is not sufficient for the understanding of vegetation community impacts.*

It is agreed that the removal of 2.6 ha of forest and its replacement by golf course will entirely eliminate the existing vegetation community in those locations. We have properly described the community using the MNR standard of Ecological Land Classification, undertaken a detailed assessment of tree species composition, undertaken a flora and fauna inventory and described the impacts of removing 2.6 ha of forest. This is why compensation in the order of 6 ha and other measures are being recommended.

5b *An edge distance of 10 to 30 m would be better for an evaluation of edge plant habitat versus forest vegetation habitat... A 100 metre edge to interior distance is standard for the evaluation of interior bird habitat.*

We are somewhat uncertain about the issue being raised by MNR in this statement. However, decreasing the width of the potential affected zone from the 100 m we used, to 10 – 30 m mentioned above, will decrease the area influenced by the proposed cut. We extended our study area at least 100 m around the proposed cut as requested in the study scoping meeting with the Region.

We respectfully disagree that 100 m “*is standard for the evaluation of interior bird habitat*”. We do not agree that such a function (i.e., interior bird habitat) necessarily even exists. The scientific evidence points strongly toward other factors being much more important, as we briefly discussed in our EIS. In the EIS we were careful to identify this zone as one where edge effects might be considered important and that the 100 m zone might also be useful in describing “interior forest conditions” not interior bird habitat.

Mr. Ian Buchanan requested that we extend the impact area to the 100 m zone, and we agreed to undertake this assessment. In fact, for this location with an often broken canopy and dry soils we don’t expect edge effects to be measurable at more than a few metres (10 to 15 m).

5c *European White Birch is omitted from the list of recorded plants.*

This is an unintended omission of a non-native species from the master list that has no bearing on the substance of our assessment.

6. ***Reforestation for tree loss is commendable. However the proposed planting areas are often small and narrow. It would be helpful to compare the typical forest vegetation amount (buffered by a 10 to 30 m edge distance) that is proposed for removal and replacement. In any case it should be obvious that new plantings will not simply replace the natural attributes of age and composition.***

It is true that many of the planned reforestation areas are “often” small and narrow. However, the reforestation ratio is better than two replacement hectares for each one removed. Figure 3 in the Beacon EIS shows that the area of Unit 1 is exceeded by the size (and shape) of many of the individual proposed reforestation areas. Unit 3 removes trees into the existing forest patch along an existing edge and the difference in edge conditions will be relatively minor. Unit 2 does impinge into a forest patch. However, this patch is currently less than 200 m in total width and given the 65% canopy cover and naturally dry conditions, we do not believe that edge effects are an important issue.

The mitigation package included seven points, including the minimum 6 ha of tree plantings and rare plant salvage. We have recognized that mature forest will be removed and replaced with regenerating forest. From a habitat diversity perspective, we do not believe this is necessarily a negative effect. However, our overall assessment considered that it would take some years for functions to be fully restored. The landowner has demonstrated through its actions over the past 95 years that a long-term view of the property is not an unreasonable proposition in this case.

7. ***The addendum of June 30 2006 only recognizes the Ovenbird as an area-sensitive forest breeding bird....the Red-breasted Nuthatch and the Pine Warbler are also area-sensitive birds...therefore unclear how the report concludes there would be negligible impact of breeding forest birds.***

We do not agree that these two species are actually area-sensitive, although we do recognize that they are often referred to as such. They are actually pine specialists and they are often found in small isolated woodlots, or even yards, where the habitat is suitable (i.e., there is one or more large pine trees). Of four sources regularly used to determine area-sensitive species (and including the Ontario Ministry of Natural Resources, 2000, Significant Wildlife Habitat Technical Guide [Appendix G] as one of these), only two (including the MNR source) identify these two species as area-sensitive. In our experience they breed in small areas, such as the well-known small and isolated Thickson's Woods in Whitby, where both regularly breed in a few large White Pines.

8. ***From the recorded plant species it would appear that not all of the soils are very well drained. [Four plant species indicative of moist conditions are noted.]...It is not clear if the hydrological assessment involved any searches for additional hydrologically sensitive features that were not already known i.e., closer to the proposed construction. This may have implications on the interpretation of habitat for certain species.***

No hydrologically sensitive features were noted on or adjacent to the proposed cut areas. Our field investigations were sufficiently detailed to uncover any seeps, springs or intermittent/permanent watercourses and none were present. Neither would they be expected, given the surficial geology and site conditions in the proposed cut areas. The soils are deep, well-drained sands.

During the detailed field work Beacon staff noted a small number of plants preferring higher moisture levels were noted in a shaded area toward the base of a slope. Moisture levels were sufficiently high to allow a very few individuals of species that are usually found in higher moisture levels to survive. They may have also been assisted by daily irrigation provided for the golf course during the growing season. However, our assessment of the overall communities (dry to fresh) is the more appropriate manner in which to judge whether or not moist soils and their associated communities are present. Individual plants are not good indicators of moisture (especially non-woody species which may not persist past one or two seasons). For example, in identifying wetland communities the MNR requires (through the Ontario Wetland Evaluation System) that fully 50% of the community by cover consists of wetland species before the community is determined to be a wetland.

9. ...The regionally rare [three species noted] and uncommon [four species noted] does corroborate the uncommon nature of the communities proposed for removal.

The ELC communities identified are all ranked S5 by the MNR (i.e., “common and widespread” in the province). Moreover, the proposed undertaking does not remove any communities at all. It removes a small portion of much larger communities that have been maintained on the subject property by the Summit Golf and Country Club and the EIS provides for the replacement of the temporarily lost forest cover as well as other habitat improvements. The communities and their associated uncommon species will persist at the property after the course alteration.

Should you have any questions or points for discussion, please do not hesitate to contact the undersigned at (905) 201-7622, ext 222.

Yours truly,

A handwritten signature in black ink, appearing to read 'B. Henshaw', with a long horizontal line extending to the right.

Brian E. Henshaw, Principal
Beacon Environmental



**Ministry of
Municipal Affairs
and Housing**

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April 20, 2007

Mr. R. David Martin
General Manager/C.O.O.
The Summit Golf and Country Club
11901 Yonge Street
Richmond Hill, Ontario
L4E 3N9

Re: Application for Special Permit to remove trees
Under York Region By-law TR-0004-2005-036
Con 1 YE PTL Lot 58, 59, 60 - Town of Richmond Hill
File No. P10 - Bylaws - Special Permits

I am writing further to recent discussions between representatives of the Summit Golf & Country Club ("Summit") and the Ministry of Municipal Affairs and Housing ("MAH"), specifically your letter of April 14, 2007 in which you request written clarification of the MAH letter of December 28, 2006.

In that letter MAH recognized that section 6(1)(a) of the Oak Ridges Moraine Conservation Plan ("ORMCP") states that nothing in the ORMCP applies to prevent the use of any land, building or structure for a purpose prohibited by the ORMCP, provided the land, building or structure was lawfully used for that purpose on November 15, 2001 and continues to be used for that purpose. Having acknowledged this, the letter raises the question as to what portion of the property constitutes the existing golf course, as of November 15, 2001.

Having had the benefit of further input from Summit on the history and nature of its use of the property for golf courses purposes, MAH accepts Summit's submissions (as set out in its letter of April 4, 2006 to the Region of York) that an existing golf course use comprises more than the groomed fairways, tee blocks and greens and other manicured/developed areas related to the clubhouse, parking or works areas etc. MAH also accepts that, at a general level, treed areas along and between fairways can comprise integral parts of a golf course, including aesthetics, hole design, separation of holes for safety and others matters such as managing wind, sun and shade. In addition, there is agreement that the layout of a golf course is not necessarily intended to be static and that redesigns for various reasons are not uncommon. Lastly, MAH acknowledges that Summit has been a long-time steward of its property and that the proposed redesign is in response to the encroachment

of urbanization.

Having said that, it is important to note that all golf courses are different and have different characteristics in terms of their layout and natural settings. Further, MAH is not aware of any literature or documentation related to determining the extent of existing use areas of golf courses, nor does MAH possess detailed knowledge in this area or of the site specific history of this property. Accordingly, the determination of an existing use area is most appropriately determined on a local, site specific basis between the operator/owner and the municipal government which is responsible for municipal zoning, site plan control and matters relating to non-conforming uses.

Accordingly, for the purposes of the Special Permit application, MAH takes no position on the extent of the existing use area.

If you have any questions, please call me directly at 416-585-6109.

Yours truly,



Victor Doyle, M.C.I.P., R.P.P.

Manager

Community Planning and Development

c.c. Ian Buchanan, Region of York
Kelvin Kwan, Town of Richmond Hill
David Burnett, Toronto Region Conservation Authority
Theresa Fancy, MNR