

THE REGIONAL MUNICIPALITY OF YORK

**REPORT NO. 4 OF THE
PLANNING AND ECONOMIC DEVELOPMENT COMMITTEE
MEETING HELD ON MARCH 5, 2008**

**For Consideration by
The Council of The Regional Municipality of York
on March 27, 2008**

**1
KESWICK BUSINESS PARK, MINUTES OF SETTLEMENT**

The Planning and Economic Development Committee recommends the adoption of the recommendations contained in the following report dated February 26, 2008, from the Regional Solicitor and the Commissioner of Planning and Development Services:

1. RECOMMENDATIONS

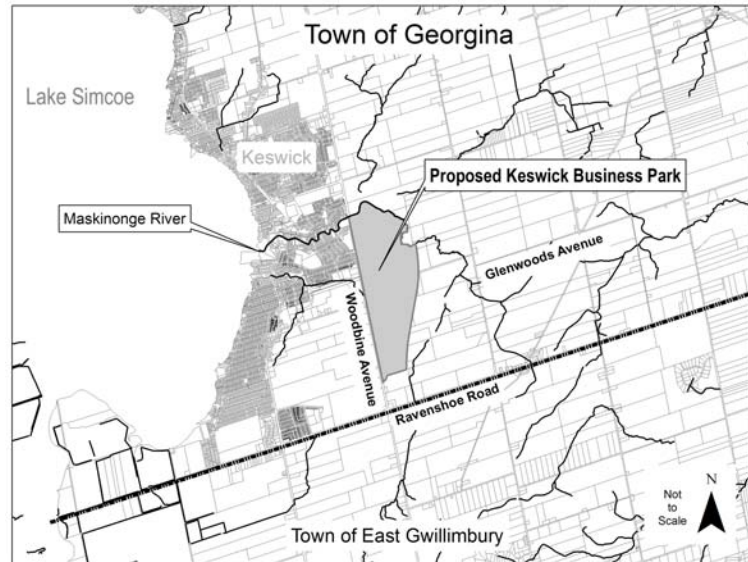
It is recommended that:

1. The Minutes of Settlement in respect to the appeal by the Ministry of Municipal Affairs and Housing to the approval of Amendment No. 97 to the Official Plan of the Town of Georgina (Keswick Business Park), set out in *Attachment No. 1* to this report be endorsed by Regional Council.
2. The Regional Solicitor be authorized to sign the Minutes of Settlement set out in *Attachment No. 1* to this report, on behalf of York Region.
3. The Minutes of Settlement form part of York Region's position at the Ontario Municipal Board Hearing concerning Amendment No. 51 to the Regional Official Plan and Amendment No. 97 to the Georgina Official Plan.
4. The Regional Clerk forward a copy of this report to the Town of Georgina and the Ministry of Municipal Affairs and Housing.

2. PURPOSE

To Obtain Regional Council Endorsement of the Minutes of Settlement for the Keswick Business Park

Minutes of Settlement have been reached between staff of the Ministry of Municipal Affairs and Housing, York Region, and the Town of



Georgina regarding the appeal lodged by the Province against the Secondary Plan for the Keswick Business Park (LOPA 97). The Minutes of Settlement are subject to, and will only become effective, if endorsed by Regional Council and signed by the Town of Georgina, Ministry of Municipal Affairs and Housing, and York Region.

The Town of Georgina has already endorsed the Minutes of Settlement.

3. BACKGROUND

Regional Council Approves the Keswick Business Park

At its meeting of October 19, 2006, Regional Council adopted Clause 3 of Report Number 8 of the Planning and Economic Development Committee recommending Notice be given to approve the Regional and local Official Plan amendments for the Keswick Business Park (ROPA 51 & LOPA 97 respectively).

Province Appeals Amendment No. 97

On November 3, 2006 Notice of approval was issued for both amendments and two appeals were received within the 20 day appeal period. The Ministry of Municipal Affairs and Housing appealed only LOPA 97 citing reasons related to the Natural Heritage System of the Greenbelt Plan and Provincial Policy concerning Lake Simcoe water quality.

1688971 Ontario Limited (Kraft) Appeals ROPA 51 and LOPA 97

16889971 Ontario Limited, a landowner located in the vicinity of the Keswick Business Park appealed both the Regional amendment and the local amendment. Reasons cited for

the appeal included a lack of conformity to the Growth Plan, Greenbelt Plan, and the Provincial Policy Statement.

4. ANALYSIS

The Minutes of Settlement represent over a year of negotiations between Regional Legal, Planning, and Environmental Services staff, Georgina staff and legal representation, and Provincial staff. The Settlement Minutes resolve the issues raised by the Province in connection with their appeal to the Keswick Business Park Secondary Plan to the satisfaction of Georgina and Regional staff. Highlights and main points of the settlement are described below.

Lake Simcoe Water Quality to be Improved by Utilizing Membrane Technology for the Expansion of the Keswick Sewage Treatment Plant

Development of the Keswick Business Park will provide a full range of industrial uses on full municipal services including municipal water supply and sewage treatment facilities. The Keswick sewage treatment plant is being expanded and upgraded to accommodate both growth within Keswick and the Business Park. The expansion will utilize membrane filtration for sewage treatment for the first time in York Region. This will assist in achieving a more stringent design objective and compliance limit for total phosphorous than what is currently set out in the Certificate of Approval for the existing treatment plant.

The Environmental Assessment for the treatment plant expansion is currently at the Ministry of the Environment awaiting confirmation of its completion. Staff have agreed, and the Minutes of Settlement state, that “ approval of LOPA 97 is conditional upon the completion of the Environmental Assessment for the Phase 1 expansion of the Keswick Water Pollution Control Plant, and the inclusion of phasing policies in OPA 97 to link development in the Keswick Business Park to availability of servicing.” A decision by the Ministry of the Environment on the EA is expected in the next two months.

Certificate of Approval for the Keswick Sewage Treatment Plant Will Establish Phasing of Business Park

Ministry of Environment staff have not yet issued the Certificate of Approval for Phase 1 of the Environmental Assessment for the Keswick Sewage Treatment Plant; however in recent discussions with Ministry of Environment staff they indicated that the new Certificate of Approval will allow additional flows incrementally. The initial phase will add the equivalent of 8,000 persons of flow and subject to monitoring and confirmation that the membrane technology is working to the satisfaction of MOE, an additional equivalent of 8,000 persons of flow will be permitted.

Development within the Business Park can only occur if servicing capacity is available and the Town of Georgina allocates capacity to the development.

Stormwater Management Strategy

Another important component of the settlement involves an improved stormwater management strategy, which is primarily the responsibility of the local municipality. Lake Simcoe is considered to be a policy 2 receiving water body for total phosphorous which requires restorative mitigative measures to improve the health of the lake. Regional and Town staff have agreed to modifications to LOPA 97 that support improvements to the water quality of Lake Simcoe. The modifications are set out in *Attachment No. 1* to the Minutes of Settlement, and include:

- Linking the phasing of development to appropriate stormwater collection, retention, treatment and conveyance, as well as availability of water and sewer servicing.
- Acknowledging that stormwater facilities will control, improve and enhance the quality of water runoff to Lake Simcoe.
- Monitoring of stormwater management facilities to ensure they meet the goals of the Assimilative Capacity Study.
- Requiring the completion of a Stormwater Management Study prior to the approval of draft plans within the Business Park.

As part of the settlement, the Town has agreed to complete a Stormwater Management Study for the Keswick Community by June 2010. The Terms of Reference for the Stormwater Management Study will be prepared by the Town, in consultation with the Lake Simcoe Conservation Authority and Province. In addition, the Town will consult with the Conservation Authority, York Region and the Province to carry out the study.

The Study will:

- Use the Assimilative Capacity Study water quality targets to determine approaches to improve water quality associated with runoff from the Keswick Community, including the Business Park lands.
- Identify remediation, retrofit or other opportunities to optimize the performance of the stormwater management system.
- Quantify the costs of the remediation.
- Identify strategies and funding sources to implement the remediation.

Resolution of the Natural Heritage Boundary

Although not specifically part of the Minutes of Settlement attached, the Province's issue in respect to the delineation of the Natural Heritage Boundary has also been resolved. Through negotiations between Provincial staff and primarily Town staff, the Natural Heritage boundary has been refined to align more consistently with typical setbacks to existing key natural features and in other areas the line reflects the delineation set out in the Greenbelt Plan. The net result of this agreement is a reduction of approximately 19

ha of industrial land within the business park. Modifications to LOPA 97 in respect to this part of the Provincial appeal are set out in a separate document. The modifications provide additional wording for environmental protection, limit any changes of the boundary except in respect to the final alignment of Highway 404 and the proposed Glenwoods interchange, provide definitions for site alteration, and list key natural features. *Attachment No. 2* to this report shows the final alignment of the Environmental Protection Area and the Natural Heritage Boundary.

5. FINANCIAL IMPLICATIONS

Execution of Minutes of Settlement will Save Town and Region Costs at the OMB

Execution of the Minutes of Settlement will reduce the length of the OMB hearing and could assist in resolving the other outstanding appeal. As a result of the anticipated settlement, the hearing has been reduced by two weeks and could potentially be reduced much further if a settlement is reached with 16889971 Ontario Limited. A shortened hearing will save considerable legal, planning and environmental services staff time and resources. At this time the appeal by Kraft has not been resolved and a full hearing for 4 weeks is set to commence May 5, 2008.

The new membrane filtration technology will increase the cost of the sewage treatment plant expansion by an estimated 9 million. These additional costs will be recovered through development charges paid by developers at the next update of the development charge by-law.

Expenditures by the Town of Georgina are required to complete the Stormwater Management Study. The Town of Georgina may be seeking cost contributions from the stakeholders to offset these costs. The Province has also suggested that the study is likely to qualify for funding from the Federal Government's \$30 million that is to be directed at improving Lake Simcoe.

6. LOCAL MUNICIPAL IMPACT

At its meeting of February 11, 2008 the Town of Georgina endorsed, in principle, a previous version of the Minutes of Settlement and requested some minor refinements which have now been incorporated into the final version. The Town agrees with the Minutes of Settlement and the recommendations of this report are consistent with the position of the Town.

7. CONCLUSION

Staff support the Minutes of Settlement attached as *Attachment No. 1* to this report and recommend their endorsement by Regional Council.

For more information on this report, please contact Robert Miller, Senior Counsel, Planning and Development Law, at Extension 1404, or Heather Konefat, Director, Community Planning, Ext. 1502.

The Senior Management Group has reviewed this report.

Respectfully submitted,

**March 5, 2008
Newmarket, Ontario**

**T. Wong
Chair**

(Report No. 4 of the Planning and Economic Development Committee was adopted, without amendment by Regional Council at its meeting on March 27, 2008.)

MINUTES OF SETTLEMENT

Servicing, Sewage and Storm Water

BETWEEN:

THE CORPORATION OF THE REGIONAL MUNICIPALITY OF YORK
(the "Region")

- and -

THE CORPORATION OF THE TOWN OF GEORGINA
(the "Town")

- and -

THE MINISTRY OF MUNICIPAL AFFAIRS AND HOUSING
(the "Ministry")

WHEREAS:

- (i) As both a source of drinking water for multiple communities, and for its contribution to local and provincial economies (particularly through its all-season sport fishery) Lake Simcoe is a significant provincial resource.
- (ii) This significant provincial resource is under stress from elevated phosphorous loadings from a number of sources (including agricultural and urban land uses) which impacts water quality and the sustainability of the coldwater fishery.
- (iii) Through the *Lake Simcoe Environmental Management Strategy* ("LSEMS") York Region, the Town of Georgina and other municipalities, Lake Simcoe Region Conservation Authority, the federal government, First Nations and the Province of Ontario have been working co-operatively to improve the health of the lake and to reduce phosphorous loads since 1989.
- (iv) The Province of Ontario, York Region, and the Town of Georgina, were involved in a multi-party initiative that resulted in the development of an *Assimilative Capacity Study* ("ACS") for the Lake Simcoe and Nottawasaga River Watersheds.
- (v) The ACS indicates that phosphorus loads to Lake Simcoe are projected to increase by approximately 25% above current conditions based on municipally approved growth, thereby exceeding the LSEMS and IGAP/ACS phosphorus loading targets and resulting in further deterioration to the health of Lake Simcoe.

- (vi) The *Provincial Policy Statement* (the “PPS”) requires that municipalities protect, improve or restore water quality. As a policy 2 receiving water body for total phosphorus, Lake Simcoe is subject to PPS provisions applicable to sensitive surface water features requiring mitigative measures to improve or restore these water bodies.
- (vii) Recent announcements by the Province, including a proposed regulation under the *Ontario Water Resources Act*, address matters relating to the ongoing protection and health of Lake Simcoe and its tributaries.
- (viii) To protect Lake Simcoe and its tributaries additional development and population increases must not further impair, and should protect, improve and restore the water quality of Lake Simcoe and its tributaries, and planning applications should address cumulative phosphorus impacts in conformity with Federal, Provincial and municipal initiatives to restore and enhance the water quality of Lake Simcoe.
- (ix) Located in the Lake Simcoe watershed, the proposed Keswick Business Park must not further impair Lake Simcoe by increasing phosphorus loads to the lake. The use of improved treatment technology for the expansion of the Keswick Water Pollution Control Plant, and the use of best management practices for storm water in the Keswick Business Park is expected to have a positive effect in reducing phosphorus loadings to Lake Simcoe.
- (x) The parties acknowledge that the framework for settlement set out in these Minutes of Settlement represents good planning.

Framework for Settlement

- (1) The parties agree to the following framework for settlement:
 - (a) the parties support policy amendments to OPA 97 to improve the water quality of Lake Simcoe or its tributaries from wastewater and stormwater sources arising from the approval of OPA 97 and its subsequent development;
 - (b) the Town will complete a Stormwater Management Study for the Keswick Community; and,
 - (c) the approval of OPA 97 is conditional upon the completion of the Environmental Assessment for the Phase 1 expansion of the Keswick Water Pollution Control Plant, and the inclusion of phasing policies in OPA 97 to link development in the Keswick Business Park to the availability of servicing.
- (2) The execution of these Minutes by the parties does not override applicable Provincial or other initiatives designed to protect the health of Lake Simcoe and its tributaries, including subsequent legislation and/or regulations.
- (3) The framework for settlement, and the provisions in these Minutes will be incorporated into OPA 97 and related planning instruments, as well as the Environmental Assessment and Certificate of Approval for the proposed expansion of the Keswick Water Pollution Control Plant.

Policy Amendments to OPA 97

- (4) The parties will request that the Ontario Municipal Board (the "Board") modify OPA 97 in accordance with *Attachment 1 - Proposed Changes to OPA 97* to improve water quality and to protect Lake Simcoe and its tributaries from further impairment due to phosphorus loadings.

Stormwater Management Strategy

- (5) The Town will complete a comprehensive Stormwater Management Study for the entire Keswick Community (which includes the Keswick Business Park) by June 2010.
- (6) The Terms of Reference for the Stormwater Management Study shall be prepared by the Town in consultation with the Lake Simcoe Region Conservation Authority and the Province of Ontario.
- (7) The Town shall consult with the Lake Simcoe Region Conservation Authority, Region of York, and the Province of Ontario in carrying out the study.
- (8) The Stormwater Management Study will, at a minimum:
 - a. Use the Assimilative Capacity Study water quality targets to determine the appropriateness of potential approaches to improve and/or enhance water quality associated with storm water runoff from the Keswick Community.
 - b. Identify and assess the stormwater management system (e.g. collection, retention, treatment and conveyance) in the Keswick Community to identify remediation, retrofit and related opportunities to optimize the performance of the system with respect to water quality.
 - c. Quantify the approximate costs associated with each specific remediation, retrofit or other opportunity identified through the foregoing analysis.
 - d. Identify potential strategies to implement remediation, retrofit and related opportunities in association with the planned development and intensification of the Keswick Community. Identify possible funding sources and public sector partners to assist with these potential strategies for remediation, retrofit and related opportunities.
 - e. Considering applicable legislative, regulatory, and policy requirements, as well as financial impacts on the municipality, incorporate appropriate storm water strategies into the review of the Keswick Community secondary plan.

- (9) It is acknowledged that the Town may investigate funding opportunities to assist with the cost of the Stormwater Management Study. However, the investigation of funding sources will not delay the completion of the study beyond the June 2010 deadline.
- (10) It is acknowledged that the June 2010 deadline for the completion of the Stormwater Management Study may be after the completion of the Ontario Municipal Board hearing regarding the Keswick Business Park currently scheduled for April 29, 2008.

Proposed Expansion of the Keswick Water Pollution Control Plant

- (11) The parties will jointly request that the approval of OPA 97 by the Ontario Municipal Board be conditional upon the successful completion of the Environmental Assessment for the Phase 1 expansion of the Keswick Water Pollution Control Plant (the "WPCP") indicating that the WPCP can be expanded to service the Keswick Business Park in accordance with the provisions in these Minutes.
- (12) The Region has proposed a more stringent design objective and compliance limit for total phosphorus for the expanded WPCP than are currently set out in the Certificate of Approval for the existing WPCP. The parties acknowledge the proposed reduction of actual and potential phosphorus loadings into Lake Simcoe from the WPCP is a positive step towards improving and restoring the water quality of Lake Simcoe.
- (13) The proposed expansion of the WPCP is subject to an Environmental Assessment process and will require a new or amended Certificate of Approval, and any associated conditions.

Ontario Municipal Board Appeals

- (14) At the Pre-Hearing Conference scheduled for February 15, 2008, these Minutes will be presented to the Board Member, and the parties shall on consent indicate:
 - (a) subject to formal confirmation from Regional Council, a settlement has been reached between the parties as set out in these Minutes,
 - (b) the settlement represents good land use planning and protects the health of Lake Simcoe;
 - (c) an executed copy of the final Minutes will be presented to the Board after confirmation of settlement by Regional Council;
 - (d) in light of the settlement the Ministry does not anticipate calling a case during the hearing, but may remain a party to monitor Provincial interests.
- (15) At the Pre-Hearing Conference on February 15, 2008, or on another date scheduled by the Board, an expert witness(es) will be presented by the Region or the Town to provide expert opinion evidence and to explain the settlement set out in these Minutes.

Other Provisions

- (16) These Minutes may be executed in counterpart.
- (17) Any amendments to these Minutes or waiver of any provision herein must be made in writing and signed by the parties.

IN WITNESS WHEREOF, the parties have executed these Minutes of Settlement.

Dated: February 28, 2008

**THE CORPORATION OF THE REGIONAL
MUNICIPALITY OF YORK**

Name:
Title:

**THE CORPORATION OF THE TOWN OF
GEORGINA**

Name:
Title:

**MINISTRY OF MUNICIPAL AFFAIRS AND
HOUSING**

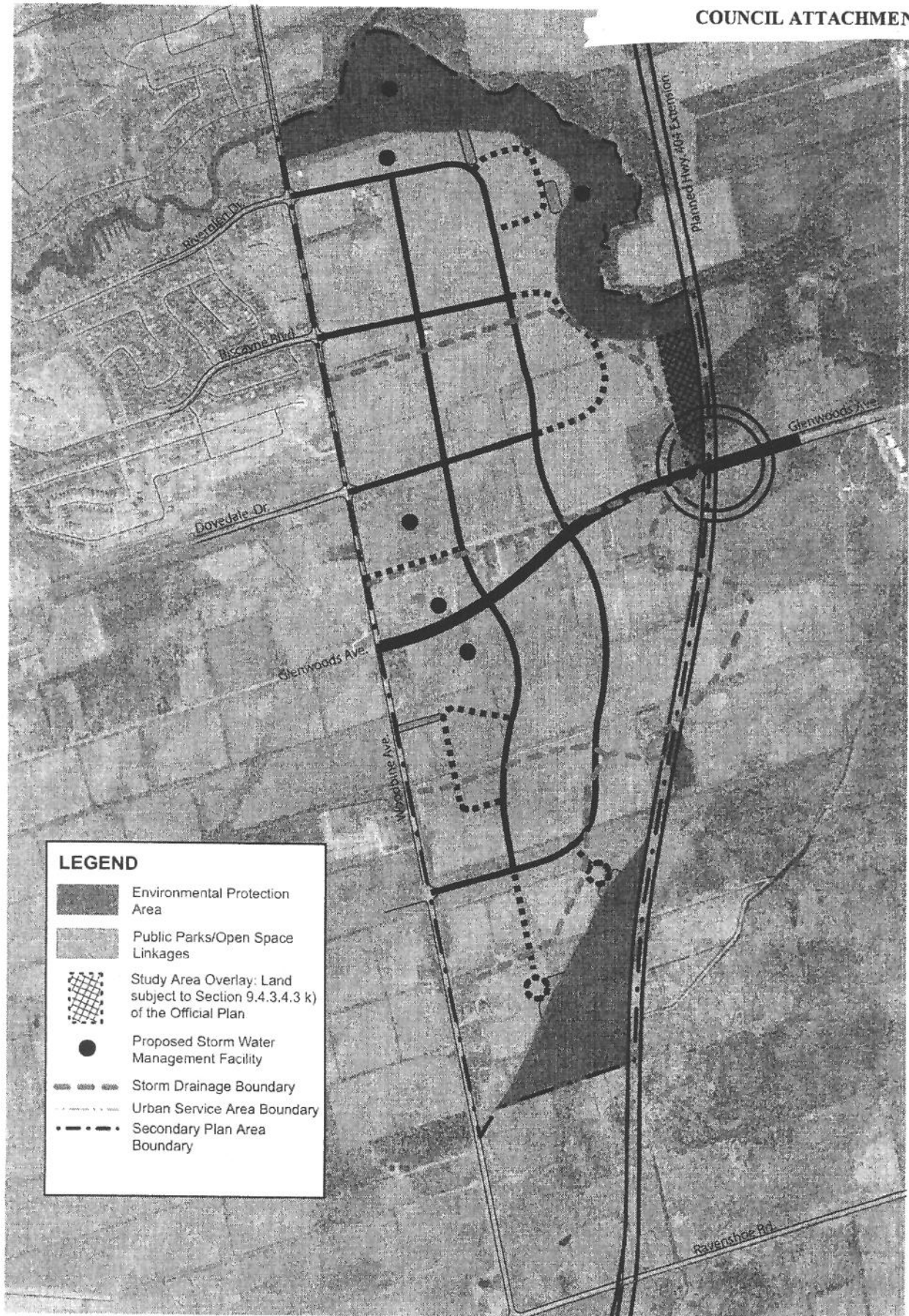
Kenneth G. Hare
Counsel

Attachment 1 – Modifications to OPA 97

Section	Policy
9.4.1.3(b)	Fundamental to the long-term ability to accommodate projected employment growth, is the ability of the municipality to provide appropriate municipal services, including sewage treatment facilities, stormwater management facilities and practices, and an adequate water supply while working to improve and restore the water quality of Lake Simcoe and its watersheds. The Town and Region will continue to monitor available sewage treatment, storm water quality, and water supply capacity to ensure that adequate facilities are planned and built in concert with expected development activity and the Town and Region will work to reduce phosphorous loadings from urban development. Development of the Keswick Business Park will be appropriately phased in accordance with adequate water supply capacity, appropriate storm water collection, retention, treatment and conveyance facilities and the availability of municipal sewage treatment based on the completed Class Environmental Assessment and Certificate of Approval for the proposed Keswick Water Pollution Control Plant Expansion.
9.4.2.7(c)	The resulting stormwater runoff from development in proximity to or draining into the Maskinonge River watershed, shall be treated through Level 1 or better stormwater management facilities and best management practices designed to improve and restore the water quality of Lake Simcoe and its tributaries.
9.4.6	a) Stormwater management facilities that are required to be constructed to service the Business Park are shown conceptually on Schedules L1 and L2. The approximate locations, sizes and configurations of these facilities are set out in more detail in the Keswick Business Park Master Servicing Study, August 2007 or any update of that document. Notwithstanding the locations, sizes and configurations of these facilities, as set out in the Master Servicing Study, there is some flexibility in the exact location size and configurations of these facilities, which shall be determined through more detailed design during the development approval process. Furthermore, alternative stormwater management strategies, accomplished through various urban design and construction approaches and alternative storm pond facilities may be proposed by development proponents and may be implemented without the need for an Amendment to this Plan, subject to the approval of the Town and the Conservation Authority, in consideration of all the policies of this Plan and in consideration of reducing phosphorus loadings, and improving the quality of the stormwater runoff to Lake Simcoe and its tributaries. b) It is the intent of the Town that stormwater management facilities be integrated with the overall 'Greenlands System' and that they are both functional and aesthetic components of the Business Park design. The Town shall ensure conformity with the Keswick Business Park Urban Design Guidelines attached to this Plan as Appendix A. c) Stormwater management facilities are to control, improve and enhance the quality of the water runoff to Lake Simcoe and maintain a natural hydrologic regime. In addition, Best Management Practices must be incorporated into stormwater management plans to ensure water quality standards and targets established by the Assimilative Capacity Study, LSEMS and the approval authorities are met. d) Stormwater management shall be carried out to the satisfaction of the Town, the Conservation Authority, and the Region of York on a watershed and/or subwatershed basis to ensure the water quality targets established in the Assimilative Capacity Study and LSEMS for Lake Simcoe are met. Storm Drainage Boundaries are identified on Schedule

	L2. e) Best Management Practices shall be applied to meet or exceed Level 1 protection criteria (or equivalent) as outlined in the Ministry of Environment's "Stormwater Management Planning and Design Manual, 2003" or any update of that document. f) Prior to the approval of any draft plans of subdivision and any site alteration or development, a Stormwater Management Study will be completed for the entire Keswick Community (which includes the Keswick Business Park). In addition, prior to any site alteration and development, an erosion and sediment control study will be required and prepared by the proponent. This study will examine the suitability of the site, the water table conditions and surface drainage. In addition, development proposals must be accompanied by a drainage plan that indicates contours, elevations, and the proposed final grade. This drainage plan must be prepared to the specifications of, and be subject to, the approval of the Town. g) In the consideration of development adjacent or in close proximity to a Provincial Highway, the stormwater management plan shall be reviewed and approved by the Ministry of Transportation. h) The Town will monitor the performance of the stormwater management facilities for the Keswick Business Park to ensure they meet with the goals established by the ACS and operationalised in the Stormwater Management Study, and shall phase development within the Keswick Business Park accordingly. i) Within the Environmental Protection Area, as identified on Schedule L2, stormwater management facilities are permitted provided they are naturalized and located a minimum of 30 meters away from the edge of the Maskinonge River and any other key natural heritage or hydrologic features. Proposed stormwater management facilities are required to be supported by an Environmental Impact Statement which: i) identifies the location of the Maskinonge River and any existing key natural heritage or hydrologic features; ii) shows how the locational criteria in this policy are addressed; iii) identifies the type of naturalized design of the facility; iv) addresses how access and maintenance are to be provided; and, iv) demonstrates how environmental impacts are to be minimized for all of the above including how connectivity of the EPA is to be optimized and how the facility is to be integrated with the long term restoration plans for the EPA. j) The Town will encourage development proponents to implement lot-level stormwater retention, design and management approaches (e.g. as rain gardens, green roofs and porous paving) to achieve a greater retention of stormwater on-site and improve water quality in the receiving environment off-site. k) The Town will encourage development proponents to implement stormwater conveyance approaches through design and landscaping (e.g. swales) to achieve a greater retention of stormwater and improve water quality in the receiving environment off-site.
9.4.7.1.2	a) Development within the Keswick Business Park shall be phased to provide for orderly

	development and to ensure the most efficient and economical use of existing and proposed infrastructure and also with the goal of improving and restoring the quality of water to the Lake Simcoe watershed. The following phasing criteria shall be considered in the review of all development applications: (i) the development contributes to, or can be appropriately integrated within the logical sequence of construction of all required sewer, water, stormwater management, public or private utilities and transportation facilities, including the ongoing development of Highway 404; and, (ii) the development satisfies all requirements regarding the dedication of road rights-of-way, stormwater management facilities, parkland, environmental lands and associated buffers and other facilities. b) Site alteration and development shall be appropriately phased to allow for monitoring to confirm that the storm water management facilities in the Keswick Business Park are meeting or exceeding enhanced Level 1 protection specified in the Ministry of Environment Stormwater Management Design Manual, 2003, or any update of that document. c) Phasing and limits on development within the Keswick Business Park may be addressed through the appropriate use of the holding (H) provisions of this Plan.
9.4.7.2.10	a) All growth-related costs associated with the development of the Keswick Business Park shall be borne by the benefiting landowners/developers. b) The Town shall review and update its Development Charges By-law in conformity with the policies and requirements of this Secondary Plan. The Town will consider the establishment of an Area Specific Development Charges By-law for the urban areas of Keswick (which includes the Keswick Business Park Secondary Plan Area).



KESWICK BUSINESS PARK - GREENLANDS SYSTEM

Schedule 'L2' - Env. Protection Area, Public Parks/Open Space Linkages + Potential SWM facilities
February 2008

