

1

TOWN OF AURORA OFFICIAL PLAN

Regional Council, at its meeting on June 28, 2012, amended this Clause to include recommendation 1 in Report No. 4 of the Commissioner of Transportation and Community Planning as follows:

- 1. Recommendation No. 1 be deleted and replaced with 1.i) and ii) noted below:***
 - 1. i) Regional Council approve the Official Plan for the Town of Aurora, subject to the modifications set out in Attachment No. 1 of the May 14, 2012 staff report, and the deletion of the trail on Schedule K in accordance with Town of Aurora correspondence dated June 26, 2012; save and except for:***
 - a) Section 3.3; and,***
 - b) Policies, maps, tables, schedules and appendices that are the subject of the appeal by landowners within and adjacent to the proposed Aurora Promenade, as set out in a letter from Kagan Shastri dated June 25, 2012.***
 - ii) The Director of Community Planning be authorized to give Notice to effect Recommendation No.1. i) above.***

Regional Council also received a communication from Michael McQuaid Q.C. WeirFoulds LLP, June 25, 2012, on behalf of Westhill Redevelopment Company Limited and Lebovic Enterprises Limited.

The Planning and Economic Development Committee recommends:

- 1. Receipt of the presentation from Heather Konefat, Director, Community Planning Branch;**
- 2. Receipt of the following communications:**
 - a) Michael J. McQuaid, WeirFoulds LLP, on behalf of Westhill Redevelopment Company Limited and Lebovic Enterprises Limited ("Westhill"), dated June 12, 2012; and**
 - b) Marco Ramunno, Director of Development and Planning Services, Town of Aurora, dated June 13, 2012; and**

3. Adoption of the recommendations contained in the following report dated May 14, 2012, from the Commissioner of Transportation and Community Planning.

1. RECOMMENDATIONS

It is recommended that:

1. Regional Council approve the Official Plan for the Town of Aurora, subject to the modifications described in *Attachment 1 – Town of Aurora, York Region, and other Agency Modifications*, and save and except for Section 3.3, and the Director of Community Planning be authorized to give notice to that effect, save and except for Section 3.3
2. Regional staff report back to Planning and Economic Development Committee and Regional Council, as necessary, to recommend approval of Section 3.3 of the Official Plan for the Town of Aurora in accordance with Table 1 of the York Region Official Plan (2010) at such time as Table 1 comes into effect.
3. Regional staff be authorized to appear before the Ontario Municipal Board in support of the Region's position, if required, and the Regional Chair or designate be authorized to execute Minutes of Settlement, if appropriate.

2. PURPOSE

This report recommends approval of the Aurora Official Plan, subject to the modifications described in *Attachment 1 – Town of Aurora, York Region, and other Agency Modifications*, and save and except for Section 3.3 (See *Attachment 2*).

3. BACKGROUND

The Province requires local municipalities to adopt new official plans in compliance with Provincial plans, including the Growth Plan and the Lake Simcoe Protection Plan

Local municipalities are required to bring their Official Plans into conformity with recent Provincial plans, including the Provincial Growth Plan for the Greater Golden Horseshoe (the Growth Plan) and the Lake Simcoe Protection Plan. In addition, local Official Plans are required to be consistent with the Provincial Policy Statement (2005).

The *Planning Act* requires local Official Plans to conform to the York Region Official Plan (2010)

Section 27 of the *Planning Act* requires local Official Plans to be brought into conformity with the upper tier Official Plan within one year of the upper tier Official Plan coming into effect. Staffs from the both Town of Aurora and York Region have been working collaboratively to ensure conformity of the new Aurora Official Plan with the Growth Plan, the Lake Simcoe Protection Plan, and the Regional Official Plan.

The circulation and review process ensured a full public process has taken place

The circulation and review process has followed the requirements of Section 26 of the *Planning Act*, which requires among other things, that the local municipality consult with the approval authority and prescribed public bodies, and hold a special meeting of Council, open to the public, to discuss the proposed Official Plan.

The Town of Aurora held a statutory Public Open House on January 22, 2010, followed by several public workshops throughout early 2010. The Town then held the statutory Public Meeting on September 22, 2010 and adopted its new Official Plan on September 28, 2010 (*Attachment 3 – Land Use Schedule*). The Town Clerk has advised that Notice for all meetings were sent in accordance with the requirements set out in the *Planning Act* and Ontario Regulation 543/06.

Town staff circulated the new Official Plan to public agencies and received a number of comments from the public and other stakeholders prior to adoption of the new Official Plan.

Agency comments have been received and modifications included in Attachment 1

Regional staff circulated the adopted Aurora Official Plan to the required commenting agencies, including the Province. Modifications from the Province, the Lake Simcoe Region Conservation Authority, the Public School Board, Bell Canada, and the Separate School Board have been included in *Attachment 1* to this report.

4. ANALYSIS AND OPTIONS

The Town of Aurora's new Official Plan, as modified by *Attachment 1* to this report, conforms to the Provincial Growth Plan, the Lake Simcoe Protection Plan, the new Regional Official Plan 2010, and takes a long term progressive approach to growth in Aurora. The Plan provides stability for existing communities, while embracing a new vision for new communities and intensification within the built boundary. The Plan has proceeded by way of a thorough public process and represents good planning.

Key components of the new Plan include protection of the natural environment, protection of employment lands, intensification, and phased growth

The new Official Plan establishes an overall policy framework to guide the Town of Aurora by providing direction and objectives on where and how the Town will grow to 2031. The Official Plan provides protection for the Town's natural environment, while also ensuring development of complete and sustainable communities.

A critical theme of the Plan is the designation and long term protection of employment land between Leslie Street and Highway 404, which is designated "Urban Area" in the in-force York Region Official Plan (1994, as amended). The development and protection of these lands for employment purposes is important for the long term economic success of the municipality and supports work/live balance objectives for the Aurora community as well as the broader regional focus of ensuring planning for employment lands in the Highway 404 corridor. Non-employment uses within this corridor are strongly discouraged.

New greenfield residential development is directed to the lands to the west of the above noted employment area. Proposed new neighbourhoods will be required to comply with the Town's new Official Plan policies, subsequent secondary plan policies and the more detailed provisions set out through the subdivision approval process.

The Official Plan identifies the planned intensification of the Aurora Promenade which supports the broader regional and local objectives of intensifying corridors such as Yonge Street. The Promenade is the focus of higher density development along Yonge and Wellington Streets, including a focus area around the Aurora GO Station.

CONFORMITY ANALYSIS

Aurora's new Official Plan Conforms to Provincial Policy

Growth Plan

Central to the Growth Plan is the ability of York Region and its respective local municipalities to accommodate the 2031 population and employment forecasts established by the Growth Plan. The Town's Official Plan forecasts a population of 70,200 persons, and 34,200 jobs by 2031, which is consistent with the assignments provided by the Region to the Town in the Ministry approved Regional Official Plan (2010). However, since the Regional Official Plan (2010) is not in-force, the growth projections in Section 3.3 of the Town's Official Plan should be deferred until these forecasts are approved in the Regional Official Plan (2010). This is reflected in the recommendations of this report.

The Town's Official Plan focuses new ground related growth primarily within the new 2C Secondary Plan Area, with a minimum residential greenfield density of 50 persons and jobs per developable hectare in a compact, transit supportive community. Employment land density has been set at a minimum of 40 jobs per developable hectare, to create a healthy balance of jobs and housing.

The new Official Plan provides for intensification within the Provincially-approved Built Boundary to the level specified by the Regional Official Plan, primarily within the Promenade area noted above. In addition, the Plan satisfies the Growth Plan and Provincial Policy Statement requirement for the provision of affordable housing by requiring that a minimum of 25 percent of all new residential development meet the definition of affordable housing.

Lake Simcoe Protection Plan

The majority of the Town of Aurora falls within the Lake Simcoe Watershed, and therefore, the Town has included policies from the Lake Simcoe Protection Plan in its Official Plan. As noted later in this report, the Official Plan has been modified slightly to include some additional Lake Simcoe Protection Plan policies. Therefore, as modified in *Attachment 1*, the Town of Aurora Official Plan conforms to the Lake Simcoe Protection Plan.

Provincial Policy Statement (2005)

The Provincial Policy Statement provides for appropriate development while protecting resources of provincial interest, public health and safety, and the quality of the natural environment. The Aurora Official Plan, as modified in *Attachment 1*, is consistent with the Provincial Policy Statement (PPS) and contains policies that reflect the intent and major policy directions of the Statement.

Town of Aurora Official Plan conforms to new Regional Official Plan as approved by the Province

The Aurora Official Plan, as modified in *Attachment 1*, protects the natural heritage system, plans for an urban structure of centres and corridors, protects the existing stable neighbourhoods, provides sustainable growth management through complete greenfield communities, places a strong emphasis on economic growth, and requires the timely provision of infrastructure to meet projected growth. The Town of Aurora Official Plan, as modified in *Attachment 1*, conforms to the York Region Official Plan, and represents good planning.

The Sustainable Natural Environment policies of the Regional Official Plan are implemented throughout the Town of Aurora Official Plan, including the Linked Greenland System policies of Chapter 12. The Plan, as modified, protects the natural heritage systems, ensures an appropriate supply of public and private parkland, enhances

water and forest resource management, provides for wellhead protection, and prescribes sustainable design techniques to promote energy and water efficiency.

The Aurora Official Plan seeks to ensure the continued advancement of Aurora's economy. The Plan seeks to promote economic development efforts to support a diversified economic base by protecting existing employment land, providing for new employment land, and encouraging a wide range of employment uses to locate in the planned urban structure of the Promenade and within the employment corridor along Highway 404.

Similar policies to the Region's "Building Cities" and "Complete Communities" policies are found throughout the Aurora Official Plan tailored for the Aurora community. Within the "Developing Vibrant New Neighbourhoods" and the "Aurora Promenade" chapters of the Aurora Official Plan are policies that speak to creating well-designed, healthy, strong and complete communities that provide a range of places and opportunities to live, work, shop, be educated and play, in a manner that promotes sustainability.

The Region's broader policies pertaining to transportation, water and wastewater servicing, waste management, energy and utilities are also reflected in the more detailed policies of the Town of Aurora Official Plan. For example, the "Providing Sustainable Infrastructure" chapter contains policies that ensure the provision of an active and integrated multi-modal transportation system that moves people and goods via roads, public transit, trails, pedestrian linkages, and bicycle routes. The policies seek to ensure that Aurora's physical infrastructure is developed to meet the needs of all residents and are consistent with the Town's objectives for managed growth and sustainability.

The Town of Aurora Official Plan, as modified in *Attachment 1*, conforms to the York Region Official Plan (2010).

Aurora's new Official Plan will require further modification at such time as the Source Water Protection Plans are approved under the *Clean Water Act*

The *Clean Water Act*, 2006, (CWA) aims to protect drinking water at the source as part of an overall commitment to human health and the environment. One of the objectives of the *Clean Water Act* is the creation of several Source Water Protection Plans across the Province. York Region has recently received a second draft of the Source Water Protection Plan for the South Georgian Bay Lake Simcoe (SGBLS) area, which includes the majority of the Town of Aurora.

The South Georgian Bay Lake Simcoe Source Water Protection Plan is currently being reviewed by York Region and its local municipal partners, and comments have recently been forwarded to the South Georgian Bay Lake Simcoe Source Water Protection Committee. The Plan is required to be submitted to the Ministry of the Environment in August of 2012 and to come into effect by January 1, 2013. The final South Georgian Bay Lake Simcoe Plan will contain several source water protection policies that will be

required to become part of the York Region Official Plan and the Aurora Official Plan. An amendment to the York Region Official Plan and the Town Official Plan will be required and staff will work together on this project.

The Aurora Official Plan does not apply to lands within OPAs 20, 30, 34 and 73

It is noted that the new Aurora Official Plan does not apply to lands within several existing secondary plan areas including Area 2A, Area 2B, and Yonge Street South (OPAs 20, 30 and 34 respectively shown on *Attachment 4*). In addition, the Town's policies regarding the Oak Ridges Moraine (OPA 48) remain unchanged in the new official plan.

Through the official plan review process, the Town determined that the policies in the above noted OPAs should remain the same; the policies had either recently been created or updated, and did not warrant any changes.

Appeal to the Regional Official Plan (2010) is linked to the new Aurora Official Plan

There is an appeal by Aurora-Leslie Developments Inc. against the population and employment numbers in Table 1 of the Regional Official Plan (2010 ROP). The appellant's position is that the numbers are not valid and should be revised. Since the population and employment numbers in the Aurora Official Plan are the same as the Region's numbers for Aurora, any change to the Region's numbers as a result of the OMB Hearing for the Regional Official Plan (2010 ROP), would have to be reflected in the Town's Official Plan as well. For this reason, as indicated earlier, it is recommended that Section 3.3 of the Aurora Official Plan not be approved at this time.

Aurora-Leslie Developments Inc. had also requested that the OMB review its original decision with respect to the eastern employment land portion of the 2C Secondary Plan (OPA 73 on *Attachment 4*), with the goal of securing an OMB re-hearing for its lands. On April 26, 2012, the OMB upheld the original decision and denied the appellant's request for a re-hearing. The appellant has until May 26, 2012 to appeal that decision. If there is no appeal of that decision, Aurora-Leslie Developments Inc. will most likely withdraw its appeal of Table 1 to the ROP and Section 3.3 of the Aurora Official Plan could be approved. The Planning and Economic Development Committee will be verbally informed of this outcome at this meeting and at that time, if the appeal is resolved, Section 3.3 of the Aurora OP may be approved by Council.

The Aurora Official Plan, with the proposed modifications, conforms to Provincial and Regional policies, and represents good planning

It is noted that there has been an excellent and cooperative working relationship between Town and Regional staff throughout the entire Official Plan review process.

Modifications are often required to such a large, detailed, and important document as an Official Plan. The modifications found in *Attachment 1* are a result of a collaboration among the Town of Aurora, York Region, and external agencies including the Lake Simcoe Conservation Authority, the school boards, the Province, and Bell Canada.

The modifications found in *Attachment 1 – Town of Aurora, York Region, and other Agency Modifications* were reviewed at a Town of Aurora public information meeting on March 6, 2012 and were supported by Aurora Council on April 10, 2012. The majority of the modifications are technical in nature, provide clarity, and ensure conformity of the Official Plan with the York Region Official Plan (2010), the Growth Plan, and the Lake Simcoe Protection Plan.

The new Aurora Official Plan, with the proposed modifications, conforms to Provincial and Regional policies and represents good planning.

Link to Key Council-approved Plans

Section 27 of the *Planning Act* requires local Official Plans to be brought into conformity with the upper tier Official Plan within one year of the upper tier Official Plan coming into effect. The new Aurora Official Plan, as modified in *Attachment 1*, conforms with the Ministry of Municipal Affairs and Housing approved version of the York Region Official Plan.

The Aurora Official Plan further enhances the Region's goals established through Vision 2051 by promoting the growth of Aurora as a "complete community", ensuring "a resilient natural environment and agricultural system", enabling "a place where everyone can thrive", accommodating "appropriate housing for all ages and stages", encouraging "an innovative economy", and providing policies for "living sustainably".

5. FINANCIAL IMPLICATIONS

The Aurora Official Plan implements the policies of the York Region Official Plan (2010). The Town's plan incorporates the Region's assigned projected population and employment growth numbers to 2031. As such, the required Regional infrastructure costs have been identified in the Region's Transportation Master Plan and the Water and Wastewater Master Plan.

On September 23, 2010, Council adopted Clause 4 of Report No. 7 of the Finance and Administration Committee, permitting the Regional Solicitor and Commissioner of Planning and Development Services to engage external legal and external planning services for matters associated with Regional Official Plan and/or Regional Official Plan Amendment appeals through transfer funds from the Tax Stabilization Reserve. As some appeals against the Regional Official Plan directly affect properties within the Town of Aurora and the Aurora Official Plan implements the York Region Official Plan (2010) in

Aurora, the potential financial implications of defending the Regional position, including external legal and external planning services, have been authorized through this previous Council resolution. If an appeal is lodged against the Aurora Official Plan, Regional staff would participate to protect Regional interests.

6. LOCAL MUNICIPAL IMPACT

The Aurora Official Plan (2010) was adopted by Aurora Council on September 28, 2010. Proposed modifications were reviewed by Aurora General Committee on February 21, 2012, followed by a Public Information Session on March 6, 2012. The proposed modifications were supported at the Aurora Council Meeting of April 10, 2012. The approval of the Plan, subject to the proposed modifications found in *Attachment 1*, is consistent with the Town's position.

7. CONCLUSION

The Aurora Official Plan, as modified, is consistent with the Provincial Policy Statement, and conforms to the Growth Plan and the Lake Simcoe Protection Plan, and the Official Plan is tailored to reflect the objectives of the Aurora community. The Official Plan is responsive to the future needs of the Aurora community and its unique circumstances, conforms to the York Region Official Plan, has progressed through a full and comprehensive public consultation process, and represents good planning. Since the Regional Official Plan (2010) is not in-force, the growth projections in Section 3.3 of the Town's Official Plan should be deferred.

For more information on this report, please contact Michael Mallette, Senior Planner, at (905) 830-4444, Ext. 1506 or Heather Konefat, Director, Community Planning at Ext. 1502.

The Senior Management Group has reviewed this report.

(The four attachments referred to in this clause are attached to this report.)

Michael J. McQuaid, Q.C.
T: 416-947-5020
mcquaid@weirfoulds.com

June 12, 2012

File 00056.40789

VIA COURIER

Mr. Dennis Kelly
Regional Clerk
Regional Municipality of York
17250 Yonge Street
Newmarket, ON L3Y 6Z1

Dear Mr. Kelly:

**Re: Town of Aurora Official Plan
Request for Modification to Schedule 'K'
Planning and Economic Development Committee Meeting, June 13, 2012**

We are solicitors for Westhill Redevelopment Company Limited and Lebovic Enterprises Limited ("**Westhill**"), the owners of land located on Part of Lots 11 & 12, Concession 3 and Part of Lot 12, Concession 2 (the "**Westhill property**"), in the Town of Aurora (the "**Town**").

On August 12, 2010, we submitted our concerns regarding the Draft Aurora Official Plan (the "**OP**") to the Town's Mayor and Members of Council prior to council's adoption of the OP. Our letter is attached hereto as Attachment 1. Among other issues, we indicated in that letter that Schedule 'K' to the OP illustrated a trail across the northern boundary of the subject property that Westhill was concerned with due to an overall lack of compatibility between a golf course and public trail.

The question of a proposed trail through the proposed Westhill golf course and condo project was dealt with during a hearing of the Ontario Municipal Board ("**OMB**") in late 2010. On April 14, 2011, the OMB approved an OP Amendment as well as a Zoning By-law Amendment, Plan of Subdivision, Plan of Condominium and a minor variance that together permit an 18-hole golf course and associated residential subdivision on the Westhill property. We have attached the OMB's decision hereto as Attachment 2. The OMB decided that it would not require a trail to be located across the northern boundary of the property as a condition of approval due to poor compatibility with a golf course use as well as interference with established natural heritage features (please refer to pages 28-29).

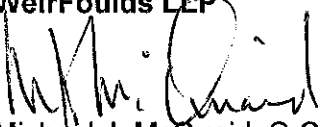
Upon a review of the Town's adopted OP and Regional modifications proposed for approval, however, we note that a trail appears to be proposed or shown across the northern boundary of the Westhill property on Schedule 'K' (attached hereto as Attachment 3). It also appears, perhaps conceptually, that the trail crosses Leslie Street using the underpass that the OMB approved for the exclusive use of the golf course. Schedule 'A' to the OP, however, indicates that the Westhill property is subject to OPA No. 74 (attached hereto as Attachment 4).

We respectfully request that the trail be removed from Schedule 'K' in this location so as to completely avoid the Westhill property, in accordance with the OMB's Order.

We appreciate the Region's consideration of this matter.

Yours very truly,

WeirFoulds LLP



Michael J. McQuaid, Q.C.

MJM/SFC/cem

c: Mike Mallette, York Region (via e-mail with attachments)
Jim Kyle, Town of Aurora (via e-mail with attachments)
Glen Easton, Sernas Associates (via e-mail with attachments)
Lloyd Cherniak, Lebovic Enterprises (via e-mail with attachments)

4628006.1

August 12, 2010

Michael J. McQuaid, Q.C.
T: 416-947-5020
mcquaid@weirfoulds.com

VIA E-MAIL

File 00056.40789

Mayor Phyllis Morris and
Members of Council
Aurora Town Hall
1 Municipal Drive, Box 1000
Aurora, ON L4G 6J1

Dear Mayor Morris and Council:

Re: Proposed Town of Aurora Official Plan

We are the solicitors for Westhill Redevelopment Company Limited and Lebovic Enterprises Limited ("West Hill"), the owners of approximately 199.45 acres of land located on Part of Lots 11 & 12 Concession 3 and Part of Lot 12, Concession 2, in the Town of Aurora (the "**Westhill Property**"). Applications to permit a golf course and residential community have been submitted for these lands and are currently before the Ontario Municipal Board ("**OMB**").

On July 19, 2010 the Town of Aurora released the Draft Town of Aurora Official Plan (the "**Draft Official Plan**"). It is our opinion that that Draft Official Plan does not adequately reflect the applications which have been submitted for the Westhill Property. More specifically, based on an initial review of the proposed Draft Official Plan, our clients would like to make note of the following:

1. Schedule "K" of the Draft Official Plan shows the future Oak Ridges Trail running across the Westhill Property. The location of this trail is an issue which has been raised before the OMB and our clients' planning consultants have submitted evidence in opposition. It is their opinion that the examples supporting the location of the trail are not analogous and that the provision of a trail through the proposed golf course would represent an inappropriate and unsafe mix of uses. Please refer to paragraph 27 of the attached excerpt from the Witness Statement of Glen Easton.

2. Schedule "H" of the Draft Official Plan designates our clients lands Site Specific Policy Area 3.6.2.e, however, the text of the plan does not contain any corresponding policies. Our clients accept the site specific policy area designation on their lands, but believe that the Draft Official Plan should contain policies which reflect the applications which have been submitted for the property. The Draft Official Plan should acknowledge that the property is subject to the provisions of Official Plan Amendment No. 17 ("**OPA 17**") and should note that West Hill has filed a proposed amendment to OPA 17, which is currently before the OMB. A copy of the proposed amendment to OPA 17 is attached.

3. There is nothing in the Draft Official Plan that identifies the Westhill Property as having transitional status, as per Official Plan Amendment No. 48 – the Oak Ridges Moraine Conformity Plan. Our clients would ask that the transitional status be delineated in the Schedules to the Draft Official Plan.

4. Schedule "D" identifies a Heritage Resource Structure or Site on the Westhill Property. Our clients are currently reviewing the accuracy of this designation.

5. Schedule "A" designates the Westhill Property as primarily Rural/Oak Ridges Moraine Area, with some Greenlands System. Our clients are currently reviewing the accuracy of the boundaries of the Greenlands System.

Please note that we reserve the right to submit additional concerns which our clients may have with the Draft Official Plan.

Also, we request notice of any and all future consideration of this official plan.

Yours very truly,

WeirFoulds LLP



Michael J. McQuaid, Q.C.
Encls.

Attachment 2

ISSUE DATE:

Apr. 14, 2011



Ontario

Ontario Municipal Board

Commission des affaires municipales de l'Ontario

PL030997

PL090266

PL080014

PL090257

Westhill Redevelopment Company Limited has appealed to the Ontario Municipal Board under subsection 22(7) of the *Planning Act*, R.S.O. 1990, c. P. 13, as amended, from Council's refusal or neglect to enact a proposed amendment to the Official Plan for the Town of Aurora to redesignate land located at Part of Lot 12, Concession 2 and Part of Lots 11 and 12, Concession 3, being Part 1, Plan 65R-15508, Part 2, Plan 65R-11866 and Parts 1 and 2, Plan 65R-9264 from "Rural" to site-specific "Private Open Space", "Environmental Protection", and "Estate Residential" to permit the development of the lands for 75 detached residential condominium units and an 18-hole golf course along with associated club house and maintenance buildings

Approval Authority File No. D09-04-00

O.M.B. Case No. PL030997

O.M.B. File No. O030373

Westhill Redevelopment Company Limited has appealed to the Ontario Municipal Board under subsection 34(11) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended, from Council's refusal or neglect to enact a proposed amendment to Zoning By-law 2213-78, as amended, of the Town of Aurora to rezone lands located at Part of Lot 12, Concession 2 and Part of Lots 11 and 12, Concession 3, being Part 1, Plan 65R-15508, Part 2, Plan 65R-11866 and Parts 1 and 2, Plan 65R-9264 from "Rural General (RU) Zone" to site-specific "Major Open Space (O) Exception Zone", "Environmental Protection (EP) Exception Zone" and "Estate Residential (ER) Exception Zone" to permit the development of the lands for 75 detached residential condominium units and an 18-hole golf course along with associated club house and maintenance buildings

O.M.B. Case No. PL030997

O.M.B. File No. Z030149

Westhill Redevelopment Company Limited has appealed to the Ontario Municipal Board under subsection 51(34) of the *Planning Act*, R.S.O. 1990, c. P. 13, as amended, from the failure of the Town of Aurora to make a decision respecting a proposed plan of condominium on lands composed of Part of Lot 12, Concession 2 and Part of Lots 11 and 12, Concession 3, being Part 1, Plan 65R-15508, Part 2, Plan 65R-11866 and Parts 1 and 2, Plan 65R-9264 in the Town of Aurora

Approval Authority File No. D07-03-00A

O.M.B. Case No. PL030997

O.M.B. File No. S030085

At the request of Westhill Redevelopment Company Limited, the Minister of Municipal Affairs and Housing has referred to the Ontario Municipal Board under subsection 50(15) of the *Planning Act*, S.O. 1983, c. P. 1, consideration of a proposed plan of subdivision on lands composed of Part of Lot 12, Concession 2, and Part of Lots 11 and 12, Concession 3, being Part 1, Plan 65R-15508, Part 2, Plan 65R-11866 and Parts 1 and 2, Plan 65R-9264, in the Town of Aurora

Approval Authority File No. 19T-88105

O.M.B. Case No. PL080014

O.M.B. File No. PL080014

IN THE MATTER OF subsection 45(12) of the *Planning Act*, R.S.O. 1990, c. P. 13, as amended

Applicant and Appellant: 697028 Ontario Limited
Subject: Minor Variance
Property Address/Description: Part of Lots 10 & 11, 65M-2655 and Parts 1, 2, 5 & 6,
65R-31001
Municipality: Town of Aurora
Municipal File No.: D13-11-07
OMB Case No.: PL090257
OMB File No.: PL090257

IN THE MATTER OF subsection 45(12) of the *Planning Act*, R.S.O. 1990, c. P. 13, as amended

Applicant and Appellant: 697028 Ontario Limited
Subject: Minor Variance
Property Address/Description: Part of Lots 10 & 11, 65M-2655 and Parts 3, 4 & 7, 65R-31001
Municipality: Town of Aurora
Municipal File No.: D13-43-08
OMB Case No.: PL090266
OMB File No.: PL090266

APPEARANCES:

Parties

Westhill Redevelopment Company Ltd.

Regional Municipality of York

Town of Aurora

Counsel

Michael McQuaid

Robert Miller/Gabriel Szobel

Roger Beaman/Rodney Northey

DECISION DELIVERED BY J. de P. SEABORN AND INTERIM ORDER OF THE BOARD

1. Introduction

Westhill Redevelopment Company Ltd. (Westhill) has appealed a decision made by the Town of Aurora (Town) refusing to approve an Official Plan Amendment (OPA), Zoning By-law Amendment (By-law), proposed draft plan of subdivision and proposed draft plan of condominium. In addition, Westhill has also appealed two decisions made

by the Committee of Adjustment (Committee) where applications were denied seeking authorization for minor variances in respect of changes in permitted land use.

Westhill (also known as Lebovic Enterprises Ltd.) proposes to construct an eighteen (18) hole championship golf course, club house and associated parking lot, and a seventy-five (75) unit single family residence condominium development on 200 acres situated north of Bloomington Road, east and west of Leslie Street (Leslie). The parcel to the west of Leslie is about 25.4 ha (60 acres) and the parcel to the east is 56.5 ha (approximately 140 acres). A road under Leslie is required to accommodate golf carts and maintenance vehicles accessing the golf holes, designed for both the east and west side of Leslie Street.

The clubhouse, associated parking, maintenance building and wastewater treatment plant and golf holes 1 through 7 are proposed for the smaller parcel on the west side of Leslie Street, with the balance of the golf course and condominium development (on an urban style roadway) situated on the larger parcel to the east. In addition to the cart underpass, improvements are required to Leslie Street to accommodate access. A communal water supply system and a sanitary system to collect, treat and dispose of wastewater from the clubhouse and condominiums are required to serve the clubhouse and residential development. The communal well will not serve the irrigation needs of the golf course, so the water taking is limited to servicing the residential development and the clubhouse. The irrigation needs of the golf course will be met with the use of collected stormwater run-off and treated effluent and a series of ponds are identified as part of the golf course layout. On site storm water management facilities are proposed for the treatment of the quality and quantity of runoff associated with the residential development and the golf course clubhouse/parking facility.

To the south of the parcel is the Bovair Trail subdivision. A small triangular piece of land from the most easterly lot of this subdivision is required to accommodate the proposed fairway for hole 11 and inclusion of this piece was sought (and denied) in an application to the Committee for a minor variance to permit a change in land use from estate residential to golf course fairway. At the request of Counsel, Westhill's appeal on this matter was heard directly after the evidence on the main appeals, and is disposed of as part of this decision.

2. Position of the Parties and Participants

The project is opposed by the Town and supported by the Regional Municipality of York (Region). The Toronto Region Conservation Authority (TRCA) withdrew as a party during the pre-hearing process, its issues having been addressed through detailed conditions which were filed on its behalf by the Region. Westhill indicated that it accepts all of the conditions proposed by the TRCA and submitted that any approval should be subject to these conditions. Mr. McCutcheon and Ms. Jones, participants and landowners to the north of the property, testified in opposition to the development, as did Mr. Lanthier, a local resident. Mr. Garfinkel appeared and testified on behalf of Earthroots, also a participant. The key issue for the participants is whether the quantity of water required to serve the development will negatively impact water levels in their wells, and the Town and Region generally.

3. Site Location and Planning History

The parcels Westhill proposes to develop are predominantly agricultural with some wetland areas and trees, including significant forested areas on the southeastern portion of the site east of Leslie and at the west end of the parcel to the west of Leslie. The fields are actively farmed, which represents the dominant current land use on the site. The Bovair Trail subdivision is located to the south of the site but north of Bloomington Road, where a wetland complex and associated woodlands act as a buffer between the road and the subdivision. Directly north of the site three individual property owners have large landholdings with single family homes, ponds, fields and forested areas. As indicated at the outset, the central concern for these immediate residents is the potential impact to their water supply as a result of the operation of the production well pumping the quantities of groundwater required to serve the residential development and clubhouse.

The Westhill development is subject to the Oak Ridges Moraine Conservation Act, 2001 (ORMCA) and the transition policies set out in the Oak Ridges Moraine Conservation Plan (ORMCP). In York Region, the Moraine divides the watersheds draining south into Lake Ontario from those draining north into Lake Simcoe. The bulk of the parcel west of Leslie is located within the Holland River watershed. A small portion of the parcel contributes to the drainage to the Rouge River System, as does the

larger parcel to the east of Leslie. The majority of the property is within the Rouge River groundwater system where regional flow in the Oak Ridges Moraine aquifer complex is primarily southward. The production well is designed to take groundwater from a deep aquifer zone connected to the Yonge Street aquifer, a regional system that supplies groundwater to Aurora, Newmarket, Queensville and Holland Landing.

The origin of the application dates back to 1988 when Westhill applied to the Region, and then in 1989 to the Town, for approval to proceed with 95 residential lots on the larger parcel on the east side of Leslie. In 1990 the subdivision plan was revised to 59 lots and in December 1991 that subdivision plan was appealed to the Board. Matters were held in abeyance pending a review of the Town's Official Plan.

The Regional Official Plan (1994) designated the site as "Agricultural Policy Area", which did not allow the proposed development. In 1995, the Town undertook a Growth Management Study, resulting in Official Plan Amendment 17 (OPA 17) which included urban expansion "Rural Policy" changes and a site specific exemption for the Westhill parcel on the east side of Leslie. During 1995 and 1996 there were discussions between the Town, the Region and Westhill to the effect that the municipal preference was for a more compact residential development, coupled with a golf course (similar to Beacon Hill). Westhill determined to proceed with a cluster residential golf course project as opposed to the estate residential project it had initiated in the late 1980's and acquired the smaller parcel on the west side of Leslie, representing the additional land it required to accommodate the golf course. As a result, OPA 17 was modified to permit a golf course on the lands west of Leslie. OPA 17 was characterized during the hearing by Westhill (and supported by the Region) as establishing the "principle of development".

OPA 17 could not be approved without a Regional Official Plan Amendment (ROPA). Consequently, ROPA 3 was approved in October 1997 and a site specific exemption (Policy 5.9.10) was added permitting the lands (within the Rural Area designation) to be developed for residences in a cluster arrangement and condominium ownership. The policy provided that the development would be serviced by a privately owned and operated communal wastewater treatment system and a water supply system in accordance with specified criteria, including a site specific amendment to the Town's Official Plan. Thereafter, OPA 17 was approved by the Region.

In July, 1999 Westhill filed its revised application with the Town for the golf course and residential condominium development and the matters were appealed to the Board on October 1, 2003 due to the lack of decision by the Town. Over the past several years numerous technical reports have been undertaken, followed by considerable peer review, responses by Westhill to issues raised, followed by updated technical studies and agency comment, much of which has been undertaken to respond to municipal planning initiatives required to ensure conformity of policies with the ORMCP. Witness statements and detailed conditions of approval were prepared, all leading up to an anticipated hearing date set for the spring of 2008.

Although the issues were set and witness statements filed, the April 2008 hearing was adjourned as four individual landowners (separate parties during the pre-hearing process represented by Mr. Northey) challenged (among other issues) the Board's decision not to require a Joint Board be convened under the *Consolidated Hearings Act*. Once the court proceedings were concluded (2010), Mr. Northey advised that he was retained as co-counsel to the Town and the individual landowners (McCutcheon, Singh, Sadler and Howden Families) he represented withdrew as parties. The issues identified by Mr. Northey's clients were adopted by the Town and the hearing of the application on the merits commenced in September 2010 and continued for approximately seven weeks, with final argument heard in January, 2011.

4. Issues and Findings

The matters for determination, identified in the Issues List set out in the Board's Procedural Order dated February 29th, 2008 and the evidence provided at the hearing, can be summarized as: water taking and the sufficiency of the water balance and associated hydrogeological investigations; whether environmental assessment requirements have been met; planning conformity, particularly as it relates to ORMCP requirements, other provincial policies and legislation, as well as conformity with applicable regional and local official plan policies, including density of the residential component of the development and the mitigation of on site impacts, in particular the appropriate buffers for minimum vegetative protection zones to protect key natural heritage features; and sufficiency of conditions, including whether a future on site walking/hiking trail should be accommodated on the site.

The final matter before me, and dealt with as the final issue, is whether to allow appeals from two decisions made by the Committee of Adjustment on February 12, 2009 which: first, denied an application to permit the conversion from estate residential to golf course use for a small triangular piece of land associated with the Bovair Trail subdivision; and second, denied an application to permit a new single family dwelling on an existing lot within the Bovair Trail subdivision.

In argument Mr. Northey submitted that "the most fundamental precedent related to this hearing is the consideration of three silos of regulatory approvals: land use, environmental assessment and water". The Town's position was that each of the required approvals represent a "silo" because each involve different legal regimes that traditionally do not "meet up"; environmental assessment addressed separately from land use, and water approvals approached separately from land use and environmental assessment. Taking into account the chronology of events described above and the years of technical work undertaken by Westhill in support of the approvals it requires, I find the opposite is true. For reasons set out below in the context of the issues for the hearing I find, on the facts of this case, that the approvals relating to land use, environmental assessment and water have been appropriately integrated.

Issue 1 Water Taking and Servicing

Several issues relating to the general topic of "water" were identified by the residents when they were parties to the hearing and subsequently adopted by the Town through its evidence and submissions. The Town submitted that the central water issue is whether the development conforms to the applicable requirements of the ORMCP. The Town argued that Westhill has failed to demonstrate that groundwater will be maintained if a golf course, club house and condominiums are developed on the site. There was a genuine concern expressed by adjacent land owners that further development will impact the quantity and quality of their groundwater and surface water. Simply put, the position advanced was that the Westhill development will negatively affect the availability and quality of the well water upon which adjacent landowners rely for servicing their individual homes. This concern was evident in submissions made during the public consultation process, was highlighted by Westhill in its Environmental Study Report (ESR), and expressed to me by the participants in their testimony.

In response to both the concerns of adjacent landowners and policy direction, there was detailed and extensive evidence provided to me with respect to water taking, hydrogeology and servicing. The level of detail and the amount of work undertaken by Westhill to respond to concerns, coupled with the detailed conditions of approval and in particular the evidence and position advanced by the Region in respect of water, leads me to conclude that the development will have no negative impact on the Regional water supply, the supply to the Town or on individual wells adjacent to the development. The amount of water that is required to service the development is not significant when compared to the Regional water taking and can be sustained, with no adverse impact, on quality or quantity either at the provincial, regional or local level. For the reasons outlined below, I similarly find that approval of the development is not premature as suggested by the Town in light of the provisions of the *Clean Water Act*.

The concerns raised with respect to water, both quantity and quality, arise from the location of the development on the Oak Ridges Moraine, coupled with a general concern from the participants that the water supply, in the Region generally and within the Town specifically, is at risk. There is no question that development on the moraine is now limited, must be justified and approached with caution.

Following circulation of its Master Environmental Servicing Plan (MESP), Westhill secured a water taking permit from the Ministry of the Environment (MOE) in April 2007 to serve the residential development and clubhouse. In August 2007 the permit was revoked because it was determined that the requisite environmental assessment had not been undertaken. In issuing the permit to take water, MOE concluded that the production well was capable of providing a potable groundwater supply for the residential development and clubhouse. In arriving at its decision, MOE had conducted a technical review of the permit to take water application and considered such factors as the zone of influence, well interference, and potential impacts to surface water features and the groundwater resource base (letter from MOE, dated January 10, 2008). At the hearing, Westhill provided extensive justification and evidence to support its water taking as part of the planning approvals it requires, recognizing that it will have to resubmit its water taking permit application to the MOE. In this context, the planning and water issues were fully integrated both in Westhill's approach and the documentation produced to justify the development.

It was not disputed that because the proposed golf course and residential component constitute a major development, it is the responsibility of Westhill to satisfy section 43(1)(b) of the ORMCP which requires that an "application for major development shall be accompanied by a sewage and water system plan that demonstrates that the quantity and quality of groundwater and surface water will be maintained". Based on all the evidence provided, Westhill has satisfied this requirement, for a number of reasons.

First, the fact that the water balance was refined and updated by Westhill just prior to the commencement of the hearing does not mean it was flawed as suggested by the Town. The opposite is true. It is clear that the refinements made by the Westhill team were undertaken in response to comments from the residents at public meetings and Mr. Woerns (the hydrogeologist retained to peer review the MESP on behalf of the Town), and technical issues raised by the Town, the Region and the TRCA. The key conclusions of the hydrogeologists and engineers retained by Westhill were not seriously challenged and the extent to which the refinements were made to the water balance reflected an intention on behalf of Westhill to confirm its original conclusions and respond to outstanding issues and suggestions made by Mr. Woerns, both following his preliminary evaluation and further comment prior to the commencement of the hearing. Mr. Woerns input was positive. It improved the precision of the water balance; it did not demonstrate that it was flawed.

As indicated by Mr. Hendy on behalf of Westhill, and explained in great detail in his testimony, the purpose of the updated water balance was to assess site conditions for a dry year and a wet year in terms of changes to runoff, infiltration and water potentially available for irrigation. The refined water balance was not undertaken to justify the development, but to respond to different scenarios. The evidence at the hearing from Mr. Hendy and Mr. Woerns added even more certainty that a proper water balance can be achieved on the site. The updated water balance, with various scenarios, does not mean that there will be a significant average annual loss of infiltration as suggested by the Town in argument or permanent annual loss of groundwater from the Thorncliffe Aquifer. Based on site specific data, the fundamental conclusion reached by Westhill is that the quantity and quality of groundwater and surface water can be maintained post development. Modelling work undertaken by the Conservation Authorities Moraine Coalition demonstrates both the importance of the

Oak Ridges Moraine as a regionally significant recharge and suggests that long term pumping rates (based on maximum permitted rates) are sustainable at a macro level.

While Mr. Woerns and Mr. Lotimer had criticisms of the approach undertaken insofar as refinements were suggested and further modelling was recommended (and completed), the fundamental conclusions reached by the Westhill technical team were not shaken. This fact is underscored by Mr. Woerns own evidence in reply where he concluded: first, that the new information provided includes a more detailed, revised water balance for the proposed development, comparing pre-development conditions to post development conditions; and second, that the methodology used in completion of the water balance is generally acceptable although there remain some outstanding minor technical issues related to the water balance calculations and infiltration factors used for the developed areas.

Second, the TRCA was an active review agency throughout the process and in May 2007, and again in January 2008, it concurred with, and approved the MESP and MESP addendum. TRCA staff did not merely participate in a paper exercise, they were on site with municipal staff and Westhill's experts. The TRCA indicated that it was satisfied with the environmental objectives and principles of development subject to mapping changes, dedication of key natural heritage features and minimum vegetation protection zones and the adoption of the TRCA conditions of the draft plans of subdivision and condominium. Counsel advised the parties that the "TRCA does not advocate for or against the applications and as a result, with agreement on these conditions (presuming approval of the application), there is no other position for the TRCA to advance and therefore no need for it to remain in the hearing other than simply to monitor the proceedings as necessary" (email from Mr. Wigley to Counsel, April 4, 2008). Westhill accepted all of the proposed conditions. The Region explained that it has a Memorandum of Understanding (MOU) with the TRCA and the Lake Simcoe Region Conservation Authority (LSRCA), who review and provide advice on ORMCP conformity, as well as advice generally on watershed management. Mr. Easton testified that because most of the property is within the jurisdiction of the TRCA, the LSRCA had advised during the consultation process that the TRCA would take the lead and provide comments on behalf of both authorities. Nevertheless, additional conditions of draft plan of subdivision were filed by Westhill (Exhibit 160) during the course of the hearing that

require certain plans to be updated to the satisfaction of the LSRCA, thereby ensuring an independent review of any additional conditions.

Third, the type of sewage and water system proposed by Westhill was not seriously challenged. At the outset of the planning process Town policy stipulated that any development would be serviced by privately owned and operated communal wastewater treatment and water supply systems. From a technical standpoint, the proposal is typical for the type of development proposed. The Region takes the risk for any failure of services and as such has proposed detailed conditions of subdivision and condominium approval, including a responsibility agreement with Westhill. Both Mr. Mallette and Mr. Pokhrel testified that official plan conformity is achieved and the conceptual design for servicing is acceptable to the Region and through conditions, it will ensure compliance. The Region has significant experience with responsibility agreements for residential/golf course developments and the evidence before me was that it is satisfied with the Westhill proposal.

Fourth, the golf course will not be irrigated with groundwater and this is confirmed in the Region's conditions of draft plan approval for the subdivision. The irrigation system relies on the collection of runoff from the property and treated effluent from the on site facilities. The design incorporates reservoir capacity and the run off will be collected from areas that do not provide run off to sensitive natural heritage features. The spray irrigation will only be applied to the golf course and will accordingly have no impact on natural features. The effluent produced on site will be treated to a level that would be suitable for direct discharge to a water body, can be stored on a daily basis, and as explained by Mr. Jones, its actual use is a function of micro-climate at the site, turf design and operational component. There is precedent for the approach to irrigation adopted by Westhill and the process has proven reliable at many golf courses in the Province.

Fifth, as indicated previously a permit to take water is required and Westhill has completed the investigation, testing and study to justify making that application. Under the *Planning Act* there is no jurisdiction to issue a water taking permit. That decision is in the sole discretion of the MOE and my findings are not intended to replace their independent judgement on this matter. However, I have considered the implications of the water taking that will be associated with the development as I am required to do

both as a matter of provincial interest under the *Planning Act*, and as a matter of provincial policy as set out in the PPS. Based on the evidence before me, I am satisfied that Westhill has demonstrated that the quantity and quality of groundwater will be maintained, the test it must satisfy under the ORMCP.

As explained by Ms. Kemp, a hydrogeologist with the Region and Program Manager for the Water Resources Program, the production well is screened in the deep aquifer zone that is connected to the Yonge Street aquifer, a Regional aquifer system which supplies groundwater for Aurora, Newmarket, Queensville and Holland Landing. Regional wells are located in tunnel channels, which provide for greater recharge. It was the opinion of Ms. Kemp, which I accept, that the water requirement for the condominium units and clubhouse is minimal (both in the Regional and local context) and will not negatively impact the Yonge Street aquifer. Ms. Kemp was also clear that water taking for irrigation purposes is not supportable and the Region has recommended a condition to ensure that that approach cannot be pursued.

The groundwater requirement is a modest water taking at best, and to put it in perspective, would represent less than 1% of the Regional water taking. Ms. Kemp's testimony was persuasive. Her overview of the Oak Ridges Moraine, its Regional geology, including the layers of aquifers separated by aquitards, indicated that there are distinct sources of groundwater for the individual landowners to the north and the Westhill development. The surrounding landowners fairly raised questions with respect to the impact of the Westhill water taking on their individual wells. In this regard, I accept the opinion of Ms. Kemp that adjacent landowners draw their groundwater from the shallow or upper aquifer and will not be affected by the Westhill water taking. The Yonge Street aquifer, which is water source for Regional wells and the Westhill development, is separated by an aquitard from the upper or more shallow aquifer from which individual property owners rely for their water. Ms. Kemp's opinion was also informed by the pumping tests undertaken by Westhill which, in short, concluded there will be no adverse impact on the municipal water supply or adjacent wells. In this regard, I also rely on the evidence of Mr. Hendy and Mr. Chow and also that of Mr. Lotimer, who conceded that pumping in the Thorncliffe aquifer will have little impact on the upper aquifer where the neighbours wells are screened. As a further measure of groundwater protection, I find that the site specific work, data and modelling support the projected water taking for the residential/clubhouse components of the development

and similarly confirm the viability of relying on run-off and effluent produced and treated on site for irrigation purposes.

One issue that was raised by the residents before Council in 2008, and again at the hearing, was the matter of the cumulative impact of issued water-taking permits for golf courses. The suggestion was made that taken together, the approved water-taking is significantly higher than available supply. The Town suggested that the Region had not fulfilled its obligations in considering its own policies (or those in the PPS) that address cumulative impacts. The difficulty with Mr. Lotimer's claim on behalf of the Town is that permits to take water approve maximum daily water takings far in excess of what is actually used. The data indicates (supported by a survey of a number of golf courses in the Region and GTA) that typically actual golf course water taking is generally 12% of the permitted maximum daily amount. On this matter I accept the opinion of Mr. Jones as it is clearly based on his evidence and explanation that permitted water use shown on permits to take water for golf courses substantially over estimate actual use. The allocations in permits are intended to safeguard against situations where a large amount of water may be required at a particular point in time on any given day so that operators do not fall out of compliance by exceeding the maximum taking allowed under the permit. Daily pumping on a sustained basis simply does not reach maximum permitted allocations under issued permits.

Lastly, the Town, through the evidence of Mr. Lotimer, argued that it is premature to approve any additional water taking because of the provisions of the *Clean Water Act, 2006* (CWA). While a significant piece of provincial legislation, it is not appropriate to suggest that Westhill's development must be delayed because important work is ongoing pursuant to the goals and objectives of the CWA. The Region (and Westhill) rejected this position for several reasons. As Ms. Kemp explained, the Region is fulfilling its obligations under the CWA and the requisite regional water budget work is ongoing. The suggestion by the Town that the development cannot proceed until a Tier III analysis under the CWA is complete is neither necessary nor practical. The concern expressed was that until additional work is undertaken we do not know whether proposed water taking by Westhill will cause an adverse impact on municipal drinking water supplies for the Town.

It was agreed that there is no moratorium on development within the Town as a result of CWA requirements. When asked about ongoing development, the Town suggested that new approvals are a function of the Town having to satisfy growth plan objectives dictated by the Region. The Town argued that because the Westhill project is not advanced to address growth plan requirements, the project should be found to be premature in order to allow time for the completion of ongoing CWA studies. I reject this reasoning. If there is significant stress on the watersheds that serve the Region, the water supply and drinking water quality, a moratorium on development approvals should be in place, regardless of the project. On this matter, I adopt and rely upon the evidence of Ms. Kemp, who is involved with CWA issues on behalf of the Region and is in regular contact with the MOE with respect to the Region's responsibilities under the CWA. Ms. Kemp confirmed that the province has not issued any moratorium on development while CWA studies continue. The work to date under the CWA has not resulted in a prohibition on development, by either the Town or the Region. The Town planner confirmed that no such suggestion has been advanced to the Region at the initiative of the Town. Ms. Kemp explained that the Region's Water Budget Study evaluated all permit holders, including golf course operators, within the Region. The water budget work and hydrogeological model which would be employed under a Tier III study to evaluate the sustainability of drinking water supplies is largely the same as work the Region did in its initial Water Budget Study. I find there would be no benefit to delaying the Westhill project while the Tier III work proceeds. Finally, as a practical matter, Westhill's water taking is from the Rouge sub-watershed and therefore would not form part of the Tier III study (which is for the East Holland watershed) that the Town suggests be completed before development. There is no question that the CWA is a critical initiative; however, based on its mandate and the evidence before me there is no basis to conclude the Westhill project is premature in light of this provincial initiative.

Issue 2 Environmental Assessment Process

A series of matters were identified on the Issues List pertaining to environmental assessment, which can be summarized in two categories: first, does the development and the process satisfy the applicable requirements and requisite environmental assessment processes; and second, is the development process in accordance with an integrated planning process respecting the *Planning Act* and *Environmental*

Assessment Act (EA Act) as set out in the Municipal Class Environmental Assessment (Municipal Class EA).

Westhill prepared an ESR, following the integrated approach established under section A.2.9 of the Municipal Class EA. The Municipal Class EA (also known as the parent document), prepared by the Municipal Engineers Association (MEA) to satisfy the requirements of the *EA Act*, was initially approved by Order in Council in 2000, and amended in 2007. The Municipal Class EA replaced various parent Class EA's that had been in place for several years to guide environmental assessment planning for municipal road projects and water and wastewater projects. The main issue is whether Westhill's environmental assessment work, as documented in the ESR, satisfies the requirements of the Municipal Class EA (and therefore the *EA Act*) and in particular, whether the process followed by Westhill was in fact an integrated process. Mr. Northey took the position that Westhill failed to execute the integrated process and that the ESR was "simply an after the fact attempt to provide paper for what had already been planned and designed without reasonable alternative designs or locations" (Town's Submissions, p. 26).

Mr. Rowe who testified on behalf of the Town and Ms. Amos who testified on behalf of Westhill, each have considerable experience and expertise in environmental assessment. Both agreed that the Municipal Class EA recognizes that it is desirable to co-ordinate and integrate planning processes and approvals required under the *EA Act* and the *Planning Act*. If a proponent meets the intent of the Municipal Class EA and fulfills its requirements, then the project is considered to be pre-approved (similar to a Schedule A project) and the "proponent may therefore proceed to construct the project upon its coming into effect or approval of the application under the *Planning Act*" (Municipal Class EA, 2000, p. A-41; 2007, p. A-40).

The Municipal Class EA is clear that while the option of using the integrated approach provides flexibility to streamline the approvals process, the proponent remains responsible for ensuring compliance. Section A.2.9.2 delineates the steps to be followed, incorporating traditional environmental assessment planning principles, public consultation and documentation. Under the A.2.9 process the form of the documentation is not prescribed, although a proponent is directed to look to the

documentation required for Schedule C projects, which requires an ESR, the form of report Westhill chose to produce.

I find that Westhill met the intent of the *EA Act* by fulfilling the requirements of the Municipal Class EA as documented in the ESR, considering both the process followed and the technical work undertaken to support the conclusions reached. As such, the project is pre-approved for environmental assessment purposes once the planning approvals (which include the planning instruments under appeal) are in effect. My reasons are set out below.

Given the appeal of the instruments under the *Planning Act*, it was appropriate for Westhill to proceed with the integrated approach in order to obtain pre-approval for those infrastructure requirements of the development that are subject to the environmental assessment process. It is precisely this type of application that the A.2.9 integrated process is intended to accommodate. The Municipal Class EA states that the types of applications, whether by a landowner or municipality, for which the integrated approach can be followed include official plan amendments, plans of condominium and subdivisions. The MOE acknowledged Westhill's choice to proceed with the integrated approach and did not raise any objection to the approach. The EA coordinator at the Ministry obtained comments on the technical aspects of the infrastructure requirements from the Water Resources Unit, and provided those comments to Westhill. Based on its review of the ESR and subject to securing individual certificates of approval, there were no objections from MOE to either the choice of the integrated process or to the project itself. The conclusion reached by the MOE is not determinative of the matter, but it does coincide with my findings, independently arrived at based on the evidence provided at the hearing.

The Municipal Class EA is a "parent" document which provides the framework for environmental assessment planning for municipal infrastructure projects. In this regard, there exist a series of schedules (Schedules A, A+, B or C) to assist proponents in identifying whether an activity requires EA approval and if so, what level of detail or study is recommended. As a private sector proponent Westhill is subject to Regulation 345/93 which stipulates that a private sector developer is required to comply with the Municipal Class EA for projects listed in Schedule C and built for residential development. Proponents follow the process set out in the Municipal Class EA as an

alternative to carrying out individual environmental assessments for each infrastructure requirement. While the proponent is responsible for complying with the requirements of the Municipal Class EA, it is a self-assessment process which necessitates certain decisions and choices be made as the planning proceeds, all of which must be done keeping in mind both the requirements of the *EA Act* and the particular infrastructure project the proponent wishes to construct. The Class EA provides proponents with "an approved procedure designed to protect the environment" (Municipal Class EA, p. 2). The wastewater collection and treatment system, the potable water system, the golf course cart crossing of Leslie, improvements to Leslie to meet Regional road standards and the storm water management facilities were the infrastructure requirements of the development identified by Westhill. I accept the opinion of Ms. Amos that Westhill exceeded what is required by regulation and incorporated infrastructure requirements into the ESR beyond those that were subject to a Schedule C analysis.

The evidence was clear that Westhill followed the Class EA "approved procedure" and the requirements for an integrated process and as delineated under A.2.9.2 (Municipal Class EA Requirements for Projects Under the *Planning Act*). Westhill identified the problem or opportunity and alternative solutions; provided an inventory of the natural, social and economic environment; identified the impact of alternate solutions; identified a preliminary preference; consulted with review agencies and the public; determined a preferred solution; and for the Schedule C infrastructure projects, identified alternative design concepts, undertook the appropriate consultation and selected the preferred design. All of these steps were documented in the ESR and the addendum. The Town's criticisms both of the process undertaken by Westhill and the results as documented in the ESR are simply not sustainable. Environmental assessment is proponent driven and while another applicant may have chosen to proceed differently, there were no fundamental flaws in the way in which Westhill chose to carry out its assessment. The areas of inquiry a proponent is expected to investigate were canvassed. There was public consultation. Reasonable alternatives were considered, keeping in mind that OPA 17 had previously established the development concept. Mr. Rowe suggested that at best, Westhill achieved nominal compliance with environmental assessment requirements and that the work undertaken was a "waste of time and resources". Given the purpose of the Municipal Class EA is to streamline the approvals process while improving upon environmental protection, I find that the level of detail, analysis of alternatives, incorporation of public comments reinforces that Westhill

fairly executed the integrated process and in this regard, I rely on the opinions of Mr. Webster and in particular Ms. Amos, whose evidence was persuasive on this point. As Ms. Amos concluded, pursuing an integrated approach should not require a proponent to do more study than would be required under either the *Planning Act* or the Municipal Class EA. The MESP served as the appropriate background study which supported Westhill's applications under the *Planning Act*, an approach that is anticipated and in fact suggested under Phase 1 of the Municipal Class EA process.

Issue 3 Planning Conformity

(i) Region and Town Plans

Almost a decade ago, the Region and the Town were required to bring their respective official plans into conformity with the ORMCA. The policy framework established by the Province requires that planning decisions conform with the ORMCP, which prevails over municipal official plans. The Region adopted OPA 41 to satisfy the requirement and the Town similarly adopted OPA 48, its Oak Ridges Moraine conformity amendment.

To permit the development, Westhill requires an official plan amendment to the Town's OP to redesignate the land use from Oak Ridges Moraine Natural Linkage Area (Transitional) and Oak Ridges Moraine Countryside Area (Transitional) to site specific "Oak Ridges Moraine Natural Linkage" and site specific "Oak Ridges Moraine Countryside". The original official plan amendment application was deemed complete in 2000 and sought to redesignate the lands to estate residential and private open space, the applicable land uses prior to the Oak Ridges Moraine conformity exercise. Due to the transitional status of the Westhill applications, they must conform to prescribed provisions of the ORMCP. Mr. Easton testified with respect to the background of the applications and how they were processed by the Town, Region and the considerable involvement of the TRCA.

A convenient starting point for considering the application is the original permission, set out in OPA 17 (and incorporated into the Town's Official Plan, Section 3.6.2, Site Specific Policy Areas, 2008 Consolidation, p.137), which provides:

The land identified on Schedule H as 3.6.2e (east) comprising Part Lots 11 and 12, Concession III are intended to be developed for high quality residences in a cluster arrangement that are serviced by a privately owned and operated communal wastewater treatment system and water supply system in accordance with the criteria identified in Section 3.6.2c. The land identified on Schedule H as 3.6.2e (west), comprising Part Lot 11, Concession II may be used for a golf course to be developed in conjunction with the lands under the same ownership east of Leslie Street, provided satisfactory arrangements for a grade separated access Leslie Street can be made. These lands shall require an amendment to this Plan prior to any development taking place. The amendment shall provide detailed policies to ensure that the golf course is developed and operated in a manner that the environmental values, function and process of the Oak Ridges Moraine will be maintained or enhanced.

As set out above in OPA 17, Westhill requires an official plan amendment (with detailed policies) to proceed. OPA 17 explicitly indicates that the golf course must be developed and operated in a manner that maintains or enhances the functions of the Oak Ridges Moraine. It is clear that the work and technical reports undertaken by Westhill were done so with a view, as directed by OPA 17, to establishing a golf course and associated residences in a cluster arrangement, with private servicing, recognizing the values, functions and process of the Oak Ridges Moraine.

The planning reports prepared by the Town (over several years) make it clear that "the principle for the development of the subject lands as a residential condominium and 18 hole golf course community has been established by both the Region's and Town's Official Plans" (Town Minutes, extract from Public Planning Meeting, February 4, 2008, p. 4). Nevertheless, Mr. Beaman suggested that OPA 17 establishes the principle of development for a golf course for the parcel to the west, but does not establish a golf course use on the east side of Leslie Street. In his submission only residential housing can be established on the east side of Leslie Street. Similarly, the Town suggested that ROPA 3 fails to establish the requisite permission for the golf course use on the Westhill lands. I reject these arguments based on a simple reading of each policy and taking into account the evidence of the municipal planners and in particular, the facts that led up to the adoption of each official plan amendment.

The evidence supports a conclusion that the official plan policies set out the principle of development and reflect precisely what was intended by the municipal staff and Westhill at the time of their adoption. Mr. Cherniak testified that both the Town and the Region recommended he revise his project from the 59 estate lots and develop a

scheme for cluster housing and a golf course. The clear direction from the municipalities was for Westhill to abandon its estate residential development and move to a more compact form of housing, certainly an approach consistent with provincial policy direction. In order to facilitate this change in direction, OPA 17 was modified and ROPA 3 did not require a similar modification because it permitted golf courses within the Rural area designation. A site specific exception for Westhill from the official plan requirement for estate residential lots was introduced into the Regional Official Plan as a new policy. These site specific policies, both at the Regional and Town level, clearly set out that there would be high quality cluster housing and condominium ownership with privately owned and operated communal wastewater treatment systems and water supply system.

I find that the language of OPA 17 (and ROPA 3) supports the position taken by Westhill that the principle of development is long established for the lands, and development was anticipated to proceed, subject to certain criteria being satisfied. Town Council fairly identified a series of issues that it required Westhill to address and these matters became the issues for the hearing, augmented by matters raised by Mr. Northey when his original clients (adjacent landowners) were separate parties to the hearing. There was no suggestion when the applications were commented upon in the first instance that the policies mean that the golf course use was intended to be restricted only to the west parcel. The submission by the Town that ROPA 3 does not acknowledge the principle of development or permit the golf course use across the entire property was rejected by Mr. Miller in the course of his submissions. The staff reports prepared by the Town never suggested that a Regional official plan amendment was necessary, nor do I find one is required. Prior to the hearing, the interpretation of the Regional Official Plan was simply not an issue. I find that there is conformity to the Regional Official Plan and in this regard, I adopt and rely upon the opinion of Mr. Mallette, a planner with the Region, who testified and provided his opinion on this matter.

(ii) Oak Ridges Moraine

The planning evidence before me addressed the policy framework that is relevant to the application including provincial policy, and the Region and Town plans. As indicated previously the Westhill project is classified as a major development,

requiring conformity with the transitional provisions of ORMCP. The Town undertook its Oak Ridges Moraine conformity exercise and adopted OPA 48 and an associated conformity By-law 4469-03D. As stated in the January 2008 staff report to Town Council, the "current official plan policies which apply to the subject lands are site specific and include special policies to provide buffer/setbacks for the Key Natural Heritage features and environmentally significant areas. Pursuant to the current provisions of the Town and Region's Official Plans the development must occur on a privately owned and operated communal wastewater treatment system and water supply system" (Staff Report, January 18, 2008, p. 4). While Ms. Seibert conceded that when the January 18, 2008 Staff Report was drafted the concept from staff's perspective was acceptable, the Town's position at the hearing was that Westhill has failed to demonstrate compliance with the ORMCP transitional provisions (incorporated into the Town's Official Plan, Section 3.13.2) and in the absence of conformity, the development concept should not be approved.

The ORMCP divides the Moraine into four land use designations. Under the Town's OP (which incorporates the ORMCP and OPA 48) the Westhill lands are designated Oak Ridges Moraine Natural Linkage Area (Transitional) and Oak Ridges Moraine Countryside Area (Transitional). The proposal is to amend the Town's OP with site specific policies to permit the residential and golf course land uses within the Oak Ridges Moraine existing designations. Section 48 of the ORMCP stipulates that development applications with transitional status, as is the case here, must address particular provisions which generally relate to the protection of key natural heritage features, ground and surface water and storm water run-off. The criteria, set out in Section 3.6.2c of the Town's OP, provides design and performance criteria for residential development. Relying on the Staff Reports prepared in 2007 and 2008, Ms. Seibert, Mr. Letman and Mr. Kyle testified that they were not satisfied that conformity with the Town's OP had been achieved. Yet, at the same time, there was an acknowledgement that first, the principle of development was long established for the site and second, that the "concept" was acceptable. In reporting to Council, Town staff indicated that the requisite studies had been undertaken, including a market support study, an engineering report, an environment and landscape analysis and an economic/fiscal analysis. The MESP provided an inventory of environmental and natural heritage features, explained the project would be serviced by a privately owned and operated communal wastewater treatment system and water supply system, and

provided a design and layout in a cluster arrangement respecting Town requirements with respect to road access. The Town acknowledged that development agreements would be required for subdivision, condominium and site plan approvals, including an environmental golf course management plan, maintenance protocol and monitoring program for wetland/upland vegetation protection areas conforming to the high environmental standards of Audubon golf course certification. It was always anticipated that Westhill could respond to each of these items through detailed conditions to be agreed upon with the Region, TRCA and the Town.

The concern of the Town, as stipulated in its Staff Report was not with the development "concept" per se, but that the OPA "be carefully reviewed and finalized to set the parameters under which development could occur" (Staff Report, January 2008, p. 13). Staff also explained that they would evaluate the draft OPA prior to the hearing (which at this point in time, was scheduled to begin in April, 2008) "to ensure that all final considerations as provided by the TRCA and the Town's peer review consultants have been included to address environmental and ORM conformity to the design and development standards for both the golf course and residential components of the development" (Staff Report, January 2008, p. 13). The subsequent Council Resolution determined that the application was premature, with a series of resolutions adopted delineating technical matters to be addressed. Despite Westhill's response to each of these matters, the applications were denied by Council on March 4, 2008.

Mr. Kyle testified that the Town retained Mr. Woerns and Mr. Sharp as peer review consultants and he relied on their expertise to assist him in arriving at his opinion regarding ORMCP conformity, which he testified is not achieved in two broad areas: protection of key natural heritage features; and the anticipated impact of the development on hydrologically sensitive features. As is required under applicable official plan policies, the PPS, and the ORMCP, Westhill surveyed, identified and documented the existing natural environment and considered potential impact both as part of the MESP and the subsequent ESR. A small part of the site has been mapped as being part of the provincially significant White-Rose Preston Wetland Complex (Bloomington ESA #93). However, the predominant land use on the site is mainly agricultural with some trees and wetland areas scattered throughout. The survey found a total of 227 vascular plant species on site, with an average sensitivity to disturbance range between low to moderate. Wildlife observations on the site included butterfly, amphibian, reptile,

bird, and mammal species. Mr. Sandilands undertook amphibian egg-mass surveys, breeding bird surveys, vegetation community mapping, and general plant and wildlife inventories, all of which was incorporated into the MESP.

Key natural heritage and hydrologically sensitive features were mapped and their treatment addressed in the MESP and the ESR. Dr. Coleman explained that the protection of surface water is important to the protection of aquatic habitat and fisheries in the wetlands and surface water, and given the current agricultural use, very little vegetation will be removed and opportunities exist for several new planting throughout the property. The golf course development will include seven permanent ponds providing additional amphibian breeding habitat to what is existing on site. Two areas at the east and west ends of the parcels will be dedicated to the TRCA and smaller natural features intermixed with the golf course will be protected through zoning as opposed to dedication. It was Dr. Coleman's opinion that given the agricultural use of the property the end result will be a greater woodland area on the property due to the extensive planting and restoration to be undertaken. In considering the land use, Dr. Coleman emphasized that it is a change from cash crop agricultural to golf course use, essentially a neutral change.

It was also the view of Dr. Coleman that where there are environmentally sensitive areas, sufficient buffers (as required by the ORMCP and official plan policies) have been incorporated. As summarized by Town Staff in their 2007 Report, Mr. Sharp has advised that he was "generally supportive of the concept. The updated inventory is reasonably well done and complete, and it would appear that results of the environmental investigations have been used in the development of the proposed concepts. However, there are some aspects of the proposal that require further study and refinement in order to ensure conformity with the ORMCP" (Staff Report, 2007, p. 13). Mr. Sharp confirmed in his evidence that most of the issues he raised in the course of his environmental peer review were either resolved, or could be addressed as conditions of an approval. There remained however specific differences with respect to the appropriate width and size of the buffers incorporated into the golf course layout. As part of his peer review, Mr. Sharp raised eighteen points, to which Dr. Coleman responded, leaving very narrow matters in dispute, relating largely to golf holes #11 and # 12.

Key Natural Heritage Features (KNHF's) and Hydrologically Sensitive Features (HSF's) and related minimum vegetation protection zones (MVPZ's) are to be protected from site alteration and development in accordance with the policies set out Section 3.13.5 of the Town's OP. MVPZ's are specified in the ORMCP to be set at a minimum of 30 metres. The golf course layout and design requires trimming or removal of vegetation to accommodate particular tee blocks or for fairway purposes. Mr. Sharp indicated that he did not have an ecological concern with these intrusions as they will involve establishing permanent vegetation cover and are located in areas used for agricultural purposes. Nonetheless, he concluded that ORMCP conformity was not achieved (an opinion shared by Mr. Letman).

Mr. Sharp's view was that the design for the development must avoid intrusion into KNHF's. I accept Mr. Sharp's opinion that one clear intent of the ORMCP is to protect Key Natural Heritage Features. Mr. Sharp's view was that the golf course design should ensure there is no intrusion into KNHF's, otherwise the application should be denied. Mr. Sharp, who was particularly balanced in his approach also indicated that in the event of an approval, delineation of MVPZ's less than 30 metres is:

tolerable in this particular application only because, 1) the future proposed use as a fairway is more acceptable, and offers more protection to the KNHF's than the current agricultural land use; 2) that over the entire golf course, the net area of Vegetation Protection Zone is greater than what would be achieved by the minimum 30 m specified by the ORMCP and 3) the KNHF's adjacent to the areas of reduced widths of Vegetation Protection Zone are not highly sensitive (i.e., are not wetlands, do not contain endangered species, etc.). Because of these three particular circumstances, the intent of the ORMCP policy regarding the Vegetation Protection Zone is achieved (that being to provide a buffer and protection to the Key Natural Heritage Features)" (Sharp, Witness Statement, Exhibit 7-3, Tab 24, p. 612)

Based on the evidence of Dr. Coleman, Mr. Sandilands, and Mr. Sharp I find that in the limited areas where there will be activity within the 30 metre MVPZ, there is conformity with the ORMCP. Simply put, the change in land use from agricultural (which involves ploughing, planting of crops, harvesting) to a golf course use is a conversion that satisfies the test set out in Section 6(6) of the ORMCP. First, the intrusions are minimal and even in Mr. Sharp's opinion ecologically sound. At the end of the day, Mr. Sharp and Dr. Coleman's differences were limited, with both agreeing that the conversion from hay and pasture to golf course fairways, rough and restoration re-planting is neutral in impact with respect to the natural environment. As indicated

previously, much of the Westhill parcels are actively farmed producing cash crops. Heavy equipment is on site several times a year, so the area is routinely disturbed. The area proposed for Holes 11 and 12 (which were the only two holes that remained in dispute as between Dr. Coleman and Mr. Sharp) is currently hay and pasture and will be converted to golf course fairway, augmented by additional plantings of native trees and shrubs. Second, the management plan also includes substantial plantings of native species that will more than offset the limited tree removal and trimming that is required to accommodate the layout beyond Holes 11 and 12, and in this regard, represents an improvement to the existing landscape. The conditions of approval require further refinement in respect of planting and restoration as the site work gets underway. Finally, the TRCA indicated as part of its review, comment and development of conditions that in areas where the MVPZ is less than 30 metres (a concept that it did not have difficulty with), it would seek to ensure a robust native woody vegetation planting is provided. The TRCA was on site and carefully reviewed the clearing and rehabilitation plan. Westhill made adjustments based on comments it received and the implementation of the conditions, from the TRCA, the Region and the Town are a satisfactory approach to achieving conformity with the ORMCP.

(iii) Density

One final issue raised by the Town planners relates to density. As noted above, Section 3.6.2 iv) of the Town's Official Plan outlines requirements for residential development. There were no concerns from staff with respect to the concept of cluster housing, it was noted that all units will abut the golf course and the conclusion reached was that subject to a detailed review of engineering plans and architectural design submissions, the layout of the residential development plan is generally acceptable from a design perspective.

The Town's OP indicates that overall density of development should generally be comparable to that achieved through estate residential policies of the plan and shall be determined through supporting environmental and servicing studies (Section 3.6.2 iv)). Estate Residential allows up to 1.2 units per ha or .5 units per acre. While the actual size of the two parcels is 200 acres (140 acres on the east side of Leslie and the additional 60 acres to the west), the analysis of density in its 2008 Staff Report was based on an overall site size of 210 acres (an error on earlier plans had been replicated

and identified when the witness statements were filed). The density calculation for the parcel proposed for residential development was based on 150 (instead of 140) acres on the east side of Leslie. Staff concluded that the policies of estate residential were met given 150 acres/75 units is .5 units per acre. Staff also examined the density over the entire landholdings and for 210 acres concluded that the density proposed was .35 units per acre. Staff reported that the density was well within the Estate Residential policies and that the residential development was confined to a land area of 12.6 acres, or 6% of the property (an area that has not changed). On this basis, Staff concluded that this "density and land area is considered an appropriate density and a suitable cluster residential development" (Staff Report, January 18, 2008, p. 11). Relying on the opinions of Ms. Seibert and Mr. Letman, each of whom raised this issue in their testimony, Mr. Beaman submitted staff had been in error in commenting favourably on the proposed density. Mr. Beaman argued that in light of the undisputed evidence that the size of the parcel on the east side of Leslie Street is 140 acres, an application of the density policies to this parcel results in a permission that amounts to a maximum of 70 units, not the 75 units proposed by Westhill.

Mr. Easton's planning opinion was that there is no basis to reduce the density of the residential cluster from 75 to 70 units. Westhill argued that the difference in the density calculation on 200 acres is not significant and there is no basis for a reduction of 5 units for the residential development. I accept Mr. Easton's view that the servicing, layout conditions of approval are all based on 75 units. The supporting environmental and servicing studies support 75 units, and density was not challenged by the Town in the context of these requirements. When considered over the entire 200 acre development, the density remains well within the Estates Residential policies. The unit count represents an appropriate residential cluster, is supported by the servicing studies, and is appropriately reflected in the proposed by-law and the draft conditions of plan approval.

(iv) Conclusion on Planning Conformity

In considering whether overall planning conformity is achieved, I find that the applications before me are consistent with the Provincial Policy Statement, have regard to matters of provincial interest and conform to the relevant municipal official plan policies. Most importantly, they conform to the requirements of the ORMCP, the

requirements of which form part of the Town's OP. I find that taken as a whole, the applications and the conditions of approval (addressed below) in respect of the draft plans of condominium and subdivision constitute good planning. The zoning by-law amendment (Exhibit 2, Tab 17) also represents good planning, subject to a technical review by Town planning staff as to its appropriate final form and content.

In evaluating the merit of the applications and whether they meet the requirements of the *Planning Act*, I was mindful of Mr. Northey's submissions that I must make my decision based on the evidence before me, a proposition I accept and have applied. Mr. Northey suggested that Westhill's reliance on positions taken by the TRCA and MOE (neither of whom participated in the hearing) as part of their respective reviews of the applications "put the Board at risk of committing an error of law". I disagree. My findings are rooted in the evidence before me and supported by the studies and reports undertaken in advance of the approvals sought. The TRCA and the LSRCA have a responsibility (under agreement with the Region) to review plans and provide technical clearance services in accordance with the PPS by fulfilling a series of functions, including specifying conditions of approval. In the case of the Westhill application, the Conservation Authorities have done precisely what they are required to do, and completed their work to the satisfaction of the Region, as confirmed by witnesses called by the Region and in particular by Ms. Kemp.

There has been no delegation of decision making by the Region (or by the Board). The Region has relied on advice from the TRCA and produced able witnesses who testified in respect of that advice. With respect to the MOE, I simply reinforce that it has the sole discretion to issue any permit to take water. This is not a case where the required investigations and work have not been undertaken satisfactorily in advance of the approvals sought. The opposite is true. On the facts of this case, I find that the applicant has demonstrated compliance and conformity in advance of pursuing the next set of approvals it requires either from Provincial agencies or the municipalities. I am satisfied that Westhill has addressed the considerations under the *Planning Act* and in arriving at my decision, I had regard to both matters of provincial interest and the decisions Council made in respect of the development application.

Issue 4 Conditions of Approval

As indicated previously, a series of conditions of draft plan of subdivision and draft plan of condominium were filed with me, and addressed in evidence. Westhill accepted all the Regions conditions and Mr. Letman, on behalf of the Town, agreed that they were appropriate. While the conditions were largely agreed upon (in the event of an approval), Counsel requested that I withhold my order to allow sufficient time for a final review of these conditions. I accept this approach. It is important to emphasize that the conditions form a vital part of the approval. As well as addressing matters that were the subject of the evidence before me, they also address uncontested requirements that Westhill has agreed to comply with, either the request of the Region, the TRCA/LSRCA or the Town. They also recognize the necessity for specific permits, within the sole discretion of other agencies, that Westhill must secure even with land use planning approvals in place.

The Town recommended that the proposed OPA and conditions of approval require Westhill to provide an east-west trail through the development. Examples of walking trails through existing golf courses were provided. Schedule "K" of the Town's new draft official plan delineates the hydro corridor to the west of the site with a trail and an east-west connection toward Highway 404 along Bloomington Road to the south, an east-west connection along the northern boundary of the Westhill property, and another east-west connection north of Vandorf Sideroad. Schedule "K" also shows the existing Oak Ridges Trail along Vandorf Sideroad, generally between Bayview and Highway 404. However, the Town's in force OP depicts an east-west trail connection to the north of the Westhill parcels, across land also in private ownership. The Town argued that its future plans show that in accordance with Schedule "K", that connection should be adjusted and provided across the Westhill parcels as the preferred route to connect existing and planned trails between Yonge Street and Bayview with the Highway 404 corridor. The concept is resisted by Westhill on the basis of safety concerns, cost, site rehabilitation required to construct a trail, and that any trail would likely have to traverse the provincially significant wetland on the site as well as interference with other key natural heritage features.

The difficulty with imposing a condition on Westhill that it provide an east-west trail is two-fold. First, the lands at either end of the site which are intended to be dedicated into public ownership and the proposed route of the trail suggested by the

Town would take hikers through natural heritage features that Westhill has agreed to protect. Dr. Coleman indicated that any trail across the north edge of the property would have to traverse Howden Pond, a crossing that would not be simple. While Mr. Letman suggested the use of boardwalks, their construction and maintenance also has impact. Constructing a trail, even a simple trail, requires clearing and likely grading that will affect on site features that Westhill is planning to protect with appropriate buffers. Second, there are existing and planned east-west trail connections to the north and south of the site. Using the hydro corridor and Bloomington Sideroad is a potential option, as portions of trails often follow roads. The in-force plan shows the proposed trail connection to the north of the Westhill parcels, although that route has not been pursued by the Town. The size of the site, coupled with the location of the natural heritage features at either end of the property and at the edges (given the existing agricultural use for most of the property), make a trail across the Westhill site problematic and accordingly I will not require it as a condition of approval.

In order to address any issue arising from further site specific investigations that may lead to species identified (or species that were identified in the inventory, but protection measures have since changed, i.e. Bobolink) as requiring protection under the *Endangered Species Act*, Westhill added a condition during the course of the hearing that satisfactorily addresses that issue (Exhibit 160, introduced by Mr. Chow).

5. Bovair Trail: Appeal from the Committee of Adjustment

Adjacent to the southern portion of the Westhill property is a vacant four (4) acre lot, which is part of the Bovair Trail (Bovair) subdivision, registered in 1988. Nugget Construction (a company related to Lebovic Enterprises) proposes to complete the subdivision by constructing a single residential dwelling on the west side of the lot (which has street frontage) and incorporate and merge a portion of the land at the east property line, identified as "excess land", into the golf course. The proposed golf course layout prepared by Mr. Carrick includes this small triangular piece of excess land (approximately 6442m² in total, with about 1450m² needed for the fairway on Hole 11). Mr. Easton explained that Lot 11 and the excess lands are subject to part lot control exemption by-law and accordingly a severance is not required to merge the excess land of just under 2 acres into the golf course.

In two separate decisions (D13-11-07/DC-13-43-08) each dated February 12, 2009, the Committee refused to authorize variances from the provisions of Zoning By-law 2213-78, as amended by Zoning By-law No 4469-03.D, which applies to the ORMCP area. The first decision was a request to authorize a variance to permit the use, construction or location of a single dwelling. The second variance was a request for a change in use from estate residential to golf course, to accommodate the proposal to hive off a portion of the building lot and merge it with the Westhill development as a golf course fairway. The evidence and submissions in respect of these appeals were heard following the main appeals, the witnesses were the same as was much of evidence.

The subject lands were originally zoned Estate Residential (ER) Zone and subsequently re-zoned, following the Town's Oak Ridges Moraine conformity exercise. Accordingly, in order to permit construction of a single family home on Lot 11 and incorporate the excess lands into the development, minor variances are required from the provisions of By-law 2213-78, as amended by By-law 4469-03.D, which zones the lands Oak Ridges Moraine Natural Linkage Area (NL-ORM) Zone.

Under the By-law, in the NL-ORM zone no person shall use any land or erect any building except for uses: legally in existence as of November 15, 2001, fish, wildlife and forest management, conservation projects, non-motorized trails, agricultural uses, transportation, natural heritage appreciation or accessory uses to these permitted uses. Mr. McQuaid argued that estate residential was the use for the lands legally in existence as of November 15, 2001 and that his client is permitted, as of right, to proceed with that use and build two estate dwellings to complete the subdivision. As indicated above and relevant to the proposed OPA and zoning by-law, is the request to complete the golf course layout by obtaining a variance to permit what was characterized by Mr. McQuaid as an estate residential yard to be used for the golf course.

Under the Town's OP, the Bovair Trail lands are designated a combination of "Countryside Area" and "Natural Linkage Area". The lands for which the variance is sought to permit a golf course use lie in the "Natural Linkage Area" designation. The designation permits Low-Intensity recreational uses (as set out in Section 37 of the ORMCP), described as "uses that have minimal impact on the natural environment, and require very little terrain or vegetation modification and few, if any, buildings or structures, including but not limited to" non-motorized trail uses, natural heritage

appreciation, unserviced camping and accessory uses such as boardwalks, foot bridges, fences, docks and picnic facilities. Section 38 of the ORMCP goes on to describe major recreational uses as those that "require large-scale modification of terrain, vegetation or both and usually require large-scale buildings or structures" including uses such as golf courses, serviced playing fields, serviced campgrounds and ski hills. The Town argued that because the Natural Linkage designation does not permit major recreational uses, which includes a golf course, using any excess land from the Bovair Trail subdivision, even for the purpose of a fairway, is prohibited by the ORMCP. The Town's position and Mr. Kyle's evidence was that the minor variance application to permit the use must fail as it does not conform to the ORMCP or the zoning by-law.

Pursuant to subsection 45(1) of the *Planning Act*, variances from applicable by-law provisions may be authorized if they maintain the general intent of the Official Plan and zoning by-law, are desirable for the appropriate development or use of the land and are minor. In addition, under subsection 45(2)(b)(ii) a minor variance may be authorized if it is demonstrated that the proposed use is similar to, or more compatible with, the use permitted.

Section 3.13 of the Town's OP implements subsection 6(6) of the ORMCP and provides that nothing "in this Plan prevents the conversion of an existing use to a similar use, if the applicant demonstrates that the conversion: i. will bring the use into closer conformity with the Oak Ridges Moraine Conservation Plan; and ii. will not adversely affect the ecological integrity of the Oak Ridges Moraine Area" (Section 3.13.3.f). The Town submitted the existing use for the Bovair Trail lands is estate residential. Westhill argued that a golf course fairway is a similar use to estate residential and therefore a conversion of the use would conform to both the ORMCP and the Town's OP. It was Dr. Coleman's view that the combined new golf course fairway use for the smaller triangular area (incorporated into the golf course design by Mr. Carrick), with retention of the bulk of the woodland for the buffer, will bring the use more into conformity than leaving that land in estate residential. The rationale was that the woodland could be largely lost if cleared for an estate residential lot. While there was some discussion with respect to how many trees a single residential owner would be able to clear under the Town's Tree Cutting By-law and where the actual dwelling, as opposed to amenity area could be located, I accept that there is little, if any, distinction in this context between a

residential use and the golf course fairway use in terms of affecting the ecological integrity of the Oak Ridges Moraine. On this basis, there is no ecological reason to deny the conversion. With respect to the permission required to construct a single family dwelling on Lot 11, that variance for the use is authorized. The construction of the dwelling is simply a completion of the previously established Bovair Trail subdivision.

For all of these reasons, both appeals from the decisions of the Committee of Adjustment are allowed. Variances are authorized to: first, permit the golf course use for the "excess lands"; and second, to permit the construction of a single dwelling. The variances are authorized subject to the conditions set out in Exhibit 208 and the additional condition proposed by Mr. Kyle set out in Exhibit 209.

6. Decision and Interim Order

Based on all of the evidence, I find that the planning instruments under appeal are consistent with the Provincial Policy Statement and conform to all applicable provincial plans. As indicated above, I had regard to matters of provincial interest under Section 2 of the *Planning Act* and decisions taken by the Town and the Region. The development conforms to the Region's Official Plan and the policies contained in the Town's Official Plan, including policies that require conformity with the ORMCP, subject to the site specific re-designations set out in the proposed OPA (Exhibit 166). The Town's By-law shall be amended in accordance with the proposed zoning by-law amendment (Exhibit 2, Tab 17), however, my order is withheld. In relation to the draft plans of subdivision and condominium, I accept the submission made by Mr. McQuaid in argument where he indicated that with respect to the draft conditions for the Plans, Counsel for Westhill and the Town have agreed that the draft conditions set out set out on Exhibit 183 for the subdivision plan and Exhibit 184 for the condominium plan will be reviewed and the Board will be advised of the result of such review and whether the Board needs to be spoken to or re-attend to address any condition in dispute (Westhill Argument, p.17).

I find that Westhill has met the intent of the Municipal Class EA by fulfilling the requirements outlined in section A.2.9 (Integration with the *Planning Act*). The Westhill project is therefore considered to be pre-approved under the Municipal Class EA and

may proceed, once my final order is issued approving the applications under the *Planning Act*.

The appeals are allowed, and the following orders are made:

1. The proposed Official Plan Amendment is approved, and the Town's Official Plan is modified in accordance with Attachment "1" (Exhibit 166).
2. The Town's By-law shall be amended in accordance with the draft zoning by-law amendment (Exhibit 2, Tab 17). This Order is withheld to permit Westhill and the Town to agree upon the final wording of the zoning by-law amendment, which shall be in accordance with my decision.
3. The details of the Draft Plan of Subdivision (Exhibit 17) and the Draft Plan of Condominium (Exhibit 11) are settled, subject to the terms and conditions set out in Exhibits 159 (TRCA), 160, 183 and 184. This order is withheld, at the request of Counsel.
4. The appeals from the decisions of the Committee of Adjustment dated February 12, 2009 are allowed and the variances as requested are authorized, subject to the conditions set out in Exhibits 208 and 209.

In light of the joint request by Counsel to withhold my final order, the parties are directed to advise within three (3) months of the date of this decision whether the wording of the planning instruments is agreed upon, including the numerous conditions, as set out in the various exhibits referred to above. Thereafter, my final order will issue.

This is the Interim Order of the Board.



J. de P. SEABORN
VICE CHAIR

ATTACHMENT "1"

AMENDMENT NO.

TO THE

OFFICIAL PLAN

FOR THE TOWN OF AURORA

October 17, 2010

AMENDMENT NO.
TO THE OFFICIAL PLAN OF THE TOWN OF AURORA

STATEMENT OF COMPONENTS

PART I:	THE PREAMBLE	1
1.0	Introduction	1
2.0	Purpose of the Amendment	1
3.0	Location of the Amendment	1
4.0	Basis for the Amendment	1
PART II:	THE AMENDMENT	3
1.0	Introduction	3
2.0	Details of the Amendment	3
2.1	Amendment to Schedules "A" and "H"	3
2.2	Section 3.6.2a Site Specific Policy Areas	3
1.0	General Policies	3
2.0	Environmental Impact Study	4
3.0	Land Use Designations	4
4.0	Transportation	9
5.0	Servicing	10
6.0	Parkland	10
7.0	Implementation and Interpretation	10

PART I - PREAMBLE

1.0 INTRODUCTION

This part of the Amendment entitled Part 1 - The Preamble, introduces the Amendment and describes the context and planning process leading to the document's preparation. It is for explanatory purposes only and does not form part of the Amendment.

2.0 PURPOSE OF THE AMENDMENT

The purpose of this amendment is to redesignate those lands currently identified as Site Specific Policy Area 3.6.2 e in the Official Plan for the Town of Aurora to permit the development of a residential/golf course community. Specifically, the effect of this Amendment is to redesignate those lands identified on Schedule 'A-A' from "Oak Ridges Moraine Countryside Area" (Transitional) and "Oak Ridges Moraine Natural Linkage Area" (Transitional) to "Oak Ridges Moraine Countryside Area Estate Residential Exception", "Oak Ridges Moraine Natural Linkage Area Estate Residential Exception" and "Oak Ridges Moraine Natural Linkage Area Major Recreational Use Exception".

3.0 LOCATION OF THE AMENDMENT

The area of this Official Plan Amendment consists of approximately 24 hectares (60 acres) of land described as Part of Lot 12, Concession II and approximately 57 hectares (140 acres) of land described as part 2 of Plan 66R-11866 and Plan 66R-15608, comprising Part of Lots 11 and 12, Concession III in the Town of Aurora. The lands are located on the east and west sides of Leslie Street, north of Bloomington Road and in the vicinity of the Bovair Trail Estate residential subdivision. The Amendment area is delineated more specifically on Schedule 'A-A', attached hereto.

4.0 BASIS FOR THE AMENDMENT

4.1 The area covered by this Amendment was originally designated Rural in the Town of Aurora Official Plan. The Town's Growth Management Study provided a basis for Official Plan Amendment (OPA) 17. OPA 17 identified that limited residential use in a clustered development form and on communal services may be permitted on certain sites in the Rural Area, subject to site specific policies.

4.2 The Town of Aurora Official Plan, as amended by OPA 17 identifies the subject property as a site specific policy area. Schedule H to the Official Plan as amended, establishes the subject land as Site Specific Policy Area 3.6.2 e, which states that:

"The land identified on Schedule H as 3.6.2 e (east) comprising Part Lots 11 and 12, Concession III are intended to be developed for high quality residences in a cluster arrangement that are serviced by a privately owned and operated communal wastewater treatment system and water supply system in accordance with the criteria identified in Section 6.2.3 c. The land identified on Schedule H as 3.6.2 e (west), comprising Part Lot 11, Concession II may be used for a golf course to be developed in conjunction with the lands under the same ownership east of Leslie Street, provided satisfactory arrangements for a grade separated access Leslie Street can be made. These lands shall require an amendment to this Plan prior to any development taking place. The Amendment shall provide detailed policies to ensure that the golf course is developed and operated in a manner that the environmental values, function and process of the Oak Ridges Moraine will be maintained or enhanced."

- 4.3 Official Plan Amendment No. 3 to the Region of York Official Plan placed the subject land in the Rural Policy Area of the Region of York. Golf courses are permitted in the Rural Policy Area subject to certain provisions. The residential condominium development facilitated by this amendment to the Aurora Official Plan is provided for by a specific policy in the Regional Official Plan which states:

"5.9.11. Notwithstanding the policies of this Section, the lands described as part 2 of Plan 54R-11886 and Plan 65R-16508, comprising part of Lots 11 and 12, Concession III, Town of Aurora, are intended to be developed for high quality residences in a cluster arrangement and condominium ownership. The development is intended to offer an alternative house form and lifestyle to that which is typically found in existing neighbourhoods in the Town of Aurora. Such a development will be served by privately owned and operated communal wastewater treatment systems and water supply system in accordance with the criteria in Policies 5.13.4 and 5.13.5 (b) and (c) of this Plan and the following:

- a) prior to any development taking place, approval of an amendment to the area municipal official plan supported at a minimum by the following:
 - i) a market support study
 - ii) an engineering report
 - iii) an environment and landscaping analysis
 - iv) an economic/fiscal impact analysis confirming the viability of the proposal and the proposed economic benefits to the municipality.
- b) overall density of development shall generally be compatible to that achieved through estate residential policies of the area municipal plan and shall be determined through supporting environmental and servicing studies;
- c) design shall effectively screen development from arterial roads and existing uses through sensitive siting and landscaping. Access shall be from internal paved roadways constructed to municipal standards and designed to discourage through traffic."

5.13.4 An economic/fiscal impact analysis be completed to confirm the financial viability of the proposal, the proposed economic benefits to the Region and to ensure that the local and Regional financial impacts are accounted for in keeping with Policy 7.3.6 of this Plan.

5.13.5 Small scale residential development may be permitted as an accessory or secondary use to established resort/recreational developments, subject to the following:

- b) servicing by a privately owned and operated communal wastewater treatment system and privately owned and operated communal water system, as approved by a Class Environmental Assessment or equivalent process which includes the following:
 - i) an inventory of the existing environment and possible impacts;
 - ii) evaluation of alternatives in consultation with affected agencies;
 - iii) preliminary design of the preferred alternative, that will ensure construction of collection and distribution systems to municipal standards;
 - iv) specifications of the interrelationship with the adjacent recreational use; and,
 - v) preparation of a maintenance, monitoring and system failure contingency plan;
- c) a Responsibility Agreement(s) being executed for the communal wastewater treatment and water systems, identifying among other things:
 - i) operation and maintenance standards;
 - ii) definition of default and required remediation;
 - iii) financial guarantees that no public funds will be required in the case of a malfunction;
 - iv) easements, rights of entry and inspection; and
 - v) monitoring systems;"

-
- 4.4 A Master Environmental Servicing Plan (MESP) was prepared in support of this amendment. The MESP is comprised of an Environmental Report; a Water Supply Study; a Detailed Hydrogeological Study; an Addendum Report to the Water Supply Study and detailed Hydrogeological Study; a Functional Servicing Report; and a Golf Course Grading Plan and Course Rehabilitation and Planting Plan. The MESP was supplemented by an Addendum as requested by Toronto and Region Conservation Authority (TRCA). The MESP and Addendum supporting this Amendment were submitted to the Town of Aurora and TRCA for review and approval. In addition other reports were submitted to the Town in support of this amendment including a Fiscal Impact Analysis, a Golf Course and Residential Market Demand Assessment, a Heritage Impact Assessment, an Archeological Study, and a Noise Impact Study.
- 4.5 The Official Plan requires that the lands be developed on communal services. Topography and natural drainage dictate the location of servicing facilities.
- 4.6 The lands subject to this amendment are within the Oak Ridges Moraine Planning Area. As required, both the Regional Official Plan and Town Official Plan have been amended to bring the documents into conformity with the Oak Ridges Moraine Conservation Plan. The Regional and Town planning framework recognizes the Transitional status of the development. The Town of Aurora Official Plan now designates the subject property partly as "Oak Ridges Moraine Countryside Area" (Transitional) and partly as "Oak Ridges Moraine Natural Linkage Area" (Transitional). The proposed development as addressed the features and natural resources within the area in the context of the Oak Ridges Moraine Transitional Prescribed Provisions.

PART 2 - THE AMENDMENT

1.0 INTRODUCTION

All of this part of the document entitled Part 2 - The Amendment, consisting of the following text and attached map, designated Schedule "A-A" (Land Use Plan), constitutes Amendment No. ____ to the Official Plan for the Town of Aurora.

2.0 DETAILS OF THE AMENDMENT

2.1 Amendment to Schedules "A" and "H" of the Official Plan as Amended by OPA No. 17 and further Amended by OPA. No. 48

- a) Schedule "A" of the Official Plan is hereby amended by removing certain lands from the "Oak Ridges Moraine Countryside Area" designation and denoting on Schedule "A" that those lands are designated "Oak Ridges Moraine Countryside Area Estate Residential Exception".
Schedule "A" is further amended by removing certain lands from the "Oak Ridges Moraine Natural Linkage Area" designation and denoting on Schedule "A" that those lands are designated "Oak Ridges Moraine Estate Residential Exception".
Schedule "A" of the Official Plan is further amended by removing certain lands from the "Oak Ridges Moraine Natural Linkage Area" and denoting on Schedule "A" that those lands are designated "Oak Ridges Moraine Natural Linkage Area Major Recreational Use Exception".
All of which is delineated on Schedule "A-A" and in accordance with the Policies of Official Plan Amendment ____.
- b) Schedule "H" of the Official Plan as amended by OPA No. 17 is hereby updated to include the following notation "3.6.2 e - In accordance with OPA No. ____".

2.2 Section 3.6.2 e Site Specific Policy Areas of the Official Plan as added by OPA No. 17 is hereby replaced by the following:

Section 3.6.2 e:

1.0 General Policies:

"The lands identified on Schedule H as 3.6.2 e (east) comprising Part of Lots 11 and 12, Concession III are intended to be developed for high quality residences in a cluster arrangement that are serviced by a privately owned and operated communal wastewater treatment system and water supply system in accordance with the criteria identified in Section 3.6.2 c. The land identified on Schedule H as 3.6.2 e (west), comprising Part of Lot 12, Concession II may be used for a golf course to be developed in conjunction with the lands under the same ownership east of Leslie Street, provided satisfactory arrangements for a grade separated access across Leslie Street can be made.

- 1.1 All development shall occur in accordance with the environmental reports and addenda submitted in support of this amendment. These reports are contained in the approved Master Environmental Servicing Plan (MESP) dated September 2005 and revised August 2006.

These reports include the following:

- Environmental Report, August 2006 prepared by Ages Consultants Limited in association with Gray Owl Environmental Inc.

Part II: The Amendment

Page 6

- Water Supply Study, August 2003 prepared by Jagger Hims Limited
- Detailed Hydrogeological Study, August 2005 prepared by Jagger Hims Limited
- Water Supply Study and Detailed Hydrogeological Study Addendum, August 2006 prepared by Jagger Hims Limited
- Functional Servicing Report, August 2005, revised August 2006 prepared by Semas Associates
- Clearing and Rehabilitation Planting Plan, August 2, 2006 prepared by Canick Design Inc.

1.2 A post development monitoring program shall be implemented to determine impacts on the environmental protection area and to recommend any mitigative measures.

1.3 The Golf Course shall obtain certification pursuant to the Audubon Program for Golf Course Management.

2.0 Environmental Impact Study

An Environmental Impact Study, incorporated within the approved MESP, has been prepared which addresses the following:

2.1 Assessment of Potential Impacts

Proposed Development Concept
Net Effects Assessment
Short-Term Environmental Impacts
Long-Term Environmental Impacts
Proposed Mitigative Measures

2.2 Environmental Management Plan

Ecological Management Requirements and Objectives
Buffer Zones
Definition and Utility of Buffer Zones
Buffer Zone Widths -- A Review
Site-Specific Buffer Management Recommendations
Re-vegetation and Restoration Areas
Environmental Guidelines for Golf Course Design and Management
Site-Specific Guidelines

All development shall occur in accordance with the approved MESP and the recommendations contained therein.

3.0 Land Use Designations

3.1 "Oak Ridges Moraine Countryside Area Residential Exception" within the Site Specific Policy Area shall be comprised of detached residential units of condominium tenure and shall be serviced with communal water supply and waste water treatment facilities. Accessory uses and home occupations which are accessory to the residential use and compatible with the residential environment may also be permitted.

3.2 "Oak Ridges Moraine Natural Linkage Area Residential Exception" within the Site Specific Policy Area shall be developed in accordance with the policies of the "Oak Ridges Moraine Countryside Area Residential Exception" designation.

3.3 Residential Units

The Residential Units noted above shall also be developed in accordance with the following policies:

- i) The lands may be developed for a maximum of 75 single family homes.
- ii) A site plan and agreement shall be required to ensure high standards in the conceptual design of the buildings, their massing and siting. The Site Plan agreement shall require that a controlling architect is to be retained by the Town and the cost of such shall be borne by the applicant.
- iii) The implementing site plan agreement shall provide for the following:
 - Notice to purchasers shall be required in all offers of purchase and sale that occasionally golf balls may stray onto their property.
 - All trees planted within the landscape areas of the site shall be native species.
 - The recommendations contained within the Semas Associates report dated October, 2007 entitled "Noise Impact Study" respecting noise attenuation for the subject property shall be complied with.
- iv) The development shall utilize practices which encourage groundwater infiltration and seek additional opportunities where they can be employed throughout the site. The details of how infiltration will be maximized shall be shown in future detailed design drawings and shall be satisfactory to the Town of Aurora. This includes but is not limited to: open ditches, perforated pipes; minimizing the extent of hard surface areas and maximizing the use of clean runoff from rooftops and yards for recharge. The site plan agreement shall require registration of a covenant on title and ensure that the condominium corporation will assume the obligations for carrying out the following matter in an agreement between the condominium corporation and the Town. The condominium declaration will require and the condominium corporation will provide to each unit owner for an ownership education manual addressing the benefits of environmentally sensitive, chemical free lawn care to minimize impacts of ground related pollutants on the quality of the groundwater and the impact of infiltration. The manual shall also include discussion on the need to maintain pervious surfaces to allow groundwater infiltration. The ownership education manual shall be provided to each homeowner on the initial sale and future resale of any unit.

The area impacted by construction shall be constrained to minimize soil compaction throughout the site and particularly in areas where the more silty soils are susceptible to compaction. Compaction will significantly reduce the infiltration capacity of the soil. Construction envelopes shall be established during detailed design, agreed upon, and fenced in the field. No construction equipment (including trucks, backhoes, etc) or storage materials shall be allowed in the fenced off areas. Contingency planning to halt the operation of heavy machinery during and immediately following significant rain events should be provided to minimize soil compaction.

Part II: The Amendment

Page 8

- v) Site grading shall be minimized and the existing topography maintained to the extent possible.
- vi) The Zoning By-law Amendment will use a holding symbol "H" in conjunction with any or all use designations and the holding symbol "H" shall not be lifted until a site plan agreement satisfactory to the Town of Aurora to be entered into, and, resolution of Development Charges or other charges payable for the property has been achieved.
- vii) In considering the removal of any zoning holding symbol from lands designated in the Residential category, Council shall be satisfied that the reports, studies, and design requirements contemplated for the residential development are complete to the Town's satisfaction, and approved by the Town in consultation with the relevant agencies, and further that the site plan agreement contemplated has been executed by Council.

3.4 "Oak Ridges Moraine Natural Linkage Area Major Recreational Use Exception"

The lands that are designated "Oak Ridges Moraine Natural Linkage Area Major Recreational Use Exception" are comprised of those lands on Schedule "A" to the parent Plan that are designated "Oak Ridges Moraine Natural Linkage Area" (Transitional). A golf course is permitted within this designation in the Site Specific Policy Area in accordance with the approved MESP and in accordance with the policies of this amendment.

3.5 Golf Course Development - Special Policy Area 3.6.2.a

A Golf Course is permitted on lands designated "Oak Ridges Moraine Natural Linkage Area Major Recreational Use Exception" and on lands designated "Oak Ridges Moraine Countryside Area" which are located within the Site Specific Policy Area. Golf course development shall be in accordance with the approved MESP.

Golf Course development shall also comply with the following policies:

- a) An eighteen hole golf course including clubhouse facilities and incidental ancillary uses relating to the golf course are permitted.
- b) A portion of the golf course is intended to be located within the Bloomington ESA #93 and on a portion of the White Rose Spillway. Notwithstanding the provisions of Sections 3.11.1.1, 3.11.1.3, 3.11.1.4 and Schedule "D" to the Aurora Official Plan, intrusion of the golf course into Bloomington ESA #93 will be permitted subject to compliance with the policies of this Official Plan Amendment.
- c) Despite the golf course intrusion into the Environmentally Significant Area, the wetland function shall be maintained and enhanced without any loss of wetland function, in accordance with the approved MESP.

Part III: The Amendment

Page 9

- d) The approved MESP shall be implemented through a site plan agreement to be executed prior to commencement of construction. The approved MESP addresses the following objectives:
 - i) maintenance of hydrologic functions (groundwater discharge and flood storage);
 - ii) maintenance of water quality to a degree which is acceptable to the Town in consultation with the relevant agencies;
 - iii) maintenance of wildlife linkages across the landscape;
 - iv) maintenance of wetland/upland connection within the wetland to maximize wildlife habitat potential;
 - v) no net loss of diversity of wetland vegetation types; and
 - vi) no net loss of biodiversity of the wildlife community.
- e) The golf course shall be developed through the site plan approval process and the design shall be consistent with and in accordance with the findings, objectives, recommendations and implementing measures emanating from the approved MESP and any other studies or requirements of this Official Plan Amendment. The golf course shall be designed by a qualified golf course architect.
- f) Modifications to the golf course development scheme, resulting from detailed environmental considerations, detailed design studies or other special studies required by the Town of Aurora may be permitted. Such modifications shall not require an amendment to this Plan provided that the proposed revisions, in the opinion of the Town, in consultation with the relevant agencies, represent sound environmental and land use planning.
- g) The proponent shall submit in support of the site plan application the following golf course design details in addition to the details included in the MESP:
 - i) a layout plan outlining the locations of all holes including a description of the species and areas of all vegetation to be affected;
 - a) the layout plan shall provide that tees and access paths within the wetland will be constructed in an ecologically compatible manner;
 - ii) drainage plans showing tile outlet locations with appropriate diffusers;
 - iii) grading plans depicting pre-and-post-development contours to demonstrate temporary stockpile locations, steep slopes and stabilization requirements;
 - iv) a sediment and erosion control plan for implementation at the construction stage;

Part II: The Amendment

Page 10

- v) phasing of construction;
 - vi) a storm drainage plan which demonstrates quality and quantity controls that are integrated with the plans for the remaining development area; and
 - vii) staking in the field by a qualified professional the limits of construction areas to be protected, plants or plant groupings to be relocated and trees to be preserved.
- h) The proponent of the golf course shall prepare and submit with the Site Plan Application, an Environmental Golf Course Management Plan and Maintenance Protocol to guide the operation of the site and ongoing maintenance of the golf course. The procedures may include state of the art techniques for well monitoring, water usage monitoring, measuring the rate of wetland regeneration, and joint inspection procedures with the Town, relevant agencies and the Town's environmental consultants. The Plan will address to the satisfaction of the Town:
- i) irrigation systems and operations procedures;
 - ii) a water conservation strategy which minimizes the use of water by utilizing a variety of conservation techniques including the installation of state of the art irrigation, turf grass management, Best Management Practices for storm water and the selection of appropriate vegetation. The water conservation strategy will also identify methods of protecting and maintaining infiltration and the integrity of groundwater quality and quantity. The water conservation strategy will be reviewed and approved by the Town in consultation with the relevant agencies;
 - iii) an integrated pest management plan, including environmentally sound methods to minimize chemical fertilizer and pesticide use;
 - iv) turf and rough maintenance practices;
 - v) building, road and servicing maintenance requirements and practices;
 - vi) a monitoring program for the shallow groundwater system to document pre-and post-construction groundwater quality;
 - vii) a set of performance targets for water quality against which to assess the monitoring data;
 - viii) a protocol for addressing water quality targets which are exceeded;
 - ix) a monitoring program for wetland/upland vegetation in disturbance areas, edge zones and protected areas;
 - x) a protocol for addressing wetland/upland vegetation monitoring results and;

Part II: The Amendment

Page 11

- xi) The Golf Course Management Plan shall identify Natural Features to be protected, natural features to be managed, natural meadow communities and restoration planting.
- j) The Golf Course Management Plan shall be prepared by an integrated team including a golf course architect, hydrogeologist, wetland biologist and stormwater management engineer. The study findings recommendations and measures shall be approved by the Town of Aurora and the relevant environmental approving agencies and form part of a site plan agreement to be executed prior to the development of the golf course. The aforementioned agreement shall contain provisions requiring the implementation of the Golf Course Management Plan and Maintenance Protocol on a continuous on-going basis, and shall be binding on the operator and/or manager of the golf course, if other than the owner of the lands.
- j) It is the intent of this Plan and the implementation techniques emanating from the Plan that the golf course Maintenance Protocol shall be premised on golf course maintenance practices which are conservative. Applications of fertilizer and pesticides shall be used only on a minimal basis. Industry Guidelines for integrated pest management shall be used. In addition, the site plan agreement shall provide that the application of chemicals should, to as great an extent as possible, be at times when there is a low likelihood of precipitation for a few days following. The owner shall further agree in the site plan agreement to retain the services of a qualified golf course superintendent to implement a program of turf management minimizing areas of managed turf, to ensure that state of the art, environmentally sound, methodologies will be applied on an on-going basis.
- k) The Town of Aurora shall retain a qualified environmental consultant, at the expense of the proponent, to review the proposed golf course design, maintenance plan, and the various implementing studies and reports to insure that the policies of the Official Plan and this Secondary Plan are adhered to prior to, and during construction of the golf course. The Town's environmental consultant may make additional recommendations to be incorporated into the site plan agreement to implement the intent of the policies of this amendment.

The environmental consultant shall take an active coordinator/facilitator role to assist the Town in obtaining clearances from the environmental approving agencies.

The Town of Aurora shall appoint a qualified on-site environmental inspector mutually agreeable to the Town and the proponent at the expense of the proponent, to monitor the implementation of the recommendations of the environmental consultant and to monitor the fulfillment of the environmental objectives of the site plan agreement and this amendment. The qualifications, function and authority of the environmental inspector including a construction "stop work" authority shall be set out in the site plan agreement between the proponent and the Town.

- l) In considering the removal of any zoning holding symbol from lands designated in the Golf Course category, Council shall be satisfied that the reports, studies, and design requirements contemplated for the golf course are complete to the Town's satisfaction, and approved by the Town in consultation with the relevant agencies, and further that the site plan agreement contemplated has been executed by Council.
- m) The golf course clubhouse and any future ancillary facilities contemplated within the golf course lands shall be developed on the basis of communal water and sanitary services. Accordingly, prior to any development of uses on such communal services, the Regional Commissioner of Environmental Services shall advise that a Responsibility Agreement has been executed between the proponent and York Region.

4.0 Transportation -- Road and entrance locations

- a) The location of the proposed access to Leslie Street is subject to approval by York Region.
- b) A grade separation will be required linking the proposed golf course on the east and west side of Leslie Street. This grade separation will facilitate safe pedestrian and golf cart movement while preserving the arterial road function of Leslie Street. The timing for this grade separation will be determined by the York Region.

5.0 Servicing

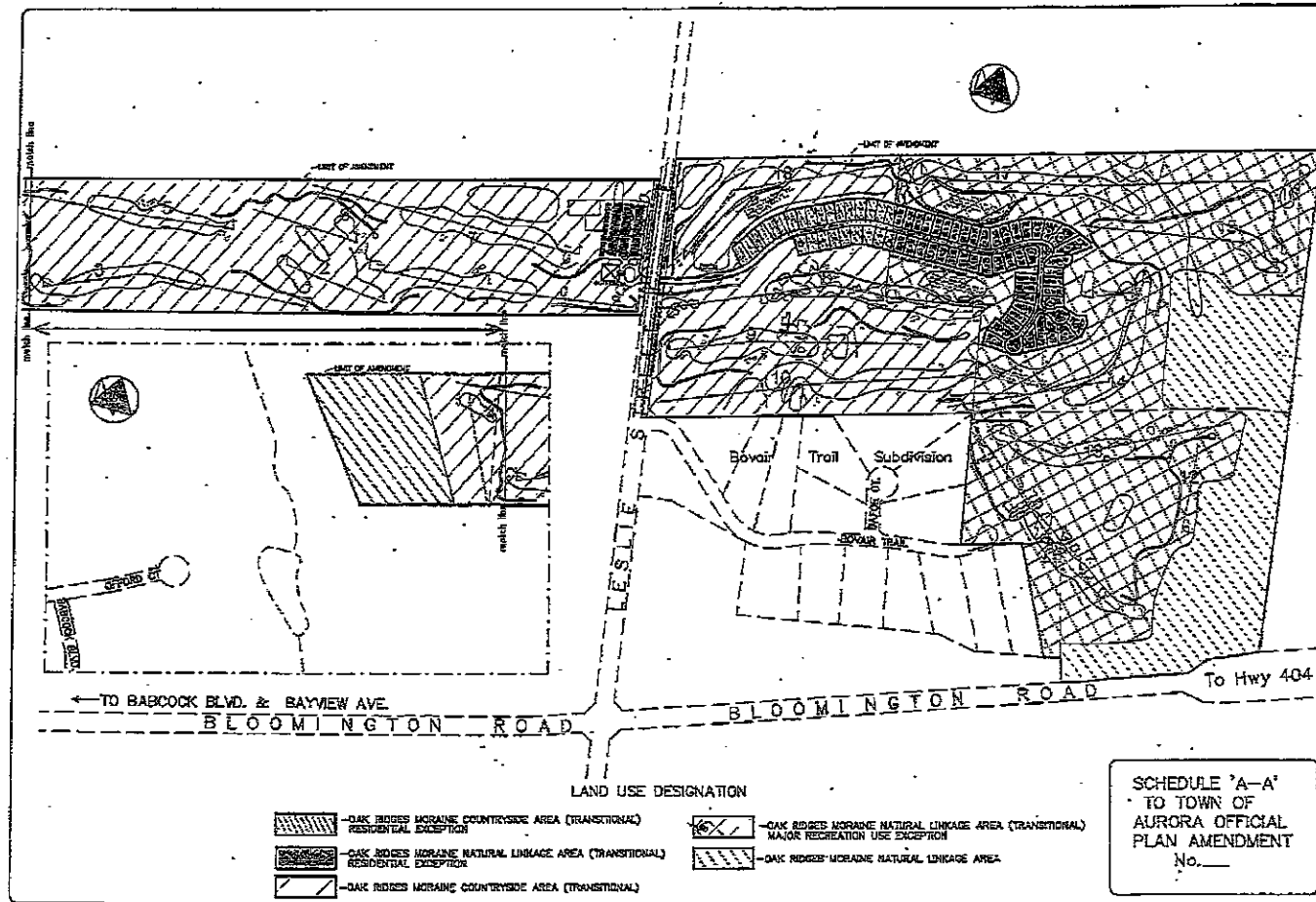
- a) Prior to approval of draft plans of subdivision, draft plans of condominium or site plans, Functional Servicing Plans shall be prepared and approved by the Town of Aurora in consultation with the Region, the Lake Simcoe Region Conservation Authority and the Toronto and Region Conservation Authority. Development approvals shall require the implementation of the findings and recommendations of the Functional Servicing Plans.
- b) Functional Servicing Plans shall address specific servicing requirements and their environmental impacts and influence on development design. This includes stormwater management, sanitary, water, roads and site grading requirements. The terms of reference for Functional Servicing Plans shall be prepared to the satisfaction of the Town of Aurora.
- c) Stormwater management shall be provided to, as a minimum, attenuate future flows from the 2 year through 100 year events to existing levels and provide quality control treatment in accordance with Provincial guidelines. The stormwater management and water quality control component of the Functional Servicing Plan shall be undertaken to the satisfaction of the Town of Aurora in consultation with the agencies. The study shall outline measures and recommendations for proper stormwater management techniques as well as erosion and sedimentation control measures to be employed on-site both during and after construction. This required stormwater management and water quality control study shall be carried out in conjunction with and be consistent with the Golf Course Management Plan required by this Amendment.

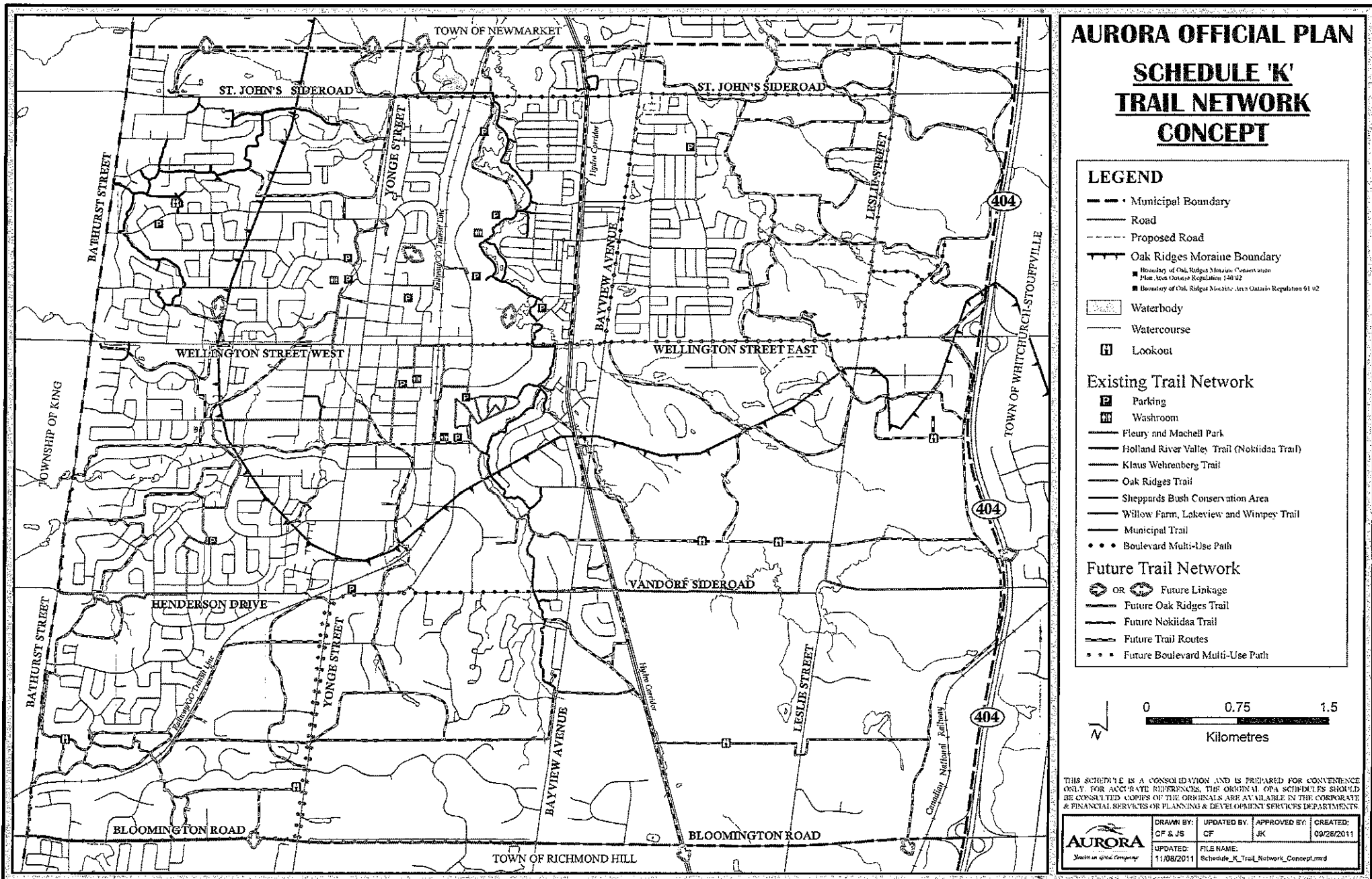
6.0 Parkland

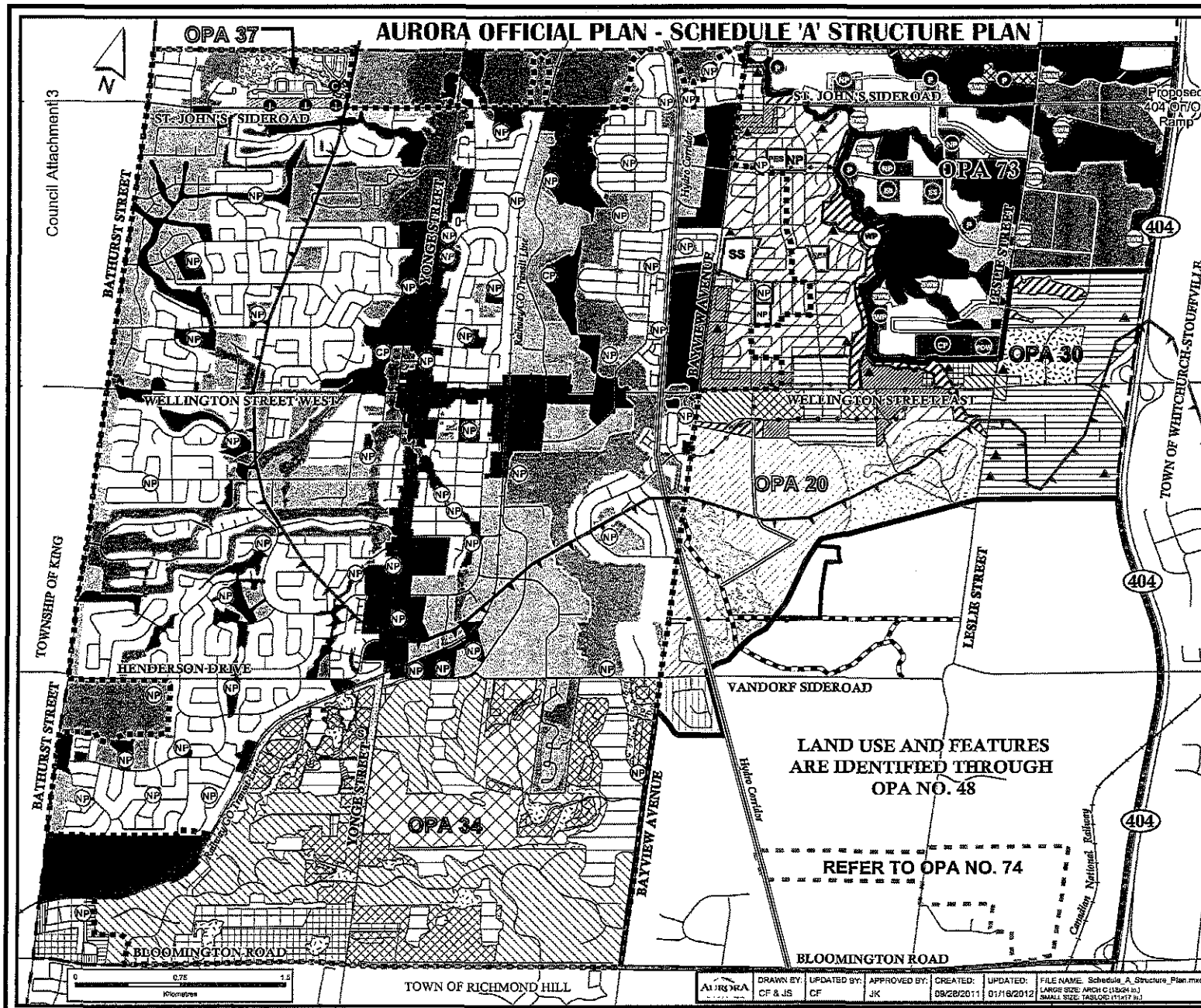
Parkland dedication shall be cash-in-lieu in accordance with Sections 42 and 51.1 of the Planning Act.

7.0 Implementation and Interpretation

The implementation and interpretation of this Amendment shall be in accordance with the respective policies of the Aurora Official Plan.







LEGEND	
— Municipal Boundary	— Refer to Minister's Decision
— Road	— Oak Ridges Moraine Boundary
- - - Proposed Road	■ Boundary of Oak Ridges Moraine Conservation Plan Area (Ontario Regulation 140/02)
■ Built Boundary	■ Boundary of Oak Ridges Moraine Area (Ontario Regulation 01/07)
CP Community Park	■ Transitional - Subject to the prescribed provisions of the Oak Ridges Moraine Conservation Plan
NP Neighbourhood Park	
NOTE: ALL LANDS WITHIN THE OAK RIDGES MORaine CONSERVATION PLAN BOUNDARY ARE SUBJECT TO OPA 48.	
Land Use Designations	
Greenlands System	Suburban Residential
Environmental Protection	Existing Commercial
Private Parkland	Existing Major Institutional
Public Parkland	Existing Employment - General Industrial
The Aurora Promenade	Existing Employment - Light Industrial/Service
Stable Neighbourhoods	Existing Employment - Brownfield Industrial
Estate Residential	
OPA 73	
The Greenlands System	The Residential Neighbourhood
Environmental Protection Area	Urban Residential 1
Community Park	Urban Residential 2
Neighbourhood Park	Mixed-Use Residential/Commercial
Wildlife Park	Residential Interface Overlay
Park	Elementary School
Stormwater Management Facility	Place of Worship
Wildlife Park Trail Head	The Business Park
Development Limit	Business Park 1
OPA 20	
Collector Road Connections	Urban Residential
Private Pedestrian Connections	Suburban Residential
Conceptual Trail System And Pedestrian Linkages	Public Open Space
	Golf Course
OPA 30	
Stormwater Management Facility	Business Park
Recommended Environmental Protection Line	Business Park-Regional Commercial Centre
Trail System	Community Commercial
Secondary School	Convenience Commercial
Separate Elementary School	Low-Medium Density Residential
Public Elementary School	Medium-High Density Residential
Neighbourhood Park	Mixed Use
Wildlife Park	Institutions
Linear and Other Open Space	
OPA 34	
Building Setback	Estate Residential
Cluster Residential	Low Density Suburban Res.
Ecological Buffer	Major Institution
Elementary School Park	Minor Institution
Environmental Function Area	Private Open Space
Environmental Protection Area	Public Open Space
Environmental Restoration Area	Suburban Residential
	Transitional Residential
OPA 37	
Possible Intersection	OPA37 Concept Road
Proposed Location of Creek Crossing	Core Area Open Space
Stormwater Management Facility (Conceptual)	Suburban Residential
	Suburban Residential (SR-1)
	Supporting Area Open Space

June 13, 2012

Via E-mail – ghislaine.boulianne@york.ca

Regional Clerk
Mr. Denis Kelly
Regional Municipality of York
17250 Yonge Street
Newmarket ON L3Y 6Z1

Dear Mr. Kelly:

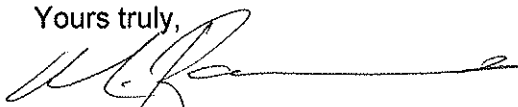
**Re: Town of Aurora Official Plan
Request from WeirFoulds – Mr. Michael McQuaid for
Modification to Schedule K
Planning and Economic Development Committee Meeting – June13-2012**

I have spoken with Mr. McQuaid regarding his letter dated June 12, 2012 requesting to modify Schedule 'K' of the Town's Adopted Official Plan. We are currently working with Westhill on a Subdivision Agreement to implement the Ontario Municipal Board Order, which does not include a trail connection through the subject lands. A condition of draft plan approval has not been imposed to include a trail connection though the subject lands.

The Official Plan policy clearly states that Schedule 'K' shows the Aurora Trail Network conceptually as recommended in the Town of Aurora Trails Master Plan and that "implementation of the proposed Aurora Trail Network will occur, in accordance with the Trails Master Plan, mainly when development, redevelopment and public works projects take place. Secondary Plans, Plans of Subdivision and Site Plans may modify, supplement or extend the Aurora Trail Network Concept shown on Schedule 'K' of this Plan, without requiring an Amendment to this Plan, as long as the changes reflect the policies of this Section and the Trails Master Plan."

I therefore do not recommend that this portion of trail be removed from Schedule 'K' of the Town of Aurora's Official Plan as the policy is clear that the location of the trail network is conceptual and may provide the opportunity to secure the trail connection to the north or south of the Westhill property.

Yours truly,



Marco Ramunno, MCIP, RPP
Director of Development and Planning Services

cc. Heather Konefat, Director of Community Planning