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### **DICKSON HILL MEMORIAL GARDENS APPLICATIONS TOWN OF MARKHAM**

**The Planning and Economic Development Committee recommends the adoption of the recommendations contained in the following report dated May 22, 2008, from the Commissioner of Planning and Development Services:**

#### **1. RECOMMENDATIONS**

It is recommended that:

1. The proposed Regional and Local Official Plan Amendments not be supported in principle, for the reasons outlined in this report.
2. Should the applicant choose to proceed with the application, then a Statutory Public Meeting be scheduled for the proposed Regional Official Plan Amendment in accordance with the *Planning Act*.

#### **2. PURPOSE**

This report provides Regional Council with information regarding the proposed Regional Official Plan Amendment (ROPA) and Local Official Plan Amendment to permit a cemetery and accessory uses on the subject lands.

This report outlines the status and description of the application and highlights applicable Provincial, Regional and local policies.

#### **3. BACKGROUND**

##### **Incomplete Regional Official Plan Amendment Application**

Memorial Gardens is the owner of a 40.47 ha property (*Refer to Figure 1, below*) located northeast of 19<sup>th</sup> Avenue and Dickson Hill Road, abutting the boundary of the hamlet of Dickson Hill in the Town of Markham.

On December 4, 2007, following a pre-consultation meeting earlier in the year, the Region received an incomplete Regional Official Plan Amendment application to permit a cemetery and accessory uses on the subject lands.

Pursuant to Section 22 (6.1) of the *Planning Act*, Regional Planning staff advised the applicant that the application was incomplete and outlined the requirements for a complete application.

In January 2008, the applicant submitted an application for a Regional Official Plan Amendment which included, application fees, a Traffic Impact Study, a Cemetery Demand Analysis, and an Agricultural Impact Assessment. The following reports, however, remain outstanding; a Planning Justification Report that evaluates conformity to the Greenbelt Plan, Oak Ridges Moraine Conservation Plan (ORMCP), Provincial Policy Statement, 2005 (PPS) and an Environmental Impact Study.

Once the Region has received a complete application, staff will review and circulate to all appropriate agencies in preparation for the required Statutory meeting.

#### 4. ANALYSIS AND OPTIONS

##### **Regional Official Plan Amendment proposes a cemetery and accessory uses**

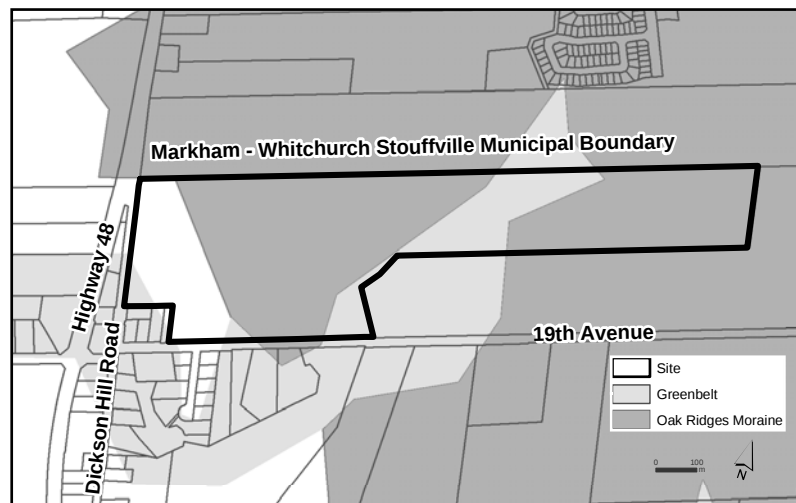
The purpose of the Regional Official Plan Amendment is to permit a cemetery and accessory uses on the subject lands. The 40.47 ha property (Refer to Figure 1) is located northeast of 19<sup>th</sup> Avenue and Dickson Hill Road abutting the boundary of the hamlet of Dickson Hill.

The subject property is traversed by a tributary of the Little Rouge Creek flowing from north to south. There is significant vegetation cover within the valley system as well as extensive hedgerow vegetation along the north property line east of the tributary.

The Regional Official Plan designates the subject property “Oak Ridges Moraine Countryside Area” and “Agricultural Policy Area”, with the valleylands identified as part of the “Regional Greenlands System”. The application is also subject to the Province’s Greenbelt Plan, The Oak Ridges Moraine Conservation Plan and the requirements of the Provincial Policy Statement (2005). Refer to *Attachment 1* for a chart which highlights the designations and polices that affect the proposed Amendments.

Noted below is a brief summary of Provincial policies and their application to this proposal.

**Figure1 – Proposed Amendment Area**



## PROVINCIAL POLICY CONTEXT

Except for a small portion of the property along the westerly frontage of Dickson Hill Road, the entire property is within the ORMCP portion of the Greenbelt Plan.

Figure 2 –Oak Ridges Moraine Delineations

The majority of the lands are subject to the policies of the ORMCP (*Refer to Figure 2*). The remaining lands are designated “Protected Countryside” within the Greenbelt Plan, and subject to the special provisions relating to Prime Agriculture Area, Key Natural Heritage Features & Key Hydrologic Features of the Greenbelt Plan (*Refer to Figure 3*).

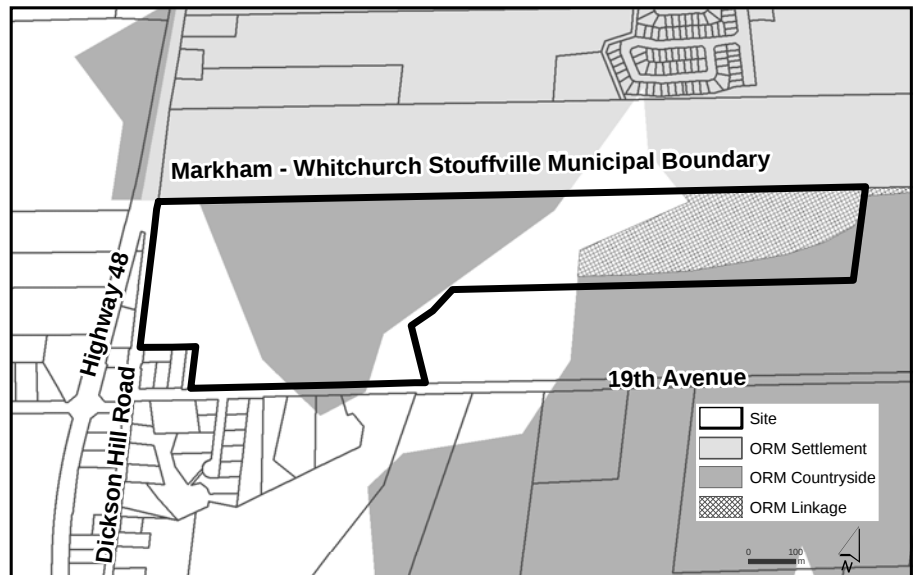
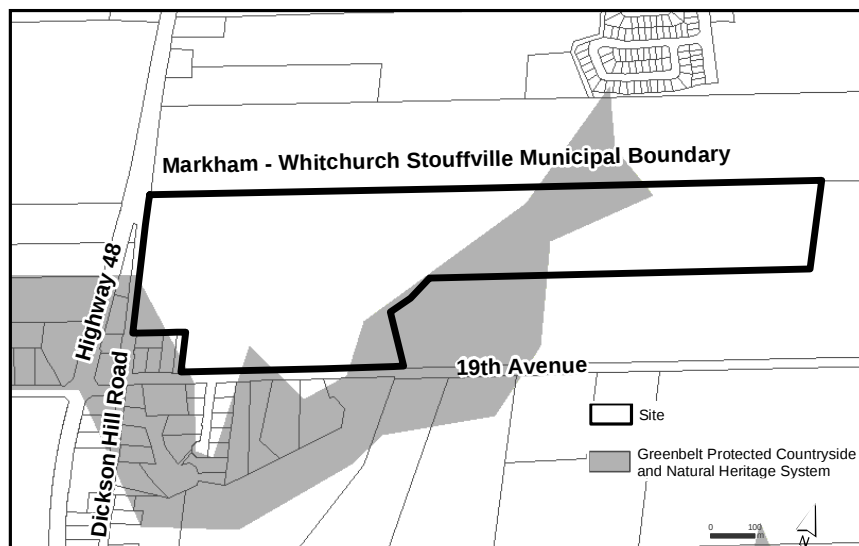


Figure 3 – Greenbelt Plan Delineations  
OAK RIDGES MORaine CONSERVATION PLAN (ORMCP)



The ORMCP provides land use and resource management planning direction on protecting the Moraine's ecological and hydrological features and functions. The ORMCP designates the subject lands "Countryside Area" and "Natural Linkage Area".

**The purpose of Countryside Areas is to encourage agricultural and other rural uses**

The "Countryside Area" designation provides an agricultural and rural transition and buffer between the "Natural Core Areas" and "Natural Linkage Areas" and the urbanized "Settlement Areas." Prime agricultural areas as well as natural features are protected. Most of the uses typically allowed in agricultural and other rural areas include such uses as:

- Fish, wildlife and forest management and conservation projects and flood and erosion control projects.
- Agricultural and Agriculture-related uses.
- Transportation, infrastructure, and utilities as described in section 41.
- Home businesses and industries
- Bed and breakfast establishments and farm vacation homes.
- Low-intensity recreational uses and un-serviced parks.
- Mineral aggregate operations and wayside pits.
- Small-scale commercial, industrial, and institutional uses, except in prime agricultural areas and areas designated primarily for agricultural uses in the applicable official plan.

The ORMCP further requires that small scale commercial, industrial and institutional uses be supportive of, complementary to or essential to uses that are permitted in "Countryside Areas". Moreover, while schools, places of worship, community halls, retirement homes, and cemeteries, are contemplated in the "Countryside Area", they must be intended mainly to serve nearby Rural Settlements within the Plan Area and demonstrate that such uses are not feasible to locate in a settlement area. (Policy 40(1) and (2) of the ORMCP)

The applicant has submitted a Cemetery Demand Analysis which states that "the draw of the cemetery is widely dispersed, drawing significantly from surrounding municipalities." Given this statement, and the scale and allocation of areas of the cemetery for diverse religious affiliations, it is Regional staff's view that this cemetery does not conform to the Oak Ridges Moraine Conservation Plan.

### **Natural Linkage Area**

A very small portion of the subject lands, east of the Rouge River tributary, is designated “Natural Linkage Area” within the ORMCP. The purpose of the “Natural Linkage Area” is to maintain and where possible improve or restore, the ecological integrity of the Plan Area.

The cemetery proposal as it currently exists does not contemplate the use of the “Natural Linkage” designated lands for cemetery uses, however, the applicant has not demonstrated that the overall proposal satisfies the policies and objectives of the Oak Ridges Moraine Conservation Plan regarding “Natural Linkage Areas”.

Lands within the valleylands of the Rouge River and the Rouge River tributary are also considered to be Significant Valleylands, permanent and intermittent streams and Fish Habitat and as such are a Key Natural Heritage Feature (KNHF) within the terms of the ORMCP. Development is prohibited within features and within 30 metres of the stable top-of bank boundary of the feature. A natural heritage evaluation is required to consider whether the 30 metre buffer is sufficient to protect the features and functions of the KNHF. The proposal currently contemplates storm management ponds within the valleyland system. In the opinion of Regional staff, these alterations are inconsistent with the intent and permissions of the ORMCP and the Regional Official Plan.

### **GREENBELT PLAN**

The Greenbelt Plan designates the Little Rouge Creek and its valley system as part of the “Natural Heritage System” within the “Protected Countryside” designation of the Greenbelt Plan. Within the Natural Heritage System are Key Natural Heritage and Key Hydrologic Features (*Refer to Figure 3*).

The Natural Heritage System of the Greenbelt contains the highest concentration of the most sensitive and/or significant natural features and functions. Key Natural Heritage and Key Hydrologic Features include permanent and intermittent streams, fish habitat and significant valleyland systems.

For lands within the Natural Heritage System, and Key Natural Heritage System and Key Hydrologic Features the Plan prohibits development or site alteration except for forest and fish and wildlife management, conservation and flood control, necessary in the public interest and infrastructure subject to the infrastructure policies of the Plan.

The Greenbelt Plan also contains specific policy context (Section 3.2.6) relating to the Rouge River Watershed. The intent of these is to support the Rouge Management Plan, the policies require that land uses planning comply with the more restrictive of the Greenbelt Plan or Rouge North Management Plan provisions.

The applicant has not demonstrated that the proposal is capable of satisfying the policies and objectives of the Greenbelt Plan.

## PROVINCIAL POLICY STATEMENT, 2005 (PPS)

The PPS (2005) provides policy direction on matters of provincial interest related to land use planning and development. It is the Province's goal to ensure that a prime agricultural area is protected for long-term use for agriculture. The PPS provides the following conditions under which the removal of land from a prime agricultural area to limited non-residential use may be considered:

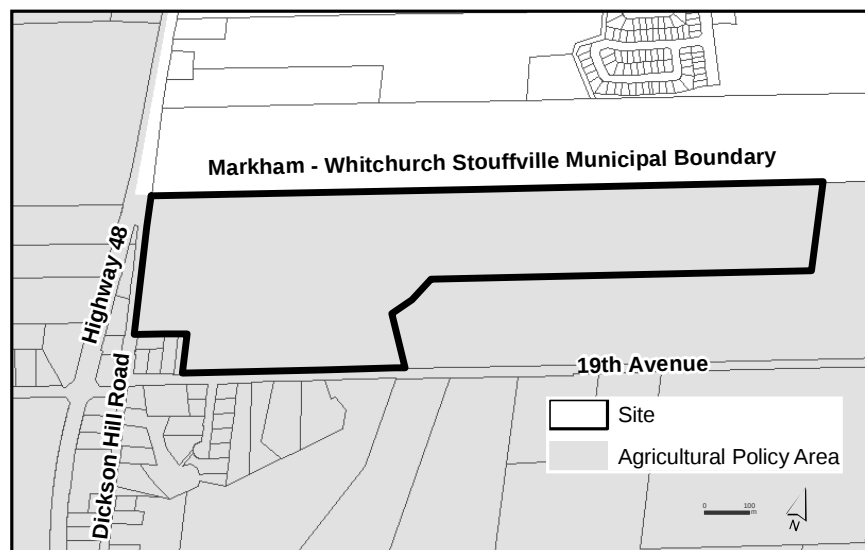
- “1. the land does not comprise a specialty crop area;
2. there is a demonstrated need within the planning horizon for additional land to be designated to accommodate the proposed use;
3. there are no reasonable alternative locations which avoid prime agricultural areas; and
4. there are no reasonable alternative locations in prime agricultural area with lower priority agricultural lands.”

The applicant has submitted an Agricultural Impact Assessment. A Peer Review would assist the Region in determining if the applicant has demonstrated that the removal of the subject lands from prime agriculture use satisfies the above-mentioned conditions in the PPS.

## REGIONAL OFFICIAL PLAN

**Figure 4 – Regional Land Uses**

As previously indicated, the majority of the subject lands are located within the Oak Ridges Moraine, they are also subject to underlying Regional Plan designation and policies being “Agriculture Policy Area” and the “Greenlands System” (Refer to Figure 4).



The Oak Ridges

Moraine Conservation Plan was incorporated into the Regional Official Plan through ROPA 41, approved by the Minister in October 2004. The ORMCP permits Regional and local plans to be more restrictive than the Provincial Plan except insofar as agriculture and aggregate uses are concerned.

## **AGRICULTURE POLICY AREA**

### **The proposed development is located within the Region's Agriculture Policy Area**

Map 6 of the Regional Official Plan (ROP) designates the entire site as "Agriculture Policy Area." Policy 5.8.7 requires an amendment to the ROP for a non-farm land use, which must be evaluated in accordance with the PPS. Regardless however, existing Regional Official Plan policies do not support the location of this type of land use in an "Agricultural Policy Area."

### **Since 1994, the Regional Official Plan directs new commercial, industrial, institutional and recreational uses to hamlets, towns and villages and urban areas and the ORMCP Conformity Amendment maintained that approach**

Since its approval in 1994, Regional Official Plan policies for the Agricultural and Rural Policy Areas have directed new commercial, industrial, institutional and recreational uses (regardless of scale) to hamlets, towns and villages and urban areas. (Policy 5.8.4 and Policy 5.9.2).

This direction was a conscious choice in the Region to prevent further fragmentation of the agricultural and rural areas of the Region and ensure that such uses were located in areas that could support their servicing and transportation needs.

The ORMCP permission for such uses, in non-prime agricultural areas of the "Countryside Area" designation represented a less restrictive policy framework than the approved Regional Plan context. Consequently, when the Region proceeded with the Conformity Amendment (ROPA 41) the decision was made to maintain the more restrictive Regional Official Plan approach to such uses and make the ORMCP Conformity Amendment more restrictive than the ORMCP.

No parties objected to these policies and the Amendment was approved, prohibiting these uses in the "Countryside Area" of the ORMCP in York Region, without an Amendment to the ROP.

### **LEAR evaluation and Peer Review of the Agricultural Impact Assessment to be coordinated, where possible**

As part of the Greenbelt Plan conformity exercise, the Region will be undertaking a Land Evaluation and Area Review (LEAR) which will identify the long-term agricultural potential for York Region. The LEAR evaluation is a higher level assessment of agricultural land capacity. The LEAR evaluation is scheduled for completion in 2008, and upon completion a report will be prepared for Regional Council.

Should the Agricultural Impact Assessment Study provided by the applicants be peer reviewed, such a review should take into consideration this larger LEAR project.

## **GREENLANDS SYSTEM**

The Greenlands System runs through the subject site, as identified in Map 4 of the ROP. Policy 2.1.6 – The Regional Greenlands System requires an Environmental Evaluation to consider the impact the development will have on the environmental functions, attributes or linkages of the Greenlands System and requires details of any mitigative measures that will ensure that the Greenlands units will not be adversely impacted. The Regional Greenlands System has been effectively incorporated into the Greenbelt Plan in this area and the Greenbelt Plan policies are more restrictive than the ROP policies, allowing Greenbelt Plan policies to prevail.

## **LOCAL POLICY CONTEXT**

### **Local Official Plan Amendment proposes a site specific exemption to the existing land use designations to permit a cemetery and related uses**

In January 2008, the Region was circulated the related local OPA for the subject lands. The applicant has requested, from the Town of Markham, a site specific exemption to the existing land use designation to permit a cemetery and related uses. In addition to the Provincial and Regional policies addressed above, the applicant will also be required to address the policies of the Town of Markham's Official Plan. The subject site is designated "Agriculture 1", "Hamlet", "Hazard Lands" and "Oak Ridges Moraine".

The Town of Markham's Development Review Committee received a Markham staff information report, on April 22, 2008, recommending a statutory public meeting after the applicant has submitted a planning justification report to the satisfaction of the Director of Planning and Urban Design.

The staff report concluded that "the Town is not able to consider any Official Plan amendment that is contrary to the ORMCP. Lands subject to this application and not subject to the provisions of the ORMCP are limited and would likely not accommodate the uses, as proposed."

## **NEXT STEPS**

The applicant has yet to provide a complete application for Regional staffs review. However, the policy context and designations relating to the Oak Ridges Moraine designations, the Greenbelt Plan and the Regional and local Official Plans do not support this application.

Should the applicant choose to provide a complete application in the future then a Statutory public meeting will be required before Council can take action on the application.

## **5. FINANCIAL IMPLICATIONS**

There are no identifiable financial implications associated with this application at this time. Should the applicant choose to proceed with the application, then a Statutory meeting will need to be held prior to a Council decision on the Regional and Local Official Plan Amendments.

If the decision is appealed to the Ontario Municipal Board, Regional staff will report back to Committee and Council.

## **6. LOCAL MUNICIPAL IMPACT**

The Town of Markham's Development Review Committee received an information report, on April 22, 2008, recommending a Statutory Public Meeting after the applicant has submitted a planning justification report to the satisfaction of the Director of Planning and Urban Design. Staff will continue work with local staff on their review of the local Official Plan Amendment.

## **7. CONCLUSION**

The purpose of the Regional Official Plan Amendment is to permit a cemetery and accessory uses on the subject lands. The Region's preliminary review of the Regional and Local Official Plan Amendment applications indicates that the cemetery and accessory uses do not conform to Provincial, Regional and Town policies for the reasons outlined in this report. Given the scale of the proposed uses, the pursuit of this application would not meet the intent of the Regional and Local Official Plans.

Should the applicant choose to proceed with the application, then a Statutory meeting will need to be held prior to a Council decision on the Regional and Local Official Plan Amendments, and the application will proceed in accordance with standard Regional procedures for processing Regional Official Plan Amendments. As well, Regional staff will undertake a comprehensive review of Provincial, Regional and Town policies. Forming a large part of the analysis will be the applications conformity to these policies.

For more information on this report, please contact Maria Leonis, Planner, Community Planning at (905) 830-4444 Ext. 1568, or Heather Konefat, Director of Community Planning at Ext. 1502.

The Senior Management Group has reviewed this report.

*(The attachment referred to in this clause is attached to this report.)*