

Ontario Municipal Board
Commission des affaires municipales de l'Ontario

PROCEEDING COMMENCED UNDER subsection 17(40) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended

Appellant: County of Simcoe
Appellant: Midhurst Development Doran Road Inc.,
and Carson Road Development Inc.
Appellant: Midhurst Rose Alliance Inc.
Appellant: Township of Springwater
And Others
Subject: Failure of the Ministry of Municipal Affairs and
Housing to announce a decision respecting the
Official Plan for the County of Simcoe
Municipality: County of Simcoe
OMB Case No: PL091167
OMB File No: PL091167

MOTION RECORD
(PHASE 4b – AGGREGATE)
(Returnable December 3, 2015)

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Barristers and Solicitors
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Toronto, Ontario
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Lawyers for the Corporation
of the County of Simcoe

TO: ALL APPELLANTS/PARTIES LISTED IN ATTACHMENTS "A" AND "B"
WITH A COPY TO ALL PARTICIPANTS LISTED IN ATTACHMENT "C"

AND TO: **ONTARIO MUNICIPAL BOARD**
655 Bay Street, 15th Floor
Toronto, Ontario, M5G 1E5

Attention: Johnpaul Loiacono, Planner
johnpaul.loiacono@ontario.ca

Phone: 416-326-5598
Fax: 416-326-5370

ATTACHMENT "A"

LIST OF APPELLANT PARTIES– COUNTY OF SIMCOE OFFICIAL PLAN OMB File PL091167

Oct 22, 2015

No.	Appellant	Lawyer/Agent*	E-mail Address
1	County of Simcoe	Roger Beaman	rbeaman@thomsonrogers.com
2	2a Carson Road Development Inc. 2b Midhurst Development Doran Road Inc.	Susan Rosenthal David White	susanr@davieshowe.com david.white@devrylaw.ca
3[M]	Craighurst Land Corp.	Susan Rosenthal	susanr@davieshowe.com
4	Huntingwood Trails (Collingwood) Ltd.	Appeal Resolved	
5	Midhurst Rose Alliance Inc.	Ira Kagan Paul DeMelo	ikagan@ksllp.ca pdemelo@ksllp.ca
6	Township of Springwater	Barnet Kussner	bkussner@weirfoulds.ca
7	451082 Ontario Limited	James Feehely	jfeehely@fglawyers.ca
8	8a 861945 Ontario Ltd. 8b Golfview Estates Limited[W/D] 8c Mark Rich Homes Limited 8d Silver Spring View Estates Limited 8e Simcoe Estates Limited 8f Royal Heights Estates Limited 8g OMC Development Corp.[W/D]	David White A-G D'Andrea	david.white@devrylaw.ca Anthony-George.D'Andrea@devrylaw.ca
9	Innisfil Aleona Limited	Appeal Withdrawn	
10	Tesmar Holdings Inc.	Michael Melling Meaghan McDermid	michaelm@davieshowe.com meaghanm@davieshowe.com
11	Janice & David Wright	David White A-G D'Andrea	david.white@devrylaw.ca Anthony-George.D'Andrea@devrylaw.ca
12	12a Snow Valley Planning Corporation 12b 453211 Ontario Limited	David White A-G D'Andrea (david.white@devrylaw.ca Anthony-George.D'Andrea@devrylaw.ca
13	McMahan Woods Developments Ltd.	David White A-G D'Andrea	david.white@devrylaw.ca Anthony-George.D'Andrea@devrylaw.ca
14	Innisfil Beach Farms Inc.	David White A-G D'Andrea	david.white@devrylaw.ca Anthony-George.D'Andrea@devrylaw.ca
15	Estate of Marie Louise Frankcom	James Feehely	jfeehely@fglawyers.ca
16	Midhurst Ratepayers' Association	Appeal Dismissed by Board	
17	Narinder Mann	Ian Rowe	irowe@barristonlaw.com
18[M]	Yorkwood Group of Companies [Resolved]	Patricia Foran	pforan@airdberlis.com
19	19a Rama Resorts International Inc. 19b Fernbrook Homes (Rama) Limited	Appeal Resolved	
20	1091402 Ontario Ltd.	Appeal Withdrawn	
21	Nicole and Brent Fellman	David White A-G D'Andrea	david.white@devrylaw.ca Anthony-George.D'Andrea@devrylaw.ca
22	Travel-Rite Property Corp.	David White A-G D'Andrea	david.white@devrylaw.ca Anthony-George.D'Andrea@devrylaw.ca
23	Aqua-Gem Investments Ltd.	David White A-G D'Andrea	david.white@devrylaw.ca Anthony-George.D'Andrea@devrylaw.ca

24	442023 Ontario Limited	David White A-G D'Andrea	david.white@devrylaw.ca Anthony-George.D'Andrea@devrylaw.ca
25	1045901 Ontario Limited	David White A-G D'Andrea	david.white@devrylaw.ca Anthony-George.D'Andrea@devrylaw.ca
26	Kellwatt Limited	David White A-G D'Andrea	david.white@devrylaw.ca Anthony-George.D'Andrea@devrylaw.ca
27	27a Ont Potato Distributing Inc 27b 1567219 Ontario Limited	Chris Barnett	cbarnett@davis.ca
28	Black Marlin Management Inc. [Resolved]	Caterina Facciolo	efacciolo@bratty.com - Resolved
29	Ahmadiyya Muslim Jama'at Canada Inc. (AMJC)	Barry Horosko	bhorosko@horoskoplanninglaw.com
30[M]	D.G. Pratt Construction Limited [Adjourned]	Jane Pepino Andrea Skinner	jpepino@airdberlis.com askinner@airdberlis.com
31[M]	Hanson Development Group [Resolved]	Patricia Foran	pforan@airdberlis.com
32	Town of New Tecumseth	James Feehely	jfeehely@fglawyers.ca
33	Township of Adjala-Tosorontio	Stephen Waqué Isaac Tang	swaque@blg.com itang@blg.com
34	Robert Schickedanz in Trust	Ian Rowe	irowe@barristonlaw.com
35	2115441 Ontario Inc.	David White A-G D'Andrea	david.white@devrylaw.ca Anthony-George.D'Andrea@devrylaw.ca
36	Carson Trail Estates Inc.	David White A-G D'Andrea	david.white@devrylaw.ca Anthony-George.D'Andrea@devrylaw.ca
37	Sucession Financial Group Inc.	David White A-G D'Andrea	david.white@devrylaw.ca Anthony-George.D'Andrea@devrylaw.ca
38	Bond Head Properties Inc.	Susan Rosenthal Meghan McDermid	susanr@davieshowe.com meaghanm@davieshowe.com
39	39a 2000463 Ontario Limited & 39b Angelo & Yvette Santorelli	David White A-G D'Andrea	david.white@devrylaw.ca Anthony-George.D'Andrea@devrylaw.ca
40	Rayville Developments (Alliston) Inc.	David White A-G D'Andrea	david.white@devrylaw.ca Anthony-George.D'Andrea@devrylaw.ca
41	Copperglen Estates Inc.	David White A-G D'Andrea	david.white@devrylaw.ca Anthony-George.D'Andrea@devrylaw.ca

ATTACHMENT "B"

LIST OF PARTIES– COUNTY OF SIMCOE OFFICIAL PLAN PL091167

Nov 9, 2015

No.	Party	Lawyer/Agent*	E-mail Address
A	Ministry of Municipal Affairs and Housing	Ken Hare Ugo Popadic	ken.hare@ontario.ca Ugo.Popadic@ontario.ca
B	Town of Collingwood	Leo Longo	llongo@airdberlis.com
C	C1 Town of Penetanguishene C2 Township of Ramara	Edward Veldboom	eveldboom@russellchristie.com
D	Town of Innisfil	Quinto Annibale/ Mark Joblin	qannibale@loonix.com mjoblin@loonix.com
E	Town of Bradford W-G	Tom Halinski	thalinski@airdberlis.com
F	Town of Midland	Paul Peterson	ppeterson@hgrgp.ca
G	G1 Township of Clearview G2 Township of Tiny G3 Town of Wasaga Beach	Ian Rowe	irowe@barristonlaw.com
H	[Now Appellant 32]		
I	[Now Appellant 33]		
J	J1 Ontario Stone, Sand and Gravel Association J2 CBM Aggregates, a division of St. Marys Cement (Canada) Inc J3 Lafarge Canada Inc. J4 Holcim (Canada) Inc. J5 James Dick Construction Limited J6 Walker Aggregates Inc.	Mary Bull	mbull@woodbull.ca
K[M]	Georgian-International Land Corp. [Resolved]	Mary Bull	mbull@woodbull.ca
L	San Marco in Lamis Ltd.	Michael Vaughan	michaelbvaughan@yahoo.ca
M	White Water Holdings Ltd.	Resolved	
N	[Now Appellant 28]		
O	No Jet Construction Inc. Remington Homes (Manhattan) Inc.	Withdrawn	
P	Sleeping Lion Development Corporation	John Dawson	jdawson@mccarthy.ca
Q	John Barzo Limited	John Barzo	jbarzo@barzolaw.com
R[M]	Innisfil Mapleview Developments Limited	Susan Rogers [Adjourned]	susan.rogers@sdrogerslaw.ca
S	2133952 Ontario Inc.	Harold Elston Aynsley Anderson	HElston@barristonlaw.com AAAnderson@barristonlaw.com
T	Talisker Corporation	Harold Elston Aynsley Anderson	HElston@barristonlaw.com AAAnderson@barristonlaw.com
U	U1&U2 [Now Appellant 27-a & b]		
V	4651012 Ontario Ltd. now V1 Sandycove Acres Limited V2 Parkbridge Lifestyle Communities Inc. V3 Belmac Estate Properties Inc.	Ian Rowe	irowe@barristonlaw.com
W	Township of Oro-Medonte	Chris Williams	cwilliams@airdberlis.com
X	998991 Ontario Inc.	Ian Rowe	irowe@barristonlaw.com
Y	Tsam Investments Ltd.	Raivo Uukkivi Signe Leisk	ruukkivi@casselsbrock.com sleisk@casselsbrock.com

ATTACHMENT “C”

LIST OF PARTICIPANTS MONITORING COUNTY OF SIMCOE OP PL091167

Jan 19, 2015

No.	Participant or Interest	Lawyer/Agent	E-mail Address
1* [M]	<i>AWARE Simcoe</i>	<i>Sandy Agnew</i> [M] <i>Ann Truyens</i> [M]	sagnew@ecomedic.ca at@iglide.net
2* [M]	<i>PURE now ERA - Everett Ratepayers Association</i>	<i>Chantale Gagnon</i> [M] <i>David Perryman</i> [M]	chantalegagnon@bell.net dperryman43@sympatico.ca
3 [M]	Interest in Midhurst	Anna Romano	am_romano@hotmail.com
8* [M]	<i>Ontario Farmland Preservation</i>	<i>Bernard Pope</i> [M]	bernard@ontariofarmlandpreservation.org
9* [M]	<i>Simcoe County Federation of Agriculture</i>	<i>Colin Elliott</i> <i>Anne Ritchie-Nahius</i>	rockeyno132@gmail.com nahuis@csolve.net
11 [M]	11a Nutristock Corporation 11b Solmar (Healy) Corporation (re 27a, 27b)	Michael Melling Meaghan McDermid [M]-3a, 3b, 4a, 4b, 5	michaelm@davieshowe.com meaghanm@davieshowe.com
12 [M]	Township of Severn	Henry Sander	hsander@townshipofsevern.com
16* [M]	<i>John Strong</i>	<i>John Strong</i>	No e-mail given; 705-424-9350 6760 Simcoe County Road 21, R.R.#2, Alliston, Ont. L9R 1V2
18* [M]	Re 27a, 27b	Ralph MacKenzie	nvf4all@gmail.com
22 [M]	R & M Homes Ltd. (Everett) [M]- 2a	David White Anthony-George D'Andrea	david.white@devrylaw.ca Anthony-George.D'Andrea@devrylaw.ca

* Participant has testified [M] Monitoring

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NOTICE OF MOTION
(PHASE 4b - AGGREGATE)

THE CORPORATION OF THE COUNTY OF SIMCOE will make a motion to the Ontario Municipal Board on **Thursday, the 3rd day of December, 2015, at 10:00 am**, or as soon after that time as the motion can be heard at the Council Chambers of the Corporation of the County of Simcoe, Administration Centre, 1110 Highway 26, Midhurst, Ontario, L0L 1X0.

THE MOTION IS FOR AN ORDER:

- (a) Allowing the Official Plan appeal in part and approving, and modifying and approving, several policies for Phase 4b dealing with Aggregate Policy as set out in the Affidavit of Kathy Suggitt, sworn November 23, 2015 in paragraph 33;
- (b) for such further and other relief as may seem just and appropriate.

THE GROUNDS FOR THE MOTION ARE:

- (a) The experts for parties registered for involvement in Phase 4b Aggregate of the hearing met and supported or did not oppose or had no opinion on certain policies and modified policies resolving concerns for various matters to be considered in the Phase 4b hearing.
- (b) The policies as modified provide a suitable and appropriate policy framework for implementation of the Growth Plan.
- (c) The policies and modified policies are consistent with the PPS 2014, conform with relevant Provincial policy and represent good planning.
- (d) Approval as sought would resolve appeals and concerns of specific parties.
- (e) Such further and other grounds as counsel may advise and this Board may deem necessary.
- (f) *Planning Act*, R.S.O. 1990, c. P.13, as amended, subsections 17(40), 17(45), 17(50).

THE FOLLOWING DOCUMENTARY EVIDENCE will be used at the hearing of the motion:

- (a) the Affidavit of Kathy Suggitt, sworn November 23, 2015, and the Exhibits attached thereto;
- (b) the Report of Meetings of Expert Witnesses on Phase 4b contained in the said Affidavit;
- (c) the pleadings, proceedings and exhibits filed herein;
- (d) such further and other material as counsel may advise and this Board may permit.

NOVEMBER 23, 2015

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Lawyers for the Corporation
of the County of Simcoe

PL091167

**Ontario Municipal Board
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AFFIDAVIT OF KATHY SUGGITT, MCIP, RPP

Phase 4b – Aggregate Developments and Cultural Heritage Conservation

**I, KATHY SUGGITT, MCIP, RPP, of the City of Barrie, in the Province of Ontario,
MAKE OATH AND SAY AS FOLLOWS:**

1. I am the Manager of Policy Planning in the Planning Department at the County of Simcoe (the "County"). As such, I have knowledge of the matters deposed to herein.
2. I am a Full Member of the Canadian Institute of Planners and a Registered Professional Planner in the Province of Ontario. I have 25 years of experience in private and public sector planning. A copy of my Curriculum Vitae has previously been filed in these proceedings as attachment A to Motion Record Exhibit 7.
3. I have been directly involved in matters respecting the County's updated Official Plan at all stages of the process since August 2008 leading to its adoption by the County on November 25, 2008 through to the endorsement of the proposed modified Plan by County Council on January 22, 2013 and to the present including OMB proceedings to date.

Aggregate and Cultural Heritage Policies Remaining Under Appeal – Phase 4b

4. In an oral decision on April 19, 2013 and confirmed in an Order issued June 13, 2013 the Board approved parts of the County Official Plan with the exception of sections that remained under appeal either County-wide or on a site-specific basis. The policies that remained under appeal in Phase 4b (Aggregate Developments and Cultural Heritage Conservation) include policies 4.4.1, 4.4.6, 4.4.11 and all of Section 4.6 – Cultural Heritage Conservation and the Definitions of Cultural Heritage Landscape and Cultural Features, and Appendix 3. During the Experts' discussions it was agreed that policy 4.11.4 should also be included in this Phase.
5. The expert witnesses for the parties registered in this Phase of the hearing have met and had discussions to try to resolve their issues. Arising from the discussions, an Experts' Report was provided to the County solicitor, who has circulated the report to the Board and to all parties and participants. Attached as **Exhibit "A"** is a copy of the Experts' Report dated November 19, 2015.

Proposed Policies and Modifications

6. As reflected in **Exhibit "A"**, the experts have reached agreement on the policies under appeal in this Phase. The Attachment to the Experts' Report contains the proposed policies including the recommended modifications. The experts either support or do not oppose/have no opinion on the following: policy 4.4.1 as modified, policy 4.4.6 as modified, adding a new policy 4.4.8 and renumbering the rest of the section, renumber former policy 4.4.11 as 4.4.12 and modify, policy 4.6.1 as modified, policy 4.6.2 as modified, policy 4.6.3 as adopted, policy 4.6.4 as modified, policy 4.6.5 as modified, adding a new policy 4.6.6, former policy 4.6.6 is renumbered to 4.6.7 and modified, former policy 4.6.7 is renumbered to 4.6.8 and modified, former policy 4.6.8 is renumbered to 4.6.9, former policy 4.6.9 is renumbered to 4.6.10, former policy 4.6.10 is renumbered to 4.6.11 and modified, deleting former policy 4.6.11, policy 4.6.12 as modified, policy 4.6.13 as adopted, policy 4.11.4 as modified, the definitions of *Cultural Heritage Landscape* and *Cultural Features* as modified and adding the Definitions of *Protected Heritage Property* and *Heritage Attributes*, and adding a new sub-section (e) to the Definition of *Significant*, and deleting Appendix 3.
7. Many of the proposed policy modifications, especially in Section 4.6 are a direct result of the policies in the Provincial Policy Statement, 2014 (PPS 2014) and the need to ensure the policies in the County Plan are consistent with Provincial policies.
8. Policy 4.4.1 which deals with location considerations for mineral aggregate operations has been modified to be consistent with PPS 2014 as well as to address where certain other sections are not applicable given the aggregate policies address these more specifically.

9. Policy 4.4.6 is proposed to be modified by replacing the word “disturbance” with the word “impacts” for consistency with the PPS 2014.
10. A new policy 4.4.8 is proposed to link to Section 4.6 and address what can be considered when addressing the PPS 2014 concept of conserving significant cultural features.
11. Former policy 4.4.11 is renumbered as 4.4.12 and modified to specify the selection of haul routes.
12. Policy 4.6.1 is proposed to be modified for consistency with PPS 2014 terminology.
13. Policy 4.6.2 is proposed to be modified to clarify the inventory would include local and significant cultural features, and to clarify the relevant Parts of the Ontario Heritage Act.
14. Policy 4.6.3 is recommended for approval with no modifications.
15. Policy 4.6.4 is proposed to be modified using PPS 2014 defined terms.
16. Policy 4.6.5 is proposed to be modified for PPS 2014 consistency.
17. A new policy 4.6.6 is proposed for PPS 2014 consistency given there was no policy in the proposed Plan that addressed the concept of adjacent lands in this context.
18. Former policy 4.6.6 is renumbered as 4.6.7 given the addition of new policy 4.6.6, and modified to remove the reference to Appendix 3 given it is proposed to be deleted.
19. Former policy 4.6.7 is renumbered as 4.6.8 and proposed to be modified to address when local municipalities will determine when an archaeological assessment is necessary for those applications for which they are the approval authority.
20. Former policy 4.6.8 is renumbered as 4.6.9 and recommended for approval with no modifications.
21. Former policy 4.6.9 is renumbered as 4.6.10 and recommended for approval with no modifications.
22. Former 4.6.10 is renumbered as 4.6.11 and proposed to be modified by removing the reference to Appendix 3 given it is proposed to be deleted.
23. Former policy 4.6.11 is proposed to be deleted given the concept is addressed in proposed new policy 4.6.6 above in paragraph 17.

- 24. Policy 4.6.12 is proposed to be modified to correct the name of the appropriate legislation.
- 25. Policy 4.6.13 is recommended to be approved with no modifications.
- 26. Policy 4.11.4 is proposed to be included for approval in this Phase of the hearing and modified to include the wording "and are consistent with the *Provincial Policy Statement*".
- 27. The Definitions of **Cultural Heritage Landscape** and **Cultural Features** are proposed to be modified using PPS 2014 terminology.
- 28. The Definitions of **Protected Heritage Property** and **Heritage Attributes** are proposed to be added to the Plan with the addition of proposed policy 4.6.6 which stems from the PPS 2014.
- 29. A new sub-section (e) is proposed to be added to the Definition of **Significant** directly from the PPS 2014, however the balance of the Definition of **Significant** remains under appeal and is being addressed in Phase 4a Greenlands in this hearing.
- 30. Appendix 3 is proposed to be deleted, consistent with the approach being taken on all Appendices of the adopted Plan. The County will instead bring Cultural Heritage Conservation Guidelines to County Council for endorsement.

Summary Opinion

- 31. It is my professional planning opinion that the proposed policies listed in paragraph 6 and contained in the Attachment to the Experts Report dated November 19, 2015 accurately reflect the agreement reached by the experts involved in Phase 4b of this hearing, on the understanding that the experts either support or do not oppose/have no opinion on the proposed modifications.
- 32. The policies addressed in this Affidavit and the County's motion seeking approval of these Phase 4b policies would bring the policies into conformity with relevant Provincial policy. The modifications are consistent with the Provincial Policy Statement, 2014, conform with the Growth Plan and represent good planning.
- 33. I make this Affidavit in support of the County's request for an order of the Board to allow the appeal in part of the Official Plan and to approve certain policies and to modify and approve certain policies all as detailed in the Attachment to **Exhibit "A"** as follows:
 - a. To modify and approve policy 4.4.1;
 - b. To modify and approve policy 4.4.6;

- c. To add a new policy 4.4.8 and approve same, and renumber the rest of the Section;
- d. To modify and approve former policy 4.4.11, renumbered as policy 4.4.12;
- e. To modify and approve policy 4.6.1;
- f. To modify and approve policy 4.6.2;
- g. To approve policy 4.6.3;
- h. To modify and approve policy 4.6.4;
- i. To modify and approve policy 4.6.5;
- j. To add a new policy 4.6.6 and approve same, and renumber the rest of the Section up to 4.6.11;
- k. To modify and approve former policy 4.6.6, renumbered as 4.6.7;
- l. To modify and approve former policy 4.6.7, renumbered as 4.6.8;
- m. To approve former policy 4.6.8, renumbered as 4.6.9;
- n. To approve former policy 4.6.9, renumbered as 4.6.10;
- o. To modify and approve former policy 4.6.10, renumbered as 4.6.11;
- p. To delete former policy 4.6.11;
- q. To modify and approve policy 4.6.12;
- r. To approve policy 4.6.13;
- s. To modify and approve policy 4.11.4;
- t. To modify and approve the Definitions for **Cultural Heritage Landscape** and **Cultural Features** in Section 5.8;
- u. To add new Definitions in Section 5.8 for **Protected Heritage Property** and **Heritage Attributes** and approve same;
- v. To add a new sub-section (e) to the Definition of **Significant** and approve same, leaving the rest of the Definition under appeal; and
- w. To delete Appendix 3.

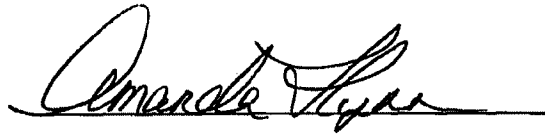
SWORN BEFORE ME
 at the Township of Springwater
 in the County of Simcoe
 this 23rd day of November, 2015.


 Commissioner for Taking Oaths, etc.

Amanda Flynn, Deputy Clerk
 A Commissioner for the
 Corporation of the
 County of Simcoe


 KATHY SUGGITT

THIS IS EXHIBIT "A" REFERRED TO IN THE AFFIDAVIT
OF KATHY SUGGITT SWORN BEFORE ME THIS
23rd DAY OF NOVEMBER, 2015.

A handwritten signature in cursive script, appearing to read "Amanda Flynn", written over a horizontal line.

A Commissioner, etc.

Amanda Flynn, Deputy Clerk
A Commissioner for the
Corporation of the
County of Simcoe

OMB File No: PL091167

County of Simcoe Official Plan

Experts' Report on Phase 4b (Aggregates and Cultural Heritage)

Dated November 19, 2015

Expert Planning Witnesses for Registered Parties for Phase 4b of the Hearing:

Brent Clarkson and Brian Zeman – Ontario Stone Sand and Gravel Association (Party J1), CBM Aggregates (Party J2), Lafarge Canada Inc. (Party J3), Holcim (Canada) Inc. (Party J4), James Dick Construction Limited (Party J5) and Walker Aggregates Inc. (Party J6)

Mark Dorfman – Township of Ramara (Party C2)

Ray Duhamel – D. G. Pratt Construction Limited (Appellant Party 30)

Andria Leigh - Township of Oro-Medonte (Party W)

Marie Leroux – Township of Clearview (Party G1)

Darryl Lyons – Ministry of Municipal Affairs and Housing (Party A)

Steve Montgomery – Town of Innisfil (Party D)

Tim Schilling – Town of New Tecumseth (Appellant Party 32)

Kathy Suggitt – County of Simcoe (Appellant Party 1)

Peter Walker – Ontario Potato Distributing Inc. and 1567210 Ontario Limited (Appellant Parties 27 a and 27b)

Phase 4b Policies:

The policies included in Phase 4b of the hearing include: 4.4.1, 4.4.6, 4.4.11, all of Section 4.6 Cultural Heritage Conservation and the Definitions of Cultural Heritage Landscape and Cultural Features.

The expert witnesses who participated met to consider the adopted policies and discuss the issues. During the discussions it was agreed by the experts that policy 4.11.4 should also be included in this Phase.

Experts Agreement

The experts agreed that supporting or not opposing/having no opinion on a particular policy in Phase 4b where that policy includes cross reference to other policies in the Plan, should not prejudice or infer support of the cross referenced policy.

Agreement:

The experts who participated in the meetings have reached agreement on the following Policies, some of which include Proposed Modifications, all as shown in the **Attachment** to this report:

- 4.4.1 as modified
- 4.4.6 as modified
- Adding a new policy 4.4.8 and renumbering the rest of the Section

- Former 4.4.11 as modified and renumbered as 4.4.12
- 4.6.1 as modified
- 4.6.2 as modified
- 4.6.3 – no modifications
- 4.6.4 as modified
- 4.6.5 as modified
- Adding a new 4.6.6 and renumbering the rest of the Section up to 4.6.11
- Former 4.6.6 is renumbered to 4.6.7 and modified
- Former 4.6.7 is renumbered to 4.6.8 and modified
- Former 4.6.8 is renumbered to 4.6.9 (no modifications)
- Former 4.6.9 is renumbered to 4.6.10 (no modifications)
- Former 4.6.10 is renumbered to 4.6.11 and modified
- Delete Former 4.6.11
- 4.6.12 as modified
- 4.6.13 – no modifications
- 4.11.4 as modified
- Definitions of **Cultural Heritage Landscape** and **Cultural Features** as modified
- Add new Definitions for **Protected Heritage Property** and **Heritage Attributes** to address PPS 2014 consistency
- Add a new sub-section (e) to the definition of **Significant**, however the balance of the definition is under appeal and being considered by the experts in Phase 4a (Greenlands) of the hearing.
- Delete Appendix 3



Report prepared by Kathy Suggitt, County of Simcoe
On behalf of the expert witnesses

Attachment to Experts Report

November 19, 2015

County of Simcoe OP OMB File PL091167

Phase 4b – Aggregates and Cultural Heritage Policies

4.4 Aggregate Developments

4.4.1 *Mineral aggregate operations* are not subject to Section 3.3.15, 3.3.18, 4.5.6, and 4.5.18 and shall be located according to the following criteria:

- i.) Shall not be located in *provincially significant wetlands* or *significant coastal wetlands*;
- ii.) Shall not be permitted in *significant woodlands south and east of the Canadian Shield, significant valleylands south of the Canadian Shield, significant wildlife habitat, significant areas of natural and scientific interest, and coastal wetlands* (not subject to 4.4.1 (i)) unless it has been demonstrated that there will be no *negative impacts* on the natural features or their *ecological functions*;
- iii.) Shall not be permitted in *fish habitat* except in accordance with *provincial and federal requirements*;
- iv.) Shall not be permitted in *habitat of endangered species and threatened species, except in accordance with provincial and federal requirements*;
- v.) Shall not be permitted on *adjacent lands* to the *natural heritage features and areas* identified above unless the *ecological function* of the *adjacent lands* has been evaluated and it has been demonstrated that there will be no *negative impacts* on the *natural heritage features and areas* natural features or on their *ecological functions*;
- vi.) Within the Niagara Escarpment Plan area, shall not be located in the Escarpment Natural or Escarpment Protection Areas identified on Schedule 5.3.1;
- vii.) Within the Oak Ridges Moraine Conservation Plan area, shall be permitted in the Natural Linkage Area and Countryside Area Designations identified on Schedule 5.3.2, and be subject to the policies of Section 3.11 and the provisions of the Oak Ridges Moraine Conservation Plan;
- viii.) Within the Greenbelt Plan area, shall be permitted in the Protected Countryside designation identified on Schedule 5.3.3, and be subject to the policies of Section 3.12 and the provisions of the Greenbelt Plan.

In assessing negative impact, proposed mitigation measures, rehabilitation and ecological enhancements, if any, shall be considered.

4.4.6 *Mineral aggregate operations* shall minimize *disturbance impacts* to adjacent or nearby uses by reason of dust, noise, effects on water table and quantity or other effects from mining activities or transportation of aggregates.

Add new policy as follows (and renumber rest of section up to 4.4.11):

4.4.8 ~~In evaluating potential impacts on cultural heritage matters as outlined in section 4.6 associated with proposed new or expanded mineral aggregate operations, mitigation measures that can restore or enhance the feature may be considered in the proposed Rehabilitation Plan required under the Aggregate Resources Act.~~

The County may require a Cultural Heritage Report in support of a proposed new or expanded *mineral aggregate operation* to identify *significant cultural features* as outlined in Section 4.6. If *significant cultural features* are identified they shall be *conserved* which may include mitigation measures and/or alternative development approaches.

4.4.12 The County may enter into agreements with the owners and operators of mineral aggregate extractive *developments* to determine the appropriate use of County Roads as haul routes. The County will seek to establish haul routes on County Roads that are suitable for the function based on traffic patterns and existing and proposed land uses served by the roads. Where there are two or more alternative haul routes, the haul route having the least impact shall be selected. The costs of upgrading the roads shall be borne by the operators who require the upgrading ~~and maintaining of the roads.~~

4.6 Cultural Heritage Conservation

4.6.1 Significant built heritage resources, ~~terrestrial and underwater archaeological resources,~~ and significant cultural heritage landscapes, ~~collectively termed cultural features,~~ will be conserved.

4.6.2 The County will work with local municipalities and heritage committees to create and maintain an inventory of local and significant cultural features including but not limited to:

- a) heritage resources designated under Parts IV and V of the Ontario Heritage Act;
- b) sites or areas having historical, archaeological, cultural, scenic, or architectural merit both on land and underwater;
- c) cemeteries; and
- d) other cultural heritage resources of community interest and significance.

4.6.3 The County shall maintain available archaeological site data locations and relevant mapping from the provincial archaeological database of the Ministry of Tourism, Culture and Sport (MTCSS) under the provisions of a municipal-provincial data sharing agreement, for the purpose of heritage conservation planning and development review. The mapping database will be updated regularly when appropriate, as new archaeological sites are identified.

4.6.4 The County may consider undertaking the preparation and completion of a cultural heritage and/or archaeological management plan to assist in identifying sensitive cultural and archaeological areas including cemeteries and burials within the County, which is to include but not limited to:

- a) comprehensive ~~cultural features mapping, archaeological potential mapping,~~ and inventories of significant built heritage resources, significant cultural heritage landscapes, and areas of archaeological potential;
- b) identification and evaluation of cultural heritage ~~resources, cultural features, and~~

- ~~organizations~~ and archaeological resources;
- c) strategies for conserving and enhancing these identified resources;
- d) programs to foster interpretation and promotion; and
- e) education and public participation in cultural heritage conservation.

4.6.5 ~~Development and site alteration proposals~~ shall not be permitted on lands containing *archaeological resources* or *areas of archaeological potential* unless *significant archaeological resources* have been *conserved*. ~~adhere to the cultural heritage conservation policies of this Plan.~~ ~~The conservation of significant archaeological resources will involve removal and documentation, or preservation on site, on which only development that maintains the heritage integrity of the archaeological feature is permitted.~~ Similarly, in the ~~conservation of significant built heritage resources and cultural heritage landscapes~~ consideration shall be given to restoration, documentation, and maintenance in its original context. ~~Development should be compatible with these built heritage resources and cultural heritage landscapes.~~

Add new policy (to be consistent with PPS 2.6.3) and renumber rest of section

4.6.6 *Development and site alteration* shall not be permitted on *adjacent lands to protected heritage property* except where the proposed *development and site alteration* has been evaluated and it has been demonstrated that the *heritage attributes* of the *protected heritage property* will be *conserved*.

4.6.7 The County of Simcoe shall determine and notify the *local municipality* of the need for archaeological assessment by an archaeologist licensed under the Ontario Heritage Act, for applications for official plans and amendments, secondary plans, and plans of *subdivision*, where it is the approval authority, in accordance with ~~Appendix 3~~ *the County's Cultural Heritage Guidelines*. All archaeological assessment reports are to comply with current *provincial archaeological assessment standards and guidelines*.

4.6.8 The *local municipality* shall determine ~~and notify the County of~~ the need for archaeological assessment for applications where they are the approval authority ~~for site plan approval, consents, and zoning bylaws and amendments that are not related to newly proposed plans of subdivision~~ in accordance with ~~Appendix 3~~ *the County's Cultural Heritage Guidelines* and notify the *County* of any *significant archaeological resources*. ~~All archaeological assessment reports are to comply with current provincial archaeological assessment standards and guidelines.~~

4.6.9 Applicants shall provide to the County of Simcoe a copy of the completed Archaeological Assessment reports for heritage resource register purposes.

4.6.10 Where feasible and desirable, incentives may be provided by *local municipalities* to land developers in exchange for preservation of *significant cultural features*. This can be accomplished by permitting increased densities, density transfers, and other means considered appropriate, in exchange for resource preservation, through the application of the relevant provisions of the *Planning Act*.

4.6.11 *Local municipalities* are encouraged to:

- (a) Establish policies within their official plans that promote and encourage the designation of heritage properties under the *Ontario Heritage Act*, and include within these policies the criteria as set out in the *Ontario Heritage Act* amendment 2006 as Regulation #1 to be used to evaluate the architectural and historic significance;
- (b) Create and support a heritage committee within their community to deal with heritage matters considered appropriate;
- (c) Zone sites containing *significant cultural features* sites to ensure preservation in accordance with Section 34(1) 3.3 of the *Planning Act*; and
- (d) Apply the objectives and criteria set out in ~~Appendix 3~~ the *County's* Cultural Heritage Guidelines.

Delete policy as now covered in new 4.6.6

~~4.6.11 The County will work with local municipalities in developing policies regarding development and site alteration on adjacent lands to a protected heritage property. Such development and/or site alteration is to be evaluated to ensure the heritage attributes of the protected property will be conserved. The definition of adjacent and protected heritage property can be further defined in the local official plan.~~

4.6.12 When burial places are identified during the *development* process or are encountered during any excavation activity, the provisions of the *Funeral, Burial and Cremation Services Act* ~~Cemeteries Act~~, *Ontario Heritage Act* and the relevant regulations must be followed. Licensed archaeologists may be involved in heritage burial assessments for delineation of boundaries and excavations if required. Appropriate *provincial* Ministries and authorities will be notified.

4.6.13 Should aboriginal archaeological resources or burial places be found through assessment or during the *development* process, then the County and/or applicable local municipality shall provide notification to the appropriate aboriginal community(s).

Bring policy 4.11.4 forward as part of Phase 4b – with the following modification

4.11.4 A *local municipal* official plan or zoning bylaw may contain provisions which are considered more restrictive to *development* than this *Plan* and, to the extent such a conflict exists, the local plan or bylaw shall prevail provided they are in conformity with *Provincial* plans and are consistent with the *Provincial Policy Statement*.

Definitions:

CULTURAL HERITAGE LANDSCAPE means a defined geographical area ~~of heritage significance which has~~ that may have been modified by human ~~activities~~ activity and is identified as having cultural heritage value or interest by a community, including an Aboriginal community, ~~valued by a community.~~ ‡ The area may involve ~~involves a grouping(s) of individual heritage features such as structures, spaces, archaeological sites and natural elements, which~~ that are valued together for their interrelationship, meaning or association. ~~form a significant type of heritage form, distinctive from that of its constituent elements or parts.~~ Examples may include but are not limited to heritage conservation districts designated under the *Ontario Heritage Act*, villages, ~~historical~~ parks, gardens, main streets ~~or~~ and neighbourhoods, ~~marked~~ cemeteries, trailways, natural areas and industrial complexes of heritage significance; and areas recognized by federal or international designation authorities. ~~abandoned mine sites, historical ruins, aboriginal sacred areas, battlefields, and monuments.~~ Only views and vistas associated with the defined geographical area of heritage significance are considered as part of a *cultural heritage landscape*.

CULTURAL FEATURES refer to historical, architectural, archaeological, recreational, and aesthetic built and natural features of cultural significance including significant *built heritage resources, significant cultural heritage landscapes, and archaeological resources.*

Add new definitions as follows:

PROTECTED HERITAGE PROPERTY means property designated under Parts IV, V or VI of the *Ontario Heritage Act*; property subject to a heritage conservation easement under Parts II or IV of the *Ontario Heritage Act*; property identified by the Province and prescribed public bodies as provincial heritage property under the Standards and Guidelines for Conservation of Provincial Heritage Properties; property protected under federal legislation, and UNESCO World Heritage Sites.

HERITAGE ATTRIBUTES means the principal features or elements that contribute to a *protected heritage property's* cultural heritage value or interest, and may include the property's built or manufactured elements, as well as natural landforms, vegetation, water features, and its visual setting (including significant views or vistas to or from a *protected heritage property*).

Add part (e) from Significant from PPS 2014 to the definition of Significant as follows:

SIGNIFICANT means:

- (a) In regard to *wetlands, coastal wetlands and areas of natural and scientific interest*, an area identified as provincially significant by the Ontario Ministry of Natural Resources using evaluation procedures established by the Province, as amended from time to time;
- (b) In regard to the *habitat of endangered species and threatened species*, means the habitat, as approved by the Ontario Ministry of Natural Resources, that is necessary for the

maintenance, survival, and/or the recovery of naturally occurring or reintroduced populations of *endangered species* or *threatened species*, and where those areas of occurrence are occupied or habitually occupied by the species during all or any part(s) of its life cycle;

- (c) In regard to all other features and areas referred to in both this *Plan* and the *Provincial Policy Statement*, as those features and areas are defined in the *Provincial Policy Statement* unless otherwise defined in this *Plan*;
- (d) In regard to local natural heritage systems, features and ecological functions as defined in municipal official plans;
- (e) In regard to cultural heritage and archaeology, resources that have been determined to have cultural heritage value or interest for the important contribution they make to our understanding of the history of a place, an event, or a people.

NOTE: the definition of Significant remains under appeal and being addressed in Phase 4a of the hearing.

Appendix 3 to be deleted

ONTARIO MUNICIPAL BOARD

**MOTION RECORD
PHASE 4b – AGGREGATE
(Returnable December 3, 2015)**

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