

THE REGIONAL MUNICIPALITY OF YORK

Planning and Economic Development Committee

September 8, 2010

Report of the

Commissioner of Planning and Development Services

YORK REGION OFFICIAL PLAN DECEMBER 2009 PROVINCIAL APPROVAL

1. RECOMMENDATION

It is recommended that:

1. This report and attachments be received for information and be circulated to the local municipalities.

2. PURPOSE

This report provides an update to Regional Council on the Provincial Approval process for the York Region Official Plan – December 2009. The York Region Official Plan was approved by the Minister of Municipal Affairs and Housing on September 3, 2010 and includes both Provincially initiated and Regionally initiated modifications to Regional Council's original adopted Plan.

3. BACKGROUND

Draft Decision

The draft Provincial Decision on the Regional Official Plan was issued on May 31, 2010 and the proposed Provincial modifications were considered at the June 24, 2010 Regional Council, as Clause 6 or Report 5 of the Planning and Economic Development Committee.

This draft decision noted that there were some substantive issues which included refinements to the ROP to incorporate the Lake Simcoe Protection Plan, the treatment of the potential urban expansion areas, the identification of strategic employment lands and future urban areas beyond 2031, and consistency with the Green Energy and Economy Act. In addition there were some technical modifications and matters that were not addressed in the draft decision, and other issues which required additional discussion between Regional and Provincial staff including the Sustainable Building Policies, and the Significant Woodland Policies.

Regional Council's consideration of the draft decision and proposed Provincial modifications together with the modifications requested by the Region, were sent to the Province for their disposition on June 28, 2010.

Regional and Provincial staff worked closely on the consolidation of the Regional and Provincial policy and mapping modifications.

4. ANALYSIS AND OPTIONS

Minister of Municipal Affairs and Housing issues approval of the York Region Official Plan.

Regional and Provincial Staff worked collaboratively to ensure a timely approval of the York Region Official Plan. The Province's approval was issued on September 3, 2010. The final decision is included as *Attachment 1* to this report, and the annotated Approved York Region Official Plan forms *Attachment 2* to this report. *Attachment 2* will be available at the Planning and Economic Development Committee meeting on September 8, 2010.

Pursuant to the Planning Act, and Ontario Regulation 543/06, the Ministry of Municipal Affairs and Housing provides notice of their decision to Regional Council; each person or public body that made a written request to be notified of the decision; each municipality to which the plan would apply if approved; and a number of other public bodies which are prescribed by regulation. This notice will be issued by the Ministry which will start the 20-day appeal period. Within 20 days from the date the Province issues its notice of decision, an appeal of the Ministry's decision may be filed with the Ministry by a person or public body who, before the plan was adopted, made oral submissions at a public meeting or written submissions to the Council.

Regional staff also provided notice of the Minister's decision to those who submitted comments on the Regional Official Plan. This notice advised submitters that the Regional Official Plan was approved and directed them to the Region's website where the Minister's decision, and the annotated version can be found. This notice was issued on for information purposes only.

Majority of modifications to the Regional Official Plan are minor and technical in nature

While there are a substantive number of modifications to the Regional Official Plan, totalling 146, the vast majority of the modifications are minor and technical in nature. This report details where the modifications were more substantive in nature.

Modifications to the Regional Official Plan have been made by the Province and Regional Council

The covering letter to the Minister's decision contains a description of the Province's issues with respect to the York Region Official Plan – December 2009. Most of the modifications were anticipated and have been discussed with Ministry staff. Council was informed of the draft modifications and the Regional staff response on June 24, 2010.

Map 1 “Potential Urban Expansion” symbols have been deleted - As part of the Provincial modifications; the Province deleted the asterisks in the Town of East Gwillimbury and the City of Vaughan denoting “Potential Urban Expansion Areas”. The Region's refined land budget analysis (Clause 2 of Report 2 of the Regional Planning and Economic Development Committee endorsed by Regional Council, March 2010) supports the introduction of Proposed Regional Amendments 1, 2 and 3.

Regional staff has consistently opposed this deletion on the basis that it gives additional notice to the public that there is a need to expand the urban boundary in the three whitebelt communities.

The covering letter to the Minister's Draft decision acknowledges that the Region is proposing to proceed with three (3) official plans amendments to expand the urban area boundary in the whitebelt through a public review and amendment process separate from the adoption of the new Official plan. The Province's letter further indicates

“...that the Province is satisfied that the Region has completed a municipal comprehensive review and undertaken a land budget analysis to justify the additional lands to accommodate forecasted growth through urban expansions as proposed in the forthcoming amendment.”

Proposed Amendments 1, 2 and 3 were subject to Statutory Public meetings on June 16, 2010 and are currently in circulation to prescribed agencies, boards and commissions, municipalities and First Nations. The comments on these amendments are addressed by a separate report on the September 8, 2010 Planning and Economic Development Committee Agenda.

Lake Simcoe Protection Plan - The Province has modified the Plan to more fully bring the Adopted Regional Official Plan into conformity with the Lake Simcoe Protection Plan. These modifications include policies (some of which relate to local municipal responsibilities under the Plan) and modifications to Map 1, 6 and 7 to show the Lake Simcoe Protection Plan boundary and area of its applicability.

Regional staff continues to believe that further policy refinements may be required in the future as the Lake Simcoe Protection Plan matures. Regional and local municipal staff will continue to monitor the ongoing administration and development of the policy context for the Lake Simcoe Protection Plan.

Strategic Employment Lands and Future Urban Areas beyond 2031 -Figure 2 -
The Provincial decision modifies Figure 2 to delete the “Future Strategic Employment Lands” identification that is beyond the 20-year planning horizon.

Regional staff has advised Ministry staff on numerous occasions that Figure 2 is not part of the operative part of the document, however it appears that they do not agree with the Region’s approach. The deletion of the “Strategic Employment Land” identification beyond the existing Urban Area results in several additional Regional modifications and changes to proposed Amendment 1 and 3 dealing with urban expansions in the Towns of East Gwillimbury and Markham.

Bradford Bypass - The Province has indicated on many occasions that since the Bradford Bypass is not shown in the Growth Plan, that it cannot be included in the ROP. A proposed modification to delete reference to the “Bradford Bypass” has been proposed to Policy 7.2.71 a). The Bradford Bypass has an approved Individual Environmental Assessment for the route and is defined by an Order in Council at the Provincial level. While Regional staff opposed the deletion of references to this facility in policy 7.2.71a) staff is satisfied that there are sufficient policy and mapping references to the Bradford Bypass remaining in the ROP. These references are on Maps 1, 11, and 12 and in policy 7.2.53 (previously 7.2.52) . These references establish the Region’s position on this important piece of infrastructure and clearly inform the public.

Table 1 – York Region Population and Employment Forecast by Local Municipality
The Province has modified Table 1 so that the total population and employment forecasts numbers for 2031 are precisely as shown on Schedule 3 of the Growth Plan. This modification has resulted in adjustments to the forecast figures to reduce the total by 7,500 persons and 300 jobs.

This reduction is considered minimal and does not adversely impact the land budget. Further the Province has made this modification to all other Regional Official Plans in the GTA to ensure strict compliance to Schedule 3 of the Growth Plan for the Greater Golden Horseshoe.

Agricultural Expansion in the Holland Marsh Specialty Crop Area - The Province has deleted ROP policy 6.3.13 in its entirety. This policy represents Regional Council’s position on the need to balance the agricultural and natural heritage aspects of lands in the Holland Marsh Speciality Crop Area and potentially permit some agricultural expansion. It is the Regional staff position that if this policy does not contravene Provincial Policy Statement or Provincial Plans then it should remain in the Plan. While Regional staff opposed this modification, staff will continue to work with the applicant and the Province, through the ongoing review of the Provincial Policy Statement to ensure that the ability to balance opportunities for agriculture and natural heritage protection within the Holland Marsh.

Regional Staff had further discussions on Significant Woodland Policies and Sustainable Building Policies

Significant Woodland Policies - Regional staff did not support the woodland policy modifications as previously proposed by the Province. The Province proposed to modify policies 2.2.44 and 2.2.45. While staff did not have an issue with respect to inclusion of criteria dealing with both early successional or invasive non-native species instead of “cultural communities”, staff was not comfortable with either the definition of “early successional” that the Province was relying on for the policy, nor with the parameters around invasive non-native species as proposed, nor understand the technical merits.

Regional and Provincial staff reviewed the policies together for their planning and technical merits, and came to a mutually agreeable resolution on the modifications. The Province has modified policies 2.2.44 and 2.2.45 with respect to Woodlands. The effects of the modifications include:

- Change the application of the policy from only “cultural communities” to “early successional” woodlands and woodlands which contain a high proportion of non-native and invasive tree species.
- Clarify the geographic application of the policy to only the portions of the Urban Area outside of the Greenbelt, Oak Ridges Moraine and the applicable portions of the Lake Simcoe Watershed (new urban areas in the Town of East Gwillimbury). The total area of application of this policy amounts to .24 sq. km or approximately 24% of the Regional area.
- Adding a definition of “early successional” and a sidebar which illustrates how a study can determine whether a woodland is dominated by non-native invasive species.
- Remove the ability to review the appropriateness of the potential development and site alteration within a woodland against the sustainable community policies in Sections 5.2 and 5.6 of the Regional Official Plan.

The wording of the above woodland policies was the subject of numerous discussions with the Province and Regional Staff since the issuance of the Province’s draft decision. Staff is satisfied with the wording changes as modified by the Province.

Sustainable Building Policies - In the draft decision letter, the Province has indicated that they are still considering the Sustainable Building policies of the ROP to ensure that there is no conflict with the Ontario Building Code.

Regional staff is aware that the Sustainable Building Policies in the ROP require standards for building energy and water performance that are greater than the requirements currently within the Ontario Building Code. These policies are a result of extensive consultation with the Building Industry and Land Development (BILD) and local municipalities.

York Region is committed to a sustainable approach to growth. A key element of this approach includes achieving high standards in new construction in York Region. While

Provincial Policy supports sustainable community development and green buildings, the Ontario Building Code does not yet include some of the advanced energy efficiency/sustainability measures, including green building design and materials, water and energy use endorsed in the ROP.

Regional staff had extensive discussion with the Province on the Sustainable Building policies in order to raise the standard of building performance in York Region and come to a resolution on the policies. The Provincial modifications of these policies move the sustainable building agenda forward in York Region while respecting the Ontario Building Code. The Province has modified policies 5.2.20, 5.2.21, 5.2.22, 5.2.23, and 5.2.33 of the York Region. These changes include:

- Changing the language of the Sustainable Building section from energy and water efficiency to energy and water conservation. It is the province's position that the term "conservation" is preferable.
- Modifying "required" in policies 5.2.20 and 5.2.21 to "work with local municipalities and the development community to achieve".

Regional modifications are approved with minor changes

The Province has approved the Regional modifications to the Official Plan which were previously endorsed by Regional Council in May and June, 2010. There were minor changes to the Regional modifications. All changes to the Regional Council's endorsed modifications were discussed by Regional and Provincial staff. The following is a summary of the previously endorsed modifications.

In May, 2010 Regionally initiated modifications were endorsed by Regional Council. These modifications were numerous but minor in effect and for the most part delete redundant policies, clarify wording and definitions and included:

- deletion of policy 4.3.8 which had exempted employment land conversions in Regional centres and *key development areas* from the requirements of a municipal comprehensive review.
- clarification of policy 4.3.12 to require local municipal official plans to exclude land uses other than employment and ancillary uses on local corridors and major streets within employment lands.
- clarification of policy 4.3.12 to ensure that minimum densities for employment lands are higher for lands adjacent to centres and corridors.
- clarification of policy 8.4.4 regarding amendments to land use designations in the Oak Ridges Moraine.
- **Minor wording and syntax Modifications:** In a number of places throughout the document Regional staff identified syntax and punctuation errors that have been corrected as part of this modification package.
- **Mapping Modifications:** Mapping modifications on the whole are minor and have resulted from a detailed review of the Adopted Official Plan with area municipalities as their own growth management exercises progress, Regional, municipal and provincial staff as well as changes required from additional information supplied from stakeholders.

In June 2010, the following additional Regional modifications were considered:

- **Policy 4.3.14 – Employment** - The Province suggested during discussion that there were a number of policies relating to new development in Sections 5.2 and 5.6 that should be applicable to new employment lands.
- **Policy 6.4.7 – Major Recreational Uses in the Rural Area** - Policy 6.4.7 requires that applications for Major Recreation uses in the Rural Area may be subject to both a Regional Official Plan amendment and a local official plan and zoning bylaws. In order to reduce duplication and simplify the process, the policy was modified by deleting the words "this Plan and" from line 3 of the policy.
- **Policy 7.5.2 b. –Roads Projects to be expedited** - The reference to ‘Green Lane’ was replaced by ‘Ravenshoe Road’ to acknowledge that Highway 404 north to Ravenshoe is under construction.
- **Map 2 - Refinement to the extent of key natural heritage features in the Aurora 2C lands east of Leslie Street** - Further discussions with the Aurora 2C landowners and the Town of Aurora for the lands east of Leslie Street have resulted in refinements to Woodlands and Regional Greenlands on Maps 2 and 5 of the Regional Official Plan.
- **Map 4 – Refinement of the extent of wetland features on two properties in the Sutton Community Plan to reflect approved development plans** - Wetland designation refinements occurred on two properties in Sutton which have existing approvals. The final approved mapping reflects these changes.
- **Figure 2 – York Region Strategic Employment Lands** - As previously indicated Provincial staff considers that Figure 2 is part of the operative part of the Official Plan by virtue of the several policy references to the Figure within the document. Therefore, the Province has modified Figure 2 to remove identification of ‘Strategic Employment Lands’ beyond the existing ‘Urban Area’. Because of the Province’s proposed modifications to Figure 2, the further modifications were necessary to policies 4.3.6 and 4.3.21.

While there appears to be a high volume of modifications, the majority of the modifications are minor and technical in nature.

The Province proposed additional modifications

In the approval of the Regional Official Plan, when considering both the Regional and Provincial modifications together, the Province proposed additional modifications. These modifications were discussed with Regional staff, prior to the issuance of the decision.

Highway 400 Flyover in the ROPA 52 Area – The Province has added wording to policy 7.2.59 (previously 7.2.58) as follows: “The location of the mid-block crossing on Highway 400 between Kirby Road and the King-Vaughan boundary is conditional upon the alignment of the GTA West Corridor, and will be determined through an Environmental Assessment process.” This wording satisfied the Province that the location of the highway crossing in this location was potentially in conflict with a future

location of the GTA West Corridor and that this would be considered in the Environmental Assessment process for the GTA West Corridor.

Designating the Greenbelt Portion of the ROPA 52 lands as “Agricultural Area” -

The Province has advised that the Greenbelt portion of the ROPA 52 lands were previously undesignated in the Regional Official Plan, and must be designated either Rural or Agricultural in order to conform with the Greenbelt Plan. These lands have been identified as “Agricultural” on Map 8, consistent with the other Greenbelt ribbons.

Buttonville Airport Policy (to be updated pending decision) - At the June 24, 2010 Regional Council meeting, the following resolution was passed with respect to the Regional Official Plan:

2. That Policy 7.2.88 (formerly 7.2.87) of the York Region Official Plan – December 2009, be modified by the addition of the following paragraph at the end of the Policy:

“The re-use of the Airport site is intended to generate a range of quality employment opportunities and expand upon the number of jobs planned for the site. Approval of the Secondary Plan to the satisfaction of the Town in consultation with the Region will not be considered a conversion, and a further Regional municipal comprehensive review will not be required.”

In reviewing the Region’s requested modifications, the Province proposed a modification to the above noted policy. The modification would:

- delete the last sentence “Approval of the Secondary Plan to the satisfaction of the Town in consultation with the Region will not be considered a conversion, and a further Regional municipal comprehensive review will not be required”.
- add uses in addition to the “business park use” in the first paragraph of the policy.

The Province felt that these modifications were necessary to ensure conformity to the Places to Grow Plan, specifically with respect to the conversion of employment lands to other land uses. Regional Staff worked with Town staff to come up with wording, while maintaining the spirit of Council’s resolution and meeting the requirements of the Province.

The following wording has been reviewed by Regional Staff and the Province, and will replace the above noted policy.

That the Toronto Buttonville Municipal Airport lands are designated for business park use in the Town of Markham Official Plan, including permission to operate an airport. When airport operations at the Buttonville Airport cease, the significant majority of the subject lands shall be retained for business park use, and the balance for a mix of urban uses. The Town of Markham, in consultation with the Region, will determine the details of the future use of these lands through an implementing secondary plan process.

The re-use of the Airport site is intended to generate a range of quality employment opportunities and expand upon the number of jobs planned for the site.

Staff believe that the municipal comprehensive review was completed as part of the Regions Official Plan work and will be confirmed by Markham's Official Plan analysis.

Appeal by the Region is not necessary

Regional Council at its meeting of May 20, 2010, through its adoption of Clause 3 of Report 4 of the Regional Planning and Economic Development Committee authorized the Commissioner of Planning and Development Services to appeal the Minister's decision on the York Regional Official Plan – December 2009 should requested Regional modifications not be made.

This delegation was necessary as the Regional Official Plan is likely to be approved by the Province over the summer, while Regional Council is not in session. In addition, a limited appeal period window of 20 days, as prescribed by the *Planning Act* limits the opportunity to confer with Regional Council within regular reporting timeframes.

Staff do not see the need for the Region to appeal the Ministry's decision. Issues discussed earlier with respect to the Bradford Bypass and Smith Gardens do not warrant an appeal by the Region.

There is a potential for a number of appeals of the Regional Official Plan

Following the 20 day appeal period, stakeholders may appeal either site specific issues or general official plan matters through the Ministry of Municipal Affairs and Housing to the Ontario Municipal Board (OMB).

In the months leading up to the adoption of the Official Plan, Regional staff received comments from a total of 105 separate development interests, as well as 16 members of the general public, 9 special interest groups and 28 agencies and other government levels.

Of these submissions, Regional staff estimates that a significant number of these submissions may result in appeals of the Official Plan after the Minister's approval. Many of these resulting in appeals that cannot be negotiated and will require a hearing. The East Gwillimbury, Markham and Vaughan urban boundary expansions (ROPAs 1, 2, and 3) may generate a significant number of appeals each.

Regional Staff will work with appellants to scope appeals and settle matters which can be settled without the need for an Ontario Municipal Board Hearing. Staff will advise Regional Council, once appeals are filed on the York Region Official Plan.

The defence of the Regional Official Plan will require substantive, dedicated staff time and resources and a carefully co-ordinated effort

The coordination of the planning and legal issues associated with the defence of the Regional Official Plan and the urban expansion amendments will potentially be beyond the capacity of existing planning staff complement. The defence of the Regional Official Plan will be a substantive undertaking, requiring dedicated legal and planning staff resources.

The engagement of consultants and or contract staff may be necessary to co-ordinate, research, provide evidence and negotiate resolution of issues may be necessary. These resources may be required over a multi-year time frame and additional resources may be required as additional changes are made to the Regional Official Plan over time.

Relationship to Vision 2026

Vision 2026, York Region's strategic plan for the future, establishes the overall vision and direction for Regional Council. As well, Council has proceeded with the Sustainability Strategy, the Natural Heritage Directions Strategy, New Communities Criteria, and the Master Plans for Transportation and Transit and Water and Wastewater that will determine a new way of proceeding with development.

The approval of an updated York Region Official Plan support the implementation of Vision 2026 and the York Region Sustainability Strategy.

5. FINANCIAL IMPLICATIONS

There will be ongoing costs associated with the approval of the York Region Official Plan including dedicated staff resources, as indicated above. There is a joint report on the September 16, 2010 Finance and Administration Committee Agenda which addresses the necessary representation before the Ontario Municipal Board in Regional Official Plan appeal matters. This report details the legal and planning representation requirements to defend the Regional Official Plan before the Ontario Municipal Board, as the Provincial approval of the ROP will likely result in a number of appeals. It is difficult to anticipate at this time how much it will cost to defend the Regional Official Plan. Based on past experiences, the average cost of a hearing before the Ontario Municipal Board is \$20,000 per day. The costs will vary depending on the length and nature of the appeals and associated hearings.

In addition since many of the issues being defended though this Official Plan involve the Provincial Plans, including the Growth Plan and the Greenbelt Plan, Lake Simcoe Protection Plan, and Oak Ridges Moraine Conservation Plan, it is recommended that the Province of Ontario be requested to contribute to the costs of this defence, both in in-kind support and financially. A recommendation to this effect is included in the report to Finance and Administration Committee.

6. LOCAL MUNICIPAL IMPACT

Local municipalities have been consulted on an ongoing basis during the preparation and review of the Regional Official Plan. Formal comments have been received from all local municipalities and a number of municipalities provided comments on aspects of the adopted Official Plan. Regional staff continued to discuss issues related to the approval with local municipal staff as they arose. This report will be circulated to all local municipalities and Regional staff will work closely with local municipalities on the local official plans. The Ministry's approval of the York Region Official Plan has been forwarded to all Local Municipalities.

7. CONCLUSION

The Province issued the formal approval of the York Region Official Plan on September 3, 2010. Regional Staff have been working closely and collaboratively with the Province to ensure an expedited approval and to resolve issues with respect to both Provincially and Regionally initiated modifications to the Plan.

The Regional Official Plan was approved with modifications that were initiated by the Region and the Province, most of which were previously reviewed and endorsed by Regional Council. Additional minor modifications were made by the Province through direct discussion with Regional staff.

Staff is satisfied that all Regional staff and Regional Council issues and priorities have been dealt with in the Minister's approval.

Following the Minister's approval of the Regional Official Plan, there is a 20 day appeal period, wherein stakeholders have the opportunity to appeal either site specific issues or general official plan matters through the Ministry of Municipal Affairs and Housing to the Ontario Municipal Board. The defence of the Regional Official Plan at the Ontario Municipal Board will require a substantive and dedicated staff effort and co-ordinated approach that may be a multi-year endeavour. Regional staff will carefully monitor the appeals received on the Plan, and report back to Regional Council when appropriate.

For more information on this report, please contact Karen Antonio-Hadcock, Senior Planner at 905 830-4444 Ext. 1532, or John Waller, Director of Long Range and Strategic Planning at Ext. 1525.

The Senior Management Group has reviewed this report.

Recommended by:

Approved for Submission:

Bryan W. Tuckey, M.C.I.P., R.P.P.
Commissioner of Planning and
Development Services

Bruce Macgregor
Chief Administrative Officer

September 2, 2010

Attachments 1. Minister's Decision of September 3, 2010 on the York Region Official
Plan – December 2009
2. Annotated Approved York Region Official Plan (to be sent under
separate cover)

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