

February 28, 2019

via upload to Environmental Registry of Ontario website

Mr. Charles O'Hara
Director, Growth Policy, Planning and Analysis
Ministry of Municipal Affairs and Housing
777 Bay Street,
23rd Floor, Suite 2304
Toronto, Ontario
M5G 2E5

Dear Mr. O'Hara

**Re: ERO Registry No. 013-4504 – Proposed Amendment to the Growth Plan, 2017
Hamlet of Hampton, Municipality of Clarington
Part of Lot 17, Concession 5, in the former Township of Darlington**

CM Planning Inc. is the planning consultant for 562503 Ontario Limited and Honey Harbour Heights Estates Ltd., the owners of land located north of Ormiston Street, in the Hamlet of Hampton, Municipality of Clarington. As shown in Attachment 1, the property is subject to a minor rounding out of the hamlet boundary, deferred by the Region of Durham through the approval of the Municipality of Clarington's recent Municipal Comprehensive Review (Official Plan Amendment No. 107). **For the reasons detailed below, we request that a policy be added to the proposed amendment to the Growth Plan 2017 to allow for the minor rounding out of hamlet boundaries within the Greenbelt Area as permitted by the Greenbelt Plan 2017, and to allow for the refinement of Agricultural System and Natural Heritage System mapping as permitted by policy 5.4.2 of the Greenbelt Plan.**

Our comments herein pertain to the proposed amendment to the Growth Plan related to making "growth planning easier for rural communities" and ensuring the "provincial agricultural and natural heritage system mapping reflect local realities" as quoted from the Ministry of Municipal Affairs and Housing (MMAH) News bulletin issued on January 15, 2019.

As stated in the ERO Policy Notice No. 013-4504, the overall goal of the proposed changes to the Growth Plan is to "streamline growth management planning in the Greater Golden Horseshoe to achieve", among other outcomes, "More Land for Housing" by respecting "the ability of local governments to make decisions about when and where to add new land for housing, to ensure that there is enough housing supply to meet demand" and "Greater Local Autonomy and Flexibility for Municipalities" by ensuring "municipalities will have the ability to implement the Plan in a manner that better reflects their local context while protecting the Greenbelt".

Hamlet Expansions – Making Growth Planning Easier for Rural Communities

As further detailed in the ERO notice, the proposed changes to the Growth Plan aim to "respect the ability of local governments to make decisions about how they grow". Settlement area boundary expansions are considered a "system that enables local municipal decisions on reasonable changes to settlement area boundaries in a timely manner so as to unlock land faster for residential and commercial development and support more jobs and housing".

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DEVELOPMENT CONSULTING

OPA No. 107 was adopted (November 1, 2016) and approved (June 19, 2017) prior to the effective date of the Growth Plan 2017 (July 1, 2017). OPA No. 107 conformed with the provincial plans in effect at the time of adoption and approval, as required by section 3(5) of the Planning Act. OPA No. 107 deferred the limits of the minor rounding out of six hamlet boundaries within the Municipality of Clarington, including the Hamlet of Hampton. The deferrals were used as a mechanism similar to a holding zone and are to be lifted once required studies and policy requirements are completed to justify the limits of the hamlet expansions. Attachment 2 from Templeman LLP sets out excerpts from various municipal and regional reports and correspondence in support of the hamlet expansions in OPA No. 107 and provides a further request and justification in support of this request.

The MMAH News bulletin on the proposed changes to the Growth Plan dated January 15, 2019, states that the Ontario government is proposing changes to the Growth Plan to “[m]ake growth planning easier for rural communities”. It further states that “[m]unicipalities, including rural communities, would be able to adjust settlement area boundaries more easily, while continuing to provide protection for agricultural lands and natural areas.” However, the proposed amendment to the Growth Plan does not support the provincial government announcement for hamlets within the Greenbelt Area:

- Proposed policy 2.2.8.3.k.i. – allows for settlement area boundary expansions in the Greenbelt Area for towns and villages but not for hamlets.
- Proposed policy 2.2.8.3.k.v. – requires expansions in the Greenbelt Area to be serviced by ‘existing municipal water and wastewater systems’, though most hamlets do not have municipal services.
- Proposed policy 2.2.8.4.d. – allows a municipality to ‘adjust’ ‘settlement area boundaries’ ‘outside of’ a municipal comprehensive review but not for ‘rural settlements’ or ‘settlement areas’ in the Greenbelt Area and only where there would be ‘no net increase in land within settlement areas’.
- Proposed policy 2.2.8.4.e. – allows a municipality to ‘adjust’ ‘settlement area boundaries’ ‘outside of’ a municipal comprehensive review but only where the ‘settlement area’ is serviced by ‘municipal water and wastewater systems’, though most hamlets do not have municipal services.
- Proposed policy 2.2.8.5.c. – allows for a ‘settlement area boundary expansion’ ‘in advance of’ a municipal comprehensive review but only for settlement areas that are not a ‘rural settlement’ (ie hamlets) or in the Greenbelt Area.
- Proposed policy 2.2.8.5.d. – allows for a ‘settlement area boundary expansion’ ‘in advance of’ a municipal comprehensive review but only where the proposed expansion is serviced by ‘municipal water and wastewater systems’, though most hamlets do not have municipal services.
- Proposed policy 2.2.9.7.a. – allows for ‘minor adjustments’ to the boundaries of ‘rural settlements’ (ie hamlets) ‘outside of’ a municipal comprehensive review but not for ‘settlement areas’ in the Greenbelt Area.

The proposed policy changes to the Growth Plan clearly do not “[m]ake growth planning easier for rural communities” or allow for “[m]unicipalities, including rural communities” to “be able to adjust settlement area boundaries more easily” [ERO No. 013-4504] for the vast majority of rural settlements surrounding the Greater Toronto Area (GTA) within the Greenbelt Area where pressure to accommodate rural populations is great. Only rural settlements in the outer ring and a handful within the ‘white belt’ would be able to adjust settlement area boundaries. For the majority of rural communities surrounding the GTA, the proposed policies only reinforce the policies of the Growth Plan 2017 that prohibit rural settlement boundary expansions.

By definition, the minor rounding out of a hamlet is a very minor expansion of a hamlet settlement area that must still meet the strict requirements of the Greenbelt Plan and Growth Plan including no expansion into the Natural Heritage System for expansions in the Greenbelt Area. With these restrictions already in place, allowing minor expansions of hamlets within the Greenbelt Area would serve rural populations within the Greenbelt Area whose options for rural housing are restricted, while still “maintain[ing] protections for the Greenbelt, agricultural lands, the agri-food sector, and natural heritage systems” [ERO No. 013-4504].

Through the Proposed Amendment to the Growth Plan, there is an opportunity to continue directing growth to urban centres and providing for limited growth in hamlets within the Greenbelt Area, as the Growth Plan 2006 and the Greenbelt Plan 2005 provided, while continuing to provide protection for agricultural lands and natural areas.

We therefore request that a policy be added to the Proposed Amendment to the Growth Plan to allow for the minor rounding out of hamlets within the Protected Countryside of the Greenbelt Plan as permitted by the Greenbelt Plan 2017 as well as the previous Greenbelt Plan 2005 and Growth Plan 2006 in order to “make growth planning easier for rural communities” and as stated in the Ministry of Municipal Affairs and Housing News bulletin.

Mapping – Ensuring Agricultural System and Natural Heritage System Mapping Reflects Local Realities

As stated in the ERO Policy Notice No. 013-4504, the Agricultural System and Natural Heritage System mapping are meant to be “systems that are factual and reflect the local mapping realities, while providing for the appropriate level of protections for our natural resources”.

The proposed amendments to Growth Plan policies 4.2.2.4 and 4.2.2.5 regarding the Natural Heritage System mapping and policies 4.2.6.8 and 4.2.6.9 regarding the Agricultural System mapping, provide for refinement to the provincial mapping in upper- and single-tier municipal official plans, but not in local municipal official plans, through site specific studies at the time of development applications, or via a municipal zoning by-law update as provided for in policy 5.4.2 of the Greenbelt Plan (2017).

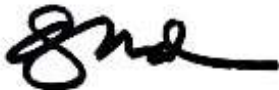
We therefore also request that, for clarity, a policy be added to the Proposed Amendment to the Growth Plan to allow for the refinement of Agricultural System and Natural Heritage System mapping by lower-tier municipalities as permitted by policy 5.4.2 of the Greenbelt Plan (2017) in order to “ensure provincial agricultural and natural heritage systems maps reflect local realities” as stated in the Ministry of Municipal Affairs and Housing News bulletin.

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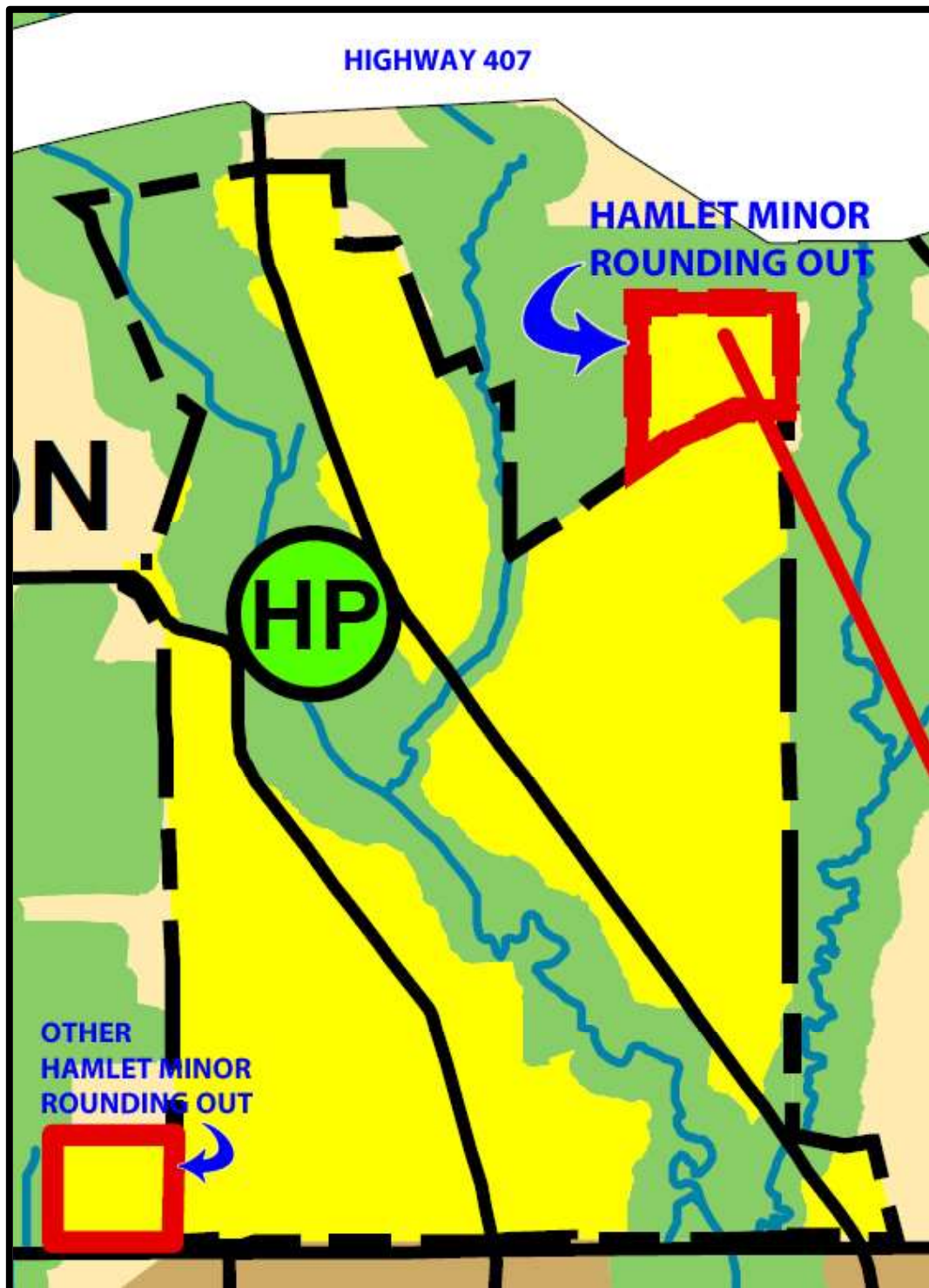
Thank you for the opportunity to provide comments on the Proposed Amendment to the Growth Plan and for your consideration of this important matter. We believe the changes requested herein will help to achieve the overall goal of the proposed changes to the Growth Plan of streamlining growth management planning in the Greater Golden Horseshoe.

Yours truly
CM PLANNING INC.



Carolyn Molinari

cc Templeman LLP
Municipality of Clarington
client



Location of Hamlet of Hampton Minor Rounding Out

Base map: partial of Municipality of Clarington Official Plan Map A1 Land Use

Source: <https://www.clarington.net/en/do-business/resources/Official-Plan/Map-A.pdf>

via ERO submission

February 28, 2019

Mr. Charles O'Hara
Director, Growth Policy, Planning and Analysis
Ministry of Municipal Affairs and Housing
777 Bay Street,
23rd Floor, Suite 2304
Toronto, Ontario
M5G 2E5

Dear Mr. O'Hara:

**Re: ERO Registry No. 013-4505 - Proposed Amendment to O. Reg. 311/06: Transitional Matters – Growth Plans
ERO Registry No. 013-4504 – Proposed Amendment to the Growth Plan, 2017
Hamlet of Hampton – Part of Lot 17, Concession 5, in the former Township of Darlington, Clarington**

A. INTRODUCTION AND OVERVIEW

This correspondence has been prepared in support of the request on behalf of our client 562503 Ontario Limited and Honey Harbour Heights Estates Ltd. for amendments to the Transition Regulations (proposed modifications to O. Reg. 311/06) and/or the Growth Plan, 2017 as they relate to our client's site-specific property in the Hamlet of Hampton, Municipality of Clarington and more generally to the 2017 Growth Plan.

The following paragraphs contain excerpts from the various Municipal and Regional reports and correspondence dealing with Policy 12.4.6 of Clarington Official Plan Amendment No. 107 that provides for minor rounding out of several hamlets in Clarington including Hampton.

Clarington Planning Staff expressly state that the net result of the Region of Durham adding by modification a new section 12.4.6 to OPA 107 is that "the one-time **rounding out of hamlets** under the Greenbelt Plan **is preserved** and can be implemented through

an individual decision on each Hamlet when a proponent (or the Municipality) has justified, through the appropriate studies, that the Hamlet may expand”.

B. CLARINGTON PLANNING SERVICES REPORT (PSD-054-16) SEPTEMBER 12, 2016 (EXCERPTS)

1. “The purpose and effect of draft OPA #107 is to bring the Clarington Official Plan into conformity with the Province’s Growth Plan and Greenbelt Plan and the Regional Official Plan. The comprehensive review of the Official Plan has been undertaken by the Municipality as required by Section 26 of the Planning Act”. [Page 2]. *Commentary: Section 26 of the Planning Act provides that if an official plan is in effect in a municipality, the council of the municipality that adopted the official plan shall revise the official plan as required to ensure that it conforms with the provincial plans or does not conflict with them, as the case may be. OPA 107 clearly states that the purpose and effect of the official plan amendment was to bring the Clarington Official Plan into conformity with the Province’s Growth Plan and Greenbelt Plan, which as of the date of adoption of OPA 107 by Clarington was the 2006 Growth Plan (consolidated 2013) and the 2005 Greenbelt Plan.*
2. Page 11 - Section 6.10 of Clarington Report states “As provided in the Greenbelt Plan, minor rounding out of hamlet boundaries is permitted as part of a municipal conformity exercise. As provided in the draft OPA 107, Staff is proposing that the...Hamlet of Hampton [*note: among others*] be rounded out to include an area to the north that may be further subdivided.”
3. Page 12 - Section 6.11 of Clarington Report states: “It will be up to the development proponent to satisfy the tests of the Durham Region Official Plan which provides an extensive list of criteria that must be met prior to any further subdivision, or development of the above lands”.

C. DURHAM REGION POST CIRCULATION COMMENTS ON CLARINGTON OPA #107 - May 5, 2017 (EXCERPTS)

1. In this letter, the Region notes that OPA 107 addresses conformity to the Provincial Greenbelt Plan, Provincial Growth Plan and Regional Official Plan. *Commentary: As noted above, the relevant Provincial Plans were the 2006 Growth Plan (consolidated 2013) and the 2005 Greenbelt Plan.*
2. In this letter, the Region writes: “A new policy [12.4.6 – see below] is proposed to address the provision of Hamlet rounding out. The related mapping changes are

deferred, allowing Clarington to complete the appropriate studies to justify the rounding out of specific hamlets”.

3. Modification No. 80 inserts a new Section 12.4.6 - Hamlet Rounding-Out as follows: “12.4.6 Notwithstanding policy 3.4.3.2 of the Greenbelt Plan, minor rounding out of the hamlet boundaries of... Hampton... may be permitted in accordance with the relevant policies of the Greenbelt Plan and the Durham Regional Official Plan, subject to the completion of appropriate studies to justify and establish the limits of such rounding-out.”

D. CLARINGTON PLANNING SERVICES REPORT (PSD-036-17) MAY 15, 2017 (EXCERPTS)

1. Section 2.8 of this Report states as follows: “The Region is deferring a decision on the expansion of hamlet boundaries until more detailed information is prepared by the landowners [*emphasis added*] that would meet the requirements of the Greenbelt Plan and the Regional Official Plan. This includes studies of such matters as hydrogeology, impact of development on existing wells, suitability of soil conditions for private sewage disposal systems, surface drainage and hamlet character. Accordingly, the Region of Durham is proposing a modification (Modification 80) below.

“A new Section 12.4.6 is hereby added as follows:

12.4.6 Notwithstanding policy 3.4.3.2 of the Greenbelt Plan, minor rounding-out of the hamlet boundaries of Leskard, Newtonville, Kendal, Hampton, Maple Grove and Solina may be permitted in accordance with the relevant policies of the Greenbelt Plan and the Durham Regional Official Plan, subject to the completion of appropriate studies to justify and establish the limits of such rounding-out.

The net result is that the one-time rounding out of hamlets under the Greenbelt Plan is preserved and can be implemented through an individual decision on each Hamlet when a proponent (or the Municipality) has justified, through the appropriate studies that the Hamlet may expand. [*emphasis added*]

Staff agree with deferral and related modification...”.

Commentary: the wording above in the Clarington Staff report is very clear that the intent of the deferral was to allow individual developers to undertake the necessary studies.

E. NOTICE OF DECISION BY REGION OF DURHAM WITH RESPECT TO OPA #107 MUNICIPALITY OF CLARINGTON-June 19, 2017

1. Region issues its Notice of Decision including Modification No. 80 adding new Section 12.4.6 - Hamlet Rounding-Out as follows: *“Notwithstanding policy 3.4.3.2 of the Greenbelt Plan, minor rounding out of the hamlet boundaries of... Hampton... may be permitted in accordance with the relevant policies of the Greenbelt Plan and the Durham Regional Official Plan, subject to the completion of appropriate studies to justify and establish the limits of such rounding-out”.*

Modification No. 80 in the Notice of Decision is identical to the wording in the Durham Region Post Circulation Comments (above in section C) and is identical to the wording that was considered and supported by Clarington staff in its May 15, 2017 staff report (above in section D). Accordingly, since there was no change to the wording of the modification, the statements of planning staff in both the Durham Post Circulation comments and the Clarington May 2017 planning staff report are still applicable.

F. SUMMARY

The excerpts from the Region and Municipal reports above consistently and clearly indicate that both the Region and Clarington intended that the minor rounding out of hamlets would be allowed in accordance with the Durham Official Plan and the provincial plans in effect at the date of adoption by Clarington and approval by Durham. In fact, Clarington Planning Staff expressly stated that the net result of section 12.4.6 of OPA 107 is that the one-time rounding out of hamlets under the Greenbelt Plan is preserved and can be implemented through an individual decision on each Hamlet when a proponent (or the Municipality) has justified, through the appropriate studies that the Hamlet may expand.

G. SECTION 3(5) OF THE PLANNING ACT

Section 3 (5) of the Planning Act is relevant:

Policy statements and provincial plans

*3(5) A decision of the council of a municipality in respect of the exercise of any authority that affects a planning matter,
(b) shall conform with the provincial plans that **are in effect on that date**, or shall not conflict with them, as the case may be. (Emphasis added)*

When OPA 107 was adopted by Clarington Council on November 1, 2016 it conformed with the 2006 Growth Plan. Again, when Durham Region approved OPA 107 on June 19, 2017 it conformed with the 2006 Growth Plan. The Growth Plan did not change until July 1, 2017. Specifically, at the dates of adoption (Clarington) and approval (Durham) the minor rounding out of the specified hamlets conformed with the Growth Plan then in effect as required by Section 3 (5) of the Planning Act. In our view, this is a critically important fact.

H. PROPOSED MODIFICATIONS TO O. REG. 311/06

The Province of Ontario is seeking submissions “as to whether there are any specific planning matters (or types of matters) in process that should be addressed through the transition regulation. This could include, for example, official plans or official plan amendments that have been adopted and are under appeal”.

In our respectful submission, OPA 107 and in particular section 12.4.6 thereof should be “grandfathered” in the proposed amendments to O. Reg. 311/06 as Clarington OPA 107 was indeed “in process” (i.e. it had been adopted and approved subject to appeals) prior to the effective date of the new Growth Plan on July 1, 2017.

Further, in our respectful submission, it is entirely justified and appropriate to amend O.Reg.311/06 given:

- i) that the clearly stated intention of the Region of Durham and the Municipality of Clarington was to allow for and preserve the ability for a one-time minor rounding out of the specified hamlets (as was permitted in the 2006 Growth Plan) subject only to the completion of appropriate studies in accordance with the approved Region of Durham Official Plan; and
- ii) that OPA 107 was adopted and approved prior to the enactment of the 2017 Growth Plan.

I. FORMAL REQUEST

For the reasons outlined in this correspondence, we therefore request that Section 12.4.6 and the accompanying Schedule of OPA 107 for the Municipality of Clarington be prescribed in O. Reg 311/06 Transitional Matters-Growth Plans to allow Section 12.4.6 and the accompanying Schedule to be approved in conformity with the 2006 Growth Plan and be exempted from the policies of the Growth Plan 2017 that prohibit the minor rounding out of hamlet boundaries in the Greenbelt area.

We further request that a policy be added to the proposed amendment to the Growth Plan to allow for the minor rounding out of hamlet boundaries within the Greenbelt Area where determined appropriate at a local level.

Sincerely,
TEMPLEMAN LLP



D. WAYNE FAIRBROTHER/JENNIFER SAVINI
JGS/



Certified by the Law Society of Ontario as a Specialist in Municipal Law (Local Government/Land Use Planning and Development)