



BRIEFING NOTE

To: Mayor and Members of Council

From: Arvin Prasad, Commissioner of Development Services

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Date: December 8, 2022

Re: **Staff Comments Regarding the Deputation by Goodmans LLP at the November 22, 2022, Special Council Meeting Relating to Lands Being Part of 10379 Kennedy Road and the Greenbelt Plan**

PURPOSE/ISSUE:

City Staff were directed to report back to the Development Services Committee (“DSC”) regarding a deputation by Catherine Lyons of Goodmans LLP in relation to their client’s lands located at 10379 Kennedy Road (“Subject Lands”) that are proposed for removal from the Greenbelt Plan, as described in Environmental Registry of Ontario (“ERO”) posting ERO 019-6217. Attachment A shows the Subject Lands.

This briefing note provides the following information that pertain to the Subject Lands:

- the history of decisions of York Region Council and Markham Council
- the July 1, 2017, decision of the Province through the Coordinated Provincial Plan Review to maintain the Subject Lands in the updated Greenbelt Plan
- the ecological information regarding the Robinson Swamp Provincially Significant Wetland (“PSW”) Complex in the vicinity of the Subject Lands proposed for removal from the Greenbelt Plan as described in the ERO 019-6217 posting

BACKGROUND:

Greenbelt Plan, 2005

- The Subject Lands were included in the Greenbelt Plan and designated as “Protected Countryside” and are also included in the Natural Heritage System overlay.
- The Natural Heritage System overlay comprises of “core areas and linkage areas of the Protected Countryside with the highest concentration of the most sensitive and/or significant natural features and functions.” The objective of a connected network of natural features is further explained in noting that these “areas need to be managed as

a connected and integrated natural heritage system, given the functional inter-relationships between them.”

Landowner Correspondence with Members of Provincial Parliament (MPPs)

- Goodmans LLP provided correspondence with two MPPs between 2010 and 2011, including from a local MPP noting, “it is settled that 60 acres of Minotar Holdings Inc. land was included in the Greenbelt notwithstanding that the lands were not included in the draft Greenbelt Plan”, and further noting, “that the inclusion was the result of an inadvertent error.”

Markham Official Plan Review – December 3, 2013, DSC Meeting

- The Adoption of the Draft Official Plan – Additional Comments and Staff Response (10.0) was Item 12 of the [December 3, 2013](#), DSC meeting.
- Catherine Lyons of Goodmans LLP presented a revised Map 7 – Provincial and Federal Policy Areas, of the draft Markham Official Plan (adopted 2013) pertaining to lands at the northwest corner of Major Mackenzie Drive and McCowan Road to amend the Greenbelt Natural Heritage System on the Subject Lands. The request was to remove certain lands from the Natural Heritage System overlay.
- Staff submitted a [Memo](#), dated December 3, 2013, to the DSC in response to the deputation and noted that any changes to the Natural Heritage System overlay of the Greenbelt Plan would require written confirmation from the Ministry of Natural Resources and Forestry and the Toronto and Region Conservation Authority (“TRCA”) given that the requested amendment pertains to the Province’s Natural Heritage System. Staff advised that modifications to the Official Plan be reviewed once the City received the required authorization to change the Province’s Natural Heritage System overlay.
- Council passed the Resolution, “That staff be directed to replace the current Map 7 of the Official Plan with the revised Map 7 as presented by Catherine Lyons on December 3, 2013, regarding revisions to the Greenbelt Plan Natural Heritage System for the Minotar lands north of Major Mackenzie Drive and west of McCowan Road.”

Markham Official Plan, 2014 (the “2014 Official Plan”)

- Council adopted the 2014 Official Plan on December 10, 2013. Council endorsed the Resolution to replace the current Map 7 with the revised Map 7 as presented by Catherine Lyons on December 3, 2013. The adopted Official Plan was forwarded to York Region for approval.
- York Region Council held a Special Meeting on [June 12, 2014](#), to receive Report No. 1 of the Commissioner of Transportation and Community Planning, dated May 12, 2014,

regarding the 2013 Markham Official Plan, Part 1. Recommendation 2 was amended to add the following:

b) WHEREAS staff is recommending that the Region withhold its decision on Map 7 as it relates to the Minotar lands until such time as the site can be revisited through the 10-year review of the Greenbelt Plan; and

WHEREAS the table land portion of these lands was included in the Greenbelt Plan without notice to the landowners;

Council directs that staff advise the Province that the inclusion of these table lands in the Greenbelt should be carefully reconsidered during the 10-year Greenbelt Plan Review scheduled for 2015.

- York Region modified and approved the City's 2014 Official Plan on June 12, 2014, but decided to defer its decision regarding the Subject Lands as follows: "Deferral 1 - York Region approval of removal of the Natural Heritage System shown on these lands withheld pending the outcome of the 10 year Provincial review of the Greenbelt Plan."
- There is an outstanding appeal (Appellant #5 - Kennedy McCowan Landowners Group) to the 2014 Official Plan that includes the Subject Lands and being the lands subject of Deferral 1 noted above.
- Subsequent to approval of the 2014 Official Plan, a letter dated August 21, 2014, was submitted from the York Region Director of Long Range Planning to the Manager, Greenbelt Section, of the Ministry of Municipal Affairs and Housing providing a brief history of the Greenbelt Plan decisions relating to the Subject Lands (see Appendix 1). The letter concludes noting, "York Region Staff is of the opinion that some of the table lands within the subject lands, which were not included in the Greenbelt Plan area in the draft Greenbelt maps published in 2004, but were subsequently included in the final maps, merit consideration for removal from the Greenbelt Plan area."

Coordinated Provincial Plan Review and Greenbelt Plan 2017

- The Province initiated the Coordinated Provincial Plan Review in 2015 that included the Greenbelt Plan and Oak Ridges Moraine Conservation Plan.
- Regional Staff recommendations on the "2015 Coordinated Review of the Growth Plan for the Greater Golden Horseshoe, Greenbelt Plan and Oak Ridges Moraine Conservation Plan" ([Report No. 1 of the Commissioner of Corporate Services and Chief Planner](#)) were received at the May 21, 2015, York Region Council meeting. In supporting recommendation #25, it is noted, "in some instances draft mapping varied significantly from final mapping" and the Subject Lands were provided as an example (labelled 'Figure 1' in Report No. 1). The example illustrates draft Greenbelt Plan boundaries of November 2004, generally appearing to depict the floodplain and the

final 2005 Greenbelt Plan mapping showing a larger area including tablelands in the Greenbelt Plan.

- Resolution 7 of the May 26, 2015, Markham Council stated, “The City of Markham reaffirms that the Province is requested to address the request for a modified Natural Heritage System boundary for certain lands located north of Major Mackenzie Drive and west of McCowan Road (Minotar lands) as adopted by Markham Council on December 10, 2013, and subsequently identified as Deferral 1 in York Region’s Notice of Decision of Markham’s 2014 Official Plan (recommendation 1.10). The Province is further advised that there is merit in giving consideration during the Provincial Greenbelt Plan review to the removal of table lands which were not included in the Draft Greenbelt Plan maps, but which were later included in the Final Greenbelt Plan maps in the deferral area [on the Minotar Lands].”
- The Province released the revised Greenbelt Plan (2017) in May 2017. Several boundary refinements were made through the review of the Greenbelt Plan. No changes to the Natural Heritage System overlay of the Greenbelt Plan were made in response to the request related to the deputation of Goodmans LLP, the Markham Council Resolution of December 3, 2013, or the Regional submission, as shown on [Map 46](#) published by the Province.

Evaluation for the Robinson Swamp PSW Complex

- The evaluation of the Robinson Swamp wetland complex was updated in 2013 and evaluated as provincially significant for its diversity of wetlands, diversity of species, groundwater seeps, and hydrologic functions such as attenuating floods. The treed wetlands (identified as Wetlands #3 and #4 in the evaluation) that are north of the main branch of Robinson Creek, and north of part of the Subject Lands, are identified as wetlands that are headwater areas and provide spring baseflows to tributaries of Robinson Creek as well as having groundwater seepage areas.

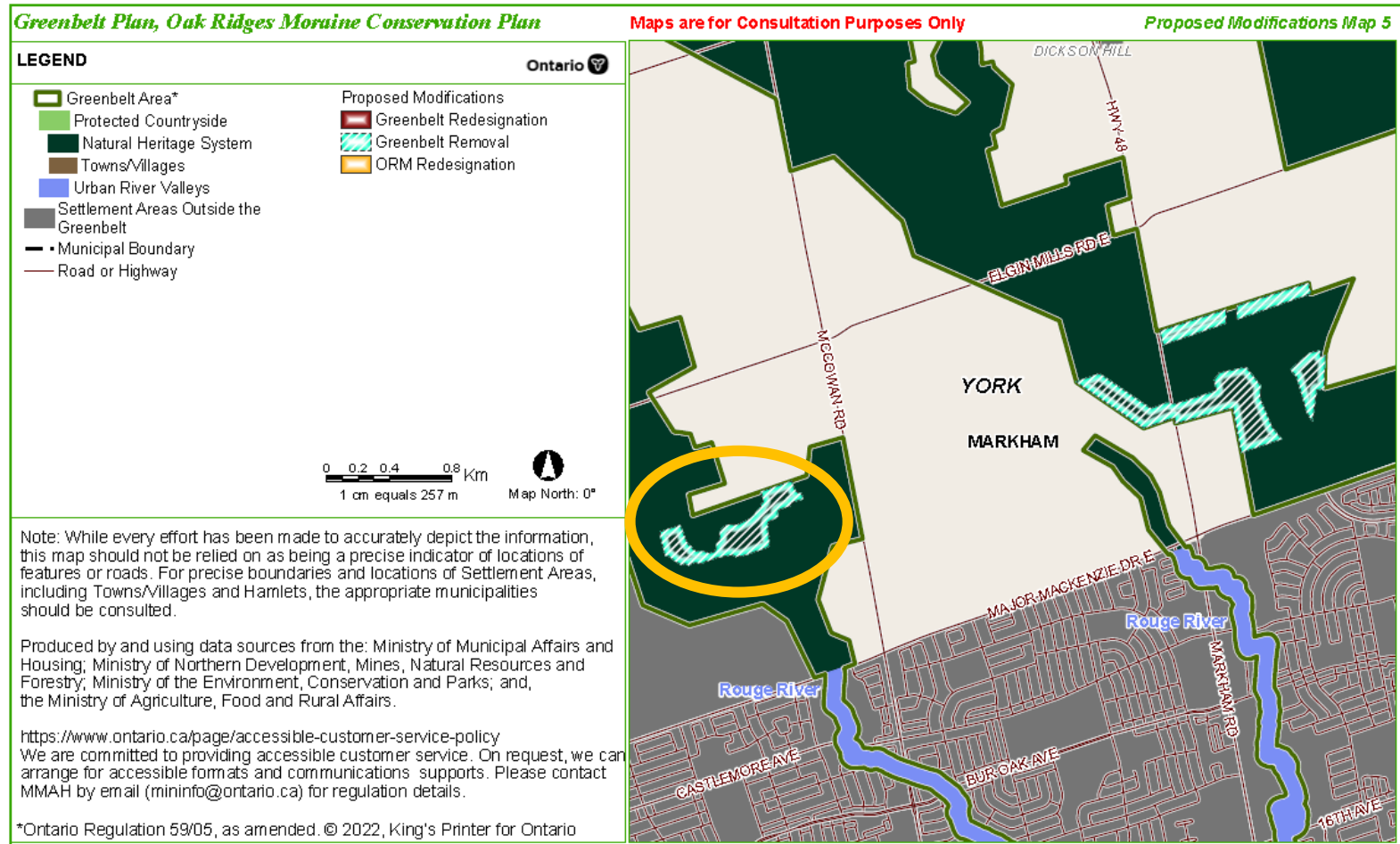
Robinson Glen Master Environmental Servicing Plan (“MESP”)

- The MESP, required to be completed in support of the preparation of the Robinson Glen Secondary Plan, was submitted to the City and the TRCA in 2017. The MESP built on the findings and recommendations of the Subwatershed Study (“SWS”) for the Future Urban Area (“FUA”).
- Fig 4.2.13 – Interpolated Depth to Groundwater
 - Interpolated groundwater depths estimated as part of the analysis undertaken for the Robinson Glen MESP show high groundwater close to the surface for an area of roughly 250 to 300 metres north of the main branch of Robinson Creek. The northern limit of the interpolated area of groundwater close to the surface roughly

corresponds with the south boundaries of the treed swamps. This area coincides with part of the proposed area for removal from the Greenbelt Plan.

- Species of Conservation Concern (Eastern Wood-pewee and Wood Thrush)
 - The MESP confirmed Significant Wildlife Habitat of Special Concern and Rare Wildlife Species for Eastern Wood-pewee and Wood Thrush. These species tend to be area-sensitive species that require larger woodland areas for breeding.
 - The SWS for the FUA noted that the presence of Eastern Wood-pewee and Wood Thrush is limited to the Robinson Swamp PSW Complex. These species were not observed elsewhere in the FUA.

ATTACHMENT A – Subject Lands



Provincial map provided in Environmental Registry of Ontario Posting 019-6217 depicting proposed Greenbelt Plan removals in Markham. The orange outline shows the area of the lands at 10379 Kennedy Road subject of the deputation by Goodmans LLP at the Special Council Meeting of November 22, 2022.