

From: Alan McNair [
Sent: August 5, 2020 11:50 AM
To: cityclerks <cityclerks@barrie.ca>
Cc: '
Subject: McLean Farm proposed subdivision 121 Penetanguishene Road

Office of the City Clerk, City of Barrie:

On behalf of Nature Barrie, I am submitting the attached letter to the Minister of Municipal Affairs and Housing, opposing the owners' request for a Minister's Zoning Order which would allow a large residential development (over 2500 persons) to be established right across Barrie's municipal boundary at 121 Penetanguishene Road.

Also attached is a letter from Mr. Jim Drury, a neighbouring farmer, who has already addressed this proposal to Council on June 29, 2020, which is referred to in our objection letter to the Minister.

I wish to make a virtual deputation to Council on Monday, August 10 in this regard.

Please advise me of the procedures to be used when making such a virtual deputation.

Also, please confirm that you have received this e-mail request.

Regards,

Alan McNair
Conservation Chair
Nature Barrie

August 5, 2020

Hon. Steve Clark,
Minister of Municipal Affairs & Housing
17th Floor,
777 Bay St.
Toronto, ON M5G 2E5

Dear Minister Clark:

I am writing to you on behalf of Nature Barrie, a naturalist and conservation organization that was founded nearly 70 years ago as the Brereton Field Naturalists' Club. Our members come from Barrie and the surrounding townships of central Simcoe County. Nature Barrie strongly objects to the recent practice of your approving Minister's Zoning Orders (MZOs) under *The Planning Act*, to arbitrarily pre-zone lands to allow certain development projects, thereby circumventing the statutory municipal planning approval process, including its normal checks and balances which exist to protect the public interest. I refer to two specific examples below.

1. Background

I have served as Conservation Chair for Nature Barrie for nearly two decades, working to improve public appreciation, education and preservation/protection of our natural heritage. I retired from my professional career as a land use planning consultant in January, 2019 after working in the planning field since 1970. I was a long-time member of both the Canadian Institute of Planners and the Ontario Professional Planners Institute. In that career, I acted for landowners, municipalities, private citizens and residents' organizations both for and against various projects, including participation as an expert planning witness in many Ontario Municipal Board appeals.

In my experience, MZOs have been used sparingly by past governments, most often to control unfettered land development where local municipal land use controls were either deficient or non-existent. For example, an MZO was placed on Vespra Township in the early 1970's to stop further privately serviced commercial urban sprawl on the north boundary of the City of Barrie. The urban sprawl created by the previous lack of controls resulted in these commercial lands being annexed into the City of Barrie several years later.

The direction for planning in Ontario for most of the last twenty years has been that it should be *Policy-led*, rather than *Development-driven*. Hence the Growth Plan and the Provincial Policy Statement were developed to guide planning, particularly in central Ontario, building on the Smart Growth initiative to contain urban sprawl which was started by the former Harris government.

2. Concerns

The current use of MZOs creates a number of serious concerns, including the following:

- Makes totally arbitrary decisions about the principle of what lands should be allowed to develop and where

- Can totally ignore existing approved Provincial, County and Municipal planning policies and Municipal zoning by-laws
- Denies neighbours and the local community an opportunity for public input into the critical planning decision that will establish the principle of development
- Denies use of established appeal processes under *The Planning Act* to test the accuracy of the proponents' technical studies ***before the principle of development is established***
- No requirement for any development to justify itself and have that justification challenged
- Creates the appearance of political bias in favour of the "chosen" landowner(s)
- Creates huge windfall profits for the "chosen" landowner(s) as soon as the MZO is approved
- Can be used to cut off an existing appeal process which is supported by sound peer review of important environmental and/or other technical studies

2.1 First example:

This concerns MZO the request by the McLean family, supported by the County of Simcoe and the Township of Oro-Medonte, regarding the McLean Farm subdivision at 121 Penetanguishene Road, being located in part of Lots 1 & 2, Concession 1 E.P.R., ***right across the road from the developed and serviced City of Barrie.***

No planning staff report, ***for a proposed residential development of over 2500 residents on 54 ha. (133 acres) of Prime Agricultural Land***, was prepared for or considered by Oro-Medonte Council before they endorsed this proposal.

A staff report prepared by County of Simcoe planning staff identified some of the major conflicts with existing County and Township Official Plans and existing zoning, as well as the Provincial Policy Statement for Land Use Planning (2020) and the Growth Plan for the Greater Golden Horseshoe (2019). It also lists some of the normal requirements to be followed for consideration of such a proposal, absent the MZO request. The staff report also states ***"If the subject MZO is granted, the principle of development will have been determined without the benefit of understanding the implications and appropriateness of the proposal through the review of the above noted reports and studies."***

The County planning staff report did not propose options for Council's consideration or make the normal professional recommendations, but rather just asks Council to state whether they support the request for the MZO. There have been neither informal nor statutory public meetings held on this proposal, including full public notice, to provide information and solicit comments and concerns from affected local residents, particularly those living in the abutting City of Barrie and nearby active farming neighbours. Comments were not even solicited from the City of Barrie in advance of the Township and County decisions to support the MZO request.

The proponents' presentation material makes a truly Alice-In-Wonderland interpretation of the Growth Plan in claiming that their request to expand the existing Settlement Area (being the City of Barrie), but to remain within the Township of Oro-Medonte, is consistent with the Growth Plan! ***It would be like your neighbour applying to rezone your home to build a gas bar on it, without your knowledge or permission, or having any right to appeal the rezoning!***

Such a large development could have serious impacts on the surface water and groundwater in the area due to additional water consumption, storm runoff, and the large subsurface sewage disposal system discharging into the groundwater. The City of Barrie has municipal wells in the area, as well as the private wells of other nearby residents of the Township, all of which could be affected. There could also be significant impacts on the downstream surface water system of Willow Creek and Little Lake, a Provincially Significant Wetland.

Even the road frontage of the site, on Penetanguishene Road, appears to be within the City of Barrie's jurisdiction, not the County or the Township, according to the Transportation Schedule 5.5.1 of the County Official Plan and recent inquiries to County and Township staff!

The proponents addressed City Council on June 29, 2020 and argued that this circumventing of normal planning processes, with no notice, no consultation and no right of appeal, was merely "using one tool available under the Planning Act". They also stated that they were not interested in more urban sprawl.

The proponents entirely failed to acknowledge that their proposal for a residential subdivision with over 2500 residents, on the boundary of the City but on private communal water and sewer services, and permanently obliterating 133 acres of prime agricultural land by roads and buildings is a textbook example of Urban Sprawl!

They also failed to acknowledge that the increased real estate value of this farm property, if the MZO is approved, could reap the owners a windfall profit of many tens of millions of dollars!

A neighbouring farmer, Mr. Jim Drury, who farms land just north of the McLean farm, also addressed Barrie Council that night, opposing the development on the basis of preserving Class 1 agricultural land for food production. I have attached a copy of his June 24, 2020 letter to City Council.

The Mayor of Oro-Medonte gave an extensive radio interview on CBC Ontario Morning on June 4, 2020 on this subject. He totally failed to acknowledge the entire absence of public input and lack of any professional staff review. He also ignored the lack of any appeal mechanism from the MZO decision-making process. He did speak at some length, however, about what fine people the proponents were. Nor did he mention that approval of the MZO would establish the principle that the development would happen, and that all future technical studies would be only about **HOW**, rather than **WHETHER OR NOT**, it would happen.

Approval of this MZO, which includes a proposed 301 bed Long Term Care (LTC) facility, could also be seen as pre-determining both the location and the owner or operator of additional LTC beds in the Barrie area. The normal process would have the Ministry of Health & Long Term Care determine how many LTC beds are needed to serve the region (not just for Oro-Medonte) and then ask for competitive proposals and sites from both private and not-for-profit LTC providers. Having the permissive zoning in place would certainly provide an unwarranted competitive advantage to allow this site to secure future LTC beds.

Online media Barrie Today included the following comments in their May 28, 2020 coverage of the County Council discussion of the McLean project.

"However, some councillors weren't on board with putting their support behind the request.

"I just have some concerns with this," said Adjala-Tosorontio Deputy Mayor Bob Meadows. "The county's Official Plan – it doesn't meet the requirements for that. The Growth Plan for the Golden Horseshoe – it doesn't conform to that. (Oro-Medonte's) own bylaw – it doesn't conform to that.

"So here we have an MZO (request) for something that doesn't meet the criteria for three sections of the planning and building code," he added. "I don't know how I can support it sitting here on council."

While Meadows acknowledged the family's deep roots in the community, he said that can't be the sole reason to support something of this nature."

Unfortunately, the County does not archive recordings of their Council and Committee meetings, so there is little opportunity for citizens to gain more information on Council's discussion of this project.

Therefore, we urge you not to approve a Minister's Zoning Order for the McLean Farm proposal.

2.2 Second example:

This concerns MZO requests by the County of Simcoe and the Township of Springwater regarding the County's own chosen site for their proposed Environmental Resource Recovery Centre (ERRC) solid waste processing operation. ***How can this MZO request by the County not be a conflict of interest when they are a party to the ongoing appeal process?***

In this matter, we support the Friends of Simcoe Forests Inc., ("FSF") a local non-profit organization that seeks to protect and conserve forests in Simcoe County. I live in the City of Barrie, located in the middle of the County of Simcoe. I am very concerned about the County's proposal to establish the ERRC, a large waste processing facility, in the Freele County Forest on Horseshoe Valley Road (Lot 2, Concession 1, formerly Flos Township).

The County is proposing to remove at least 5 ha (12.35 acres) of woodland in the middle of a much larger established 84 ha. (207 acre) forest within the Township of Springwater to accommodate the construction of an Environmental Resource Recovery Centre. This woodland is within the Growth Plan Natural Heritage System (NHS) and is designated as Greenlands in the County Official Plan (OP). The removal of at least 5 ha (12.35 acres) of woodland will result in negative impacts to at least two Key Natural Heritage Features within the Growth Plan NHS (significant woodland and significant wildlife habitat).

The proposed ERRC was approved by the province through Official Plan Amendment 2 ("OPA2"), which FSF appealed to the Local Planning Appeal Tribunal ("LPAT"). FSF has expended significant time, resources, and money to prepare for the LPAT hearing. FSF retained experts in the field of ecology and planning who have prepared reports critiquing the inadequacy of the County's planning and technical

studies. FSF have attended case management conferences before LPAT and have been very actively engaged throughout the planning process.

Under these circumstances, it would be extremely unfair to terminate the LPAT process by issuing a Minister's Zoning Order. FSF are unaware of any instance where a Minister's Zoning Order has been issued while a matter was before the LPAT. The issuance of a Minister's Zoning Order would terminate the LPAT proceeding but would leave the legal, planning, and technical issues with the ERRC unresolved. This would fundamentally undermine public confidence in Ontario's planning regime.

Simcoe County spent many years and millions of dollars trying to establish a new landfill site on Site 41 in North Simcoe on top of the extensive Alliston Aquifer before eventually abandoning that ill-conceived project in 2009-10, in the face of huge public opposition. The County should be willing to justify their proposed ERRC through the ongoing appeal process, not deny natural justice to their citizens.

Therefore, we urge you not to approve a Minister's Zoning Order for the ERRC.

3. Conclusion

Using the lack of normal public meetings and the lack of public and media attention to significant planning issues, due to the immense distraction of the COVID 19 pandemic, is a significant and sad denial of our democratic processes in Ontario. That this behaviour has been supported by some of our local municipal and our County Councils, with the apparent encouragement of our Provincial government, as a supposed means to economic recovery from the pandemic, is even more disturbing.

As you will recall, the Ontario government brought forward Bill 66 in late in 2018 to allow approval by the Minister of so-called 'Open for Business' by-laws, at the request of local municipal governments, to allow certain development projects to be exempted from a host of environmental and planning legislation, without public notice, public meetings, or any right of appeal. Due to substantial public opposition, Schedule 10 (which listed the environmental policies and regulations from which these exemptions could be granted) was removed from Bill 66 before it was passed in January, 2019.

The increased use of MZO's appears to be an attempt to achieve the same result as the much-opposed "Open for Business" by-laws. Government should not attempt to do indirectly what they can do directly, especially after the failure of the previous 'direct' approach to legislation.

In response to the COVID 19 pandemic, we need new thinking about our real societal needs and values, not fall back on old ideas to 'rev up the economic engine' and be "open for business", at any cost.

Near the start of my planning career, one of my more experienced superiors at Queen's Park reminded me that, as a member of the civil service, ***'just because you have the legal authority to take some action, it does not necessarily make that action right'***. We urge you to carefully consider this statement and refrain from using MZO's to override statutory requirements for public notice, public consultation and the public appeal process.

Please do not treat both established environmental and planning regulations and public involvement in the land use planning process as annoying nuisances which need to be avoided, ignored or trampled on.

We look forward to receiving your response to our concerns.

Yours sincerely,



Alan McNair
Conservation Chair
Nature Barrie

Cc:

Doug Downey, MPP Barrie-Springwater-Oro-Medonte

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June 24, 2020

Jim Drury

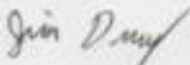
Mayor J. Lehman and Members of Council:

I am addressing Barrie Council in support of the Development Service Department Memorandum regarding the McLean MZO Request - Oro-Medonte.

Further to concerns regarding this proposal, I wish to add my opposition on the basis of important agricultural concerns. Although a resident of Springwater Township, I farm approximately 350 acres just north of the McLean farm off Penetanguishene Road. I have been farming for 45 years successfully in the area, with my son now joining me in this endeavour. The McLean farm is one of the most productive farms in Oro Township, on Class 1 agricultural land. Adjacent farms in that area are also highly productive and valuable to agricultural self-sufficiency. Besides myself, other farmers rely on these lands to continue production.

The proposed development of the McLean farm would not only be a loss of that valuable farming land, but my fear is that it would also expedite development moving north and consuming all the agricultural properties in that area. It would open it to development. As a family operation that is continuing into the next generation, farming will not be a viable occupation if good agricultural land is unavailable. We are all aware now that self-sufficiency in agriculture is very important, as recently illustrated during the Covid crisis, and good, productive farmland needs to be protected. As well, agriculture is the number one value-added sector in the province, with farmers being the first link of that chain, and land being the essential resource for that whole sector.

My opposition to the McLean proposal/development is based on the need to protect disappearing agricultural lands, a non-renewable resource.



Jim Drury