

Midhurst 101

How to Win Approvals and Influence People

The Midhurst Secondary Plan is a plan to add 10,000 homes on prime agricultural land surrounding the village of Midhurst in Simcoe County.

Midhurst is a 15 minute drive north of Barrie. It is mostly a forested community on sandy soil, but surrounded by class 1 and 2 farmland. Today, 85% of the current working residents of Midhurst drive out of the Township for employment, some going to Barrie, but many driving as far as Toronto; a 1½ to 2 hour commute.

Early Days

In 1996, under the leadership of then Mayor Helen Coutts, the Township of Springwater published its *Growth Management Strategy*. This report laid out a large area to be studied for the future growth of Midhurst. In 1998, Springwater's Official Plan stated, "The area set out in Schedule "A-8" generally identifies the study area within which the contemplated (Midhurst) Secondary Plan will set out future growth opportunities". It further states that "It is the general intent of this Plan to recognize the existing land use designations which have been previously set in place" and that "agricultural lands and operations should be protected from intrusion of non-agricultural and community related issues". Nevertheless, the Plan did refer to the "study area" on several occasions, as a "settlement area". And therein lies the root of problem.

In 2003, John Brown replaced Coutts as Mayor of Springwater. In 2004 the Township's Growth Management Strategy was updated. Page v item 7 of the revision stated that, "*An urban expansion area analysis must be conducted to determine the most suitable location to accommodate growth within the large Midhurst settlement area*". No such analysis was ever conducted, nor was the study area ever officially designated as an "area of settlement" in accordance with the *Planning Act*.

For the next four years, the Township entertained numerous development proposals, many of which pointed to the need for higher density housing units "to comply with Provincial Policy". But they neglected to mention the requirements to protect prime agricultural land, curb urban sprawl and build transit friendly "complete communities".

By 2006, Mayor John Brown was experiencing worsening health issues and Deputy Mayor Tony Guergis was chairing more of the meetings. Guergis and the Springwater councilors, were beginning to believe that growth was inevitable and that growth would be accompanied by an increase in tax revenues. So when the *Growth Plan for the Greater Golden Horseshoe* came into effect in June 2006, there was concern that the new legislation would put a damper on plans for growth in Springwater. *IGAP* only made matters worse.

Studies Ignored

The *Inter Governmental Action Plan (IGAP)* was an Ontario Government initiative, co-funded by the Province, Simcoe County, its municipalities and the cities of Barrie and Orillia. It was an attempt to bring order to the developmental pressures threatening Simcoe County in the wake of the 2005 *Greenbelt Act*, which protected the environmentally sensitive and agricultural lands around Toronto. Extensive studies were carried out in 2005 and 2006 by some ten different consultants. They took water samples in Lake Simcoe and the Nottawasaga River to determine the assimilative capacity of these watersheds to absorb more pollutants, reviewed housing trends and studied which development proposals would best protect waterways, air quality and agriculture.

On August 14, 2006, the *IGAP* committee made a presentation to the Ministers and Mayors to reveal their key findings and to make recommendations. The first point made was that in 2006 sufficient planning commitments had already been made to accommodate the Province's Growth Plan population target for Simcoe County, of 667,000 persons by 2031 (from 437,100 in 2006). Any more development approvals were unnecessary and would push population levels way above the 700,000 mark. Citing environmental, transportation and financial reasons, the *IGAP* report concluded that most of the new development should be directed to Barrie.

Despite the involvement of 10 consulting firms at a cost of some \$3 million dollars, the *IGAP* report was largely ignored and for the next two years - unknown to the general public - Springwater Township continued to work on the so called *Midhurst Secondary Plan*.

Planning in a Panic

In February 2007, Springwater's Director of Planning stated that the projected timeline for adoption of the Midhurst Secondary Plan by Council, was 14 months, which would have brought it to April 2008. In the meantime, driven by arguments of the need for higher densities to support the cost of a new sewer systems (Midhurst today is on septic tanks), the population figures for the Midhurst Secondary Plan had escalated enormously.

In parallel with the Midhurst plan, Simcoe County was in the process of revising its own Official Plan, with the view to having it approved by the Province in the fall of 2008. But on April 14, 2008 in a "Special Planning Committee" meeting, *The Planning Partnership*, a Toronto Bay Street consultant who had been hired by Springwater to develop its plan, made the observation that the revised Simcoe plan did not allocate sufficient growth to Springwater to facilitate any significant development in Midhurst. In fact when Hemson Consulting Ltd. released the *Simcoe Area Growth Plan* the following month, they forecast a population growth by 2031 of 8,400 for the whole of Springwater! Hemson also adhered to the Province's population forecast for Simcoe of 667,000 for 2031. But the Township still pressed on, determined to have the Midhurst Secondary Plan included in the revised Simcoe Official Plan.

There was now a massive disconnect between the County's figures and those of Springwater - amazing when you consider that the Mayor of Springwater and the Warden of Simcoe County were the same person – Mayor Tony Guergis. The County was expecting a population increase of 8,400 people in Springwater and the Township planned to add 23,500 to Midhurst alone, plus many more in Hillsdale and other parts of Springwater. Undaunted, Springwater continued to spend money developing this massive plan, which would surely be impossible for the County to approve, and certainly not the Province.

Lack of Public Consultation

On June 2, 2008, the Township's Master Planning Committee decided to put a "Notice of Study Commencement" in the *Barrie Advance* newspaper for June 14 and 21. Township minutes state that "It was determined that a population forecast would not be mentioned in the Notice due to the fact that the Secondary Plan Study will establish those numbers". (The announcement five months later, revealed that council was working on a scheme to increase the population of the village by over 700%, without mentioning, in any of the the public notices, the magnitude of this huge development).

The Planning Act requires that a public meeting be held no earlier than 20 days after notice has been provided of the meeting and that the notice must be accompanied by a copy of the current proposed plan. The largest Public Information Centre (PIC) event held before the Midhurst Secondary Plan was adopted by the Township, was only advertised in a *Barrie* newspaper on August 14 (14 days notice). No details of the plan were given and no notice was provided in the *Midhurst Newsletter* or the *Springwater News* - only in the *Barrie Advance*. Not surprisingly, only 54 people showed up and, according to the committee's minutes, "many of these were developers and consultants".

With the required environmental studies still incomplete (for example there was still no conclusion as to where the water supply would come from, or where the effluent was to go) and with the number of proposed dwellings now close to 10,000, the Midhurst Secondary Plan (MSP) was adopted by Springwater Council on November 3, 2008 and submitted to Simcoe County for approval shortly thereafter.

Concession to Simcoe

In the weeks leading up to Springwater's adoption of the MSP, county staff sent two letters to Springwater staff, warning that the MSP would need to be in compliance with provincial policy before it could be approved by the county. A month after the Plan was adopted, the county wrote a third letter, advising that staff could not be directed to spend time on the MSP until it was in compliance. It never was and so, not surprisingly, the County did nothing about the Midhurst Secondary Plan for three years. If they had approved a plan to add 23,500 people to Midhurst, it would have seriously jeopardized the County's quest for approval of their own ambitions plans to expand Bradford West Gwillimbury, Bond Head, Collingwood, Alliston, Alcona and other places. Even without the Midhurst plan, the Simcoe Official Plan was so far out of conformity with the Province's Growth Plan, that the Province has yet to approve the Simcoe plan even

today. Instead of approving Simcoe's Official Plan, the Province held a series of discussions with the County and "interested stakeholders" to try to resolve the issues.

During these sessions, the Province was persuaded to grant an ever increasing number of concessions to Simcoe. (None of the other counties covered by *Places to Grow* seemed to have these issues). The first evidence of concessions appeared in the Province's 2009 publication entitled *Simcoe Area: A Strategic Vision for Growth* which, as well as proposing a resolution to Barrie's shortage of development land by annexing lands from Innisfil, also defined five *Urban Nodes* for future growth; these being Barrie, Orillia, Collingwood, Alliston and Bradford. The other new concession was to list two *Strategic Employment* zones along the 400 Highway between Bradford and Barrie and two *Economic Districts*; one around the Simcoe Regional Airport between Barrie and Orillia and the other at Rama Road, Orillia.

Reaction was immediate, with protests received from many sources. One of the Province's own planners even wrote to the Growth Secretariat pointing out that the GTA has 34,000 hectares of developable "white belt" land, so there was no need to urbanize prime agricultural areas.

The cries were ignored and in 2010, the Province released *Proposed Amendment 1 to the Growth Plan for the Great Golden Horseshoe*. This added a sixth Urban Node at Midland/Penetanguishine and a whole new Section 6 entitled *Simcoe Sub-Area*. But the document did attempt to restrict the growth of subdivisions in the countryside by requiring the County of Simcoe to delineate lands within defined settlement areas, which were in excess of what was needed to meet provincial population targets for the next 20 years (until 2031). These new areas were to be enclosed within smaller *interim settlement boundaries*. This last point turned out to be contentious and was viewed by the County, municipalities and developers as uninformed interference in local affairs. But it was a crucial point, because why would a "settlement area" described as such in an Official Plan in 1998, be required to comply with population densities first stipulated in the 2005 Provincial Policy Statement 2005?

Deliberations between the County, the Province and various stakeholders continued throughout the summer of 2011 and on October 12, 2011, during a regular Corporate Services meeting and with 24 items on the agenda, the County of Simcoe inexplicably approved the Midhurst Secondary Plan! No debate - just a straight approval.

Springwater Township waited until November 14 - twelve days after the last date to appeal this decision - before holding a Public Information Centre meeting to inform the public. The residents were outraged. Two weeks later on November 28, they packed the local Community Centre to voice their objections and make contributions to the *Midhurst Ratepayers' Association (MRA)*. On April 16, 2012 the MRA presented the Township with a petition bearing 1,476 hand-written signatures opposing the Midhurst Secondary Plan.

In the meantime, the Province had appealed Simcoe's decision to the OMB. In its letter of October 28, 2011, the Province cited a host of reasons why the Midhurst plan did not conform to the Growth Plan. These included not meeting population forecasts; not directing a significant portion of the growth to built-up areas; not directing major growth to settlement areas which have a municipal wastewater system and not conforming to the Simcoe County Official Plan.

The official version of *Amendment 1* to the Growth Plan was released on January 19, 2012 and added a seventh *Urban Node* (now renamed *Primary Settlement Areas*) at Alcona. And the contentious *interim settlement boundaries* were gone. Even worse, development could now be approved for populations in excess of what had been previously mandated and in areas not yet equipped with municipal wastewater systems. Simcoe County was now virtually free to do what ever it liked. The Minister of Infrastructure even referred to *Amendment 1* as a "made in Simcoe" policy.

Amendment 1 was accompanied by a four page set of *Transition Regulations (311/06)*, which were written in such complex legalese that even lawyers had difficulty deciphering them. These new regulations included a *Special Rule*, permitting a development to go ahead if it met certain specified conditions. After pawing through all the conditions, it became clear that the only proposed development meeting this criteria was Midhurst. Well almost. Actually Midhurst failed to comply with one of the requirements, so a year later the law was again changed!

One of the conditions was that the area in question had to be on *lands for urban uses* as of January 19, 2012. They were not, but based on the *Special Rule* and the contents of a letter from the County to the Province assuring the Province that the Midhurst Secondary Plan complied with all the conditions of the amended Growth Plan, the Ministry of Municipal Affairs and Housing, on November 28, 2012, partially withdrew its appeal to the OMB and permitted the first 300 hectares to go ahead.

On January 22, 2013, the Minister of Infrastructure issued a new Transition Regulation (22/13), which cancelled the *Special Rule* and put in place another rule specifically for the "Midhurst Settlement Area". The new set of regulations stipulated that the condition requiring that the lands shall be *lands to be for urban uses* on January 19, 2012, "shall not apply" to Midhurst.

OMB

Two OMB cases are mentioned above; the first was the Simcoe County Official Plan, still in the pre-hearing phase (as of September 2014) and the second was the Midhurst Secondary Plan, the first 300 hectares of which was directly approved by the Province and the remaining 456 hectares being still under appeal to the OMB by the Province. The Midhurst Ratepayers' Association (MRA), in consultation with Simcoe County's retired Director of Planning and an OMB mediator, decided to appeal the Simcoe County Plan, challenging the Midhurst *Settlement Area Boundary* on the basis that this area was identified in the 1998 Springwater Official Plan as a "*study area*" and not a "*settlement area*" as later defined in the 2005 *Provincial Policy Statement*. The OMB

chose to favour a 666 page report written by a joint developer group and to disregard affidavits written by the County planner, two previous Springwater Councillors and a letter of opinion from the Springwater planner responsible for drawing the settlement study area in 1996. The MRA was dismissed from the case on August 2, 2013 without any member, or the retired Simcoe County Planner, having been permitted to speak.

So despite the long list of violations to the *Provincial Policy Statement* and *Places to Grow* and massive public opposition, it seems that in Ontario, the *Minister* still has the power to override our laws, regardless of how many violations there might have been, just so long as the proponents of the scheme are sufficiently persuasive.

But the questions remain:

- Is it responsible to transform a small country village close to Barrie, into a city the size of Orillia and in an area where the only options for meaningful employment involve long distance commutes?
- Is this not a perfect example of the urban sprawl and loss of farmland that *Places to Grow* was attempting to curtail?
- Does the OMB decision leave the door open for developers to surround any small Ontario village with high density townhouses, just as long as they are inside a so called “settlement area”, regardless of how long ago the boundary line was drawn?
- What are we to make of a government that abandons its own award winning plan, to cater to the demands of the development industry?

Some of the documents available from MRA

1. History of Midhurst Mayors and Councillors
2. Helen Coutts with Linda Collins (3 photos)
3. The Midhurst Secondary Plan development area
4. Midhurst Secondary Plan - legal violations
5. Letters from the County to Springwater advising of the violations.
6. The Province's letter, advising of its appeal to the OMB, October 2011
7. Letters from developers to the Province
8. April 16, 2012 presentation of petition to Springwater Township (1 photo)
9. Public protest signs (2 photos)
10. The Province's letter, partially withdrawing its appeal to the OMB, November 28, 2012.