

## Appendix A

### Midhurst Secondary Plan - Summary of Non-Compliance with 2006 Growth Plan<sup>1</sup>

1. Settlement Area definition	Non-compliant
2. Protection of Prime Agricultural Land	Non-compliant
3. Reduce Urban Sprawl	Non-compliant
4. Need for more housing approvals in Simcoe County	No
5. Direct significant portion of new growth to built-up areas	Non-compliant
6. Focusing intensification in intensification areas	Non-compliant
7. Building compact transit-supportive communities	Non-compliant
8. Reduce dependence on the automobile	Non-compliant
9. Providing convenient access to intra- and inter-city transit	Non-compliant
10. Ensure the availability of sufficient land for employment	Non-compliant
11. Planning and investing for a balance of jobs and housing	Non-compliant
12. Encourage cities and towns to develop as complete communities	Non-compliant
13. Directing growth to areas that offer municipal wastewater systems	Non-compliant
14. Municipalities are encouraged to ensure the informed involvement of local citizens	Non-compliant
15. Timing of public meetings (Planning Act - 20 day notice)	Non-compliant
16. Information and material (for a public meeting - 20 day notice)	Non-compliant

<sup>1</sup> As of November 3, 2008, when The Midhurst Secondary Plan (MSP) was adopted by Springwater Council; and three years later when it was approved by the Corporate Services of Simcoe County (October 12, 2011).

On October 28, 2011, the Province appealed the decision to the OMB, stating the reasons why the MSP did not comply with County or Provincial policy.

On January 19, 2012, the Minister of Infrastructure created a “Special Rule” (O. Reg 311/06 revised) to permit the first 50% of the development, despite its many policy violations.

But the MSP still failed to comply with one of the conditions of the “Special Rule”. So the Province, singling out Midhurst by name, released another regulation, O. Reg 22/13 stating that the problematic condition “6.3.2.1 clause b) shall not apply”.

i.e. Provincial laws changed twice to accommodate the Midhurst Secondary Plan.

## Appendix B

### Midhurst Secondary Plan Violations - (expanded version)

#### ***The Planning Act 1990***

#### **PART I PROVINCIAL ADMINISTRATION**

##### **Provincial interest**

**2.** The Minister, the council of a municipality, a local board, a planning board and the Municipal Board, in carrying out their responsibilities under this Act, shall have regard to, among other matters, matters of provincial interest such as,

- (a) the protection of ecological systems, including natural areas, features and functions;
- (b) the protection of the agricultural resources of the Province;**

***Provincial Policy Statement*** (May 22, 1996), clause 1.1.1.c. states -

Expansions into prime agricultural areas are permitted only where:

- 1. there are no reasonable alternatives which avoid prime agricultural areas; and
- 2. there are no reasonable alternatives with lower priority agricultural lands in the prime agricultural area;

*There are plenty of alternatives to the prime agricultural area which the MSP would consume.*

Clause 2.1.1 Prime agricultural areas will be protected for agriculture. Permitted uses and activities in these areas are: agricultural uses; secondary uses; and agriculture-related uses. Proposed new secondary uses and agriculture-related uses will be compatible with, and will not hinder, surrounding agricultural operations.

2.1.2 Lot creation in prime agricultural areas is generally discouraged and will be permitted only in the following situations:

- a. new lots for agricultural uses may be permitted provided that they are of a size appropriate for the type of agricultural use(s) common in the area and are sufficiently large to maintain flexibility for future changes in the type or size of agricultural operation;
- b. new lots may be permitted for agriculture-related uses; and
- c. new lots for residential uses may be permitted for:
  - 1. a farm retirement lot;
  - 2. a residence surplus to a farming operation; and
  - 3. residential infilling.

Any new lot for residential uses will be limited to a minimum size needed to accommodate the residence and an appropriate sewage and water system.

2.1.3 An area may be excluded from prime agricultural areas only for:

- a. an expansion of an urban area or rural settlement area, in accordance with policy 1.1.1c);
- b. extraction of mineral resources, in accordance with policy 2.2; and
- c. limited non-residential uses, provided that:
  1. there is a demonstrated need for additional land to be designated to accommodate the proposed use;
  2. there are no reasonable alternative locations which avoid prime agricultural areas; and
  3. there are no reasonable alternative locations in prime agricultural areas with lower priority agricultural lands.

Impacts from any new non-agricultural uses on surrounding agricultural operations and lands will be mitigated.

2.1.4 New land uses, including the creation of lots, and new or expanding livestock facilities will comply with the minimum distance separation formulae.

2.1.5 In prime agricultural areas, agricultural uses and normal farm practices will be promoted and protected.

**Provincial Policy Statement** (March 2005), clause 1.1.3.9 states -

“A planning authority may identify a settlement area or allow the expansion of a settlement area boundary only at the time of a comprehensive review and only where it has been demonstrated that:

- c) in prime agricultural areas: there are no reasonable alternatives which avoid prime agricultural areas

*The settlement area boundary in question was created by assuming that the STUDY AREA referred to in the 1998 Official Plan was a settlement area. Whether or not it was referred to in 1998 as a settlement area is irrelevant, because a settlement area suitable for urban uses was not defined until the Provincial Policy Statement of 2005 which, as well as providing a settlement area definition, also defined the “comprehensive review” required to create a new settlement area.*

*c) There are plenty of alternatives to the prime agricultural area consumed by the MSP.*

*The Provincial Policy Statement 2005 defines comprehensive review as follows:*

**Comprehensive review:** means

- a) for the purposes of policies 1.1.3.9 and 1.3.2, an official plan review which is initiated by a planning authority, or an official plan amendment which is initiated or adopted by a planning authority, which:

1. is based on a review of population and growth projections and which reflect projections and allocations by upper-tier municipalities and *provincial plans*, where applicable; considers alternative directions for growth; and determines how best to accommodate this growth while protecting provincial interests;

*There was no official plan review, based on population and growth projections allocated by upper tier provincial plans*

d) impacts from new or expanding settlement areas on agricultural operations which are adjacent or close to the settlement area are mitigated to the extent feasible.

*No attempt was made in the MSP to mitigate the effects on adjacent agricultural operations*

*The Provincial Policy Statement 2005 defines settlement area as follows:*

**Settlement areas:** means urban areas and rural settlement areas within municipalities (such as cities, towns, villages and hamlets) that are:

- a) built up areas where development is concentrated and which have a mix of land uses; and
- b) lands which have been designated in an official plan for development over the long term planning horizon provided for in policy 1.1.2. In cases where land in *designated growth areas* is not available, the *settlement area* may be no larger than the area where development is concentrated.

*The so called “settlement area” is many times larger than the built-up area where development is concentrated*

**Provincial Policy Statement** (March 2005), clause 1.1.4 states -

#### **1.1.4 Rural Areas in Municipalities**

In *rural areas* located in municipalities:

- a) permitted uses and activities shall relate to the management or use of resources, resource-based recreational activities, limited residential development and other rural land uses;
- b) development shall be appropriate to the *infrastructure* which is planned or available, and avoid the need for the unjustified and/or uneconomical expansion of this *infrastructure*;
- c) new land uses, including the creation of lots, and new or expanding livestock facilities, shall comply with the *minimum distance separation formulae*;
- d) development that is compatible with the rural landscape and can be sustained by rural service levels should be promoted;
- e) locally-important agricultural and resource areas should be designated and protected by directing non-related development to areas where it will not constrain these uses;
- f) opportunities should be retained to locate new or expanding land uses that require separation from other uses;

**Growth Plan for the GGH** (June 2006). *Settlement Areas* are defined in Section 6, as areas where:

- a) development is concentrated and which have a mix of land uses; *and*
- b) lands have been designated in an official plan for development over the long term planning horizon provided for in the Provincial Policy Statement, 2005. Where there are no lands that have been designated over the long-term, the settlement area may be no larger than the area where development is concentrated.

*The “settlement area” identified in the MSP does not meet this criteria:*

- a) *There is no concentration of development in the so called settlement area and there is no mix of land uses; and*
- b) *In the 1998 Springwater Official Plan, no lands were designated over the long-term planning horizon. It follows therefore that the settlement area may be no larger than the built boundary.*

**Growth Plan** (June 2006) 1.1 (page 7, para 10, 11 and 15) states -

“Despite its many assets, Ontario and the *GGH* face a number of challenges in sustaining and growing its economy;

- Increasing numbers of automobiles are traveling over longer distances resulting in clogged transportation corridors. Traffic congestion and delays in the movement of goods costs Ontario upwards of \$5 billion in lost GDP each year.

*The MSP relies upon the automobile to access employment. There are no meaningful and sustainable jobs to support an additional 28,000 people (or 12,000 for the first phase) in Midhurst. Employment opportunities will be dependent, as they are today, upon long distance commuting.*

- Urban sprawl continues to the degradation of our natural environment, air quality and water resources as well as the consumption of agricultural lands and other natural resources so critical to the future economy.”

*The MSP provides a good example of urban sprawl. Furthermore this plan relies on the Minesing Wetlands to absorb the discharged wastewater from 12,000 or more residences. 100% of the proposed development would be on prime agricultural land, mostly classes 1 and 2.*

**Growth Plan 2.1** (page 13, para 3 and 4) states -

“There is a large supply of land already designated for future urban development in the GGH. In most communities there is enough land to accommodate projected growth based on the growth forecasts and *intensification target* and *density* targets of this Plan. It is important to optimize the use of the existing land supply to avoid over-designating new land for future urban development.

Strong, healthy and prosperous rural communities are vital to the economic success of the GGH and contribute to our quality of life.

*The Province has a surplus of potential development land and there is no need to designate farmlands surrounding a particularly charming and remote rural village, as “lands for urban use”. Furthermore the provincial IGAP report (costing \$3 million) concluded in 2006 that: “100% of the projected 2031 population (667,000) could be accommodated through existing planning commitments”.*

*i.e. A Midhurst Secondary Plan of this magnitude is UNNECESSARY*

*Midhurst is currently a strong, healthy and prosperous community. As history has demonstrated, communities cannot remain prosperous if there is no local industry on which to base development. Allowing this development would be detrimental to quality of life of both old and new residents.*

**Growth Plan 2.2.2.1** (page 14) states -

“Population and employment growth will be accommodated by -

a) directing a significant portion of new growth to the *built-up areas* in the community through *intensification*

*None of the new development would be in the existing built-up area*

b) focusing *intensification* in *intensification areas*”

*There is no intensification area in Midhurst*

c) building compact transit-supportive communities in designated greenfield areas

*No public transit is proposed because Development Charges cannot be applied to NEW services.*

d) reduce dependence on the automobile through the development of mixed-use, transit-supportive pedestrian friendly urban environments

*The MSP will depend on the automobile for long distance commuting*

e) *providing convenient access to intra- and inter-city transit*

*No proposed intra-city transit could be categorized as convenient. Distances are too great.*

f) *ensuring the availability of sufficient land for employment to accommodate forecasted growth to support the GGH economic competitiveness*

*The MSP stipulates that at full build-out there would be 10,000 new dwellings. Based on the Schedule 7 ratio of 23% employment lands, Midhurst would need be able to support 12,000 jobs. There is no provision for employment lands to support 12,000 employees.*

g) *planning and investing for a balance of jobs and housing in communities across the GGH to reduce the need for long distance commuting and to increase the modal share for transit, walking and cycling.*

*Long distance commuting will be the norm with the MSP.*

h) *Encouraging cities and towns to develop as complete communities with a diverse mix of land uses, a range and mix of employment and housing types, high quality public open space and easy access to local stores and services.*

*The MSP calls for a population of 30,000. It will not be practical to duplicate facilities and services already available in nearby Barrie. Midhurst will NOT be a “complete community”.*

i) *Directing development to settlement areas, except where necessary for development related to the management or use of resources, resource based recreational activities, and rural land uses that cannot be located in settlement areas.*

*There is no designated settlement area resulting from a comprehensive review.*

j) *Directing major growth to settlement areas that offer municipal water and wastewater systems and limiting growth in settlement areas that are serviced by other forms of water and wastewater services.*

*Midhurst has no municipal waste water system.*

k) *Prohibiting the establishment of new settlement areas”.*

*The MSP unofficially converted a study area into a settlement area.*

### **Growth Plan 2.2.3.1 General Intensification states -**

By the year 2015 and for each year thereafter, a minimum of 40 per cent of all residential development occurring annually within each upper- and single-tier municipality will be within the built-up area.

*The MSP allows almost 100% of new residential development to occur **OUTSIDE** the built-up area.*

### **Growth Plan** Section 5.4.4.3 (page 38) states -

“Municipalities are encouraged to engage the public and stakeholders in local efforts to implement this (the Growth) Plan and to provide the necessary information to ensure the informed involvement of local citizens”.

*There was no attempt made to ensure the informed involvement of local citizens. When residents **were** informed, three years after the plan was adopted by the Township, 1,476 people hand signed a protest petition.*

### **Places to Grow** Amendment 1, Effective January 2012, Section 6, states that;

“The intent of this policy is that by 2031 development for all the municipalities in Simcoe County will not exceed the overall population and population forecasts contained in Schedule 7”.

*The MSP causes Springwater to exceed the province’s population forecast by a wide margin*

### **Places to Grow** Section 7 and Schedule 8, Amendment 1, shows that -

Springwater Township does not contain any Primary Settlement Area as defined in Section 7 and illustrated in Schedule 8.

**Places to Grow** Section 7 defines **Lands Not for Urban** Uses as Lands that are designated for agricultural or rural uses within a settlement area identified in the approved official plan for the municipality.

*The Springwater Official Plan approved in 1998, defined a study area. This area was mistakenly assumed to be a settlement area. Had it been a settlement area, these lands are in any event defined as Lands **NOT** for Urban Uses as they are classes 1 and 2 agricultural lands protected in the township Official Plan, as well as in Provincial plans in-effect at the time.*



**Places to Grow** Section 7 defines **Settlement Areas** as:

*Urban areas and rural settlement areas within municipalities (such as cities, towns, villages and hamlets) that are:*

- *a) built up areas where development is concentrated and which have a mix of land uses; and*
- *b) lands which have been designated in an official plan for development in accordance with the policies of this Plan. Where there are no lands that have been designated for development, the settlement area may be no larger than the area where development is concentrated.*
- *(Based on PPS, 2014 and modified for this Plan)*

*The midhurst "Settlement Area" does not satisfy this definition because:*

- a) there is no concentration of development outside the built-boundary; and*
- b) no lands were designated for development, so the settlement area was "no larger than the area where development is concentrated". Additionally, lands in the official plan were designated over the usual twenty year planning horizon, not a long term planning horizon, the planning horizon having been changed to "long-term" in 2008 when the developers worked with the Township to draft the Midhurst Secondary Plan. (3.3.3 b).*

*Note this definition is derived from the 2014 PPS, to which all new developments must adhere.*

**The Planning Act** states -

**Timing of public meeting**

(19) The public meeting required under clause (15) (d) shall be held no earlier than 20 days after the requirements for giving notice have been complied with. 2006, c. 23, s. 9 (2).

**Information and material**

(19.1) The information and material referred to in clause (15) (c), including a copy of the current proposed plan, shall be made available to the public at least 20 days before the public meeting required under clause (15) (d) is held. 2006, c. 23, s. 9 (2).

*Notice of the PIC was published in a **Barrie** (not Springwater) newspaper 14 days before the August 28 PIC. No copy of the proposed plan was published prior to the PIC.*