

Innisfil (Town) Official Plan Amendment No. 10 (Re)

Cookstown Estates Inc. has appealed to the Ontario Municipal Board under subsection 51(34) of the Planning Act, R.S.O. 1990, c. P.13, determination of conditions imposed with respect to a proposed plan of subdivision on lands composed of part of the north half of Lot 24, Concession 14, Cookstown, in the Town of Innisfil O.M.B. File No. S970067 [\* See Appendix for Complete Title of Case]

[2000] O.M.B.D. No. 405

File Nos. PL970943, S970067, Z970125, S980046, Z980022, S980048, Z980023, S970107, Z970190, O000053

Ontario Municipal Board  
R.J. Emo  
April 25, 2000

COUNSEL:

E. Marshall Green, for Town of Innisfil and County of Simcoe.  
John Alati, for Cookstown Estates Inc., Letizia Homes Ltd., Belpark Construction Ltd.  
Richard Arblaster, for Mondolo Construction Limited.

DECISION DELIVERED BY RONALD J. EMO AND  
PARTIAL ORDER OF THE  
BOARD:--

[para1] Following a series of pre-hearing conferences, these proceedings were intended to hear the appeals seeking approval of four subdivision applications, including implementing zoning by-laws, noted in the titles of proceeding. In addition, the (private) OPA appeal referred to in the Board's most recent procedural order was also to be heard. At the commencement of the hearing, Mr. Green requested an adjournment owing to a major snag having just come to light with regard to the Zenon treatment process proposed for the Cookstown water system. Mr. Green cited late reports from Zenon and an overriding concern by the Town of Innisfil (Town) that the costs of operating the (currently proposed) Zenon system would double the water charges for Cookstown residents.

[para2] Mr. Joe Mullan, the Town's engineering consultant, told the Board that the current Zenon proposal included both "Zeewped" and "Nano" technology and was the first time such complex treatment methodology had been suggested for use in Ontario. Mr. Alati urged the Board to proceed with the subdivision hearings and submitted that water treatment could be dealt with through appropriate conditions. It was my ruling that should the Board consider such action, its formal order would be withheld pending satisfactory evidence that a suitable source of water-was available.

[para3] Mr. Mullan further noted that two Other options had been broached at a meeting with the developer group last week. The two options are an extension of a pipeline from an existing well complex in the Hamlet of Churchill or alternatively a connection to Georgian Bay water now being piped to the Town of New Tecumseth, the so called ".big pipe". Mr. Mullan further noted that an environmental assessment is currently being conducted as to a proposed extension of the New Tecumseth pipeline to the Town of Bradford-West Gwillimbury. Apparently the alignment of such extension would pass within a couple of concessions to the south of Cookstown. At first blush, costs to connect to these alternative sources appeared to be about the same as the current Zenon proposal. Indeed, the Board member was reminded that Zenon's "Zeeweed" system is the system used to treat the Georgian Bay water at the Collingwood intake.

[para4] With considerable community interest, as evidenced by a full attendance in the hall, as well as the extensive advertising of a 'public session' for the evening of April 4th, the Board ruled that a hearing on the merits of the proposed amendment (OPA 10) to the Town's Official Plan (OP) would proceed and that the 'public session' would include an overview describing the current configuration of the four subdivisions. At the conclusion of two days of hearing, and the (evening) public session', I gave an oral ruling that proposed OPA 10 (exhibit 12), as set out on Attachment 1, Would be approved with the setting, history and Board's reasoning to follow.

[para5] During the course of the hearing there Were frequent references made to a 1989 decision, by my colleague J.R. Mills, dealing with proposed zoning for two of the same subdivisions currently under appeal in these proceedings. In 1989, as with now, potable water and sewage capacity were overarching issues In dismissing the 1989 appeals against two subdivision (and one apartment building) zoning by-laws, Mr. Mills stated that if an adequate water supply was to be developed for Cookstown R would be done by the developers and not at the expense of the residents. The Mills decision included a statement that the developers would bear all costs of water system improvements and this comment has been taken as immutable. In responding to the Mills decision, the developer group has expended considerable effort seeking a new water source. Indeed, Mr. Alati submitted that their exploratory drilling program had been at risk of turning Cookstown into to swiss cheese". During the course of this hearing, the developer group expressed their interest in a connection to New Tecumseth's "big pipe" and asked that the Board's decision encourage the Town's expeditious pursuit of this option. So stated! Mr. Green, on behalf of the Town, acknowledged that as a result of the developer group's efforts, Provincial funding had been secured to improve the quality of water from the present well system.

[para6] The other outstanding service issue is a finite

capacity of the present Cookstown sewage lagoon system. The eleventh hour revelation that the combined "Zeeweed" and "Nano" system would use up the equivalent sewage capacity of 34 residential units rather than the 4 units originally projected was disconcerting and seemed to spark the developer group's interest in the "big pipe". As noted in previous dispositions from the pre-hearing conferences, the passage of time has had the side benefit of providing three more years of sewage flow data which, in turn, has resulted in Mr Mullan's expert opinion that the sewage system can safely accommodate a further 361 residential units. This capacity has been allocated on the basis of 260 units for the developer group and 101 units for development within the existing community. From the January 27th mediation session, a further safeguard was accepted which would impose an 80% 'cap' on both unit allocations with the caveat that any additional sewage units needed, to backwash the (current) Zenon proposal would be borne by the developer group. The remaining 20% would not be released until intensive flow monitoring of the new development proved that capacity was available. The Board noted a general acceptance of the split in unit allocation as reflective of the developer group's financial support for an improved water system.

[para7] The thrust of OPA 10 is a new subsection "C" to section 7.3.1.6 (Cookstown secondary plan) of the OP to give the Town and the developer group greater flexibility in dealing with their respective sewage allocations. The authorship of OPA 10 has been a collaborative venture with input from the three land-use planners under retainer to the developer group, Mr. Mullan and Kathy Brislin, the Town's principal planner. While there was no opposition to providing the developer group with such flexibility in re-allocating their 260 units, the allocation of the Town's 101 units was a different story.

[para8] At 'public night', several residents voiced concern that the long awaited opportunity to create an extra lot(s) from their larger properties might be lost in a competition for the Town's 101 units. Indeed with a potential 61 severance situations together with 31 prepaid connections and (tab 9 of exhibit 3) a stated allocation of some 15 to 19 for severances, the phrase "first come, first served" was a qualified land-use planner, acting as agent for Claudio Paolini, sought to have the 34 units (tab 9, exhibit 3) shown for apartments and conversion 'frozen' in anticipation of a potential seniors apartment project. Kathy Brislin, the Town's principal (land-use) planner testified that Town's allocation of its 101 units, when finally available, would be done on the basis of acceptable planning justification. The Board agrees and rejects Mr. McNair's submission. Were services not so constrained, the Board would have no problem accepting Mr. McNair's opinion as to a range of housing types. Unfortunately, such is not the case in Cookstown. Once the water question is resolved, there will be competition for scarce units and the Board finds that it would not be good

planning to essentially the Council's hands.

[para9] William Turner, a ten year resident in the Royal Oak mobile home park, opposed providing flexibility to the Town's allocation of its units preferring that such changes follow the more public process of amendments to the OP. With respect, I note the comments of Mr. Mills that Official Plans are not etched in stone. There has been a very public process leading up to these proceedings and while the Board would acknowledge that the planners have "fine tuned" some wording in OPA 10, such revisions have not derogated from the intent and purpose of the amendment. The thrust of changes in the Planning Act over the past decade has been to provide greater ease in the implementation of planning policy.

[para10] On the uncontroverted evidence of Ms Brislin and Allan Windrem, one of the developer group's three land-use planners, the Board finds that proposed OPA 10 represents good and appropriate land-use planning. The appeal by the developer group is therefore allowed and OPA 10 (Attachment I hereto) is hereby approved.

[para11] Although the subdivisions and their implementing zoning by-laws, were not formally dealt with in these proceedings, the Board took note of the concerns expressed by various residents pertaining to traffic, parkland and lot frontages. With regard to the latter, the planning evidence was that all four subdivisions complied with the density set out in the OP and that while a reduction in frontage from 60 to 50 feet, may be perceived as excessive, in terms of the applicable planning documents it is not. The four subdivision applications exhibit a "mixed bag" as to their status with two having draft approval, albeit for larger lots, and the other two having R-1 zoning in place but lacking draft approval.

[para12] Lynn Dolin, Town Councillor for the Ward that includes Cookstown, responded to the Board's invitation to make a submission. She noted the conflicting interests reflected in the testimony from the residents but observed that there appeared to be more public acceptance of the benefit of new development to Cookstown. In response to traffic concerns, she advised that there is a study of the Highway 89 corridor is currently underway with particular attention to be directed to the movement between the Honda Plant and Highway 400.

[para13] Although, this decision does not formally rule on the four subdivisions and their implementing zoning by-laws, the Board observes that there has been considerable public comment on their merits.

[para14] By way of a procedural order, while adjourning the subdivision/zoning appeals sine die, the Board will expect written progress reports, every three months, as to the procurement of a suitable water supply. I remain seized and will continue to case manage the appeals. I may be spoken to,

through David MacLeod, the Board's planner for Simcoe County.

[para15] It is so ordered.

RONALD J. EMO, Member

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## ATTACHMENT 1

### 7.3.1.6 ADDITIONAL POLICIES

#### STAGING OF DEVELOPMENT

In recent years the continued growth and development of Cookstown has been curtailed due to poor soil conditions and the absence of a communal sewage treatment system. With the advent of a sewage treatment system capable of servicing up to 1,500 persons and with the ability to provide a subsequent expansion of the system to service up to 2,500 persons, new growth is anticipated.

To ensure that new development occurs in a well balanced, logical and equitable manner and as the potential for growth is greater than the design capacity of the treatment facility, a selection process of developable lands and types of uses was required. Also, the need to set maximum development levels within a 2 stage program in regard to the future expansion of the treatment facility was needed. The first stage development allotment is predicated upon the growth of the Village from its current population to a population of approximately 1,500 persons. The second stage development allotment is predicated on the expansion of the treatment facility and municipal water supply to accommodate a total population of 2,500 persons.

It is a primary policy of this plan that any new development (including infill development) shall be serviced at no cost to the Town or its existing ratepayers.

Preliminary review undertaken by the Town and developers between 1995 and 2000 suggest that expansion or upgrades to the Cookstown sewage treatment plant to accommodate the second

stage would be at significant Cost and is not a realistic option for the additional 1000 population (approximately 300 units), contemplated in the foreseeable future. Given that only limited growth is contemplated for the Cookstown area over the planning period, use of available reserve capacity to accommodate additional growth has been considered.

Through monitoring of actual usage of the sewage treatment plant, in accordance with guidelines accepted by the Ministry of the Environment plus 5% of the average daily flow as an additional buffer; indications are there is some available reserve capacity which will enable limited development as contemplated in the Stage 2 allocations without requiring an

expansion to the sewage treatment plant. However to avoid potential exceedence of the capacity of the plant, any development occurring beyond the Stage I allocations shall be subject to the ongoing monitoring and implementation provisions as set out in section C to this section of the Cookstown Secondary Plan.

The intent of this policy is to encourage growth and to ensure adequate support in regard to municipal services.

The following sections, in conjunction with map Schedule M, Development Staging Plan, set out the areas, type of uses and maximum development potential permitted. Section 7.3.1.6(A) deals with the residential development of large blocks of vacant lands and section 7.3.1.6(B) deals with growth items such as apartments, infilling and conversions. Section 7.3.1.6(C) deals with policies for development to proceed on the basis of available Reserve Capacity.

#### A. SINGLE FAMILY RESIDENTIAL DEVELOPMENT

1. Area 1, as set out on Schedule M, is located generally south of Queen Street, west of Dufferin Street and north of Victoria Street and consists of approximately 3.74 hectares. Maximum allowable development is set at 15 single family residential units in the first phase and up to an additional 25 single family residential units in the second phase.
2. Area 2, as set out on Schedule M, is located generally south of Victoria Street, west of King Street and north of the Village boundary and consists of approximately 9.9 hectares. Maximum allowable development is set at 27 single family residential units in the first phase and up to an additional 58 single family residential units in the second phase. At this time it is not known if Evelyn Street will be continued into area 2 through area 7 and if portions of land in area 7 will be transferred to area 2. Should the street be continued and should parts of area 7 be transferred to area 2 as a result of this extension, then, for the purpose of this Plan, those areas west of Evelyn Street extended, transferred from area 7 to area 2, shall be deemed to be developable properties within area 2 and furthermore no amendment to this Plan or Schedule M will be required to reflect, his change.
3. Area 3, as set out on Schedule M, is located generally south of Victoria Street, east of King Street and north of the Village boundary and consists of approximately 12 hectares. Maximum allowable development is set at 45 single family residential units in the first phase and up to an additional 89 single family residential units in the second phase.
4. Area 4, as set out on Schedule M, is located generally

south of Victoria Street and east and north of the old Villa, boundary. Maximum allowable development is set at 62 mobile home units, in addition to the existing 27 mobile home units, in the first phase and up to an additional 16 mobile home units in the second phase. A mobile home unit means a dwelling that is designed to be made mobile and constructed or manufactured to provide a permanent residence for one or more persons, but does not include a travel trailer or tent trailer or trailer otherwise designed.

5. Area 5, as set out on Schedule M, is located generally south of Church Street, east of Cook Street and north of Victoria Street and consists of approximately 2.5 hectares. No development of this area is permitted in the first phase, however development of up to 18 single family residential units may be permitted in the second phase.

#### B. OTHER RESIDENTIAL DEVELOPMENT

1. Residential Apartments. A first phase allocation of 35 apartment units and a second phase allocation of 25 apartment units is provided for. Within the first phase, a maximum of 26 apartment units of which 23 units may be occupied during the first phase, may be established within Area 6, as set out on Schedule M and up to a maximum of 12 new apartment units may be established within Area 7 as set out on Schedule M. Twenty-two of the 25 apartment units permitted within the second phase have not at this time been allocated to specific areas. The development of these units may be permitted on a first come basis; however, the development of the entire allotment on one property should be discouraged.
2. Residential Infilling. It is recognized that the development of currently vacant lots or the creation of new residential lots by consent can be anticipated. This Plan allows for a first phase development of 7 single family residential units and a second phase development of an additional 18 single family residential units in this regard. It is understood that the development of existing lots of record, currently zoned for residential use, cannot be prevented, provided they meet the requirements of the comprehensive zoning by-law. Therefore, during the first phase, no more than 4 new lots created by consent and intended to be provided with full municipal services, may be permitted during the first phase. Notwithstanding the above, 1 additional residential lot may be created from the existing property known as 7 Hamilton Street, by consent, provided that the newly created lot shall be placed in a holding zone in the Comprehensive By-law and shall be maintained in the said zoning category until such time as full municipal services become available through the implementation of the second phase of servicing.

Furthermore no more than 11 additional new lots, created by consent and intended to be provided with full municipal services, may be permitted during the second phase.

3. Residential Conversions. The conversion of some of the large homes in the Village to semi-detached or duplex dwellings, along with the provision for residential units incorporated into future commercial uses, has been recognized. During the first phase no more than 5 new residential units may be created in this fashion and no more than 10 additional units may be permitted during the second phase.
4. Tourism Accommodation. It is recognized that some form of tourist accommodation might be desirable for Cookstown. However, due to servicing constraints and the desire to facilitate residential development in the first phase, tourist accommodation, in the form of hotel or motel uses, shall not be permitted in the first phase but may be permitted in the second phase up to the equivalent of 30 residential units.

#### C. DEVELOPMENT PERMITTED ON THE BASIS OF AVAILABLE RESERVE CAPACITY IN STAGE 1 OF THE COOKSTOWN SEWAGE TREATMENT PLANT.

1. Despite the policies related to phasing set forth in the foregoing sections A and 13, but subject to all other relevant policies of this plan, Council shall permit appropriate development to occur beyond the Phase I allocations without amendment to this plan, and subject to the implementation of a suitable monitoring programme to ensure capacity in the Cookstown plant is not exceeded.
2. Development shall not be permitted to proceed beyond the allocations as set forth in sections A and B above until such time as a monitoring program is established in accordance with the requirements of the Town Engineers.
3. Council may, through the draft approval of plans of subdivision and the site plan process, or for purposes of minor lot adjustments within the approved plans of subdivision, transfer or redistribute allocations of units in the developments referred to in the foregoing sections A and B, and those areas identified as Areas 1, 2, 3, 5, and 6 on Schedule M of this plan to allow for consolidation of parkland or development of combined stormwater management facilities, without requiring an amendment to the plan, provided the overall number of units does not exceed a total combined allowance of 260 units less the number of equivalent sewage units that may be required for water treatment, as determined by the

Town's Engineers.

4. Council may through the site plan process and consent to severance processes transfer units between all other developments referred to in sections A and B and as identified on Schedule M, without requiring an amendment to the plan, provided the combined total as set out in sections A and B, shall not exceed 101 units. (That is: all developments excluding Areas 1, 2, 3, 5, and 6 referred to on Schedule M does not exceed a total of 101 units)
5. If, at any time is a reduction required in the total number of units available for development as determined under subsections C 3 and C 4 above as a result of demonstrated monitoring of actual use, the totals referred to in subsection C 3 and subsection C 4 shall be proportionately reduced for the remaining undeveloped units without requiring an amendment to the plan.
6. The Town shall control all development occurring beyond the limitations set forth in the phase 1 allocations through conditions to draft approval, the implementation of the holding provision, conditions of severance, site plan control and subdivision control.
7. Despite the policies set forth in sections A and B, the first phase of development in any draft plan shall not exceed 80% of the allowable units, and the remaining 20% of development shall only proceed provided there is demonstrated capacity available as determined through the monitoring program referred to in this section.
8. Building permits and occupancy permits shall only be issued for developments proceeding on the basis of reserve capacity calculations upon confirmation of available servicing capacity, which shall be determined at the time which is the later of plan registration, site plan approval, the issuance of the certificate of consent to sever or removal of the holding provision.
9. Draft plan approval, conditional severance approval and site plan approval shall not be construed as a guarantee of servicing allocation.

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APPENDIX A  
Complete Title of Case

Cookstown Estates Inc. has appealed to the Ontario Municipal Board under subsection 34(11) of the Planning Act, R.S.O. 1990, c. P.13, as amended, from Council's refusal or neglect to enact a proposed amendment to Zoning By-law 2-80, as amended, of the Town of Innisfil to rezone part of the north half of Lot 24, Concession 14 from

Residential R1 and Residential R1 (H) to Residential Holding R1A(H), Residential Holding R1B(H), Residential Holding R1C(H), Residential Holding R2A(H) and Open Space Conservation (OSCA). O.M.B. File No. Z970125 and

Letizia Homes Ltd. has appealed to the Ontario Municipal Board under subsection 51(34) of the Planning Act, R.S.O. 1990, c. P.13, from the failure of the Honourable Minister of Municipal Affairs and Housing to make a decision respecting a proposed plan of subdivision on lands composed of part of Blocks B and all of Lots 6, 7, 8, and 9, West Side of Albert Street Registered Plan 99, Cookstown, in the Town of Innisfil O.M.B. File No. S980046 and

Letizia Homes Ltd. has appealed to the Ontario Municipal Board under subsection 34(11) of the Planning Act, R.S.O. 1990, c. P.13, as amended, from Council's refusal or neglect to enact a proposed amendment to Zoning By-law 2-80, as amended, of the Town of Innisfil to rezone Part of Blocks B and all of Lots 6, 7, 8 and 9, West Side of Albert Street Registered Plan 99, from Residential to Residential Holding R1-x(H). O.M.B. File No. Z980022 and

Belpark Construction Limited has appealed to the Ontario Municipal Board under subsection 51(34) of the Planning Act, R.S.O. 1990, c. P.13, from the failure of the Honourable Minister of Municipal Affairs and Housing to make a decision, respecting a proposed plan of subdivision on lands composed of part of Blocks 50 and 51, Registered Plan M-34 and Part of Blocks B, C, & H, Registered Plan 94, Cookstown, Town of Innisfil O.M.B. File No. S980048 and

Belpark Construction Limited has appealed to the Ontario Municipal Board under subsection 34(11) of the Planning Act, R.S.O. 1990, c. P.13, as amended, from Council's refusal or neglect to enact a proposed amendment to Zoning By-law 2-80, as amended, of the Town of Innisfil to rezone Part of Blocks 50 and 51, Registered Plan M-34 and Part of Blocks B, C, & H, Registered Plan 94, from Residential to Residential Holding R1-x(H). O.M.B. File No. Z980023 and

Indenture Investments Limited has appealed to the Ontario Municipal Board under subsection 51(34) of the Planning Act, R.S.O. 1983, c. P.13, determination of conditions imposed with respect to a proposed plan of subdivision on lands composed of part of Lots 23 and 24, Concession 15, Cookstown, in the Town of Innisfil O.M.B. File No. S970107 and

Indenture Investments Limited has appealed to the Ontario Municipal Board under subsection 34(11) of the Planning Act, R.S.O. 1990, c. P.13, as amended, from Council's refusal or neglect to enact a proposed amendment to Zoning By-law 2-80, as amended, of the Town of Innisfil to rezone part of Lots 23 and 24, Concession 15 from Residential R1 and Residential R1(H), Residential Exception R1-2 Zone,

Residential Exception R1-2(H) Holding Zone and Open Space Conservation (OSC1) to Residential Holding R1X(H), Residential Holding R1X(H), Residential Holding R1X(H) and Open Space Conservation (OSC1). O.M.B. File No. Z970190  
and

Letizia Homes Ltd., Cookstown Estates Inc. & Belpark Construction Ltd. have appealed to the Ontario Municipal Board under subsection 22(7) of the Planning, Act, R.S.O. 1990, c. P. 13, as amended, from Council's refusal or neglect to enact a proposed amendment to the Official Plan for the Town of Innisfil to provide appropriate land use designations and policies for residential development for lands located in the north half of Lot 24, Concession 14, Town of Innisfil O.M.B. File No. O000053