

The following are the conclusions of the OMB Decision of August 3<sup>rd</sup>, 2011 with respect to the Port Carling Eastern Boundary Expansion. The full text may be found on this site.

### **Conclusions of the OMB Hearings re the Muskoka Official Plan – OPA 40**

The Official Plan "is a policy and directions document for future development in the Municipality. It is not a document providing restrictions and performance standards for development as some Appellants would like. This is usually left to the Zoning Bylaw.

The Board recognizes that the establishment of a Municipality's growth strategy is a fundamental long term planning decision, as it gives effect to its economic development and growth strategy, its long term capital budget, and it establishes for the private sector and the general public the basic land use expectations. As much as we may want things to stay the same, change is inevitable. Change is managed through good planning that aims to satisfy growth in a balanced and equitable way.

The Planning Act provides for a thorough and comprehensive approach to municipal planning and includes many opportunities for public input. There was no evidence the Municipality veered from the public process in its five-year conformity plan. It carried out some 30 studies leading to CPA 40. It held two open houses and two public meetings before adopting CPA 40 at a Council meeting on March 17, 2009. The Township of Muskoka Lakes OP appears to include policies respecting the environment, the waterfront and lake water quality. These policies are repeated for each of the OP sections: Waterfront, Urban Centres and Rural. CPA 40 adds and reiterates the same policies in the proposed boundary expansion area, for the sake of locking-in the protections to the waterfront, to ensure they are followed in' the development process. Although MLA expressed some concern with how the Municipality may implement its OP polices, there was no compelling evidence adduced that the Township would not apply its own policies, as intended, at the development stage.

No matter how wholesome, respected, protective and influential a large community group may be, there is only one approval authority for planning matters in Ontario municipalities: the duly elected Council, and on appeal, the OMB. Township of Muskoka Lakes Council, in making its decision to adopt CPA 40, held a number of public meetings and it heard submissions from various parties including Hanna's Landing, the Friends of Port Carling and MLA. Council made its decision having fully considered the community's concerns. In adopting CPA 40, Council rightfully set out what its intent was - to expand the urban boundary of Port Carling to accommodate modest growth over the next 20 years. Under normal circumstances, it is the dully elected Council that represents the interests of all the residents and determines what the public interest is, notwithstanding that some people may not agree with that decision.

Further, the Board is required by the Planning Act to have regard for Council's decision and it has carefully reviewed the process and finds that Council's decision was fair, informed and proper.

Having carefully reviewed all the facts, the Board is satisfied that CPA 40 identifies and promotes intensification and redevelopment. The Municipality has demonstrated a rationale for the need of a boundary expansion - with the provision of municipal services; with a long term objective the protection of the waterfront; and the need to provide for affordable permanent and seasonal housing. One of its aims is to provide for a full range of housing, consistent with the District Plan and the PPS, and to accommodate people who want to stay in this area but don't need large houses and properties. As such, CPA 40 is consistent with Provincial Policy and provides sufficient guidance for future development and safeguards for the environment along the Muskoka Lakes waterfront.

The Board is satisfied that the amount of land proposed to be included in the urban expansion, as modified by the District, was considered and approved following a comprehensive review by the District, consistent with the PPS, and is therefore appropriate. It will respond to the needs of the community for a range of housing units and will be serviced by municipal sewers and water, thus minimizing impacts to the water quality. CPA 40 provides for the necessary safeguards to the environment; a larger than normal setback from the water; and the newly proposed Site Plan policies will ensure future development will fit within the context of the area. It represents good planning. The Board will therefore allow the appeal in part and will approve OPA 40 generally as discussed in this Decision.

Under its power vested in s. 17(50) of the Planning Act, the Board will adopt Mr. Hammond's recommendation to incorporate in OPA 40 all urban design policies contained in Exhibit 75. This will enhance the protection of the waterfront; increase building setbacks; adopt improved policies to protect the knoll; incorporate site plan policies, phase development and distribute densities (subject to mapping representation); and reinforce and strengthen the vitality of Port Carling.

The Parties are to draft the detail of such modifications in the form of an Order to be submitted to the Board planner within 60 days of this Decision and the Municipality is directed to incorporate the changes in CPA 40.

The Board may be spoken to in the presence of all parties should the need arise in implementation of this Decision.