



# INNOVATIVE PLANNING SOLUTIONS

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April 8, 2019

10 Robert Street West  
P.O. Box 5009  
Penetanguishene, ON L9M 2G2

Attention: Andrea Betty, Director  
Planning and Community Services

Re: Planning Opinion; OMB Settlement Minutes (no. PL110487) Interpretation,  
1145 Fuller Avenue  
Town of Penetanguishene, County of Simcoe

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Based on discussions with the Town of Penetanguishene staff dated March 25, 2019, Innovative Planning Solutions (IPS), on behalf of Tonking Management Inc., is pleased to provide this planning opinion letter relative to the interpretation of OMB minutes of settlement no. PL110487, dated August 18, 2015.

## **BACKGROUND**

The initial application for development at 1145 Fuller Avenue was received and deemed complete in 2007. It was held in abeyance by the Town until such time as the Provincial Growth Management Strategy was complete and implemented through the Town's Official Plan (OP). An update to the Town's OP was then postponed as a result of delays in the County of Simcoe's Official Plan as well as the Simcoe Area amendment to the Province's Growth Plan. In 2011, this application was appealed to the Ontario Municipal Board (OMB) on the Town's failure to make a decision concerning the OPA.

In 2014, policies 3.5.10 to 3.5.13 of the County OP was approved by order of the Board for the allocation of up to 20,000 persons where lands previously not dedicated for urban uses are designated for urban uses due to settlement area boundary adjustments. In addition, the OMB hearing for the County of Simcoe's new Official Plan established a new settlement area boundary for the Town of Penetanguishene that mirrors the municipal boundary. As a result of the boundary decision, the subject lands were deemed to be within the settlement area. Following the decision by the OMB on the Settlement Area Boundaries and Growth Management approach of the County Official Plan, the applicant requested that the OMB consider the appeal of OPA

1/2008. The proceedings of the OMB pre-hearing conference held in October 2014, the Board issued a memorandum of Oral Decision in November of 2014. In June of 2015 the Council of the Town of Penetanguishene formally designated the subject lands 'Neighborhood Area' and 'Environmental Protection One' and granted a population allocation of 400 persons under to 20,000 surplus provided under provisions 3.5.10 to 3.5.13 of the County OP.

On February 22, 2019, the applicant put forward an application to rezone the lands from 'Rural Exception (RU-9)' and 'Environmental Protection (EP)' to 'Residential Third Density – Exception (R3-XX)', 'Environmental Protection', 'Commercial Neighborhood (CN)', and 'Residential Multiple (RM)' within the Town of Penetanguishene Zoning Bylaw. In addition, an application for Draft Plan of Subdivision has been submitted for simultaneous consideration. The proposed concept has been revised since the time of the OMB settlement decision.

Through previous discussion (minutes dated March 25, 2019), Town of Penetanguishene staff have indicated that further discussion may be required relating to how the proposed development application is consistent with the original OMB minutes of settlement, specifically as it relates to the now revised development concept. This letter of opinion is intended to address the merits of the current concept as it relates to the OMB minutes of settlement.

### **CONCEPT CONFORMITY**

It is imperative to recognize that the concept plan put forward offers a revised design which is consistent with the substance of earlier conceptual designs for the subject site (see PJR dated September 2014). Residential uses remain the principal use of the proposed concept, the commercial block has not been altered with the current revision, protected land boundaries confirmed as part of the earlier concept remain in the same location, (private condominium) amenity spaces are now provided, and stormwater facilities have been reconfigured in the current concept.

There is no wording within the OMB minutes of settlement which would bind the applicant to a specific residential form (i.e. townhomes) in revised concepts. While the residential form has shifted from townhomes and multiple residential units in the initial concept to a greater diversity of housing options in the revised, the approximate population density supported by the proposed concept would continue to satisfy the terms of settlement established through the OMB. Further, a range of housing options is generally aligned with the intent of modern provincial and municipal planning policy in the County of Simcoe.

The OMB minutes of settlement no. PL110487, dated August 18, 2015 do not prohibit the applicant from revising the earlier development concept. Settlement term no. 8 provides that:

*[The applicant] will ensure that all future development applications to Implement the OPA will be consistent with the proposed concept plan and the Planning Justification Report submitted supporting the population allocation request.*

The revised concept would be considered consistent with the original concept. The merits of the current concept's conformity can be demonstrated through analysis of Settlement term no. 9, which provides that:

*To ensure consistency with the proposed concept plan and Planning Justification Report, [the applicant] agrees that all future development applications shall include:*

*a. Development on full municipal water and sewage services;*

The revised concept maintains servicing via municipal sewage and water infrastructure.

*b. A minimum density target of 50 persons and jobs per hectare;*

The density would maintain a minimum projected population and employment density of 50 people/jobs per hectare.

*c. Complete community components such as active transportation, appropriate transportation infrastructure, and public services facilities;*

In contributing to the County of Simcoe's (Official Plan) definition of a complete community, the revised concept would be well positioned for residents to utilize Penetanguishene's Active Transportation Infrastructure (Schedule C, Draft Official Plan). Existing infrastructure along Fuller Avenue (sewer, water and road) is anticipated to be sufficient to accommodate the revised concept. Private condominium outdoor amenity areas now offer expanded recreation opportunities to residents of the St. Andrews Lake community.

*d. Both employment and residential uses and contribute to the achievement of jobs for the local municipality.*

Both employment and residential uses are included within the revised concept.

## CONCLUSION

It is the opinion of Innovative Planning Solutions that the amended conceptual plan is consistent with OMB minutes of settlement no. PL110487, dated August 18, 2015, as well as all levels of provincial and municipal policy. For a comprehensive detailing of the merits of the applications as they relate to policy, please see the Planning Justification Report previously submitted (dated December 2018). The proposed concept maintains the prominent residential nature of the previous concept, includes employment land uses, meets the prescribed residential and employment densities, and generally represents good planning practice. Notably, the OMB settlement minutes do not preclude the applicant from proposing a more diverse range of residential dwelling types versus those put forward through previous concepts. This is particularly true given the overall concept proposed is consistent with the substance of the concept previous, as required by the minutes of settlement.

Trusting this is satisfactory; we would request that this opinion letter be circulated to vested parties. Should you have any additional questions or concerns, please do not hesitate to contact the undersigned at your convenience.

We look forward to future correspondence from you on this matter,  
Respectfully submitted,

### Innovative Planning Solutions



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*President & Director of Planning*



Tyler Searls, BCD  
*Planner*