



September 7, 2021

The Hon. Minister Clark
Ministry of Municipal Affairs and Housing
777 Bay Street, 17th Floor
TORONTO, Ontario
M7A 2J3

RE: ERO 019-4071 Ministry Reference Number 24-OP-217386 PROPOSED HALTON REGIONAL OFFICIAL PLAN AMENDMENT NO. 48 (ROPA 48) SUBMISSION ON BEHALF OF PENTA PROPERTIES INC. “EAGLE HEIGHTS RESIDENTIAL DEVELOPMENT, BURLINGTON ONTARIO.”

Corbett Land Strategies Inc. (CLS) has been retained by Penta Properties Inc. with respect to their land holdings (known as “Eagle Heights”) located in the Central Sector Area of North Aldershot, Burlington Ontario. These lands are located west of Waterdown Road, east of the Grindstone Creek Valley, north and south of Flatt Road (refer to Appendix “A” attached hereto).

The Eagle Heights development is unique in Halton in an area that has enjoyed special planning permissions for over 25 years. These planning policy permissions and residential development approvals (on full urban services) have advanced over the years to the extent that the Region should continue to recognize the unique status of the Eagle Heights area as a settlement area through its Municipal Comprehensive Review process, including proposed ROPA 48.

In fact, it is important to note that the subject lands received draft plan of subdivision approval and implementing zoning through an Ontario Municipal Board decision in 1996 (G.S.A Owners Group inc. v. Burlington (City) O.M.B.D No. 1467- Refer to Appendix C). Through this decision the Eagle Heights land owners were granted urban residential development approvals for 55.0 net hectares of land. Further, in 2020 the Eagle Heights lands were granted servicing and infrastructure permissions in the Niagara Escarpment Planning Area through a specific Order in Council. The action by the Province reinforces the long standing planning status of the subject lands as a unique urban residential precinct in Halton Region. Proposed ROPA 48 fails to properly recognize this status. Accordingly, it is the purpose of this submission to request the province to make specific modifications to proposed ROPA 48 that will reflect these historical approvals.

The Eagle Heights lands are located within the area known in the City of Burlington and Region of Halton Official Plans as the “*North Aldershot Policy Area*”. A review of the in-force official plans demonstrates that the lands have been definitively designated on a long-standing basis for development. The applicable policies and schedules in both Official Plans are extremely detailed, and permit development in this area that is eligible to be provided with full urban services. Consistent with this status, the current Regional Official Plan designates these lands as “*Area Eligible for Urban Services*”. It should also be noted that these lands are subject to two approved draft plans of subdivision and are fully zoned for urban development. The North Aldershot area contains significant environmental features that merit protection and in fact were protected through the lengthy planning approvals process as described herein. The land owner is committed to consideration of further environmental protection measures as deemed appropriate through subsequent stages of the local development approval process for these lands.

On July 7, 2021, the Region of Halton adopted Regional Official Plan Amendment No. 48 (ROPA 48) which is stated to be a first phase of the Region’s implementation of its Municipal Comprehensive Review and is specifically intended to implement components of the Regional Urban Structure and establishes a hierarchy of strategic Growth Areas in the Regional Official Plan to achieve conformity with the Growth Plan (2019). It is the purpose of this submission to request the Minister to consider the approval of ROPA 48 with specific modifications to fully recognize the long-standing development approval status of the Eagle Heights lands.

IMPACT OF PROPOSED ROPA 48 WITH RESPECT TO THE EAGLE HEIGHTS LANDS:

As noted, proposed ROPA 48 prescribes a hierarchy of Strategic Growth Areas including:

- Reflecting the current urban boundary within the Regional Urban Structure Plan;
- The identification of “Regionally Significant Growth Areas” including “Primary” and “Secondary” nodes;
- The establishment of “Urban Growth Centres”; and

- The identification of “Major Transit Station Areas” (MTSA’s).

Map 1 “Regional Urban Structure” identifies the Eagle Heights Lands as being:

- Outside the Urban Boundary;
- Within the “North Aldershot Policy Area”; and,
- An “Area (that is) Eligible for Urban Services”.

Map 1 also introduces the area immediately south of the subject lands as being within the emerging Aldershot MTSA in the Regional Structure Plan. MTSA’s require a significant population base to support this planned function. Although the Eagle Heights subdivisions are just outside the formal MTSA boundary, the associated housing supply will contribute to its development and planned function.

Proposed ROPA 48 also contains certain policy provisions that essentially carry over the planning status of the subject lands from the in-force Official Plan; including:

Section 89: *It is the policy of the Region to:*

- (21) *Prohibit the extension within the Region of urban services beyond the boundaries of the Urban Area, within the following exceptions:*
- (e) *Designated locations within the North Aldershot Policy Area as shown on Map 1 and in accordance with Section 139(3)”*

Section 139 (3) carries over from the in-force Official Plan, specific policy guidance for the development of the North Aldershot Policy Area (including the Eagle Heights lands) for development that will be supported with full urban services. In our submission to the Region of Halton at the statutory public meeting for ROPA 48 on June 14, 2021 (Appendix “B”) it was demonstrated that we have substantially satisfied these policy requirements.

MODIFICATION REQUEST:

It is our respectful submission that the Minister consider the approval of ROPA 48 with a specific policy modification that recognizes the historical development rights afforded to the Eagle Heights lands that dates back to 1996 and 2020 as outlined in this submission. In this regard, we are requesting that the following be added to as section 139 (6) of the Region of Halton Official Plan:

“139(6) It is the policy of the Region to permit development of the land approved for development in the decision of the Ontario Municipal Board in GSA Owners Group Inc. v. Burlington (City), 1996, OMBD No. 1467, dated October 8, 1996 for urban residential purposes in the Central Sector of the North Aldershot Policy Area in accordance with section 139(1) to (5) of this plan, which is to be implemented through the City of Burlington Development Approval process”

The addition of this policy will:

- Remove any ambiguity with respect to the historical development rights granted to these lands through previous provincial and municipal approval processes;
- Ensure the delivery of the required residential unit supply to meet critical housing needs in Halton and in support of the development of the North Aldershot MTSA;
- Not prejudice, in any manner, the completion of the Region’s Municipal Comprehensive Review process with respect to the proposed Urban Structure Plan envisioned through ROPA 48 or further population allocation or settlement area decisions.

Respectfully submitted,

JOHN B. CORBETT

John B. Corbett, MCIP RPP

Copies:

Loralea Tulloch
Municipal Services Office
Central Office

David Pitblado, Penta Properties Inc.

APPENDIX “A”

MAP 1-REGION OF HALTON OFFICIAL PLAN

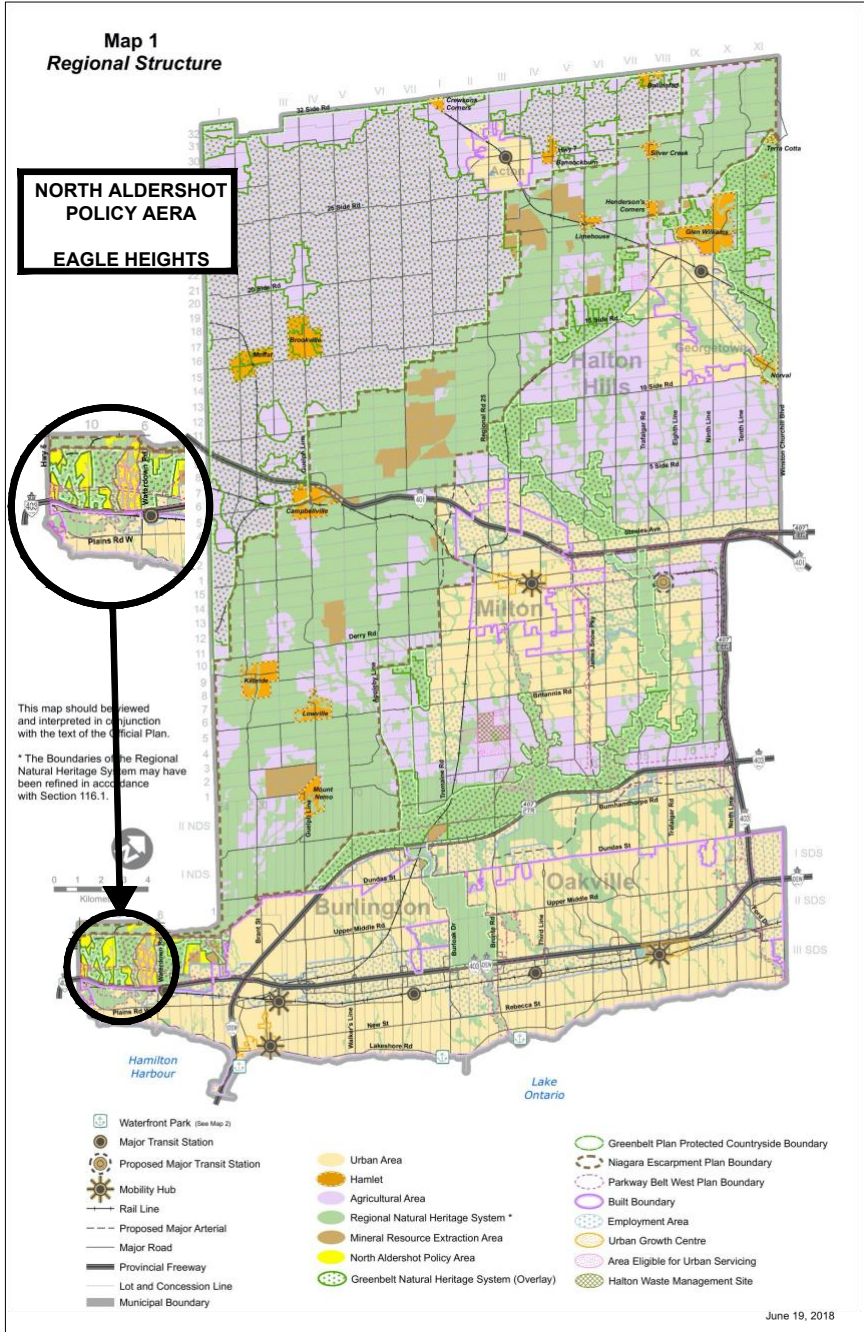
**Map 1
Regional Structure**

**NORTH ALDERSHOT
POLICY AREA
EAGLE HEIGHTS**



This map should be viewed and interpreted in conjunction with the text of the Official Plan.

* The Boundaries of the Regional Natural Heritage System may have been refined in accordance with Section 116.1.



- Waterfront Park (See Map 2)
- Major Transit Station
- Proposed Major Transit Station
- Mobility Hub
- Rail Line
- Proposed Major Arterial
- Major Road
- Provincial Freeway
- Lot and Concession Line
- Municipal Boundary
- Urban Area
- Hamlet
- Agricultural Area
- Regional Natural Heritage System *
- Mineral Resource Extraction Area
- North Aldershot Policy Area
- Greenbelt Natural Heritage System (Overlay)
- Greenbelt Plan Protected Countryside Boundary
- Niagara Escarpment Plan Boundary
- Parkway Belt West Plan Boundary
- Built Boundary
- Employment Area
- Urban Growth Centre
- Area Eligible for Urban Servicing
- Halton Waste Management Site

June 19, 2018

APPENDIX “B”

WRITTEN SUBMISSION TO REGION OF HALTON COUNCIL
STATUTORY PUBLIC MEETING FOR ROPA 48
JUNE 14, 2021

June 14, 2021

The Chairman and Members of Regional Council
c/o Regional Clerk Graham Milne
Regional Municipality of Halton
1151 Bronte Road
Oakville, Ontario
L6M 3L1

**RE: PROPOSED AMENDMENT TO THE REGIONAL OFFICIAL PLAN
“ROPA 48: AN AMENDMENT TO DEFINE A REGIONAL URBAN
STRUCTURE” – STATUTORY PUBLIC MEETING, JUNE 16, 2021
PENTA PROPERTIES INC. – EAGLE HEIGHTS
NORTH ALDERSHOT POLICY AREA**

Corbett Land Strategies (“CLS”) has been retained by Penta Properties Inc. (“Penta”) with respect to their land holdings consisting of 106.67 hectares (263.5 acres) in North Aldershot. These lands are located west of Waterdown Road, east of the Grindstone Creek Valley, north and south of Flatt Road. The lands are situated in the area referred to as the Central Sector within the North Aldershot Policy Area.

KEY CONCLUSION FOR THE PURPOSES OF ROPA 48

1. Eagle Heights is part of a *settlement area* within the meaning of the Growth Plan (2020). The lands are part of an urban area (approved for urban uses on full municipal services) and “...have been designated in an official plan for development” in accordance with the policies of the Growth Plan.
2. Since Eagle Height’s status as a settlement area was approved in both the City and Region’s official plans long before July 1, 2017, the *Natural Heritage System for the Growth Plan* does not apply to the lands.

BACKGROUND AND CONTEXT:

CLS has had no previous involvement with respect to the approvals process with respect to these lands. I was asked by Penta to review all the previous reports, submissions and polices related to Eagle Heights from a fresh perspective and to address Regional staff concerns.

I have reviewed in detail, the history of this project, which is unique in Halton. The lands were acquired by Penta after the province had identified what we know as the “Central Sector” of the North Aldershot Policy Area as lands to be considered for development purposes. The rest of the area was ultimately placed in the Greenbelt and development was not considered appropriate for the remaining lands. Eagle Heights is located within the Central Sector and was designated for development.

SCOPE OF EXISTING APPROVALS:

This submission is supplementary to a formal response to the Discussion Paper entitled “*North Aldershot Planning Area, Regional Official Plan Review*” as prepared by Metropolitan Consulting (October 27, 2020).

We understand that the Region now intends to implement the Municipal Comprehensive Review process in a staged manner (under section 26 of the *Planning Act*), leading with proposed ROPA 48 which will define a Regional Urban Structure. In particular, ROPA 48 prescribes a hierarchy of Strategic Growth Areas including:

- Reflecting the current urban boundary within the Regional Urban Structure Plan;
- The identification of “Regionally Significant Growth Areas” including “Primary” and “Secondary” nodes;
- The establishment of “Urban Growth Centres”; and,
- The identification of “Major Transit Station Areas” (MTSA’s).

The Eagle Heights lands are located within the area known in the City of Burlington and Region of Halton official plans as the “*North Aldershot Policy Area*” (“NAPA”). A review of the in force official plans demonstrate that the lands have been “designated for development”. The applicable policies and schedules in the City’s Official Plan are extremely detailed and permit development that must be fully serviced with urban services. Consistent with this status, the Regional Official Plan designates the lands as an “Area Eligible for Urban Services”. The lands are fully zoned for urban development that requires full urban services. The lands are subject to two, approved draft plans of subdivision that require urban services. In fact, the requirement for urban services is a Regional condition to those draft plans. The Region would not have agreed to draft approve the lands on full urban services had servicing the lands not been intended.

All of these approvals have been in place for 25 years (since 1996). The current approvals status was the product of a settlement of appeals before the Ontario Municipal Board. This settlement was endorsed by both the City and the Region. The decision of the Board approving that settlement comments on the remarkable detail in the official plan that I have referenced:

“24 The Board feels obliged to remark that the applications for Official Plan Amendment were particularly unusual in the degree of detail with which the policy proposals were enhanced. The development areas within the application were precisely defined, the number of lots/units assigned to each were established, site restrictions including trees and woodlots were identified, building envelope constraints were demarcated and areas subject to site plan control confirmed.

Based on previous planning approvals and long-standing land use designations and zoning applicable to the subject lands in the North Aldershot Policy Area, in my opinion the Region should continue to recognize the long-standing planning, development approvals and servicing status afforded to Eagle Heights as a settlement area through the Municipal Comprehensive Review. Otherwise, the Region will be undertaking a down designation of the lands. A down designation of this scale is unprecedented and unwarranted. The Growth Plan speaks to the issue of housing affordability in the Greater Golden Horsehoe and ties it to the lack of housing supply. The down designation of Eagle Heights would be inconsistent with the intent of the Growth Plan and other current provincial policy aimed at increasing housing supply to combat these affordability challenges.

The down designation of Eagle Heights would also be inconsistent with the recommendation of ROPA 48 to identify a “Major Transit Station Area” surrounding the Aldershot GO station, immediately south of the subject lands.

Factors Supporting the Continuance of Development Approvals Under the Aldershot Special Policy Area Provisions and Current Approvals in the Municipal Comprehensive Review Process.

Current development permissions for the Eagle Heights lands are not in question.

There are a number of facts that substantiate the continuance of development and servicing rights as currently established in the City and Regional Official Plans, in particular:

- Advancement of the development approvals process for Eagle Heights plans of subdivision and related applications, and,
- Advancement of capital works to support urban development in Eagle Heights.

Advancement of Development Approvals:

In 2002 Penta applied for modifications to the official plan, zoning and plan of subdivision approvals for Eagle Heights. Consistent with provincial intensification policies, Penta applied to increase the number of units within the areas already identified for development. Part of the increase was due to the decision of the Halton Board of Education to release the block reserved for a school.

The proposed increase was appealed on the basis of a non-decision. That appeal was settled, in part, in 2009 when Penta and the City of Burlington entered into a settlement agreement (the “2009 Settlement Agreement”) to resolve matters related to these and other planning issues.

Under the 2009 Settlement Agreement, *the City recognized Eagle Heights as an approved residential development* for up to 924 residential units as a required component of the City’s housing supply and agreed to assist in resolving concerns of other planning agencies.

After the settlement, the next step was for Penta to comply with the 2009 Settlement Agreement by conducting a new comprehensive planning and environmental review. That was done.

Fieldwork was carried out between 2014 and 2018.

By 2018, ten reports were completed and submitted to the City of Burlington. The reports addressed agency comments received, and the results of the field work.

Concurrent with the preparation of these reports and studies, an application was made to the Ministry of Natural Resources and Forestry to allow servicing and municipal infrastructure in that part of Eagle Heights which is located in the Escarpment Protection Area of the Niagara Escarpment Plan, north of the hydro right-of-way.

This application was approved by the Province through an Order-in-Council on February 13, 2020.

Penta properties has also filed an application for NEC approval for a development permit to allow work on Horning Road which includes servicing and the construction of an in-ground reservoir and the construction of homes in accordance with approved and revised draft plans of subdivision.

The engineering submission for a first phase of development for an area south of Flatt Road was completed and delivered in 2019.

The planning and development approvals history related to the Eagle Heights community demonstrates a consistent and long-standing commitment by the municipal and provincial levels of government to develop this portion of the North Aldershot Area for urban residential uses.

It is clear that development rights for Eagle Heights are derived from previous approvals, and the fact that post 2006 official plans for Burlington and Halton reflected these development permissions which were deemed to be in conformity with the Growth Plan.

Advancement of Capital Works to Facilitate Urban Development in Eagle Heights:

Penta has worked with the Region and the City to advance the necessary engineering infrastructure to support urban residential development as follows:

1. The projects required for the development of Eagle Heights are included in the City of Burlington and the Region of Halton's Capital Budget and Forecast.
2. The servicing of this area has been incorporated in successive Development Charges By-laws and Water and Wastewater Master Plans;
3. Phase "A" of the sanitary sewer servicing work was front-end financed by Penta Properties Inc. and was completed in conjunction with the Waterdown Road/403 interchange in 2010;
4. The City has acquired from Penta, through expropriation, the land required for the widening and the urbanization of Waterdown Road. The expropriation was approved in 2019 and the report from the Hearing Officer accepted evidence from the City that a line for the wastewater main is included in their plans. Specifically, Phase "B" of the sanitary work will be part of the reconstruction and widening of Waterdown Road to be undertaken by the City with the cost thereof being front ended Penta Properties;
5. Under the 2009 Settlement Agreement, Penta front-ended municipal services in Waterdown Road to Craven Avenue. The installed municipal services are designed to have the capacity for Eagle Heights as applied for. The phase "A" pipes are in the ground.

6. Penta has confirmed servicing allocation from the Region. Penta and the Region are in the process of negotiating a front-end financing agreement for the services required for Eagle Heights;
7. Penta has secured the necessary approvals to build roads across the two hydro corridors to facilitate the road network associated with the plans of subdivision.
8. The Aldershot GO station is identified as a MTSA in the Regional Structure Plan. MTSA's require a significant population and employment base to support its development. The Eagle Heights lands are located generally within 1650 metres of the station along Waterdown Road which will enhance the population base of the MTSA, with a diverse range of fully serviced housing types;
9. In addition, the City of Hamilton has introduced inter-regional transit service along Waterdown Road from Hamilton providing an urban level of service through the North Aldershot Area.

GROWTH PLAN COMPLIANCE:

Based on the facts noted herein, the past planning decisions for this area bear all the hallmarks of establishing a *Settlement Area* as defined by the Growth Plan. In my opinion, the intent of the Growth Plan is to support the development of such areas. It is not the intent of the Plan to down designate development lands.

The intent of the Growth Plan to respect existing planning approvals is evident throughout the Plan including areas that (unlike Eagle Heights) do not meet the definition of a settlement area

It defies any reasonable interpretation of the Growth Plan to propose that it is the intent of the Plan to down designate Eagle Heights. This down designation would include imposing the Growth Plan's natural heritage system on lands that have been designated for development on full, urban services with in force zoning and approved plans of subdivision for 25 years. This is why the Growth Plan excludes such areas from the application of this system.

There is no question that the North Aldershot area contains significant environmental features that merit protection and in fact were protected through the lengthy planning approvals that led to the detailed official plan, zoning and plans of subdivision now in force. The current proposed modifications to the developable

portions of the lands have been subject to further detailed ecological study and review. .

The proposed development of the Eagle Heights lands have been assessed over several years of study, and it has been determined that it will have a limited predicted effect on the natural environment. The natural features on the Eagle Heights lands occur mainly within the Grindstone Creek Subwatershed. Through the years of study, the area of land proposed for development has decreased from 48.3 percent to 37.31 percent. The area to be preserved as open space increases from 55 per cent to 63 per cent. The most recent submission has reduced the number of storm water ponds from 5 to 1 by utilizing Low Impact Development (LID) methods as an environmentally sensitive solution.

I have been informed that for the ongoing planning process, Penta is committed to a holistic approach that will support and enhance the emerging Cootes to Escarpment Eco Park. Penta intends on making a comprehensive submission in this regard in the near future.

WASTEWATER AND WATER SERVICING IMPLICATIONS:

Through the recent release of technical discussion papers for the MCR process, the Region of Halton has labelled the Eagle Heights area as “inefficient and technically challenging to service”. This is in reference to the Integrated Growth Management Study as prepared by GM BluePlan.

I have received detailed input on this issue from Penta’s consulting engineers. As far as the efficiency is concerned, the GM BluePlan Study under-estimates the developable area for the Eagle Height lands at 15.13 hectares. There are several references throughout the study which indicates that, due to the relatively small developable area compared to the financial requirements to service these lands, it becomes inefficient when compared to other areas in the Region. However, no actual financial comparisons have been provided. The Growth Plan’s Natural Heritage System does not apply to Eagle Heights. The full extent of the developable areas will be finally determined through the current planning process. Further, the increased population that will be derived from the revised 2018 plan of subdivision will enhance the feasibility of the servicing strategy for this area.

It has been made clear through this submission that the subject lands were historically approved for development, and servicing was never deemed challenging. Penta has submitted at least four (4) Functional Servicing Reports since 2007 which has outlined the servicing approach for the Eagle Heights development as well as some of the neighbouring lands (Cama Woodlands, Aldershot Landscaping, Morgante). The technical challenges identified in the GM

BluePlan report included both topography (i.e., 75m elevation difference between the top and bottom of site) as well as some environmental features (i.e., creek crossings). Basic engineering practices can easily overcome these obstacles.

Finally, the four (4) Region requirements for extension of urban services to new areas are as follows:

1. Feasibility Study;
2. Landowner Meets Financial Obligations;
3. Sufficient Servicing Capacity; and
4. Regional Council Approval.

Three of the four criteria have been satisfied through either our submissions and/or commitments. The 2018 FSR best outlined the servicing requirements for the Eagle Heights lands as well as some of the neighbouring lands. Correspondence between the landowner and the Region have captured the financial obligations of the various Development Charge eligible projects necessary for the development of the subject lands. These requirements have been acknowledged by Penta. through proposed front-end financing arrangements. Servicing capacity has been deemed granted through the Region's allocation program. During the most recent program, it was determined that the Eagle Heights lands have been accounted for in the existing treatment system's capacity and are not subject to the allocation program requirements. Based on these facts, the subject lands will be serviced efficiently under City and Regional commitments.

CONCLUSION:

In my opinion, the implementation of the Municipal Comprehensive Review should preserve the long-standing status of these lands as a unique settlement area that complies with the Growth Plan and that is eligible for urban services and should continue to final approval of the Eagle Heights plans of subdivision.

Thank you for this opportunity to comment on proposed ROPA 48.

Respectfully submitted:

John B. Corbett

John B. Corbett, MCIP, R.P.P.

APPENDIX "C"

OMB DECISION NUMBER 1467
G.S.A OWNERS GROUP INC. V. BURLINGTON (1996)

G.S.A. Owners Group Inc. v. Burlington (City), [1996] O.M.B.D. No. 1467

Ontario Municipal Board Decisions

Ontario Municipal Board

W.R.F. Watty, M.F.V. Eger

October 8, 1996

File Nos. O 940233, Z 920162, M 930117, S 940132, S 940133,

R 950051, O 950013

[1996] O.M.B.D. No. 1467

At the request of G.S.A. Owners Group Inc., the Regional Municipality of Halton has referred to the Ontario Municipal Board under subsection 22(1) of the Planning Act, R.S.O. 1990, c. P.13, Council's refusal or neglect to enact a proposed amendment to the Official Plan for the City of Burlington to redesignate land from D-Development zone to Individual Homes and Low Density Residential, Cluster Houses, Small Scale Neighbourhood Commercial and Institutional and Parks, Greenways designations to permit the development of some 1,100 housing units with ancillary urban uses in the Central Settlement Area of the North Aldershot Planning District Region's File No. 505-03-115 O.M.B. File No. O 940233 G.S.A. Owners Group Inc. has appealed to the Ontario Municipal Board under subsection 34(11) of the Planning Act, R.S.O. 1990, c. P.13, from Council's refusal or neglect to enact a proposed amendment to Zoning By-law 4000-3 of the City of Burlington to rezone land composed of part Lots 6, 7, 8 and 9, in Concession 1 and 2, and part of the unopened road allowance between Concessions 1 and 2 and between Lots 7 and 8, from D and S6 to R.1.1, R.1.3, R.2.9, R.4, RL4, RL5, CC3, O1 O2, and MB2 to develop mixed uses and mixed density community, including some 1,100 Residential Units, Prestige Industrial/Commercial, Open Space, Park and Retail uses O.M.B. File No. Z 920162, and At the request of G.S.A. Owners Group Inc., the Minister of Municipal Affairs has referred to the Ontario Municipal Board under subsection 47(10) of the Planning Act, R.S.O. 1990, c. P.13, to hear an application by G.S.A. Owners Group Inc. for an amendment to the Parkway Belt West Land Use Regulation 482/73 to permit a development of some 1,000 housing units with ancillary urban uses in the Grindstone Settlement Area Minister's File No. 24-ZO-041-9203 O.M.B. File No. M 930117, and At the request of Paletta International Corporation the Regional Municipality of Halton has referred to the Ontario Municipal Board under subsection 51(15) of the Planning Act, R.S.O. 1990, c. P.13, a proposed plan of subdivision for land comprised of part of Lots 7, 8, 9 and part of the unopened road allowance between Lots 7 and 8, Concession 2 (at Flat Road and Waterdown Road), in the City of Burlington, to permit a development of 640 housing units with ancillary urban uses Region's File No. 24T-94010/B O.M.B. File No. S 940132, and At the request of John Taylor and Edwin Taylor (trustees) the Regional Municipality of Halton has referred to the Ontario Municipal Board under subsection 51(15) of the Planning Act, R.S.O. 1990 c. P.13, a proposed plan of subdivision for lands composed of part of Lot 7, Concession 1 (at Flat Road), City of Burlington, to permit the development of 65 housing units Region's File No. 24T- 94012/B O.M.B. File S 940133, and G.S.A. Owners Group Inc. has appealed to the Ontario Municipal Board under subsection 34(19) of the Planning Act, R.S.O. 1990, c. P.13, against proposed Zoning By-law 4000-841, in the City of Burlington O.M.B. File No. R950051, and At request of the City of Burlington, the Regional Municipality of Halton has referred to the Ontario Municipal Board under subsection 17(11) of the Planning Act, R.S.O. 1990, c. P.13, proposed Official Plan Amendment No. 197 to the City of Burlington's Official Plan to permit the development of a mixed density residential community of some 229 units and prestige office and open space in the Central Settlement Area of the North Aldershot Planning District Region's File No. pending O.M.B. File No. O 950013

(41 pp.)

Counsel

Herman Turkstra and Scott A. Snider, for G.S.A. Owners Group Inc. G.A. Grechulk, for City of Burlington. R.T. Beaman, for the Regional Municipality of Halton. Kelly G. Yerxa, for Ministry of Municipal Affairs and Housing, Ministry of Natural Resources, and The Halton Region Conservation Authority. John C. Turchin, for Ministry of Environment and Energy and The Niagara Escarpment Commission. F.F. Coburn, for the Halton Roman Catholic Separate School Board. W.L. Thatcher, for Halton Board of Education. C. Dowson, agent, for Bushan Taneja.

Update Week 96-43

Planning

DECISION delivered by W.R.F. WATTY and ORDER OF THE BOARD:--

1 The subject matter of the above referenced files comprises referrals and appeals surrounding proposals for the planning and development of certain lands generally located within the Central North Aldershot area of the City of Burlington. The affected lands are located north of Highway 403, south of the "toe" of the Niagara Escarpment, east of (and including) the valley lands of Grindstone Creek, a major north-south tributary, and west of Sassafras Woods. As described by witnesses, Sassafras Woods and its associated natural area extensions together form an elongated environmental protection corridor running the entire north-south boundary of the amendment area. The subject area estimated to be some 300 hectares in size, is held by a large number of property owners in land parcels ranging from substantial rural-agricultural holdings to small sized residential lots. Within this area which is estimated to have some 17% forest cover, the land slopes gently downwards from north to south, culminating eventually further south along the shores of Hamilton Harbour. As described by the planners and environmentalists/landscape planners, the resulting landscape reveals a generally north-south tending drainage pattern of deep valleys, ravines and gullies. These valley systems, well-demarcated and well-vegetated have retained residual "table lands" with attractive vistas to the south. Once again, as described by the evidence, the carved up nature of the landscape has created pockets of isolation and disjunctiveness which pose limits to the options and flexibility for linked access and servicing systems, integrated community design and community cohesiveness.

2 Historically, much of the flatter lands have been cleared for agriculture which today continues on much reduced acreages, whether as the proponents argue because of non-viability, or whether, as the opponents allege due to deliberate abandonment in anticipation of urban development. There have been other significant impacts on the landscape. Waterdown Road, a winding two-lane road under the jurisdiction of the City of Burlington, runs north-south from Highway 403 up the escarpment into the settlement of Waterdown. Along this road is a buried watermain, which by its existence promotes the concept of development along this road and the off-shoot connector roads. Finally, there are two utility corridors which run the width of the area. A northerly line serves as a right-of-way for an Ontario Hydro

transmission line in combination with a Trans Canada Pipeline route. A southerly corridor accommodates Ontario Hydro with provisions for a future linear utility corridor.

3 The North Aldershot Area in this sector is relatively under-developed. Existing residential development is principally located along Waterdown Road with direct access to it or in pockets or strips off access roads such as Craven Avenue/Nevarc Drive to the south, Horning Road, Old Waterdown Road, Ireson Road and Flatt Road.

Matters for Determination

4 In 1994, a group of larger landowners within the area, known as the Grindstone Settlement Area Owners Group Inc. (The G.S.A. Group), applied to the City of Burlington to amend the Official Plan for the municipality, and to effect an amendment to the City Zoning By-law in order to create a mixed residential-commercial scheme on certain of the lands within the area. In particular, the G.S.A. Owners Group subsequently proposed two subdivisions, one on the north side of Flatt Road and west of Waterdown Road, known as the Paletta Subdivision (24T-94010/B); the other, south of Flatt Road and also west of Waterdown Road, known as the Taylor Subdivision (24T-94012/B). Due to failure or neglect of the municipality to address these applications, they have come to the Board on referral and appeal respectively.

5 As recounted in the evidence of all the planners, the municipality in co-operation with authorities, agencies and ministries having an interest in this area, conducted studies leading up to an alternative Official Plan Amendment and re-zoning proposals which were also requested for referral and appealed to the Board. (Official Plan Amendment 197 and Zoning By-law 4000-841.)

6 The matters before the Board for determination are:

1. The proposed Private Official Plan Amendment and Zoning By-law proposed by the G.S.A. Owners Group.
2. Official Plan Amendment 197 and Zoning By-law Amendment 4000-841.
3. Draft approval of proposed Plans of Subdivision 24T-94010/B and 24T-940112/B.
4. Appropriateness of revocation of Regulation 482/73 by the Minister of Municipal Affairs and Housing for Parkway Belt Control as it applies to lands affected by By-law 4000-841.

The Hearing Process

7 This hearing was commenced on the 21st of February 1995 and continued for the originally scheduled sitting of eight weeks to Wednesday, April 12 when the hearing was adjourned due to conflicts in the Board's schedule. During this time following the agreement among all parties to enter their respective cases on a phased approach by subject/issue, the Board heard evidence on a number of areas consistent with the Board's Procedural Directions dated January 10, 1995.

8 On completion of the detailed evidence on issues related to Environmental Impact, the hearing was rescheduled for continuation to January 8, 1996 to extend over an additional eight (8) weeks of hearings. During the hearing, the Board had been approached with a request by counsel for the landowner/appellants that the Board instruct the Regional Municipality of Halton to produce for examination any studies or reports in its possession on the marketability and economic viability of the alternative development concept being proposed by the Inter-Agency Group. At that time, the Board ruled

that following resumption of hearing, it would be the expectation of the panel that evidence on marketability would be addressed by the Regional Municipality, and that any information in support would be made available in advance to the G.S.A. Group and the public. The Board also directed the parties to continue discussions during the extended recess now available, in order to reduce or resolve the issues still in contention, so as to expedite the process.

9 Prior to adjournment, the Board had convened a special evening sitting to solicit the views of the interested public unable to attend its daytime sittings.

10 Following a request by the parties for a further adjournment, the hearing resumed on February 5, 1996. At that time, the Board was presented with submissions by all counsel that during the recess they had been able to reach agreement or substantial agreement on all of the matters before the Board. The Board was invited to hear mutually collaborative evidence in support of the proposed "settlement" of the issues in contention, and to endorse such resolution of the referrals and appeals as were tendered by the parties, subject to specific policy reservations by individual parties. (G.S.A. Group, Halton Region Roman Catholic Separate School Board.)

11 In responding to this request, the Board was mindful of the considerable public interest evidenced at the earlier public evening sitting of the Board. At that time, a number of reservations and concerns had been raised by existing residents in the area, by ratepayers associations, and by some smaller landowners who were in opposition to apportionment of growth potential. A second public evening sitting was convened by the Board to hear submissions on the proposed resolution "settlement" of the applications. (While not technically parties to the hearing, and notwithstanding the submissions on the settlement, the Board has sought to satisfy itself that these continuing concerns of the residents etc., have been properly addressed and the "settlement" is in the public interest.)

Policy Context

12 The applicable policy documents which affect planning proposals within the subject area include the Parkway Belt West Plan (and Regulations) which establish provincially approved criteria to which such applications are subject; the Official Plan for the Regional Municipality of Halton; the policies of the Niagara Escarpment Plan; and the City of Burlington Official Plan.

13 The operative section of the Parkway Belt West plan is contained in Section 6.2.3(o) applicable to "the Special Complementary Use Area" along Waterdown Road within which these lands are located.

"Subject to Subsection 5.1.3, the Plan permits some further development in these areas. A comprehensive study setting out the appropriate conditions for the preparation of a comprehensive restricted area by-law and development agreements under Section 35A of the Planning Act shall be prepared in consultation with municipal authorities, provincial ministries, and other concerned persons and agencies. The Plan does not permit uses beyond those set out in Subsection 5.5.1 until such a study is carried out and the required by-law and development agreements have been prepared in consultation with the above-mentioned participants, and subsequently approved by the appropriate authorities.

Such development shall meet to the maximum possible degree the following conditions;

- i Ensure that development along Waterdown Road, Old Waterdown Road, Flatt Road, Horning Road, be designed so

- as to preserve the existing open-space setting of the Niagara Escarpment slopes, as well as all creek and stream valleys in the areas.
- ii Ensure that any development adjacent to creek and stream valleys is designed and located in such a manner as to protect the valleys physically and visually and to enhance them as important natural open space areas within the area covered by the plan.
 - iii Protect wooded areas, hedgerows and trees.
 - iv Minimize the number of roads crossing the valleys.
 - v Minimize run-off, siltation, and other pollution of the creek and stream valleys in the areas.
 - vi Satisfy any other conditions required to secure the provisions of the Plan."

(Board's underlining)

14 The Regional Official Plan for the Halton Area designates the subject area as Parkway Belt requiring that these same policies would also establish the planning policy framework for the Regional Municipality.

15 As explained by the planner called on behalf of the Niagara Escarpment Commission (NEC), that agency has a long history of interest in this area generally located south of the escarpment "toe", described in this area as the Burlington slopes. Originally, both the Parkway Belt West Plan and the Niagara Escarpment Plan contained policies pertaining to the area. It is indicated that this "overlap" was removed by restricting the Escarpment Plan coverage to the northern boundary of the Parkway Belt Plan. However, following subsequent study, negotiations and discussions, a proposal has been advanced (Amendment 71 to the Niagara Escarpment Plan) to include the northern section (upper slopes) within the Niagara Escarpment Plan as "Escarpment Protection Area and Escarpment Natural Area". The NEC planner has indicated that in addition to the upper slopes, the Commission is in the process of commencing studies for the inclusion of the lower slopes as well within the NEC jurisdiction. Notwithstanding these initiatives, it is agreed by the planner that neither proposed OPA 71 nor even less the proposal for the lower slopes by themselves properly constitutes a policy framework for crucial review of either of the applications before

the Board. The planner does however suggest that depending on the manner in which the "comprehensive study" in the Parkway Belt Plan is undertaken and implemented, it may be a sufficient mechanism for addressing the NEC policy concerns. It is however the position of the NEC that should development be approved within the subject area, the Commission may discontinue its efforts to include this area within its jurisdiction.

16 The planner for the City of Burlington tendered that the subject lands are beyond the boundary within the City designated for future urban development. Accordingly, within this area, the policies of Parkway Belt West Plan apply. These lands considered to be "Rural" in nature have been limited to development only on existing lots of record and approved plans.

17 In addition to the policy framework formalized in approved planning documents, the Ministry of Municipal Affairs and Housing brought forward specific planning concerns relative to the integrity of the two existing utility corridors and any potential compromise to their functions resulting from conflicting service systems and development; the Halton Region Conservation Authority introduced perspectives on the quantity and quality of surface flows and their impacts on creeks and rivers within the area as well as lands and water bodies downstream. This agency together with the Ministries of Natural Resources and Environment and Energy addressed concerns over natural area protection, wildlife, wildlife habitats and corridors and environmentally sensitive, significant or scientific areas.

18 The Board is advised that as a background to consideration of urban development on lands to the north of the Urban Development designation, the City and the Regional Municipality had commissioned a study of this area in 1993. This study area extending from the City boundary to the west and north, Kerns Road to the east and Highway 403 on the south, referred to as the North Aldershot Inter-Agency Review includes the lands which are the subject of OPA 197. As described by Mr. Burns, the study co-ordinator, the OPA 197 lands were centrally located within this area, and was assessed in the broader geographical and environmental and land use context. Accordingly, the findings from that study provide a useful if not necessary framework for OPA 197. It is agreed that in addition to technical assessments and policy evaluations, the North Aldershot Inter-Agency Review benefitted from substantial public participation input, including both landowners and residents. (Exhibits 12, 13, 14 and 15)

19 When therefore the G.S.A. owners determined that an application for amendment to the City's Official Plan should be made, from the evidence of Mr. Peter Walker, a planner called by the G.S.A. Owners Group, the Board was advised that the review study was taken as the basis on which a justification consistent with Section 6.2.3(o) of the Parkway Belt West Plan would be built. That study resulted in a development concept for 590 residential units (Exhibit 9). The evidence indicates that on receipt of the G.S.A. amendment proposals, the Region of Halton requested the Ministry of Municipal Affairs and Housing to initiate a separate study consistent with 6.2.3(o) involving all mandated agencies and the public as a basis for assessing the applications of the G.S.A. Group and as the basis for submission before the Board. Such a study, perceived as a natural, more detailed and area specific extension to the North Aldershot Policy Review Study was authorized, and the same Mr. Burns was retained for this further work.

20 The result, the Central Sector of North Aldershot Master Site Plan Report, a collaborative work involving the Region of Halton, Ministry of Municipal Affairs and Housing, City of Burlington, Halton Region Conservation Authority, Ministry of Natural Resources, Ministry of Environment and Energy was presented in Exhibit 18. Exhibit 18, Master Site Plan Report formed the basis for OPA 197 and By-law 4000-481. It recommended a conceptually different form and intensity of development from that tendered by the G.S.A. application.

21 The cumulated evidence presented before the Board in explanation of the process, analysis, conclusions and recommendations which supported the Master Site Plan Report addressed issues of servicing, storm water run-off and containment and conveyance, lot grading, tree preservation and woodlot enhancement, wildlife conservation and natural area protection, development area selection and design, landscape attributes and viewsheds. In addition, witnesses called by both the G.S.A. Owners Group and the Regional Municipality addressed issues of financing of growth, the staging of services and the incorporation of the provincial utility corridors into the development framework.

22 It came to the Board with the support of all parties in opposition to the G.S.A. application and the reluctant support of representatives of citizens groups in the area who had been consulted in its preparation and who viewed it as an unavoidable compromise.

23 Much of the evidence entered before the Board served to illustrate the merits of each of the applications in meeting the requirements of Section 6.2.3(o) and the validation of the assumptions, analysis, design concepts, and policy specifications used in each case.

24 The Board feels obliged to remark that the applications for Official Plan Amendment were particularly unusual in the degree of detail with which the policy proposals were enhanced. The development areas within the application were precisely defined, the number of lots/units assigned to each were established, site restrictions including trees and woodlots were identified, building envelope constraints were demarcated and areas subject to site plan control confirmed. From the evidence of the planners, landscape architects, environmental experts and engineers, it is suggested to the Board that these rigidities are desirable in providing assurance that the objectives and purposes of the Parkway Belt West Plan 6.2.3(o) are secured, and the unique attributes of the area are preserved.

25 This or similar approaches tendered or supported by the applicant/proponent creates no anxiety on its own face. The Board accepts that if approved, the proposals are viable and feasible. However, such an approach with reduced development potential promoted by public officials (against the wishes of the proponent) requires some substantiation that, if approved, it possesses some reasonable probability of being implemented.

26 In summary, the evolution of the application before the Board is found in Exhibits 7A - the Development Concept of the North Aldershot - Central Sector advocated by the G.S.A. Owners Group Private Amendment; Exhibit 10 - Master Site Plan, North Aldershot - Central Sector advocated by the Inter-Agency Group through OPA 197; and, Exhibit 193- Site Concept, North Aldershot Central Sector (October 31, 1995) representing the consensus of the parties as a proposed modification to OPA 197. These differences and reconciliations are statistically presented in Exhibit 195, as follows:

PLANS CURRENTLY BEFORE THE OMB

Inter-Agency Plan

Sub-area	Area	Units(1)	Density
	ha	SF(2) CL(3)	Units/ha

G.S.A. Owners Group Inc. v. Burlington (City), [1996] O.M.B.D. No. 1467

Sub-Area 1 (Paletta)	15.8	17	1.1	
Sub-Area 2b (Paletta)	18.0	22	1.2	
Sub-Area 3 (Tanaji/Lambs)	6.6	11	1.7	
Sub-Area 5 (Paletta)	10.4	21	2.0	
Sub-Area 5 (Quinn)	2.8	7	2.5	
Sub-Area 6 (Paletta)	8.9			45 5.1
Sub-Area 7 (Paletta)	8.6			34 4.0
Sub-Area 8 (Paletta)	2.1	8	3.8	
Sub-Area 9 (DeLuca)	13.1	37	2.8	
Sub-Area 10 (Taylor)	6.2	18	2.9	
Sub-Area 10 (Morgante)	4.6	12	2.6	
Total	97.1	153	79	

Total Units(4) 232

Ave. SF Density 1.9

Average CL Density 4.5

Average Density 2.4

PLANS CURRENTLY BEFORE THE OMB

G.S.A. Plan

Sub-area	Area	Units(1)		Density
		ha	SF(2) CL(3)	
Sub-Area 1 (Paletta)	17.3	10	88	5.7
Sub-Area 2b (Paletta)	18.0	46	2.6	
Sub-Area 3 (Tanaji/Lambs)	6.6	40	6.1	
Sub-Area 5 (Paletta)	9.7	79	42	12.5
Sub-Area 5 (Quinn)	2.8	7	2.5	
Sub-Area 6 (Paletta)	9.3	62	54	12.5
Sub-Area 7 (Paletta)	8.6	57	6.6	
Sub-Area 8 (Paletta)	2.1	9	4.3	
Sub-Area 9	13.1	37	2.8	

G.S.A. Owners Group Inc. v. Burlington (City), [1996] O.M.B.D. No. 1467

(DeLuca)

Sub-Area 10 6.2 47 7.6

(Taylor)

Sub-Area 10 4.6 12 2.6

(Morgante)

Total 98.3 406 184

Total Units(4) 590

Ave. SF Density 5.3

Average CL Density 9.7

Average Density 6.0

SETTLEMENT PROPOSAL

Settlement Plan

Sub-area	Area	Units(1)	Density
	ha	SF(2) CL(3) Units/ha	
Sub-Area 1 (Paletta)	9.9	44 4.4	
Sub-Area 2b (Paletta)	13.6	38 2.8	
Sub-Area 3	6.6	20	3/0

G.S.A. Owners Group Inc. v. Burlington (City), [1996] O.M.B.D. No. 1467

(Tanaji/Lambs)

Sub-Area 5 (Paletta)	9.1	44	36	8.8
Sub-Area 5 (Quinn)	2.8	8		2.9
Sub-Area 6 (Paletta)	8.2		132	16.1
Sub-Area 7 (Paletta)	7.2	54		7.5
Sub-Area 8 (Paletta)	2.3	15		6.5
Sub-Area 9 (DeLuca)	13.1	48		3.7
Sub-Area 10 (Taylor)	6.5	45		7.0
Sub-Area 10 (Morgante)	5.8	17		2.9
Total	85.1	333		168

Total Units(4) 501

Ave. SF Density 4.4

Average CL Density 12.1

Average Density 5.9

Notes:

- (1) Assumes Sub-Areas 6 and 7 are developed for cluster units
- (2) SF = Single Family Units
- (3) CL = Cluster Units
- (4) Does not include infill units in Sub-Areas 2a, 4 and part of Sub-Area 10

27 The policy base for Exhibit 195 is further developed and expanded in Exhibit 197, being OPA 197 modified by additions and deletions, generally entered on consent except for specific items disputed by some individual parties. These specific concerns will be especially addressed in the Board's decision hereunder.

28 Similarly, By-law 4000-481 as proposed by modifications in Exhibit 198 is presented to the Board on consent except for specific reservations.

29 The Board heard competent professional expert evidence in support of the modifications requested, rebutted only in respect to the particular issues noted below. The Board endorses the proposed modifications as in conformity with the Parkway Belt West Plan, the North Aldershot Inter-Agency Review, and on the only evidence of the expert planners, accepts that it represents appropriate planning as substantiated by all the expert planning opinion, is proper in its intent, realistic in its provisions and is implementable.

Particular Concerns

1. Parkland Dedication Issue

30 The City of Burlington seeks to acquire 5% of the land owned by each of the subdivision proponents under the provisions of Section 51(5) of the Planning Act. The affected area would include lands proposed for development as well as lands voluntarily dedicated to the Municipality for environmental protection purposes, including sensitive lands, hazardous lands and lands with no established ecological or environmental constraints. It is argued by the landowners that these last lands at least possess all attributes and suitabilities for park purposes. However, the City has chosen not to consider them as such. Were they so regarded, in the case of one of the subdivisions Paletta International Corporation (PIC), the amount of land dedicated would exceed the maximum stipulated under the Act. Notwithstanding the above dedications, some 5.8 acres have been dedicated specifically under Section 51(5) of the Act.

31 Section 51(5) of the Planning Act states:

"(5)The Minister may impose such conditions to the approval of a plan of subdivision as in the Minister's opinion are reasonable, having regard to the nature of the development proposed for the subdivision and, in particular, but without restricting in any way whatsoever the generality of the foregoing, the Minister may impose as a condition,

- a) that land to an amount to be determined by the Minister but not exceeding ... in all other cases 5% of the land in the plan shall be conveyed to the local municipality for park or other recreational purposes..."

32 By these provisions the Minister (and the Board on appeal) possesses some discretion in requiring any condition including the quantum of dedication up to a maximum of 5% dedication "of the land in the

plan". That discretion is guided by the reasonableness of the condition and the nature of the subdivision. In this case, a substantial land area contribution has been made by PIC in order to maintain the Official Plan objectives and the subdivision design purposes of an open space preservation district. This open space dedication, while not designated "park" has from the evidence presented by the experts, all of the potential attributes of being part of "a public recreational purpose". Whether or not it is used as such is largely for determination by the Municipality.

33 Under these circumstances, the Board directs that the calculation of the 5% parkland dedication is to be based solely on the land included in the area of each of the two plans of subdivision and any further compensation or reimbursements be calculated accordingly.

2. Impervious Surface Cover (IC)

34 By-law 4000-481 makes provisions for the imposition of a maximum site/lot coverage by impermeable material. This requirement is explained in the evidence of Mr. Magi, the City's Engineer, as a device to minimize run-off, peak flows and siltation, consistent with the Parkway Belt West Plan. An IC factor of 40% has been placed on Sub-Area 13, a 6 acre site proposed for the location of an elementary school by the Halton Roman Catholic Separate School Board.

35 This specific application to the school site is contested by the School Board as insufficient and unjustifiable. The Board, through the evidence of Mr. Daniel Tregunno, a school facility planner, is advised that the School Board, is committed to a standard design which cannot be accommodated within the area, site constraints and a 40% IC requirement (Exhibit 209). He states that on average, a stand alone 6 acre site, such as Our Lady of Peace School would require a 65% IC. He suggests that a school in association with a shared municipal park could function on a 6 acre site within a minimum 59% IC.

36 The itemization of component uses and activities implicit in such a facility as outlined by Mr. Tregunno suggests an inflexible set of design requirements, which is perhaps questionable. The Board is aware that stormwater control devices are proposed for the tributary to the west of the school building site at its junction with Flatt and Waterdown Roads. The evidence also shows that lands to the north, west and south of the school site are proposed for open space uses and for parkland which would have beneficial functions of attenuating rapid run-off. The proximity to Blocks AI and AH (5.82 acres) proposed as park area represents some relief available to the school board through a joint agreement with the City.

37 No evidence has been introduced to examine opportunities for and alternatives to hard surface parking other than gravel or for design changes to lessen the footprint of the building within the proposed two storey height limitations.

38 This school proposal is the only new institutional use proposed in the amendment area and is the only use subject to other than the 20% or 25% IC applicable to residential uses.

39 As a public agency, it can be expected that the school board will play its part in minimizing adverse impact on the environment. Since the 40% of IC is as explained by Mr. Magi not entirely based on stormwater control requirements, in this instance the Board accepts and endorses the request for a 60% IC applicable specifically to the school site (Sub-Area 13).

40 Accordingly, Zoning By-law 4000-481 Exception Map E-86 is amended as follows:

Area 13: Amount of impervious cover - 60%

3. Enhancement of Degraded Areas

41 Initial proposals by the Inter-Agency group recommended identified sites and areas for restoration and enhancement in order to maintain the intent of the Parkway Belt West Plan as shown on Exhibit 10, Master Site Plan. By the conditions of settlement and the revised development concept, some of these areas have now been acquired by the municipality, thereby increasing the assurance that the anticipated natural area restoration will occur.

42 Areas not in public ownership and which form part of the two proposed plans of subdivision and which require some protection may receive attention through the Environmental Implementation Report and Site Plan Control processes, where applicable. A more crucial problem exists in the case of activity occurring outside of potentially developable areas which have the potential to seriously affect the environment and which could result in a much degraded landscape or natural resource.

43 While, as the Halton Region Conservation Area witnesses state, efforts should be made to encourage such operators and landowners to adopt practices compatible with the expressions of the Parkway Belt West Plan, the Board finds that OPA 197 should address the issue of site restoration in such cases.

44 The Board finds that Section 3.1.3.2 should include a directed policy provision to that effect.

4. Utility Corridor Road Crossings

45 The Parkway Belt West Plan discourages road crossings over the established utility corridors. This position is strongly defended by witnesses called on behalf of the Ministry of Municipal Affairs and Housing. Yet the dissected nature of the landscape within the amendment area limits the effective options for avoiding such impacts.

46 As a result, the design concept in Exhibit 193 emphasizes accesses alternative to corridor crossings which may themselves possess implementation difficulties. In such circumstances, the Ministry has indicated its willingness to reassess its concerns on specific requests or applications.

5. Apportionment of Development Potential

47 Several landowners who are not members of the G.S.A. Group have approached the Board with concerns that they have not been allocated a fair share of the development potential of the area. They have pointed to Exhibit 195 with the argument that consistently their lands (Quinn, Part Sub-Area 5; DeLuca, Sub-Area 9; Morgante, Sub-Area 10) have been assigned densities resulting in much lower residential prospects than the G.S.A. proponents. Numerically, and in general terms, this appears to be the case.

48 The consistent evidence of all the professional planners when initially in contention and later following the consensus, is that they adopted a holistic, integrated, ecological approach to assessing the development prospects for the area. They claimed that they were sensitive to site constraints, natural area impacts, ecological forces, landscape amenities, accessibility, serviceability, staging, etc. The settlement proposal marginally improved the share of these concerned landowners and it is the Board's conclusion

that neither the independent assessments (Exhibits 7a, 10) nor the collaborative efforts (Exhibit 193) perceive these properties to have much greater prospects.

49 These three landowners in particular did not retain professional experts to represent their interests during the evolution of OPA 197 or its antecedents. The records show that from time to time they made representation to the various experts and the Council. They have not led expert evidence to convince the Board that the G.S.A. and Inter-Agency claims that ecological forces determined the derived densities was unfounded.

50 It is suggested that in later independent applications, these and other landowners may seek to justify a claim for increased density. Indeed that is their right and privilege, within the principles and policies which are now established in OPA 197.

6. Citizens Concerns

51 Throughout the hearing, the Board was presented with submissions by members of the public, resident in the North Aldershot area, as well as representatives of citizens groups presenting issues on the various applications. The Board also received representations from smaller landowners with property within the Central North Aldershot area who were not members of the G.S.A. Owners Group and who held alternative views on how the development potential of the area should be allocated.

52 The Board is advised that in the conduct of the North Aldershot study (NAIAR), the residents of the area had been consulted and contributed to the recommendations in that study. Later, when the G.S.A. Owners Group conducted their study, the residents had been invited to participate but had reservations regarding the process and purpose of that undertaking. Finally, when the Inter-Agency Group undertook their comprehensive study in contrast to the work of the G.S.A. Owners, they were once again involved continually. This exercise has been of considerable importance to the residents, not only because they live in the area and will be fundamentally affected by any development that transpires, but also because they have been central to the process of public discussion and studies conducted in the area over the years. Through surveys, site visits, public forums, kitchen table discussions and representations before committee and council, they have been relatively well informed, articulate and effective. Not unreasonably, they would wish to see their concerns and objectives accommodated in the nature and scale of development that occurs.

53 The residents, particularly through the representations made by the West Burlington Citizens Group, are especially aggrieved that despite their long involvement in the process and their reluctant support for the Inter-Agency proposal, that the settlement brought to the Board would have been concluded without their support.

54 Mr. Hans Kreplin, a spokesperson for the Citizens Group indicated that the initial position of the organization was that no further development should be allowed in the area. They revised this position to support infill development similar in nature (same style and intensity) as existing development. Although the original Inter-Agency proposal for 232 units was not acceptable to the residents, particularly because of the inclusion of cluster development, yet the residents felt that they could live with it, if it were approved. They consider the compromise or settlement plan for 501 units to be a fundamental reversal of position by the City and agencies.

55 Despite their attempt at cooperation they were not party to the "settlement" achieved between the G.S.A. Owners Group and the Interagency Group, and felt betrayed by that process.

56 The concerns raised by the West Burlington Citizens Groups in its representations arise partly out of the issues identified in subsection 6.2.3.(O) of the Parkway Belt West Plan, including maximization of;

- * existing open space setting of the Niagara Escarpment slopes, creeks and valleys;
 - * the valleys' physical and visual character as important natural open space areas;
 - * protection of wooded areas, hedgerows and trees.

In addition, the residents fear that development of the scale proposed would seriously impact wildlife in this area and their habitat, leading to a loss of a rare resource in this part of the city and province. Some residents allege that excessive and improper development would reach beyond the North Aldershot Area and impact the ecology of Cootes Paradise and the Hamilton Harbour, the natural drainage receptor for the area, where rehabilitation efforts are now underway.

57 To some extent, the residents have relied on landscape evaluation studies prepared by consultants to the Interagency Group as providing some validity for their concerns:

- * on the importance of open space provisions for promotion of natural processes such as surface water control, wildlife corridors and habitats, preservation of important views and vistas;
- * on a development pattern consistent with the existing residential forms with regard to housing density and profiles; maintenance of a rural cross section for Waterdown Road and other roads in the area.

58 The residents did not specifically address themselves to what might constitute a viable scale of development except for some infill development, and do not see this as a central issue. They are contemptuous of the reconciliation process by which the parties have been able to resolve the major issues in dispute, questioning the role and motives of the persons involved; "the secrecy of the process"; the tactics and pressures which they allege were applied to achieve Council's decisions.

59 The Board well appreciates the difficulty faced by the resident's group in that by not having sought full party status before the Board, the changed Interagency position on the settlement has left them without a full means of intervening in opposition to the settlement. Yet the Board provided the Citizens Group with full opportunity to address the settlement and to seek clarification from the parties. Unfortunately, their representation imputes allegations which are unproven and raises questions on conformity which on cross examination and evidence of the planners the Board finds to be without merit.

60 Given the accord among all planners on the acceptability of the location, scale, intensity of the settlement proposal and that these recommendations are consistent with the comprehensive study as required under subsection 6.2.3.(o) of the Parkway Belt West Plan (and are implementable by the

applicants) and there being no professional or competent evidence to the contrary, the Board must give appropriate weight to this overwhelmingly persuasive evidence.

61 In Exhibit 190 and related evidence, the Burlington Taxpayers Coalition introduced issues related to the cost- benefit of development in the North Aldershot area, the impact of the proposed development on the quality of life in the city, the need for the development in terms of identified deficiencies in the housing stock, and the impact on the ecology and natural systems from development on the scale proposed. This submission notes, (page 3)

"Nobody expects that this hearing will not result in a development plan being established. One of these two plans, or some compromised level of development, will be established by the Ontario Municipal Board and North Aldershot will be developed as an urban subdivision. The question then is to ensure that new development that is adopted for North Aldershot is that which is the least unsustainable."

This submission proceeds to assess the two development concepts from an environmental/ecologic and from an economic perspective, concluding that depending on final site plan approval, the City's plan may have "less potential for negative environmental impacts". However, the City's plan "because of lower densities will leave the taxpayers of Burlington more vulnerable".

62 The Coalition, on the assumption of a widening of Waterdown Road, suggests that the G.S.A. Owners Group be permitted "even higher densities" in exchange for a transit operation. The planners respond that this assumption is not well founded, since no widening of Waterdown Road is proposed.

63 Several persons including Mr. Art Green, Mr. Jim Aitken, Dr. David Meikle, Mr. Mark Collis, Mr. Bob Elstone, Mr. Albert Froggett, Dr. Chris Walker, Mr. Farrell Boyle, Mr. John Herbert, Mrs. Pratt and Mrs. Fiona Smaill among others, who are resident within the North Aldershot area, added their voices in raising both specific and general concerns against the prospect of future development in the area. A consistent concern was the risk of affecting the wildlife in the area either through the impact of human intrusions or loss of habitats and corridors for migration. A second general theme was the prospect of a substantial population with different lifestyle moving into the area, and the creation of a fragmented community. Thirdly, despite the evidence of the planners, the residents do not believe that an unimproved Waterdown Road would be capable of carrying the increased population and traffic safely.

64 Most residents favour only limited infilling of development , but some recognize that additional development may be permissible and look to the City's plan as the upper limit for such development.

65 Not surprisingly, the residents who responded to the invitation to address the Board on the proposed "settlement" expressed great disappointment that the resolution would increase the permissible number of units over the City's plan. In their view, it compromised the basis of the Comprehensive Study and the technical evidence provided in the earlier part of the hearing on open space requirements, acceptable land use densities and intensities, impacts on the landscape views and vistas and on wildlife.

66 The Board pays particular attention to Exhibit 217, a submission by Mr. Tom Muir, which uses language and makes allegations which are unfortunate. His prime concern is the change in position of the City from support for OPA 197 as initially approved to endorsement of the settlement plan. He uses such terms as:

* we have been railroaded;

- * the existing community feels betrayed;
- * if you can't find an answer, follow the money;
- * the City team prejudiced itself;
- * the proposed deal appears to me as clothed in deception, trickery and I felt, a corruption of public policy, process and authority;
- * the proposed settlement is not honest or ethical.

67 The Board respects Mr. Muir's right to question the basis and results of all the proposals advanced for consideration, but rejects his licence to question the professionalism and motives of the planners and engineers involved without competent and knowledgeable contrary evidence. Crucial to Mr. Muir's submission is a clear understanding that the provisions of the Parkway Belt West Plan limits development in the subject area to that permitted in subsection 5.5.1. However, subject to municipal approval in conformity with the Parkway Belt West Plan, "some further development" is permitted, but this development must be guided by "a comprehensive study.... prepared in consultation with municipal authorities, provincial ministries and other concerned persons and agencies." (subsection 6.2.39(o))

68 That study has been completed as required and the Board finds that the study effectively stands in the place of Parkway Belt West Plan and its more general policies.

69 Two questions therefore arise which are the legitimate basis of Mr. Muir's critique:

1. Was the comprehensive study faithful to the principles in the Parkway Belt West Plan?
2. Is the proposed OPA 197 a responsible implementation of the comprehensive study?

The Board has no option but to require submission of persuasive, competent evidence sufficient to override and outweigh the unanimous professional evidence of the experts of the Region, the City, and the Ministries and Agencies before these two questions can be answered in the negative. That evidence is not available either from Mr. Muir, however interesting his comments, or any other witness in opposition. Whatever his opinion of them, the only professional evidence available to the Board is that provided by what he refers to as "so-called expert planning opinion" (page 25). Would Mr. Muir substitute his opinion for those of the qualified technical witnesses and require that the Board accept his evidence instead?

70 The Board perceives that the irritant for Mr. Muir and for the persons in opposition is that the language of the Parkway Belt West Plan, the Comprehensive Study and OPA 197 set out objectives and policies to be sought after. These policies are qualified by such phrases as "to the maximum extent possible". Views may differ as to whether or not greater conformities can and should be achieved in any particular situation, and for such guidance the decision maker must look to the "experts".

71 Finally, Mr. Muir would appear to question whether or not feasibility of a development proposal should be a factor in its approval. Indeed, where the municipality prepares and presents the policy context for private decision making, this may very well not be a primary concern, since it is left to the private sector to determine whether or not a proposed change in use is feasible. However, the Board finds, that where the municipality itself brings forward a proposal of the nature submitted in OPA 197, that specifies the maximum permissible number of units by location, density and type; that specifies the infrastructure required; that prescribes the configuration and amount of open space; that determines the height, orientation, perspectives of residences; and that requires site by site vegetation preservation techniques,

then some indication of feasibility must be demonstrated, unless the affected landowners concur with these prescriptions.

Official Plan Amendment 197

72 The Board dismisses the objections to Official Plan Amendment 197 and modifies said Official Plan Amendment as shown hereunder. (Underlinings are for special identification and emphasis only.)

1. 4.1 Part A Preamble

"During the adjournment of the Ontario Municipal Board hearing, substantial agreement was reached between the applicants and the Municipal authorities. The basis for this agreement was submitted for comment of the affected agencies as conditions of settlement. Official Plan Amendment 197 was therefore revised to implement the aforementioned conditions of settlement, together with the Master Site Concept - North Aldershot Central Sector, dated October 31, 1995.

The responding ministries and agencies, upon a subsequent and independent review concurred with the revised amendment. Specific reservations and concerns expressed by the G.S.A. Group and Halton Region Separate School Board which were unresolved were left to the adjudication by the Board."

2. 3.1.3.2 Resource of Management Policies (Paragraph 4)

"Private and public stewardship initiatives for the protection of natural features that are significant due to location, age, setting or species shall be encouraged. In order to ensure sustainable environmental management, the City and/or the Halton Region Conservation Authority, in consultation with private landowners, shall develop a management plan for lands designated Environmental Protection Area with particular emphasis on the enhancement and restoration of degraded areas."

3. 3.1.3.3 Protection/Enhancement Policies (Paragraph 2)

"When required by this plan or by City Council, environmental evaluations shall be performed as part of development applications. These evaluations shall require a review of the natural environment affected, the effects of the proposed development on that natural environment and the measures proposed to address any negative effects from development as specifically indicated in subsection 3.1.3.4 below."

(Paragraph 10 page 13)

"Buildings and structures will be designed and located so as to maximize their compatibility with the existing natural landscape,"

4. 3.1.3.4 Environmental Evaluation Policies (Paragraph 1)

" Delete Item (ii) since otherwise addressed in paragraph 3 by other mechanisms, and renumber existing (iii), (iv) and (v) as (ii), (iii) and (iv) respectively."

5. 3.2.3.5 Stormwater Management Policies (Paragraph 5)

"As a condition of development approval, the City will require the dedication of the greater of the regulatory flood plain or the valley through which the water course flows including a conservation setback from top-of-bank, or established minimum buffer strips from the low flow channel to the satisfaction of the municipality or the Halton Region Conservation Authority. Dedication of these lands shall not be considered part of the parkland dedication requirements of the Planning Act.

As a condition of development approval, the City in consultation with the Halton Region Conservation Authority may require either the restoration or a contribution to restoration and enhancement of degraded sites within any such dedication areas."

(Paragraph 2)

"Wherever feasible, water courses regulated by the Halton Region Conservation Authority should be left in their natural state and every effort should be made to keep other water courses open and natural."

(Paragraph 5)

"Stormwater management shall preserve and utilize the natural drainage system, where feasible. The use of natural swales to treat and convey stormwater shall be used wherever appropriate and the use of storm sewers and stormwater management ponds minimized."

6. 3.1.3.11 Growth Management Policies (Paragraph 1)

Additional development of all forms and densities and/or any redevelopment proposal which exceeds the provisions of this plan shall be considered as an amendment to this plan and shall be undertaken as a comprehensive process characterized by the following:

7. 3.1.3.12 Environmental Implementation Report (Paragraph 1)

"A detailed environmental implementation report to the satisfaction of the City, the Region of Halton, the Ministry of Natural Resources and the Halton Region Conservation Authority shall be submitted prior...."

8. 3.1.4 Land Use Policies (Paragraph 3, last sentence)

"..... maximum land use intensity is subject to meeting all applicable policies and may not be attained in all circumstances."

(Paragraph 4, last sentence)

The allocation of this impervious area on individual lots or blocks shall be approved by the Director of Engineering prior to the registration of any plan of subdivision in which the lots and blocks are located.

(Paragraph 5)

"Development proposals shall provide such mitigative measures as required by public utility agencies."

9. 3.1.4 Land Use Policies

Add Paragraph as follows:

"Impervious area shall mean an impermeable surface such as pavement or rooftop, which prevents the infiltration of water into the soil, but excludes the wetted surface area of ponds or pools or those impermeable surfaces which are less than 10 square metres in area and separated hydraulically from any adjacent impermeable surfaces or drains by at least 3 metres."

10. 3.1.4.1.1 Protection and Acquisition of Natural Features Policies

"The retention in private ownership of lands designated in Environmental Protection Area which are not defined as creeks, associated valleys, environmentally sensitive areas and 7.5 metre buffers and which contain significant natural features shall be encouraged, rather than the dedication of such lands to the City or their purchase by the City."

11. 3.1.5 Sub-Area Policies (Paragraph 1)

Added to end of paragraph

"The natural features on the sub-area maps are shown for illustrative purposes only. The precise location, extent and significance of the natural features will be determined in accordance with Sections 3.1.3.4, 3.1.3.12, 3.1.4.2.2 and 3.1.4.7."

12. 3.1.5 Sub-Area Policies (Paragraph 4)
"Maximum impervious surface for any residential sub-area cannot exceed 25%."
13. 3.1.6.4 Site Plan Control (Paragraph 2, Second sentence)
"Site plan control will be used to protect landscape features, slopes, remnant vegetation or significant views. Lands affected by such site plan control are shown on Maps 12, 14, 17, 18, 19, 22 and 23. The lots and blocks subject to site plan control as generally indicated on the aforementioned maps will be identified at the time of draft approval."
14. 3.1.6.5 Building Envelope Control (Paragraph 1, Second sentence)
"Proposals for development or re-development on lots subject to building envelope control will be circulated to the Halton Region Conservation Authority for comment."
15. Maps 10, 11, 12, 21, 22 and 23 are modified as shown on the attached Schedules to the Amendment 197. (Exhibit 197)
16. Maps 12 to 23 inclusive are further modified by the inclusion of properly referenced scale drawings as shown on the Schedules attached to the Amendment 197. (Exhibit 197)

73 As thus modified, the Board orders that Official Plan Amendment 197 is approved.

Zoning By-law 4000-841

74 The Board orders that the appeal of Zoning By-law 4000- 841 is allowed in part, and that the said By-law 4000-841 is amended as indicated hereunder:

1. Subsection 3 is amended as follows:

- (j) The lands designated as "J" on Zoning Map Number 23 in Schedule "A" attached hereto are hereby rezoned from D to H-RPB2-686.
- (k) The lands designated as "K" on Zoning Map Number 23 in Schedule "A" attached hereto are hereby rezoned from D to H-RPB3-686.
- (l) The lands designated as "L" on Zoning Map Number 23 in Schedule "A" attached hereto are hereby rezoned from D to H-RPB2-686.
- (m) The lands designated as "M" on Zoning Map Number 23 in Schedule "A" attached hereto are hereby rezoned from D to H-RPB.
- (n) The lands designated as "N" on Zoning Map Number 23 in Schedule "A" attached hereto are hereby rezoned from D to H-RPB2.
- (o) The lands designated as "O" on Zoning Map Number 23 in Schedule "A" attached hereto are hereby rezoned from D to 05-687.

All previous references to items (p), (q), (r) and (s) are deleted.

2. Sub-Section 5 is amended as follows:

- (c) The lands designated as "C" in Zoning Map Number 31 in Schedule "B" attached hereto are hereby rezoned from D to H-RPB-686.
- (d) The lands designated as "D" in Zoning Map Number 31 in Schedule "B" attached hereto are hereby rezoned from D to H-RPB2-686.
- (e) The lands designated as "E" in Zoning Map Number 31 in Schedule "B" attached hereto are hereby rezoned from D to RPB1-686.

- (f) The lands designated as "F" in Zoning Map Number 31 in Schedule "B" attached hereto are hereby rezoned from D to H-RPB2-686.

All previous references to items (g) and (h) are deleted.

3. Sub-Section 7 is amended as follows:

"16 Residential Parkway Belt Zones

16.1 RPB1 Zone

School uses not restricted according to Part 1, Section 2.19 and subject to a 10 metre setback to 05 zone or an 05 zone with an exception number zone and maximum impervious surface of 60% and a maximum height of two storeys.

16.1.1 Where the RPB1 zone is prefixed by an "H" symbol the following applies.

16.1.1.1 Uses Permitted

- * Single family dwelling on an existing lot of record subject to height and yard requirements in Section 16.1.2.2.
- * Uses permitted in Part X Section 2.1 of By-law 40003 as amended.

16.1.2 For land which is not prefixed by a holding zone symbol "H" the following apply.

16.1.2.1 Uses Permitted

Single Family Dwelling

Group Home and Correctional Group Home subject to Part I, Sections 2.22 and 2.23 respectively and the regulations applicable to a single family dwelling in Part II, Section 16.1

A Home Occupation subject to Part I, Section 2.10

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16.1.2.2

Regulations for a Single Family Dwelling

Height 2 storeys maximum

Area and Yards

Lot Width minimum 30m

Lot Area minimum .3 ha

Front Yard abutting a street minimum 9m

Any other yard abutting
a street minimum 7.6mA garage shall be located no
(attached or closer to a street
unattached) line than the
closest distance
between the dwelling
unit and the street
line

Total combined minimum 15m but no yard side yards less than 5m except for a side yard abutting a street

Rear Yard minimum 9m

16.1.3

Prior to the removal of the "H" symbol, the policies of the Official Plan must be complied with.

16.2

RPB2 Zone

16.2.1

Where the RPB2 zone is prefixed by an "H" symbol the following applies.

- 16.2.1.1 Uses Permitted
Single family dwelling

Uses permitted in Part X Section 2.1 of By-law 40003 as amended.

- 16.2.1.2 Regulations for a Single Family Dwelling

Height 2 storeys maximum

Area and Yards

Lot Width minimum 30m

Lot Area minimum 2 ha

Front Yard abutting a street minimum 9m

Any other yard abutting a street minimum 7.6m

A garage shall be located no

(attached closer to a street

or unattached) line than the closest distance between the dwelling unit and the street line

Total combined side yards minimum 15m but no yard less than 5m except for a side yard abutting a street

Rear Yard minimum 9m

- 16.2.2 For land which is not prefixed by a holding symbol "H" the following apply:

- 16.2.3 Upon removal of the prefix Holding Zone Symbol "H" the following apply:

- 16.2.3.1 Uses Permitted

School Uses Not Restricted according to Part

1,

Section 2.19 and subject to a 10 metre setback from an O5 zone or an O5 with an exception number zone and a maximum impervious surface

of

60% and a maximum height of 2 storeys.

Group Home subject to Part I, Section 2.22 and the regulations applicable to single family dwelling in Part II, Section 16.1.3.

Single Family Dwelling subject to the following:

16.2.3.2 Regulations

Height 2 storeys maximum

Area and Yards

Lot Width minimum 15.2m

Lot Area minimum 450m²

Front Yard abutting a street minimum 6m

Any other yard abutting a street minimum 4.5m

A garage shall be located no

(attached or closer to a street unattached) line than the closest distance between the dwelling unit and the street line

Total combined side yards minimum 4m but no yard less than 1.2m except for a side yard abutting a street

Rear Yard minimum 7.6m

16.3 RPB3 Zone

16.3.1 Where the RPB3 Zone is prefixed by an "H" symbol, following applies:

16.3.1.1 Uses Permitted:

Single Family Dwelling

Uses permitted in Part X, Section 2.1 of By-law 40003 as amended

16.3.1.3 Regulations for a Single Family Dwelling

Height 2 storeys maximum

Area and Yards

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Lot Width minimum 30m

Lot Area minimum 2 ha

Front Yard abutting a street minimum 9m

Any other yard abutting a street minimum 7.6m

A garage shall be located no

(attached or closer to a street

unattached) line than the closest distance between the dwelling unit and the street line

Total combined side yards minimum 15m but no yard less than 5m except for a side yard abutting a street

Rear Yard minimum 9m

16.3.2 For land which is not prefixed by a Holding Symbol "H" the following apply.

16.3.3 Upon removal of the prefix Holding Symbol "H" the following apply.

16.3.3.1 Uses Permitted

Uses permitted in a RPB2 designation subject to the regulations of RPB2 for Single Family Dwellings

Townhouses subject to the regulations that follow:

Group Home subject to Part I, Section 2.22 and the regulations applicable to single family dwelling in Part II, Section 16.1.3.

16.3.3.2 Regulations for Townhouses

Height 2 storeys maximum

Area and Yards

Lot Width minimum 20m

Lot Area minimum 2.6 ha

Front Yard abutting a street minimum 7.6m

Side or Rear Yard minimum 7.6m

Yard abutting 05 Zone 7.6m

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16.3.3.3 Notwithstanding the definition of town house in Part I of By-law 4000-3 as amended, a town house for the purpose of this by-law shall mean a building not more than 2 storeys in height, designed to provide at least 2 and not more than 6 dwelling units with each unit separated by a common or party wall or walls, with a separate outside entrance to each.

16.4 Prior to the removal of the "H" symbol, the policies of the Official Plan must be complied with.

4) Sub-Section 9 is amended as follows:

9. Part VI, Open Space, of By-law 4000-3, as amended, is hereby amended by adding the following:
6. 05 Zone

6.1 Uses Permitted:

Existing Uses

Buildings or structures necessary for flood or erosion control

Single Family Dwellings on existing lots of record

Height 2 storeys maximum

Front Yard abutting a street minimum 7.6m

Side yards minimum 5m

Rear Yard minimum 9m

Maximum Impervious Surface 15%

5) Sub-Section 11 is deleted in its entirety.

6) Sub-Section 12 is re-numbered Sub-Section 11, and is amended as follows:

11. Part XII of By-law 4000-3, as amended, exceptions to the various Zone Classifications, is amended by adding the following:

686 The number of permitted units is shown on attached Exceptions Map E-686

687 Ancillary Uses to a School are permitted.

and by the deletion of the previously referenced items 686-696 inclusive.

By the addition of new Sub-Sections 11.1, 11.2 and 11.3.

"11.1 For the purposes of this by-law and notwithstanding the definition of Public Authority in Part I, Section 2.4 Definitions of By-law 4000-3, Public Authority shall be defined as follows:

"Means Federal, Provincial or Municipal bodies and includes any commission, board authority or department established by or for any of them and, for those lands designated 'Utility' and 'Electric Power Facility' in the Public Use Area of the Parkway Belt West Plan, shall include the linear facilities of private utilities.

11.2 Except as amended herein and except for 05 zones, all other relevant provisions of By-law 4000-3 apply.

11.3 The zoning designations as described on Schedules "A" and "B" to this by-law are classified on Schedule E-686-1."

7) Sub-Section 13 is re-numbered Sub-Section 12.

8) By the addition of Area 13, the location of the proposed school in the north west quadrant of Flatt Road and Waterdown Road.

9) By the addition of the following on Exception Map E-686, North Aldershot Sector:

Area 13: Amount of Impervious Surface 60%

10) By the addition of Exception Map E-686-1, following Exception Map E-686.

75 This decision and order will not come into force until and unless the Minister of the Municipal Affairs and Housing revokes the Parkway Belt Land Use Order 482/73 as it applies to the lands which are the subject of OPA 197 and Zoning By-law 4000-481.

Plans of Proposed Sub-Division

S940132 - Paletta Sub-Division Proposal (24T-94010/B)

S940133 - Taylor Sub-Division Proposal (24T-94012/B)

76 The Board has for reference signed Minutes of Settlement by the City of Burlington, the Regional Municipality of Halton, the G.S.A. Owners Group and representatives of Paletta International Corporation and J. R. and E. A. Taylor which set out a framework for designing acceptable proposals for the two applications before the Board, and appropriate conditions which might attach to their draft approval. (Exhibit 194)

77 These endorsements and agreements are predicated on the Board's approval of OPA 197 and By-law 4000-841 with such modifications and revisions as the parties have submitted. It is agreed that the principal instruments before the Board are the Draft Plans of Subdivision as attached in Drawings "A" (Paletta) and "B" (Taylor) to the conditions of settlement with minutes appropriate for finalization as Conditions of Draft Approval. These proposed conditions are not now before the Board, but it is the submission of the Region, through the evidence of Mr. Pat Murphy that should the Board accept the principles underlying the conditions of settlement, it might grant Draft Plan of Subdivision approval subject to any conditions the Board may additionally stipulate, and require the Region of Halton to finalize and formalize the subdivision agreements as well as administer the clearances arising therefrom.

78 The Board heard evidence in great detail from Mr. Murphy as to the expectations of the Regional Municipality of Halton in assuming this responsibility, given the uniqueness of the process established in OPA 197, the zoning mechanism in By-law 4000-481 and the conditions precedent to such approvals. (Exhibit 212, 213, 214)

79 The Board is satisfied that with specific reference to the two subject subdivision applications, the suggested approach is feasible and desirable as the parties refine the process within the context of this decision. (Exhibit 194) The Board further directs the parties to its endorsement of the following principles.

80 The Board hereby grants Draft Plan approval to the two subject Plans of Subdivision:

- * Plan No. 24T-94010/B (Paletta - Exhibit 205A)
- * Plan No. 24T-94012/B (Taylor - Exhibit 206)

81 The Board will also endorse the proposed Conditions of Draft Plan approval entered into evidence as Exhibit 194, Schedule A with the following revisions. The Clause numberings are consistent with Exhibit 194, Schedule A, Conditions:

General

6. Expiry date for fulfilment of all subdivision conditions is to be established by the Region of Halton.

City of Burlington Conditions

3. Only Site Plan Control is to be applicable to the school site (Exhibit 193, Master Site Concept, October 31, 1995). This is important in view of the limitation of 60% impervious cover.
9. Consistency is required with OPA 197 Sub-Section 3.1.6.5, paragraph 1, and 3.1.3.12 as to circulated agencies.

11 (a) Blocks AH and AI to be dedicated for park purposes. Any further dedications must be guided by the
Boards ruling on the Parkland Dedication Issue.

(b) as above

(c) as above

(d) as above

15. (a) and (b) may now be redundant.

82 The Board's Order on Draft Plan approval will not issue until the Board is advised by the Regional Municipality of Halton that the applicants and the Region have concluded agreements in accordance with the Minutes of Settlement filed as Exhibit 194, as well as the Board's decision.

Revocation of Parkway Belt Land Use Order 482/73

83 On the basis of the Board's decision pertaining to the subject appeals and referrals now resulting in the modification and approval of OPA 197 and the conditional amendment of Zoning By-law 4000-481, the Board recommends and requests the Minister of Municipal Affairs and Housing to amend Ontario Regulation 482/73 as per attached draft amendment and revocation order (Exhibit 239), as Schedule A to this decision. [ed. note: see paper copy for Schedule A]

Other

84 The Board orders that the referral by the Regional Municipality of Halton of a proposed amendment to the City of Burlington Official Plan (O940233) is dismissed.

85 Similarly the Board orders that the appeal by the G.S.A. Owners Group Inc. from the failure of the City of Burlington to enact a proposed amendment to Zoning By-law 4000-3 (Z920162) is dismissed.

86 If problems arise, the Board may be spoken to.

87 The Board so orders.

W.R.F. WATTY, Member
M.F.V. EGER, Vice-Chair

SCHEDULE "A"

DRAFT

**REGULATION TO AMEND
ONTARIO REGULATION 482/73
MADE UNDER THE
ONTARIO PLANNING
AND DEVELOPMENT ACT, 1994**

1. Subparagraph iv of paragraph 1 of subsection 2(2) of Ontario Regulation 482/73, as remade by section 1 of Ontario Regulation 255/87, is amended by adding the following subparagraph:

- H. Those parts of lots 6, 7, 8 and 9 in Concession I, East Flamborough in the City of Burlington in the Regional Municipality of Halton, being the lands outlined on a map numbered identified by the Registrar of Regulations Office on, 1996 and filed with the Plans Administration Branch, Central and Southwest of the Ministry of Municipal Affairs and Housing at Toronto.

2. Subparagraph v of paragraph 1 of subsection 2(2) of Ontario Regulation 482/73, as remade by section 1 of Ontario Regulation 304/84 is revoked and the following substituted:

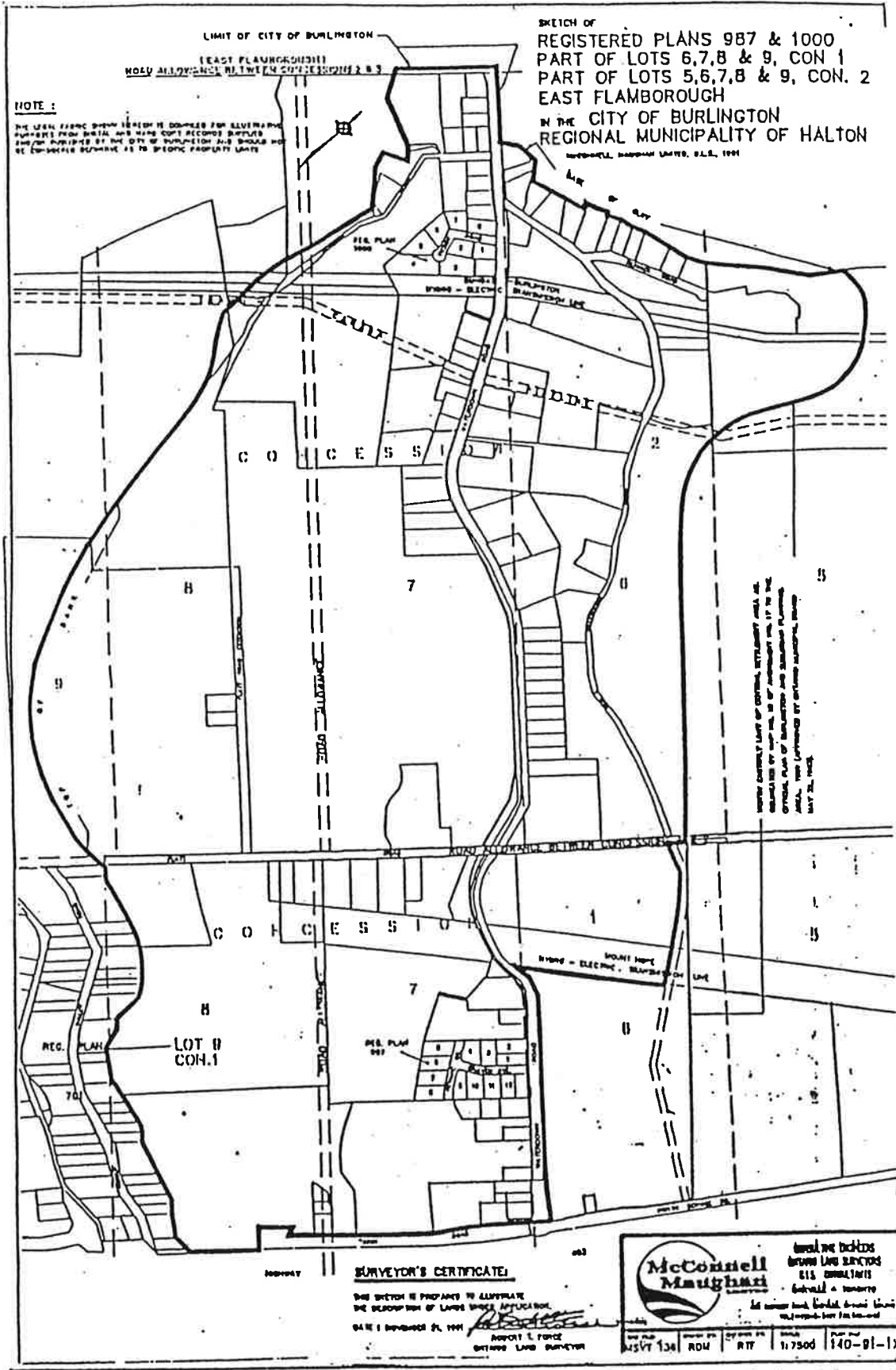
- v. Lots 1 to 13, inclusive, in Concession II, East Flamborough in the City of Burlington in the Regional Municipality of Halton, excepting:
- A. Those parts of lots 5, 6, 7, 8 and 9 in Concession II, East Flamborough in the City of Burlington in the Regional Municipality of Halton, being the lands outlined on a map numbered..... identified by the Registrar of Regulations Office on, 1996 and filed with the Plans Administration Branch, Central and Southwest of the Ministry of Municipal Affairs and Housing at Toronto.

3. Paragraph 3 of subsection 2(2) of Ontario Regulation 482/73 is revoked and the following substituted:

- 3. All original road allowances between or fronting on the lands described in this subsection, excepting:
 - i. Those parts of the original road allowances in the City of Burlington, in the Regional Municipality of Halton that are within the lands outlined on a map numbered identified by the Registrar of Regulations Office on, 1996 and filed with the Plans Administration Branch, Central and Southwest of the Ministry of Municipal Affairs and Housing at Toronto.

Diana Linn Jardine
 Director
 Plans Administration Branch
 Central and Southwest
 Ministry of Municipal Affairs
 and Housing

Dated at Toronto on, 1996.



Plan filed in the Plans Administration
Branch of the Ministry of Municipal Affairs
and Housing, 777 Bay Street, Toronto,
Ontario as No. _____

The Planning Act _____
O. Reg. _____
Date _____

Map No. _____

Registrar of Registrations Office

Date _____