

December 22, 2022

Hon. Steve Clark
Minister of Municipal Affairs and Housing
777 Bay Street - 17th Floor
Toronto, Ontario
M7A 2J3

Dear Minister Clark:

**Re: Waterloo Region Official Plan Amendment 6
ERO Number 019-5952
Ministry Reference Number 30-OP-222206**

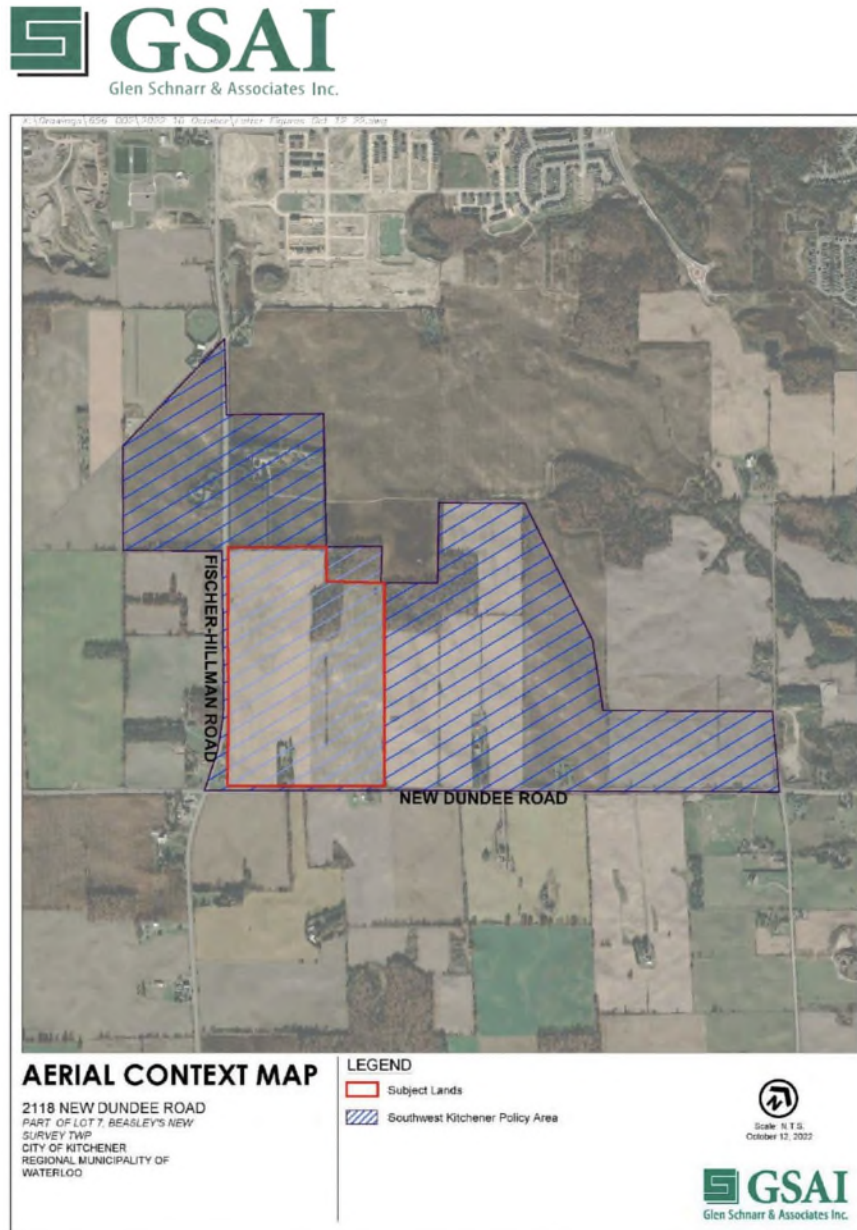
**Waterloo Official Plan Amendment 6 Should be Modified to Include the South West
Kitchener Policy Area in Settlement Area**

The Region of Waterloo has adopted Regional Official Plan Amendment 6 after their Municipal Comprehensive Review. The amendment does not conform with the Growth Plan for the Greater Golden Horseshoe, and did not follow the provincial Land Needs Assessment Methodology. It is now before the Minister for his consideration.

We act for Branthaven Developments with respect to their lands in the South West Kitchener Planning Area (2163846 Ontario Inc.). We are requesting that the subject lands should be included in the settlement area by modification of Waterloo Region Official Plan Amendment 6. The area of the Branthaven lands is 80.87 hectares (150.41 acres).

This submission is made in response to the above-captioned Environmental Registry posting inviting public comment with respect to Waterloo Region's Official Plan Amendment 6. This submission is also supported by a separate planning submission from Glenn Schnarr Associates supporting the request for settlement area expansion. In particular, it is our submission that all the South West Kitchener Planning Area lands should be included as settlement area. Such a settlement area expansion is in conformity with the Growth Plan for the Greater Golden Horseshoe. Another submission respecting this request will follow in January from Stantec Consulting.

The plan below illustrates the Branthaven lands:



The Region's adopted Official Plan Amendment 6 includes only a minimal settlement area expansion for new community area. This has been done primarily through rounding out settlement areas in small rural communities.

Overall, Waterloo Region is forecast to increase its population by 50%. However, the municipal comprehensive review provides for a settlement area expansion of less than 1% of the land area. Clearly, the Region is severely underdesignating the amount of new settlement area required to accommodate forecast growth.

The Minister should either modify the Region's adopted Official Plan to include the settlement area expansion produced by a proper Land Needs Assessment, or the Minister should refer the matter to the Ontario Land Tribunal for a hearing.

Despite Waterloo Region Being an Attractive Destination for New Homeowners in the Greater Golden Horseshoe, Council Land Use Decisions Reflect Strong Anti-Growth Policies

As housing prices continue to rise, and the supply of family housing is further restricted in Toronto, families continue to move out seeking a home. Like other municipalities outside the Greater Toronto Area, Waterloo Region has become a preferred destination for many such families - especially as it has enjoyed strong economic growth - much of it directly and indirectly supported by investment in research and technology from higher orders of government.

At the same time as Governments have poured money into Waterloo Region's economy, transportation infrastructure and universities, the Regional Municipality has long practised anti-growth policies. The result has been a boom in housing values for existing homeowners, while newcomers are priced out of the marketplace.

In fact, the Region's previous initial municipal comprehensive review of its official plan was rejected by the Ontario Municipal Board for not properly accommodating expected growth.

The current proposed Regional Official Plan has been delayed, and is providing no new community area settlement expansion in the three major local municipalities of Cambridge, Kitchener and the City of Waterloo.

The Growth Plan and Land Needs Assessment Methodology Require Municipalities to Deliver a Market-Based Supply of Housing "To the Extent Possible"

The Growth Plan and the Provincial Policy Statement on Land Use Planning require that housing be delivered in a market based supply fashion. That includes delivering a full range and mix of housing types to meet market demand.

This was a change by the current Government over the policies of the previous Government - previous policies put the focus on limiting suburban development, and compelling development and new housing to be overwhelmingly in apartments. The current Government's new policies were intended to more closely reflect what Ontario residents actually wanted as their housing.

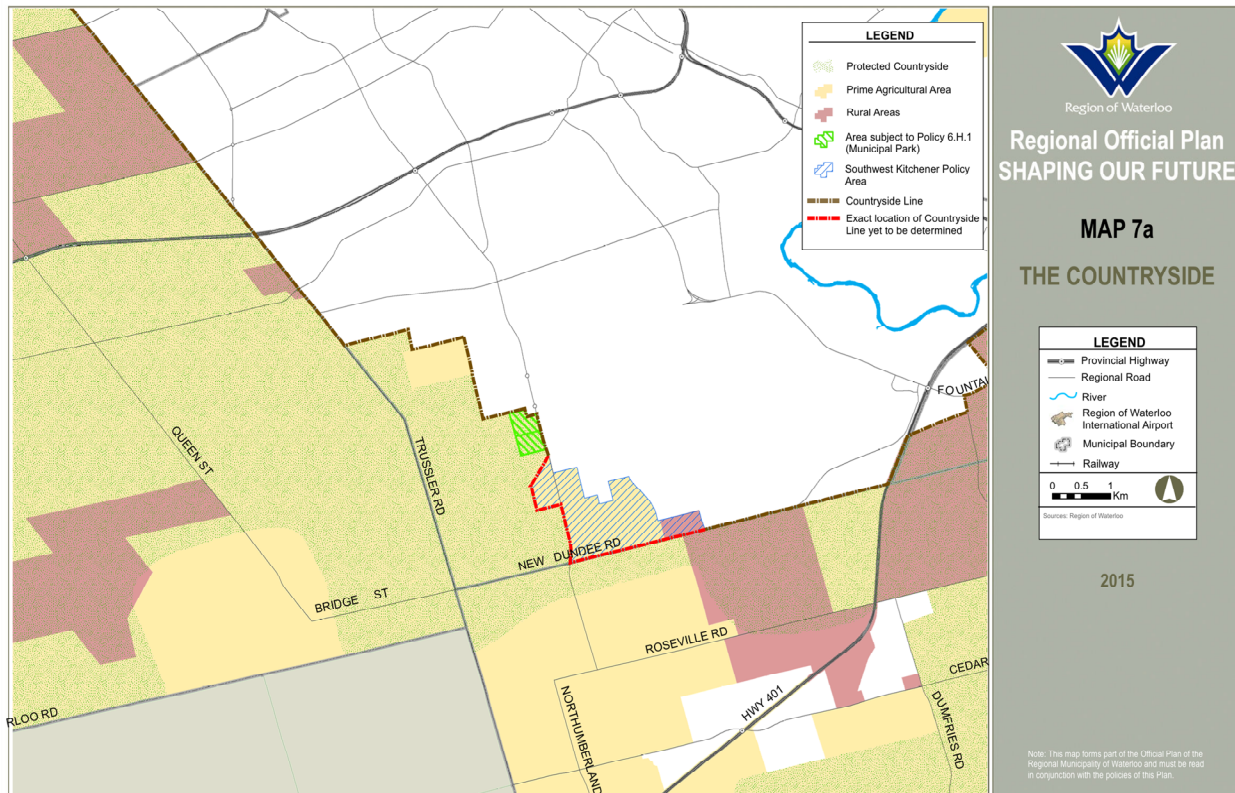
However, some municipalities and planners have preferred to ignore these policy changes, and carry on as if the old policies remain in place unchanged.

In the case of Waterloo, City staff seem to have attempted a political “compromise” - resulting in a very small amount of settlement area expansion in small communities - but which falls far short of the expansion that would result from properly following the prescribed provincial methodology.

The Previous Regional Municipal Comprehensive Determination Included a Settlement that Anticipated Inclusion of Lands in Southwest Kitchener in the Next (i.e. current) Municipal Comprehensive Review

In 2015, after the Region’s land budget for their new Official Plan was rejected by the Ontario Municipal Board, a comprehensive settlement was entered into between the Region and landowners. That settlement deferred the major decisions respecting this area until the next (i.e. current) Municipal Comprehensive Review process.

Part of that settlement included the establishment of the Southwest Kitchener Policy Area. The map below, from the Region's official plan, shows the area hatched in blue diagonal stripes.



The Southwest Kitchener Policy Area was addressed in policy 6.B.1 of the current Official Plan. In the Regional Official Plan. This policy says that the final delineation of the Countryside Line (urban boundary) would be determined “through the next municipal comprehensive review process”. The line was identified in a preliminary way in red on the map - with the lands inside the red line constituting the Southwest Kitchener Policy Area.

Policy 6.B.1. provided that “The final extent of the Protected Countryside as it applies to the lands within the Southwest Kitchener Policy Area will be coincident with the final boundary of the Regional Recharge Area and will be determined through the next municipal comprehensive review process to be undertaken no later than 2019.”

Regional Official Plan Amendment 6 has now finalized the Countryside Line in the South West Kitchener Planning Area in the same location as was identified in a preliminary way in policy 6.B.1. Regional Official Plan Amendment 6 appropriately includes the Subject Lands on the developable side of the Countryside Line, We support this delineation of the Countryside line.

Policy 8.A.23 (Regional Recharge Areas) also provides that the final boundary of the Regional Recharge Area would be determined through the next municipal comprehensive review, although it acknowledged that some of the lands in the Southwest Kitchener Policy Area “are not Regional Recharge Area”.

Through Regional Official Plan 6, the Region has now finally delineated the Regional Recharge Area appropriately, and the subject lands are not included in Regional Recharge Area. We support the current delineation of the Regional Recharge Area.

Despite the Regional amendment policies determining that the Southwest Kitchener Policy area lands are NOT Regional Recharge Area, and are on the developable side of the Countryside line, the Regional Council and staff have still proceeded to exclude all of the Southwest Kitchener Policy Area from settlement area - despite the implication of policies 6.B.1 and 8.A.23, and the spirit of the 2015 settlement with Waterloo Region.

Hemson Technical Report for Growth Plan Forecasts a Need for 90,700 New Grade-Related Units Between Now and 2051

The province’s consultant for the Growth Plan Schedule 3 population growth forecasts was Hemson Consulting. In August 2020, they released their technical report regarding those forecasts.

The Hemson forecasts for Waterloo Region anticipate a need for 146,700 new dwelling units between 2021 and 2051. [In contrast, Waterloo Region’s land needs assessment identifies a need for only 121,000 dwelling units.]

Of the Hemson forecast of growth, 63,900 (or 44%) of the required new housing would be single-detached or semi’s. Once row housing demand is added, the total of grade-related units would be 90,700 (62%) of the total demand.

These numbers are in stark contrast to the very limited settlement area expansion model in the Region’s official plan. Simply put, the Waterloo Region Official Plan comes nowhere close to meeting the expectations set out by the provincial consultants in their technical report.

The Region’s Official Plan only adds 150 hectares of new settlement area (all in small communities). In contrast, the Region’s consultants did a Growth Plan compliant land needs calculation and concluded that 2,208 hectares of new settlement area are required to satisfy forecast growth.

Region Land Needs Assessment Work Includes a Growth Plan and Land Needs Assessment Methodology Conformity Option Which Requires 2,208 Hectares of New Community Area

The Region's original Land Needs Assessment Study includes three options. However, only one of those options is actually in conformity with the Growth Plan and its Land Needs Assessment Methodology by providing a market-based supply of housing "to the extent possible".

That Growth Plan conformity scenario is option 1. It conforms with the Growth Plan targets of 50% intensification, and 50 people and jobs per hectare.

However, unlike the other Waterloo options (including ROPA 6), Option 1 conforms with the Growth Plan's directive to provide "a diverse range and mix of housing options ... to meet projected needs of current and future residents" (policy 2.2.6.1). It is also consistent with the Provincial Policy Statement requirement that "Planning authorities shall provide for an appropriate range and mix of housing options and densities to meet projected market-based and affordable housing needs of current and future residents of the regional market area" (PPS policy 1.4.3).

Option 1 produces a requirement for 2,208 hectares of new community area.

Option 1 Represents Compact Urban Development, With Half of all Housing Growth Being Apartments - Double the Current Pattern in Waterloo Region

It should be observed that Option 1 represents an ambitious step forward towards a significantly more compact urban form in Waterloo Region. Under option 1, 49% of all new housing growth would be in apartments. This is double the existing urban form, where only 25% of all dwelling units are in apartments.

It also represents a significant ambitious departure from a market-based forecast, wherein Hemson foresees only 39% of growth demand being met by apartments.

As such, the province can have considerable confidence that option 1 delivers a growth pattern that conforms both with the technical requirements of the Growth Plan, and with the overall policy thrust of moving towards a more compact, and intensified urban settlement pattern.

Alternative Land Needs Assessment By Malone Given Parsons Identifies a Need for at Least 944 Hectares of New Community Area

Malone Given Parsons have undertaken a Land Needs Assessment that conforms more closely with the provincial Methodology, than that undertaken for the Region.

MGP utilizes a very high ratio of row houses in their Land Needs Assessment, in order to achieve higher Greenfield densities than provided in the Growth Plan. They achieve a Greenfield Area density of 67 people and jobs per hectare, compared with the Growth Plan requirement for 50 people and jobs per hectare. Properly following the provincial Land Needs Assessment Methodology would permit adjusting the market-based housing by demand only to the extent necessary to meet the intensification and density targets of the Growth Plan. By moving to a 67 people and jobs per hectare designated greenfield area density, MGP went further than contemplated by the provincial methodology, adjusting the market forecast demand by housing type more than contemplated - thus reducing significantly the projected land need.

Despite this very high density figure, and conformity with the Growth Plan's requirement for 50% intensification in the delineated built-up area, MGP still produces a requirement for 944 hectares of new community area by way of settlement area expansion. This is significantly more than the 150 hectares in the Region's adopted Official Plan.

Provincial Technical Report for Growth Plan Forecasts Provides a Market-Based Growth Forecast with 64% Grade-Related Housing

The Provincial Government commissioned Hemson Consulting to undertake the growth forecasts which are schedule 3 of the Growth Plan. As part of this exercise, Hemson produced a technical report explaining the forecasts, including forecasts by housing type by Region. This technical report is identified in the Land Needs Assessment Methodology as an appropriate market-based forecast of housing type growth by Region, for the period 2021 to 2051, for use in Land Needs Assessments.

The Hemson market-based forecast for Waterloo Region included 45% singles and semis, and 19% row housing, for a total of 64% grade-related housing. Only 36% of the market-based growth forecast would be met by apartments.

This is dramatically at variance with the Region's Official Plan Amendment, which foresees only 45% in grade-related housing and 55% of new growth being in apartments. This deviation from the Hemson market-based forecast is so severe, that it demonstrates the extent to which the Waterloo Regional Official Plan Amendment 6 does not reflect a market-based supply to the extent possible. As a result, it is not in conformity with the Growth Plan, and is not consistent with the Provincial Policy Statement on Land Use Planning.

Comparison of Land Needs Assessment Alternatives

Alternative	New Community Area
Option 1- 50% 50 People+jobs/HA (Growth Plan Conformity)	2208 hectares
Option 2 - 60% 60 People+jobs/HA	376 hectares
Option 3 - 60% 66 People+jobs/HA	0 hectares
ROPA 6 - 61% 59 People+jobs/HA	150 hectares
MGP LNA - 50% 58.5 People+jobs/HA	944 hectares

Inclusion of South West Kitchener Policy Area in Settlement Area is in Conformity With Growth Plan Policies 2.2.1 Respecting “Managing Growth”

The inclusion of the South West Kitchener Planning Area as settlement area, would be in conformity of the policies in 2.2.1 of the Growth Plan.

- The lands are immediately adjacent to the existing settlement area of Kitchener.
- The lands are on the developable side of the Region’s Countryside Line, identifying the lands as appropriate for development in the long term.
- Ensures settlement area expansion is directed, where possible, to the existing major population centre of Kitchener, appropriately reinforcing the established planning hierarchy.
- Allows for efficient construction of infrastructure, completing roads and services from the community to the north.
- The environmental features are all protected in the plans for development in the South West Kitchener Planning Area.
- Allows for a complete community with an appropriate mix of uses, and services including parks and schools.
- Provides for a mix of housing options responsive to market demand.
- Provides a higher density of designated greenfield area development than is historically the case in Waterloo Region, resulting in more compact urban form.

The proposed addition of the South West Kitchener Planning Area lands to the settlement area will also be in conformity with the Growth Plan Policies for “Settlement Area Boundary Expansions” found at 2.2.8.

- The lands are required to meet the Growth Plan population forecasts under any scenario based upon a Land Needs Assessment conducted in accordance with the provincial methodology.
- The development of the subject lands will result in the Region meeting the Growth Plan targets for intensification and Designated Greenfield Area density.
- The lands can be serviced efficiently as an extension of the abutting approved settlement area neighbourhood.
- After extensive study it has been established, and accepted by the Region, that the lands are not in a Regional Recharge Area. Their development will not have adverse impacts on the water resource system.
- The lands have been identified as on the developable side of the Countryside Line, and as such are not required as part of the agricultural system in the long term. Their development will have no adverse impact on the agri-food system.

Overall, the expansion of the settlement area to include the South West Kitchener Planning Area is in conformity with the policies of the Growth Plan.

Inclusion of the Lands in Settlement Area is Consistent with the Provincial Policy Statement on Land Use Planning

The inclusion of the subject lands in Waterloo Region's Settlement Area is consistent with the requirements of the Provincial Policy Statement on Land Use Planning, particularly those found in section 1.0 "Building Strong Healthy Communities".

- The addition of these lands to the adjacent abutting settlement area results in an efficient pattern of land development, including through a contiguous addition to the approved urban area of Kitchener, one of the three major communities in the Region.
- The approval of this settlement area expansion will help better deliver a "market-based range and mix of residential types".
- The resulting land use pattern will not cause environmental or public health concerns.
- It represents an "efficient expansion of settlement areas in those areas which are adjacent or close to settlement areas."
- The development of the lands will optimize public investments in infrastructure.
- The approval of these lands as settlement area is necessary to help meet the anticipated market demand for housing that cannot be met elsewhere in the Region over the projected horizon.

Province Can Modify the Adopted Plan, or Refer It to The Land Tribunal for a Hearing

Under section 3 of the Planning Act, the Minister, in carrying out his responsibilities and making planning decisions, must act in conformity with provincial plans (in this case the Growth Plan for the Greater Golden Horseshoe), and consistent with the Provincial Policy Statement on land Use Planning. A decision to approve the official plan adopted by Waterloo Region Council will not be consistent with the Provincial Policy Statement, or conform with the Growth Plan.

The Provincial Policy Statement in policy 1.1.1.b) requires municipalities to accommodate a “*market-based range and mix of residential types (including single-detached, additional residential units, multi-unit housing and housing for older persons)*”. The Waterloo Region official plan does not provide this market-based range and mix including single-detached housing.

The Growth Plan requires, in policy 2.2.1.5, that municipalities must use the Land Needs Assessment Methodology to determine the need for land to accommodate growth over the horizon of the Official Plan (now 2051). The methodology, on page 9, while allowing for adjustments to the market-based supply forecast to achieve the density and intensification targets of the Growth Plan, requires “ensuring the provision of a market-based supply of housing to the extent possible”. That means that, if the plan’s numbers depart from a market-based supply more than necessary to achieve 50% intensification, and 50 people and jobs per hectare in the Greenfield Area, the plan will NOT be in conformity with the Growth Plan.

On page 13, the methodology explains an aspect of this in more detail. The methodology says that the market-based forecast should be adjusted to meet the density targets of the Growth Plan “while still providing a full range and mix of housing options to meet the market-based demand of housing that meets the current and future needs of residents”, and if that is not possible, an alternative density target should be sought.

Thus, the Minister cannot approve the Official Plan as adopted by Waterloo Region and be following the requirements of section 3 of the planning act to act in conformity with the Growth Plan, and consistent with the Provincial Policy Statement.

Only the “Growth Plan Minimum” option (2208 HA settlement area expansion) identified by the City’s consultants would satisfy the requirements of the Growth Plan (including the Land Needs Assessment Methodology) and the Provincial Policy Statement on Land Use Planning.

Thus, the options available to the Minister are as follows:

- 1). Modify the Waterloo Region Official Plan to reflect a settlement area expansion of 2208 HA.
- 2). Modify the Waterloo Region Official Plan to at least include the Southwest Kitchener Policy Area in settlement area.
- 3). Refer the Region's Official Plan to the Ontario Land Tribunal for a decision.
- 4). Refer the designation of the land in the Southwest Kitchener Policy Area to the Tribunal for a Hearing.

We are requesting that the Minister select options 1 and 2, and modify the Waterloo Region Official Plan to include the South West Kitchener Planning Area lands in settlement area as community area.

If option 3 or 4 is selected, the Minister should, in the referral, advise the Tribunal of his concern that Waterloo Region did not properly follow the Land Needs Assessment Methodology - in particular, its requirement for "ensuring the provision of a market-based supply of housing to the extent possible" (page 9) and "providing a full range and mix of housing options to meet the market-based demand of housing that meets the current and future needs of residents" (page 13).

Yours sincerely,

AIRD & BERLIS LLP



Hon. Peter Van Loan
Partner

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