

November 30, 2023

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

By e-mail - minister.mah@ontario.ca

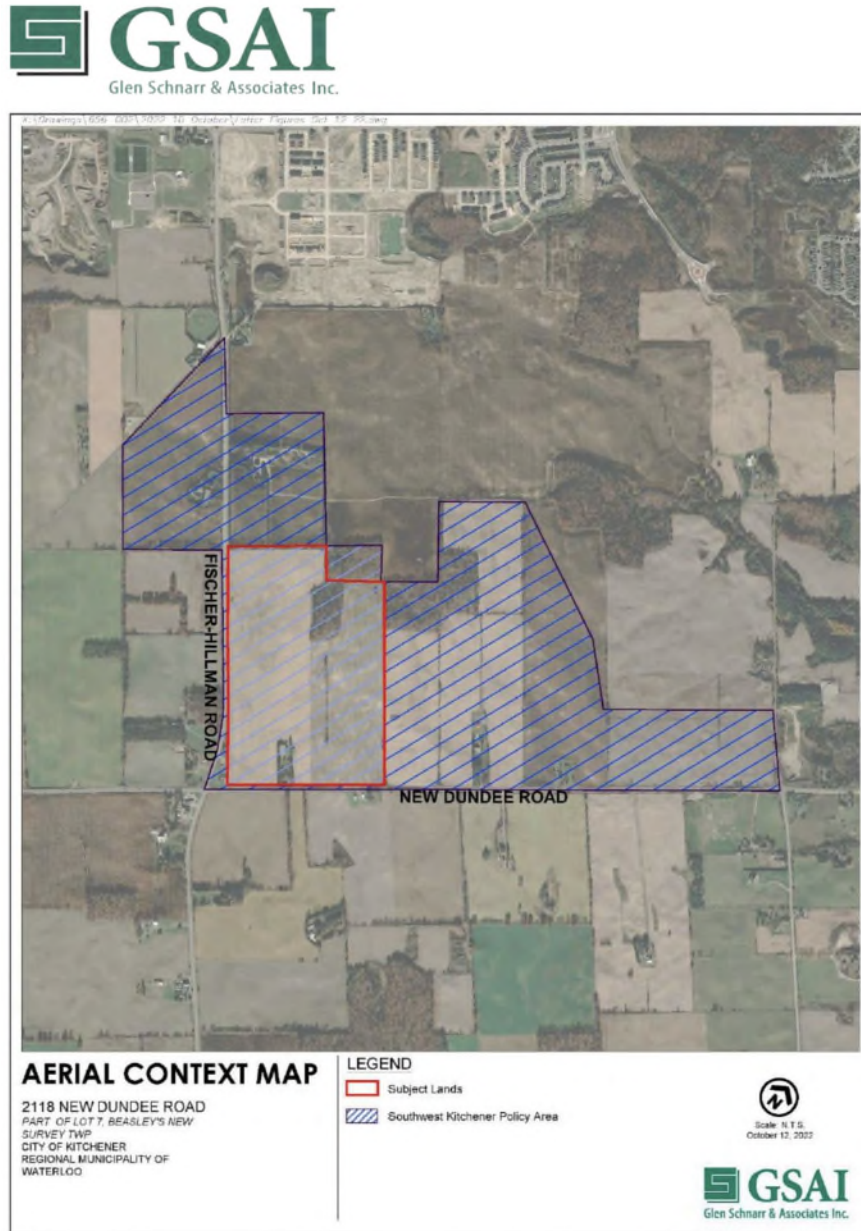
Re: Bill 150
ERO Number 019-7885
Waterloo Region Official Plan Amendment 6
ERO Number 019-5952
Ministry Reference Number 30-OP-222206

Bill 150 Should be Amended to Retain Minister's Modification to Waterloo Regional Official Plan Amendment 6 to Include the South West Kitchener Policy Area in Settlement Area

On April 11, 2023, the Minister of Municipal Affairs approved Region of Waterloo Official Plan Amendment 6 with modifications to include the Southwest Kitchener Policy Area in Settlement Area. The then Minister's modification conforms with the Growth Plan for the Greater Golden Horseshoe, and properly followed the provincial Land Needs Assessment Methodology. On November 27, 2023, Kitchener City Council adopted a resolution asking the province to retain these modifications.

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 continue be included in the settlement area by retaining the modification of Waterloo Region Official Plan Amendment 6, as requested but Kitchener Council. The area of the Branthaven lands is 80.87 hectares (150.41 acres).

The plan below illustrates the Branthaven lands:



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

As such, the Minister's modification to included as additional settlement area, the South West Kitchener Policy Area constituted good planning, and was in conformity with the Growth Plan for the Greater Golden Horseshoe and the Land Needs Assessment Methodology. In the alternative, the Minister should make an order pursuant to section 23 of the Planning Act to amend the Waterloo Region Official Plan to include the South West Kitchener Policy Area in settlement area.

Kitchener Council Has Passed a Resolution Requesting the Minister of Municipal Affairs to Retain the Original Provincial Modifications to Waterloo ROPA 6

On November 27, 2023, the Council of the City of Kitchener considered the request of the current Minister for feedback on which urban boundary expansions made by the Province through modification should be retained. Council heard deputations from the public, and then endorsed a resolution asking the Province to retain the modifications to Waterloo ROPA 6 originally made by the previous Minister of Municipal Affairs.

The effect of this resolution, is to ask the province to keep the South West Kitchener Policy Area designation as Settlement Area.

The operative portion (leaving out the preamble "whereas" clauses) of the Kitchener Council resolution is as follows:

THEREFORE BE IT RESOLVED That the City of Kitchener supports the April 11, 2023 Minister's Decision on ROPA NO. 6;

THEREFORE BE IT RESOLVED that the City of Kitchener urges developments within the subject lands be designed to net-zero carbon standards to the extent possible and include affordable housing options;

THEREFORE BE IT FURTHER RESOLVED that a copy of this resolution be forwarded to the Premier of Ontario, the Minister of Municipal Affairs and Housing, the Region of Waterloo and all area municipalities within the Region of Waterloo.

This resolution confirms the established position on settlement area expansion of the City of Kitchener, which originally disregarded by the Region of Waterloo in adopting ROPA 6. The previous Minister's decision of April 11, 2023 appropriately considered the position of the local area Municipalities, as required by Provincial policy, which was reflected in the Provincial modifications.

Minister's Decision to Roll-Back Official Plan Modifications Also Indicated an Intention to Retain Modifications Consistent With Local Municipal Housing Pledges - Kitchener's Housing Pledge Specifically Anticipates Development of the Dundee North Secondary Plan Lands, Which Include the South West Kitchener Policy Area

When the Minister of Municipal Affairs announced the decision to “roll-back” modifications to several Regional Official Plan approvals, he also indicated that modifications would be retained if local municipalities made such requests. Furthermore, the Minister indicated his expectation that such requests to retain modifications would reflect a shared commitment to increasing the supply of housing, and would do so with regard to the Municipal Housing Pledge commitments made by local municipalities.

On March 20, 2023, Council for the City of Kitchener endorsed a Municipal Housing Pledge to deliver 35,000 new homes. In particular, item 6 in the Kitchener housing pledge made specific reference to the lands in this area:

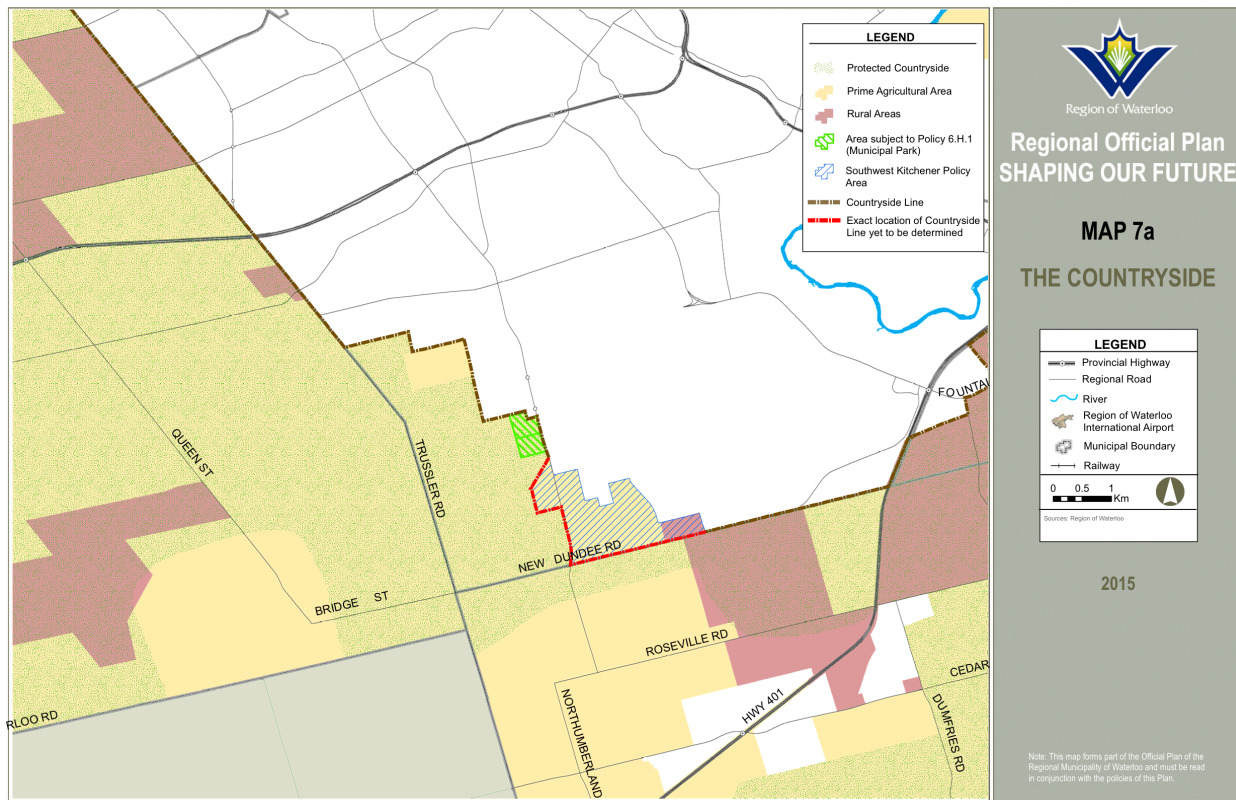
“6. Kitchener's municipal housing pledge includes the continued work to update land use and zoning within the Hidden Valley Secondary Plan and Dundee North Secondary Plan.”

Based upon this decision respecting the housing pledge endorsing the development of the South West Kitchener Policy Area lands to deliver needed housing, it is not surprising that Kitchener Council also took the step of asking the Minister to retain the modification respecting these lands.

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 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.

Region Land Needs Assessment Work Included 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 included three options. However, only one of those options was 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 conformed 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 produced a requirement for 2,208 hectares of new community area. It was based upon this analysis, and its conformity with the Growth Plan and Land Needs Assessment Methodology, that the Minister originally modified Waterloo ROPA 6 to include the subject lands in settlement area.

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.

Significant Work In the South West Kitchener Policy Area Has Been Undertaken In Reliance Upon the Modifications to Waterloo ROPA 6 Originally Made by the Province

When the current Minister of Municipal Affairs announced on October 23 that the provincial modifications to Waterloo ROPA 6 were being "rolled back", it was also indicated that decisions on retaining modifications would be based in part "on information on projects that are underway".

Since ROPA 6 was approved by the previous Minister, the proponents of Dundee North and the SW Kitchener owners have been engaged with Kitchener staff on the detailed planning of the South West Kitchener lands as part the Dundee North Secondary Plan process to advance a consolidated plan for the south-west quadrant of Kitchener Greenfield Area. City staff are supportive of this approach and have concluded that there are economies of scale and cost efficiency to be achieved by using this approach.

As a result, the landowners and the local municipality have been working together to advance the process of planning for the subject lands, with the attendant investment of considerable resources by all parties. This work has been undertaken based upon the Provincial Modifications. Thus, it is both fair and appropriate to retain these modifications.

Minister Should Retain Modification Including South West Kitchener Policy Area in the Settlement Area By Either Amendment to the Statute (Bill 150), or By Order Pursuant to Section 17 (40) of the Planning Act

The Government should respond favourably to the request of the City of Kitchener, and the landowners, by retaining the Minister's original modifications to Waterloo ROPA 6 including the South West Kitchener Policy Area in the settlement area. This can be done by the Government proposing amendments to Bill 150 before its adopting by the Legislature to include the retention of the modifications identified to be retained in the Bill. In the event that the Bill is finally adopted by the Legislature before such amendments can be made, the Government could propose additional legislation to give effect to such a modification to the Official Plan.

An alternative approach to legislation would be the issuance of a Minister's Order amending the Waterloo Region Official Plan pursuant to Section 23 of the Planning Act. Such an order would be an appropriate way of implementing the provincial interest in the delivery of an adequate supply of housing, and in ensuring conformity with the Growth Plan for the Greater Golden Horseshoe, and the Provincial Land Needs Assessment Methodology.

Yours sincerely,



AIRD & BERLIS LLP

Hon. Peter Van Loan
Partner
HV

cc.
Mmahofficialplans@ontario.ca
Michael Klimuntowski - Chief of Staff
Richard Ositashvili - Director of Policy
Hannah Anderson - Director of Stakeholders