

Local Planning Appeal Tribunal
Tribunal d'appel de l'aménagement
local



ISSUE DATE: February 25, 2019

CASE NO(S): PL180281

The Ontario Municipal Board (the "OMB") is continued under the name Local Planning Appeal Tribunal (the "Tribunal"), and any reference to the Ontario Municipal Board or Board in any publication of the Tribunal is deemed to be a reference to the Tribunal.

PROCEEDING COMMENCED UNDER subsection 22(7) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended

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|-------------------------------|---|
| Applicant and Appellant: | Stratford East Investments Inc. |
| Subject: | Request to amend the Official Plan – Failure of the City of Stratford to adopt the requested amendment |
| Existing Designation: | Industrial Area, Agricultural and Urban Fringe |
| Proposed Designated: | Industrial Area, Residential Area and Gateway Mixed Use Area |
| Purpose: | To establish the planning policy framework and general land use pattern for the development of the subject property in a comprehensive manner and to designate recently annexed lands |
| Property Address/Description: | Lot 41 and Lot 42, Concession 1 |
| Municipality: | City of Stratford |
| Approval Authority File No.: | 002-16 |
| OMB Case No.: | PL180281 |
| OMB File No.: | PL180281 |
| OMB Case Name: | Stratford East Investments Inc. v. Stratford (City) |

Heard: December 11, 2018 in Stratford, Ontario

APPEARANCES:

Parties

Counsel*/Representative

City of Stratford

P. Lombardi

| | |
|--|---------------|
| Stratford East Investments Inc. | S. Mahadevan |
| Corporation of the Township of Perth East | E. Davis |
| Canadian Tire Real Estate Limited | A. Pilkington |

DECISION DELIVERED BY K.J. HUSSEY AND ORDER OF THE TRIBUNAL

INTRODUCTION

[1] This event was scheduled as a Pre-hearing Conference (PHC) for the appeal brought by Stratford East investments Inc., (Applicant) from failure by the City of Stratford (City) to make a decision within the statutory time frame, on the application for an Official Plan Amendment in respect of a 22.1 hectare property, known as Lot 41 and Lot 42, Concession 1 (the “subject property”). The purpose for the Official Plan Amendment is to establish the planning policy framework and general land use pattern for development of the subject property.

[2] The Tribunal, having received the Affidavit of Service (Exhibit 1), was satisfied that notice of this event was given in accordance with the *Rules of Practice and Procedure*.

[3] Prior to the PHC the Tribunal was advised that the parties had resolved the appeal. The City and the Applicant would be jointly presenting Minutes of Settlement and evidence in support of the settlement, and would be seeking an Order of the Tribunal to implement the settlement. The Tribunal was also advised beforehand that the Corporation of the Township of Perth East and Canadian Tire Real Estate Limited would be requesting party status, and at the commencement of the proceeding, without objection, the Tribunal granted the requests.

[4] All parties were in support of the settlement and the proposed Official Plan Amendment (OPA 26) was filed into evidence as Exhibit 2.

[5] David A. McKay, a Registered Professional Planner, and full member of the Canadian Institute of Planners, was qualified by the Tribunal as an expert in land use planning. Mr. McKay's evidence supported the settlement.

[6] Mr. McKay is a partner and Vice President of McNaughton Hermsen Britton Clarkson Planning Limited, the firm that was retained by the Applicant to examine the long-term development plans for the subject lands. Mr. McKay is well acquainted with the proposal, as among other matters, he had primary responsibility for the preparation of a Land Use Consideration and Planning Justification Report.

[7] Mr. McKay testified that OPA 26 represents the findings and recommendations of the Land Use Consideration and Planning Justification Report, modified to address concerns and comments received through the processing of the application. The aim of OPA 26 is to achieve a complete community consisting of new residential lots, Gateway Mixed Use, Commercial and Residential areas, and Light Industrial Areas. The City's Official Plan designates the western portion of the subject property Industrial Area; the eastern portion, which was recently annexed to the City from the Township of Perth East, is designated Agriculture and Urban Fringe by the County of Perth Official Plan, and is not yet designated in the City's Official Plan. It was Mr. McKay's evidence that following the annexation of the eastern portion of the subject lands an overall planning framework was required. The OPA 26 seeks to re-designate the entire parcel Industrial Area with special provisions, Residential Area, Park and Open Space, and Gateway Mixed Use.

[8] Mr. McKay opined that the proposal is consistent with the Provincial Policy Statement 2014 and in conformity with the City's Official Plan. He provided the context and extensive analysis of the policies in the applicable planning documents pertinent to OPA 26.

[9] The subject lands are located to the east of C.H. Meier Boulevard, south of Ontario Street, west of Road 111, directly west of a hydro corridor, and adjacent to the rail corridor to the south. The surrounding uses include the Festival Market Place

Shopping Centre to the north, which is the eastern boundary of the City's "Gateway Area". The Festival Market Place contains a variety of retail, commercial and restaurant uses.

[10] North of Festival Marketplace, are single detached dwellings and town houses that are located within the City; north on Ontario Street outside the City limits within the Township of Perth East, are a variety of Highway Commercial Uses including an Inn and Car dealerships. The subject property wraps around a development with a two storey office building located at 3035 Ontario Street in Perth East.

[11] Immediately to the east is the Ontario Hydro Corridor. Further east, are a variety of agricultural, commercial, industrial, institutional and residential uses located in Perth East. At the Southern boundary is a railway which runs west through the City and east to Kitchener/Waterloo. Further south are agricultural lands located in Perth East.

[12] The subject property is adjacent to a parcel of land located immediately east of C.H. Meier Boulevard that was severed and developed for the Samsonite Company. The existing developments west of C.H. Meier Boulevard, include the Stratford Centre Shopping Centre and industrial buildings such as Cooper Standard Tires and Cooper Standard Automotive.

[13] To support his opinion that the application is consistent with the Provincial Policy Statement 2014, Mr. McKay directed his attention to the policies that address Ontario's long-term prosperity and economic health, and social well-being. Those policies hinge on the efficient use of land and development patterns that support strong, livable and healthy communities, protect the environment and public health and safety, and facilitate economic growth. He also addressed policies on settlement area expansion, coordination between municipalities for cross-jurisdictional matters, for example, the City and Perth East have agreed on policies within OPA 26, on transportation matters relating to the development of the subject lands, and potential impacts on Road 111.

[14] Mr. McKay did a comprehensive analysis on how OPA 26 responds to provincial policies on compatibility, the supply of employment land, housing supply to meet the long-term requirements of the City, and how an appropriate range and mix of housing types and densities to accommodate growth over the long term to meet the social health and well-being of current and future residents, would be provided. Mr. McKay's analysis also included policies relating to parks, trails and open spaces, municipal servicing for sewage and water, appropriate storm water management and protection of the rail corridor. With respect to the Agricultural policies, it was Mr. McKay's opinion that although the subject lands are currently used for agricultural purposes, they are not considered prime agricultural lands as they are within a settlement area boundary.

[15] It was Mr. McKay's opinion that OPA 26 also conforms to the City's Official Plan, which was approved in July 2016, and concluded that it represents good planning and is in the public interest. Mr. McKay testified that the purpose of the 2016 City Official Plan is to achieve in general terms, a number of criteria, including establishing the desired type, form, pattern, intensity and character of land use, to assist the City in determining its position and actions related to land use, and to provide the basis for the preparation and amendment of zoning by-laws. It was his opinion that the proposed OPA emulates this approach through establishing the general land use approach for the subject property, which will be refined through the future implementation of zoning by-law amendments.

[16] The Tribunal adopts and relies upon Mr. McKay's opinion and analyses of the relevant planning documents, finds that the proposed OPA 26 represents appropriate land use planning and approves the OPA as requested. In arriving at this decision the Tribunal has had regard to the provincial interest and the decision of Council, and finds the proposal is consistent with the Provincial Policy Statement and conforms to the City's Official Plan.

[17] Accordingly, the Tribunal orders as follows:

[18] The Appeal is allowed and the Official Plan for the City of Stratford is amended

as set out in Attachment 1 appended to this Order, and as amended is approved.

"K.J. Hussey"

K.J. HUSSEY
VICE-CHAIR

If there is an attachment referred to in this document,
please visit www.elto.gov.on.ca to view the attachment in PDF format.

Local Planning Appeal Tribunal

A constituent tribunal of Tribunals Ontario - Environment and Land Division
Website: www.elto.gov.on.ca Telephone: 416-212-6349 Toll Free: 1-866-448-2248

ATTACHMENT 1

City of Stratford

Official Plan Amendment No. 26

Section 1 – Title and Components

This amendment shall be referred to as Amendment No. 26 to the Official Plan of the City of Stratford. Sections 1 to 4 constitute background information and are not part of the formal Amendment. Section 5 constitutes the formally adopted Amendment to the Official Plan.

Section 2 – Purpose of the Amendment

The purpose of this amendment is to comprehensively amend the Official Plan to apply new policies and change the designation for lands in the existing Official Plan and to recognize a portion of the Subject Lands recently annexed from the Township of Perth East to the City of Stratford as part of the City’s Urban Boundary.

The amendment will amend Schedule A of the Official Plan to:

1. Change the Industrial Area designation for a portion of the site and replace it with Residential Area;
2. Change the Agricultural designation in the County of Perth Official Plan to Residential Area in the City of Stratford Official Plan;
3. Change the Agricultural designation in the County of Perth Official Plan to Medium Density Residential in the City of Stratford Official Plan;
4. Change the Urban Fringe designation in the County of Perth Official Plan to Gateway Mixed Use Area, and;
5. Identify the Subject lands as Special Policy Area 19,

The amendment will amend Schedule D to add a proposed east-west collector road through the Subject Lands from C.H. Meier Boulevard to the Ontario Hydro Corridor.

The amendment would also provide for the following policies:

1. Add a new policy for the Gateway Mixed Use designation that would:
 - a. Permit a range and mix of uses as permitted in the Residential Area and Commercial Areas designations, including high density residential uses and retirement residential uses; and
 - b. Restrict commercial floor area to a maximum 1858 m² (20,000 sq. ft.) and require the preparation of a commercial market impact study for commercial floor area beyond this restriction.

2. Add a special policy to Section 11.3 to provide specific policies for the Industrial Area and Medium Density Residential designated lands, manage impacts on surrounding land uses and roads and identify issues that require specific attention through the plan of subdivision process.

Section 3 – Location

The Subject Lands are located east of C.H. Meier Boulevard, south of Ontario Street / Highway 7/8, west of Road 111, directly west of a hydro corridor, and directly adjacent to an existing rail corridor to the south. The Subject Lands have a total area of approximately 22.1 hectares (54.6 acres). The eastern portion of the Subject Lands that was recently annexed by Stratford comprises an area of approximately 11.08 hectares (27.38 acres).

Section 4 – Basis of Amendment

The proposed Official Plan amendment will implement the findings and recommendations of a Land Use Considerations Evaluation which comprehensively reviewed the Subject Lands. The Land Use Considerations Evaluation recommended a policy framework that would achieve a complete community consisting of new residential lots, gateway mixed use commercial and residential areas and light industrial areas. The amendment would allow for the reduction and modification of "Industrial Areas" designation to and allow for a "Residential Area" designation on the central west side of the Subject Lands. The amendment would also apply to lands that were recently annexed by the City of Stratford from the Township of Perth East on January 1, 2016, applying a "Residential Areas", "Medium Density Residential" and "Gateway Mixed Use" designation to the annexed lands. An east-west Collector Road from C.H. Meier Boulevard to the Ontario Hydro corridor is proposed.

A detailed review of the City's background studies has found that the housing mix in the City has remained relatively consistent over the 1991 to 2011 time period, and will continue to increase consistently to 2032, adding 2,650 people. The industrial sector experienced a decline in absolute employment (i.e. commercial/institutional) over the 1996-2006 time periods. It has also been found while Stratford's economy remains highly oriented towards the manufacturing sector, between 1991 and 2006 the employment base shifted towards a greater share of institutional and commercial/population-related jobs from industrial jobs. With the assistance of MHBC Planning, the City has undertaken a comprehensive review of its employment land inventory and determined 1) it has more than a 20 year supply of employment land and 2) some of these employment lands will be difficult or uneconomical to service in the short to medium term.

The City has undertaken a review of its future residential areas and determined while there

is sufficient supply, much of it will not be available in the short and medium term for reasons of servicing, property fragmentation and divergent development plans. Some lands planned to accommodate residential uses are currently being used for agricultural purposes and their owners are not interested in having their lands redeveloped for urban uses at this time.

Having weighed the findings of these reviews, opportunities and constraints and land use compatibility as part of the Land Use Considerations Analysis, the following land use approach is recommended for the Subject Lands.

- Northeast: The northeast area of the Subject Lands is recommended to be utilized for mixed use development consisting of commercial and residential uses, to a depth roughly consistent with the commercial lands to the immediate east and west of the subject lands along Ontario Street / Highway 8. Recognizing its strategic gateway location, commercial uses should be designed to have direct frontage and access to Ontario Street, with residential uses above (in a mixed form) and/or to the rear of the commercial uses. Medium and high density residential uses are proposed for this area and within the residential area to the south of the Gateway Mixed Use designation.
- Southeast/Central: The southeast and central areas of the Subject Lands are recommended to be utilized for a combination of low-medium density residential uses and medium-high residential uses.
- West: The western area of the Subject Lands is proposed to be utilized for light employment and ancillary uses transitioning to residential uses in the southeast/central areas.
- Collector Road: A new collector road is planned to service this area. Policies are necessary to identify issues to be considered during the plan of subdivision process to ensure access for emergency vehicles and to address concerns of the Ministry of Transportation and Township of Perth East.

This recommended land use approach has addressed the Land Use Considerations Analysis as follows:

- Establishing a preferred land use approach will achieve a comprehensively planned community that integrates the Subject Lands with the City's existing urban fabric;
- Providing housing opportunities that meet the future housing growth needs of the City of Stratford to 2032;
- Providing mixed use development opportunities along Ontario Street / Highway 8 that will serve to diversify housing options, create synergies with existing commercial

- uses and provide for gateway opportunities through built form and design;
- Providing a concept design provides opportunities for the more efficient movement of transit services through the Subject Lands;
- Proposing transportation connections through a collector road system that provide connectivity with surrounding land uses and roads; and
- Establishing a clear transition from sensitive land uses through the provision for Light Employment Uses along the westerly boundary to the proposed residential uses.

The proposed OPA will establish the planning policy framework for the development of the Subject Lands in a comprehensive manner and implement the recommendations of the Land Use Considerations Analysis on the Subject Lands.

The proposed Official Plan Amendment has been evaluated, and has been found to be consistent with the 2014 Provincial Policy Statement. The proposed Official Plan Amendment also conforms to the City of Stratford Official Plan.

Section 5 – The Amendment

The Official Plan of the City of Stratford is amended as follows:

1. By adding the following new Section 4.13 to the Official Plan as follows:

4.13 GATEWAY MIXED USE AREA

The lands designated Gateway Mixed Use Area are located along Ontario Street / Highway 7/8 at the easterly limit of the City of Stratford. These lands were formerly within the Township of Perth East and area specific policies are necessary in order to advance city building initiatives that would foster the current and future economic and social wellbeing of the City. The subject lands are strategically located at the eastern gateway of the City of Stratford, providing an opportunity to establish development that achieves a sense of arrival to the City while being complementary to the surrounding context.

4.13.1 Goals and Objectives:

- i) To establish a gateway location to the City of Stratford.
- ii) To achieve a broad mix of commercial and residential uses that are compatible in terms of scale, density and design with neighbouring development and adhere to sound planning principles related to servicing, traffic, site design and amenities.
- iii) To provide for a development form that is compatible with and complementary to the existing commercial areas to the west.

4.13.2 Permitted Uses

Areas designated Gateway Mixed Use shall permit:

- i) **RESIDENTIAL:** medium and high density type residential uses including apartments above the first floor in a mixed-use building and small lot single detached, semi-detached, duplex, and triplex dwellings, townhouse dwellings, apartments, retirement residences (including assisted living, retirement, memory care and long term care facilities), back-to-back and stacked townhouses.
- ii) **COMMERCIAL:** the primary commercial uses will be those with large land requirements for building purposes, on-site parking and outside storage as well as those uses engaged in the provision of convenience goods and services. The actual uses permitted in these areas will be set out in the Zoning By-law.
- iii) For clarity, Section 4.7.2 shall not apply to the Gateway Mixed Use designation.

4.13.3 Design and Development Considerations

- i) Where residential uses are proposed, the minimum density policies contained in Section 4.5.3.3.ii) shall apply. The maximum density per net hectare shall be 100 units.
- ii) Residential uses may locate on the upper floors of permitted commercial uses (in a mixed form) and/or to the rear of permitted commercial uses;
- iii) The maximum height for buildings shall be 6 storeys;
- iv) To achieve the target of 25% of new housing to be affordable to low- and moderate-income households as set out in Policy 3.4.1 vi), a mix of housing types and sizes shall be developed within the Gateway Mixed Use designation with a minimum of 40% of new housing units being in forms other than single detached dwellings or cluster single detached dwellings.
- v) The block pattern should reflect a rectilinear grid pattern which provides for the maximum possible degree of connectivity internally and externally with adjacent areas and abutting arterial and collector roads with crosswalks to promote walkability;
- vi) The development will incorporate linkages to the City's parks and open space system, the City's transportation network and/or other points of interest. Linkages to private or public open space features may serve as focal points for the residential development and/or structural elements which define the character and structure of the area;

- vii) Commercial uses should be designed to have direct frontage on Ontario Street with the option of residential above for integration (in a mixed-use form) and/or to the rear of commercial uses;
- viii) Buildings and structures shall incorporate architectural, landscaping or other features which emphasize the unique nature of the community;
- ix) Buildings or structures are sited and massed toward Ontario Street / Highway 8;
- x) Parking areas shall generally be at the rear or side of buildings, and can be at the front of buildings subject to screening;
- xi) Signage shall present a positive visual image of the City; and,
- xii) Design shall be in keeping with the City of Stratford Urban Design and Landscape Guidelines.

4.13.4 Land Use Conflicts

Existing or potential land use conflicts within Gateway Mixed Use Areas and between these areas and adjacent lands shall be reduced to acceptable levels by the use of separation distances and / or other mitigation measures.

4.13.5 Implementation Provisions for Retail Development

Applications for Zoning By-law Amendment and/or Minor Variance to permit new or expanded retail commercial uses or developments above 1,858 m² (20,000 sq ft) shall be accompanied by appropriate studies to assess the justification for and the impact of the proposals in accordance with Policy 4.7.6 of the Official Plan.

2. By adding the following new Section 11.3 to the Official Plan as follows:

11.3 STRATFORD EAST PLANNING AREA

On the lands located on the south side of Highway 7 & 8, east of C.H. Meier Blvd, having a 139.6m frontage (Highway 7 & 8) and an area of 21.8 ha, and legally described as Lot 41 and Lot 42 Concession 1, in the City of Stratford the following additional policies apply:

11.3.1 Industrial Area:

On the lands located south of Festival Marketplace Shopping Centre, east of C.H. Meier Boulevard and north of the CN Railway Tracks, notwithstanding the uses permitted in the "Industrial Areas" designation, only the following light industrial and service commercial uses shall be permitted: the manufacturing, assembling, repairing,

wholesaling or storage of any goods, substance, article or thing in a wholly enclosed building. Only the following secondary uses shall be permitted: outdoor recreation uses; motor vehicle sales and service establishments; limited office uses not otherwise permitted in the Downtown Core; research and development uses; and education and training other than elementary schools. Accessory industrial uses as listed in Section 4.8.4 shall also be permitted.

11.3.2 Medium Density Residential Area:

In the Medium Density Residential area, the policies of sections 4.5.3.2, 4.5.3.3 and 4.5.3.4, apply with the exception that the maximum density per net hectare shall be 100 and the maximum height shall be six storeys. To achieve the target of 25% of new housing to be affordable to low- and moderate-income households as set out in Policy 3.4.1 vi), a mix of housing types and sizes shall be developed within the Residential designation with a minimum of 40% of new housing units being in forms other than single detached dwellings.

11.3.3 Roads:

11.3.3.1

In order to serve the public interest and provide for emergency services, two means of access to the subject lands will be required. While it is preferred both means of access be by way of a public road, one means of access may be permitted on a temporary basis by way of an easement. The development of individual properties in the Gateway Mixed Use designation with access to Ontario Street / Highway 8, may be developed with only one access to a public street

11.3.3.2

Access to the lands will be addressed in conjunction with future Plan of Subdivision application.

11.3.3.3

Prior to granting draft approval to any Plan of Subdivision, the City will consult with affected agencies, the Ministry of Transportation and the Township of Perth East on access and road impact issues. Consolation shall include providing the Ministry of Transportation and the Township of Perth East a copy of any Transportation Study for review and comments.

11.3.3.4

The east/west collector is intended to extend easterly to connect with Road 111.

11.3.3.5

In conjunction with any Plan of Subdivision application, a Transportation Study will be required that identifies and assesses the impacts of the proposed development on abutting properties, and existing and proposed streets, including Road 111. The transportation study shall be to the satisfaction of the City of Stratford and, as it pertains to Road 111, to the Township of Perth East, acting reasonably.

11.3.3.6

As development of the subject lands may occur before a connection to Road 111 is approved and traffic volumes on Road 111 may ultimately be generated as a result of development on the subject lands, the future developer of these lands may be required to enter into an agreement with the City to address road improvements on area roads prior to final approval of a Plan of Subdivision. In addition, the future developer of these lands may be required to enter into an agreement with the Township of Perth East in order to ensure that the recommendations of the Transportation Study, as it relates to Road 111, are implemented by the future developer.

11.3.3.7

No local roads will be permitted to intersect with Highway 7 & 8, only driveway access shall be permitted to the 'Gateway Mixed Use Area' lands.

11.3.4 Parks

Neighbourhood parks shall be considered during the Plan of Subdivision process. Generally neighbourhood parks are to be centrally located, with pedestrian and road access and shall be designed to facilitate community connectivity.

11.3.5 Compatibility of Uses

In order to ensure conflicts between land uses do not occur in the future, separation distances from industrial uses shall be in accordance with the MOE D-6 Guidelines.

The location and massing of new buildings in the residential designations must be compatible with surrounding existing commercial land uses. The City will require that mitigation measures, such as screening, landscaping, fencing, and setbacks, be implemented through the zoning and development review process to minimize the potential for any undue impacts, including stormwater management, on surrounding existing commercial uses.

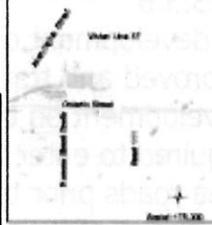
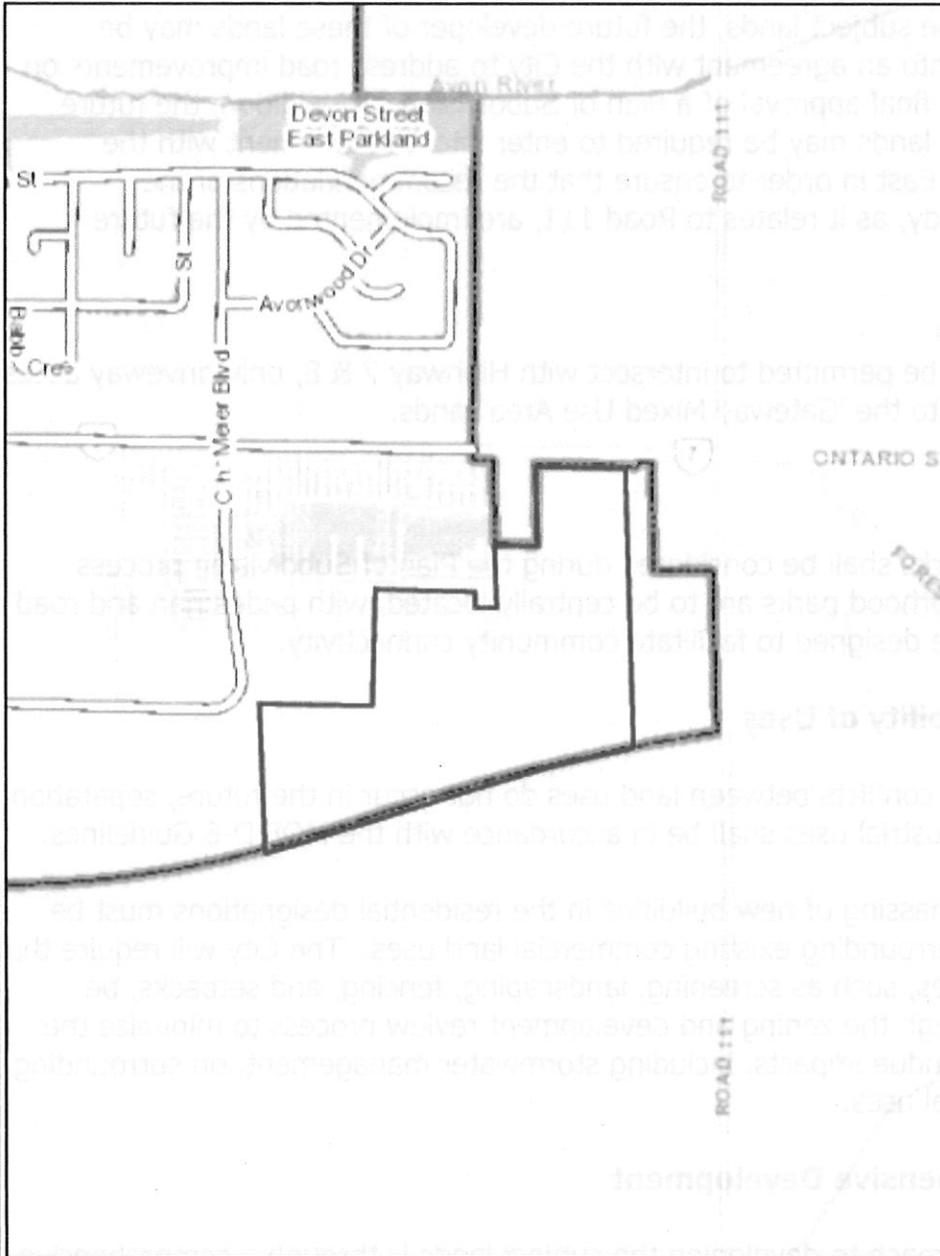
11.3.6. Comprehensive Development

The preferred approach to developing the subject lands is through a comprehensive plan of subdivision process; however, individual lots may be created through the consent process if municipal services are available and if creation of the lot does not negatively affect the development of the remainder of the lands for intended uses.

3. By amending Schedule "A", General Land Use Plan, and Schedule "D", Road Network Plan, and replacing them with the revised Schedule "A", General Land Use Plan, and Schedule "D", Road Network Plan as shown in Schedules 1 and 2 respectively which are attached to and form part of this amendment.



South East Corner of Ontario Street and C.H. Meier Boulevard



- Legend**
- Subject Lands
 - Parks
 - Property Parcel
 - Civic Address
 - Hydrology Major

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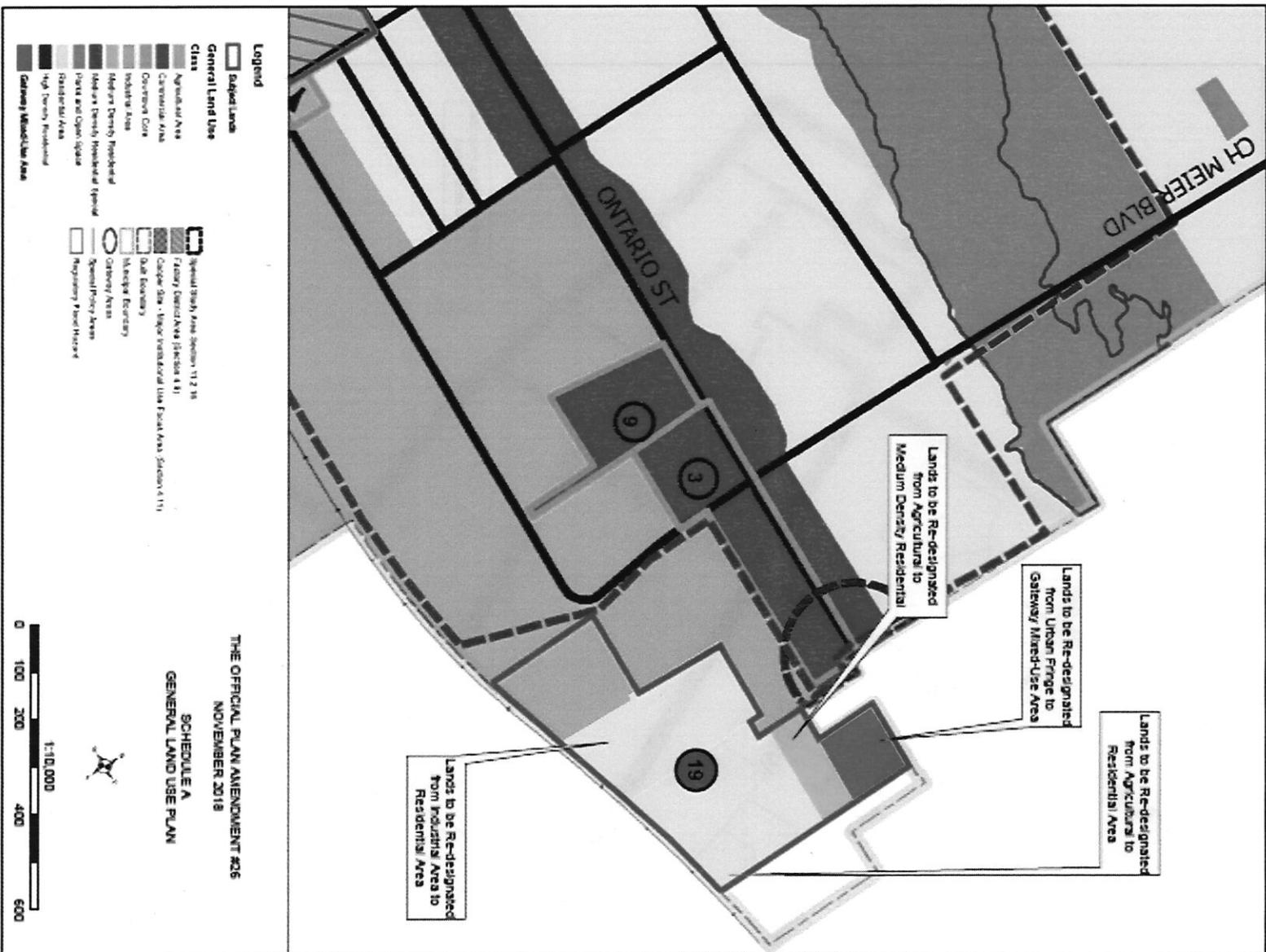


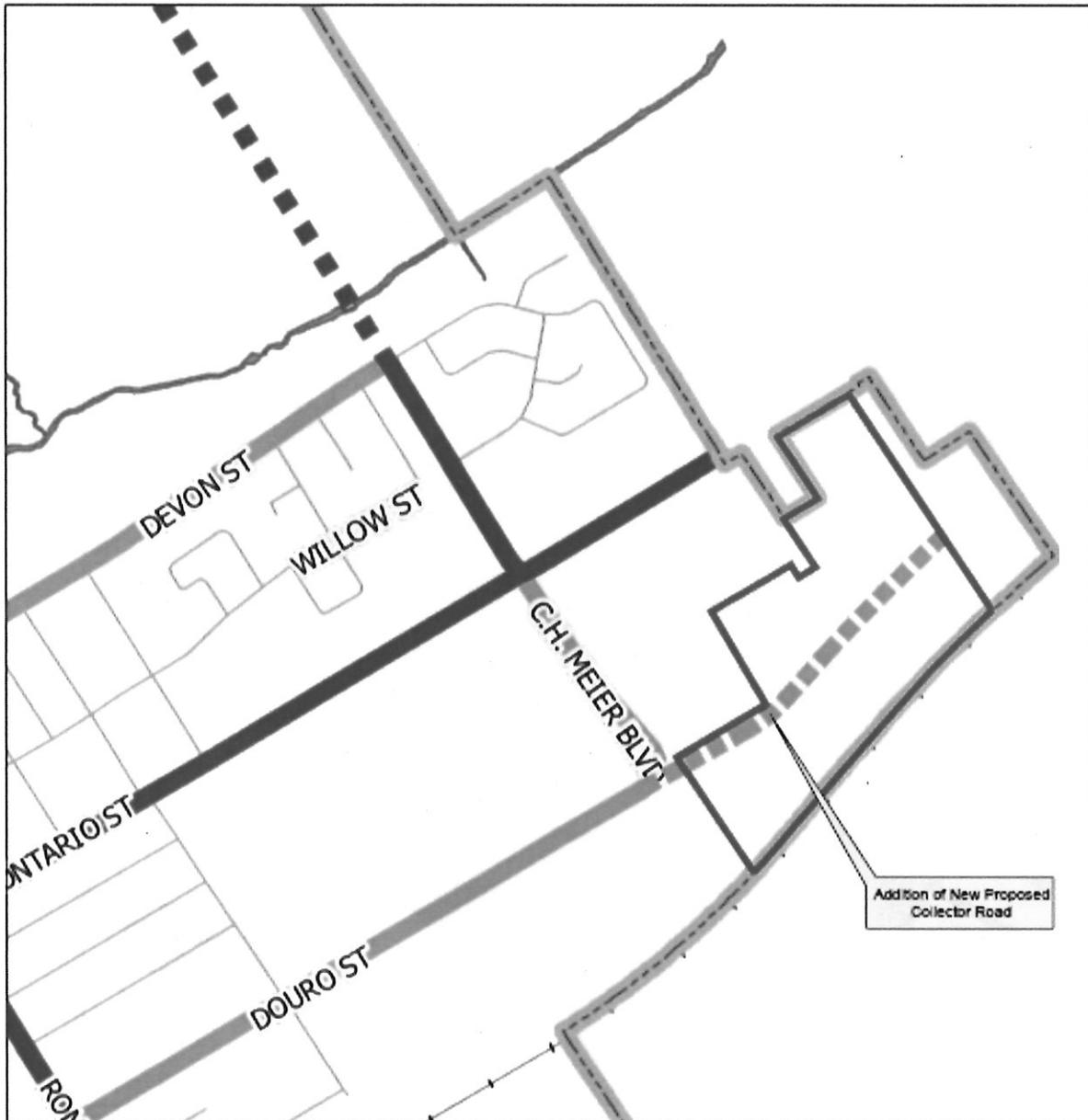

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Notes
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NAD_1983_UTM_Zone_17N
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THIS MAP IS NOT TO BE USED FOR NAVIGATION





- Legend**
- Subject Lands
 - Municipal Boundary
 - Road Classification**
 - Arterial
 - Collector
 - Proposed Arterial
 - Proposed Collector
 - Local
 - Utility

THE OFFICIAL PLAN AMENDMENT #26
 NOVEMBER 2018
 SCHEDULE D
 ROAD NETWORK PLAN

