



THE PRESERVATION OF  
AGRICULTURAL LANDS  
SOCIETY (PALS)

*Working to Protect the  
Best Farmlands in Canada  
Since 1976*

**SPRING 2022**

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## PRESIDENT'S LETTER

Dear PALS Supporters,

As PALS Board members greet Spring, our attendance at the most recent of numerous meetings on Niagara Region's draft Official Plan and our planned Blossom walks, bring with them a sense of déjà vu, taking us back to the 1978 to 1981 Ontario Municipal Board hearings on the first Niagara Region Official Plan boundaries, where PALS won half the 7,200 acres of the fruit land in dispute. We also remember participating in many subsequent Regional Niagara planning meetings, where progressive policies, such as intensification, growth steered away from fruit lands to lesser agricultural lands in south Niagara, and protection of valued natural heritage were wins as well.

To-day though, PALS is dealing with a proposed non-appealable Official Plan, which, if accepted by the Regional Council at the end of June, will allow unneeded urban sprawl on close to 3,000 acres of prime farmland, some of it having favorable climate and soil for tender fruit and grape farming, and shamefully, destroy hundreds of acres of natural heritage wet lands and Carolinian woodlands.

Our uphill battle is with Regional Niagara and contracted outside planners, and dominated by provincial government policies that promote sprawl through a 30 year planning period, market-based housing, and soon, a reduction in public participation in planning. We are buoyed however, by the growing number of Niagara residents who are speaking out against urban expansions, and the many Ontario municipalities such as Hamilton, Peel, Halton, Orillia, York, Durham and Oxford, who are refusing to follow the Government's pro-development dictum.

Let us hope that Niagara Regional Councillors will do the same to protect our unique and threatened fruit lands, prime farmlands and valuable natural heritage resources, when they vote on the proposed Official Plan in late June.

Doug Woodard

# **DON'T MISS!**

## **PALS 46th AGM**

### **MAY 12th 7 P.M. (on zoom)**

featuring



#### **Nancy Hurst**

*Co-founder of Stop Sprawl Hamilton  
& Save Our Streams Hamilton*

#### **Don McLean**

*Part of Stop Sprawl Hamilton,  
co-founder of Environment Hamilton  
and part of the Hamilton 350 Committee  
for real action on climate change*



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### **Hamilton and Halton Region Refuse Urban Boundary Expansions**

Both Hamilton, which includes the large rural area of former Wentworth County, and the Region of Halton (notably the cities of Halton Hills and Milton), are surrounded by Class One Agricultural Lands and have refused to permit any urban boundary expansions.

However, in a strange development, the Province has agreed that the actions of the Hamilton City Council and Halton Regional Council are in accordance with the Provincial Policy Statement (PPS), but has raised issues concerning their conformity with the Growth Plan. For the provincial government to make this argument about the Growth Plan is highly dubious, as for about two decades provincial land use planning has been governed solely by the PPS.

The creation of the Growth Plan was linked to the formation of the Ontario Greenbelt in 2005. The two policies were brought in at the same time since it was believed that if the Greenbelt's boundaries were to endure, a complimentary set of land use planning policies, which imposed greater restrictions on land use than those required by the PPS, had to be introduced. While the PPS governed private lands throughout Ontario, the Growth Plan was developed as additional restrictions for municipalities impacted by the Greenbelt, such as Niagara Region, Hamilton and Halton.

At the time there was considerable concern about the large swaths of Class One Agricultural Land just next to the limits of the Greenbelt in areas like Halton. It was feared that sprawl would leapfrog to the very edge of the Greenbelt's borders and quickly pave over some of the best remaining farmland in Canada that became known as the "White Belt."

To protect the extensive area of White Belt farmlands, the Growth Plan also brought in intensification policies much stricter than those of the PPS, the most obvious being a new intensification requirement. For the province to tell Hamilton and Halton Region that their policies conform to the PPS and not the Growth Plan makes no sense. By refusing to expand into the Class One White Belt lands these municipalities are defending the areas the Growth Plan was developed to protect from urban sprawl.

### **Appeals to Courts Show Poor State of Land Use Planning in Ontario**

The increased use of judicial appeals of Ontario Lands Tribunal (OLT) decisions and those of its predecessor the Local Planning Appeals Tribunal (LPAT), is illustrative of the poor state of land use planning in Ontario. Unlike OLT Tribunals the judiciary are appointed by the Federal government, and this has made the Ontario Superior Court of Justice the last refuge of the most rudimentary principles of good land use planning.

One of these cases, *Kraft v. Toronto*, was at the heart of land use planning battles in Toronto, concerning efforts by the City administration to obtain more parkland dedication through the development approval process. To make a convincing case to LPAT, the City of Toronto wished to call expert witnesses to prove that more parks were needed in this developing area, close to railway lands. To defend its case the City of Toronto took LPAT to the Ontario Superior Court of Justice. It prevailed, and because of the victory was able to call witnesses to defend its position at an LPAT hearing.

The second important victory was won through the appeal by the Friends of Simcoe County Forests against the attempted use of a Ministerial Zoning Order to allow Simcoe County to permit construction within an over 200-acre forest known as the Freele Tract. As a result of their appeal, assisted by the Canadian Environmental Law Association, restrictions were imposed on the use of Ministerial Zoning Orders (MZOs) through the imposition of public participation requirements.

However, during 'case management' session of the Thundering Waters Official Plan Amendment hearing in Niagara Falls, LPAT refused to allow the appellant to call witnesses, even though it gave the same legislative interpretations which the Ontario Superior Court of Justice dismissed in the City of Toronto case. Instead, the appeal was dismissed based on the lack of expert witnesses, even though this was caused by LPAT's refusal to allow them to be called. The case was taken to court by the Appellant and is currently awaiting a decision.

### **Flawed Rational for Niagara Regional Official Plan Urban Expansions**

For those familiar with the evolution of land use planning in the Province and Niagara since PALS formation in 1976, it did not appear that the provincially mandated new Official Plan for Niagara would be coupled with massive urban boundary expansions. It had been conceded before the review of the existing Official Plan began in 2017, that any new expansions would be justified on a region-wide basis.

In the first two years of the review most of the time was spent debating if ash trees would be succeeded by Buckthorn or replaced by a new forest. This was never directly addressed but the current Environmental Conservation (ECA) features of the regional plan were confusingly divided up into Significant Woodlands, Local Woodlands, and Local Wetlands. And, watershed studies, which were stated to be necessary before any specific urban boundary expansions were determined, have been put off until the new Official plan is in place.

Meanwhile, meetings between Local, Regional and Provincial planners continued behind the scenes and a variety of reasons to justify urban boundary expansions were presented to the public and Regional Niagara Councilors at a series of meetings, eventually stretching over 4 and ½ years. First, Niagara used an inflated figure of 20,000 people more for future growth than that assigned by the province. This was coupled with the Provincially-mandated planning timeframe to 30 years, followed by the claim that a part of urban boundary expansions were to be justified based on protecting more environmental areas within urban boundaries.

Then came the most novel and rare ingredient, shifting of planned growth from Port Colborne and Thorold, where it is claimed large areas zoned and designated for residential development will not be built over for the next thirty years. This growth has been allotted to and shifted to urban expansions in West Lincoln, Niagara Falls and Fort Erie as described below.

#### **West Lincoln**

A thousand acres, about half of the proposed urban expansions in Niagara, are slated for West Lincoln around and in the small village of Smithville, which as a result will have its population triple. Although there is currently no transit to this area, it is argued that the situation will change within the 30-year planning period, as sprawl overload from Hamilton settles in and a planned transit hub is built.

Virtually all the land in the Smithville urban expansion area is Class One or Two Prime Agricultural Land. Lands in the northern edge of the proposed expansion have been identified as being the source of potential conflict with the Agricultural Code of Practice, designed to protect livestock operations, however the Regional Niagara planners have indicated such concerns have been removed for “timing” reasons. This would appear to indicate that the livestock operations that would be impacted, will instead, go out of business.

There are also three different areas where there are above ground Karst formations, featuring jutting rock forms, like the those of the Niagara Escarpment. While their location is currently known, keeping these lands off limits to development has been assigned to future studies.

Importantly, there are also two natural heritage features in the northern area proposed for expansion. One is a significant forest, which could be destroyed by the EIS process in the future, and the other a protected wetland which could be degraded by being separated from the adjacent agricultural area.

#### **Niagara Falls**

There are three areas being proposed for urban expansion in Niagara Falls. Two of these are close to estate wineries and have the same soil and climate conditions. All have significant natural heritage features, notably habitat for breeding amphibians, and significant woodlands, which are vulnerable to development through misleading developer EIS studies. One development concept - a management plan for lands near the Ten Mile Creek, proposed a storm water management pond in a vernal pool that provides amphibian breeding habitat, which runs contrary to provincial guidelines on storm water.

*Cont'd on page 4*

Last summer PALS thought briefly that we had won a major victory when the Niagara Falls Planning Department wrote that it did not want any urban boundary expansions. This recommendation was based on two reports, which were approved by the City Council. One concerned Employment Lands and the other was a housing strategy. Both reports were carefully coordinated with transit studies. The housing study recommended intensification along major street transit corridors and concluded that more Greenfield development would increase housing inequities in Niagara Falls.

Another area proposed for expansion south of Lundy's Lane, contains a major tributary for Beaverdam's Creek and is an emergency source of drinking water for the City of St. Catharines. It also contains an old growth forest dominated by Shagbark Hickories and Pin Oaks. And, the most southerly expansion proposed in Niagara Falls contains a protected wetland. If the development is approved, it would be degraded and surrounded by urban development.

## **Fort Erie**

Like Smithville, the proposed urban expansion in Fort Erie involves a massive swath of over a thousand acres of good agricultural land. It is located east of the Queen Elizabeth Highway and is crossed by several significant forests and wetlands. The entire area is an important landscape for water discharge. This was discovered first by Dr. Dickman when during field work he found a ground water spring that provided the headwaters for Millers Creek. This was confirmed later by environmental studies.

The area for urban expansion most of which involves the former Canadian Motor Speedway lands, has long been recognized by the Ministry of the Environment, Conservation and Parks as a landscape that provides important Deer Wintering habitat. Protected wetlands in the CMS proposals were targeted to be crossed by roads, through the opening of long closed allowances, and the danger could be repeated if the area is included in the urban boundary. Species at Risk here include the Bobolink and Meadowlark. Urbanization would damage Miller Creek and Frenchman's Creek downstream degrading significant habitat for the Northern Pike, Grass Pickerel, and Muskellunge.

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## **QUOTABLES**

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### **Flaws in Environmental Impact Studies Exposed – Dr. John Bacher (PhD)**

Two incidents have exposed the problems with developer- paid Environmental Impact Studies (EIS) in Niagara. Under the Niagara Region's Official Plan EIS studies are triggered by efforts to build in significant forests. The studies are supposed to demonstrate that the development which is being proposed can take place without any loss in ecological function.

Recently, important information regarding the pro- development manner that EIS studies are carried out, emerged unexpectedly through use of the Natural Heritage Mapping tool developed by the Niagara Regional Planning Department, which maps streams throughout the Region. This caused PALS to check to see what became of Miller Creek east of the Queen Elizabeth Highway.

Surprisingly, when the mapping tool was used, Miller's Creek east of the Queen Elizabeth Highway, which once flowed from an underground spring, had totally vanished. Not only was there no blue line provided by the mapping tool, but from the air photo no stream course was visible. All the trees which once lined the creek here had totally vanished.

After receiving the disturbing evidence from the mapping tool, PALS contacted Sandy Vant who had in the past lead public opposition to the Canadian Motor Speedway (CMS). She informed us that the trees which once lined Miller Creek and the former spring headwaters, were subjected to extensive bulldozing. This swath of destruction also engulfed a former breeding are for a Threatened bird species the Bobolink.

In EIS studies for the CMS, it was claimed that a realigned creek would be carefully lined with trees. There is no evidence of the contours of a realigned creek, or any sign of it being lined with, what should be seven-year-old young trees. The promise of the EIS was not met.

*Cont'd on page 5*

Shortly after the disturbing news of the failed realignment of Miller Creek, a Tree Saving Plan, an instrument required to remove trees under the Niagara Region's Tree Protection by-law, also came to light, again through our use of the Regional Natural Heritage mapping tool. It detailed the 1,375 trees planned for removal for the Riverfront (Thundering Waters) development in Niagara Falls. The Plan found that "With respect to the general health of the trees" CMS planned to remove, "no obvious sign of wide-spread disease was present." It also found that the area was dominated by a combination of Eastern Cottonwood and Willow trees, rather than ash trees as the proponent had sated. This factual accounting was completely contrary to the EIS report by the developer's expert, which wrongly claimed, based on test plots, that only nine per cent of the area "met the definition of woodland based on the reality of healthy, native trees."



**Letter to: The Regional Niagara Planning and Economic Development Committee**  
**Re: Recommended New Regional Official Plan Urban Expansions as of 08/12/21**

**From: Natalia Shields, resident of Fonthill, Niagara Region January 7th 2022**

It has come to my attention that on January 12th, the Planning Committee of the Niagara Regional Council will be putting forward proposals for urban boundary expansions in several locations of the Niagara Region in anticipation of population growth and the consequent need for more affordable housing. In each of the areas, the expansion will be at the expense of farmland and green spaces.

I am writing to express my objection to this urban expansion proposal for multiple reasons which I will outline below.

Firstly, it is beyond belief that the loss of farmlands of Niagara to housing and shopping malls be considered acceptable, particularly during the current climate change crisis. Niagara's shrinking agricultural lands at a time when food security concerns loom before us is of great concern to me and other citizens of Ontario.

To add to the urgency is the realization that producing food as close to markets as possible has never been more important than now, given that importing fruit and vegetables from distant places such as China and California only exacerbates our already dire climatic conditions.

Besides, as locations such as California and even British Columbia are suffering from increasing incidents of extreme climate events,] threatening the viability of their agricultural industries, it is in Ontario's best interest to protect and preserve every bit of our available farmland for the good of our population. Need I point out that Niagara's soils and unique location make the farmland here particularly special for its ability to support tender fruit crop culture. In fact, it's the only remaining place in Canada that has this ability! And if it is turned over to housing or paved over for shopping malls and other businesses, the land will be lost to agriculture forever.

Secondly, we in Niagara are proud of the region's great beauty, much of that beauty arising from the green spaces around us. Alas, those green spaces have been shrinking over the years, being supplanted by development of industry and urban sprawl. Yet we learn from climate scientists that green spaces such as wetlands and woodlands are huge sequesters of carbon, not to speak of the contributions they make in terms of flood and erosion control as well as the provision of habitat for the region's varied wildlife. It is incumbent of our leaders to be protecting and cherishing these green spaces for the citizens of Niagara, not giving them up to expanding current urban boundaries.

Thirdly, for the population growth that Niagara will be experiencing in the next 30 years, there is another solution. And that is the intensification of population density within the current urban boundaries. There is considerable land already available for affordable housing within Niagara Regions urban boundaries. That's where our leaders' minds should be turning for creative solutions to new housing for future population growth. They were elected to make wise decisions for the good of the people, not the easiest or most profitable for a few developers.

In summary, would you like to be remembered as the leaders that thought that urban expansion at the expense of precious farmland and green spaces was a good idea? I think not! Instead, I ask you to make the wise decision, reject the concept of urban expansion as set out in your planning proposal and go back to the drawing boards with intensification of population within current urban boundaries in mind. Some of the solutions may be costly in the short term but in terms of the future benefits, well worth it!

## Quotes from PRESS RELEASE FROM THE CITIZENS AT CITY HALL - April 30th 2022

Despite unprecedented public involvement and an overwhelming result, the no-boundary expansion decision of city council may yet get overturned. But its citizen supporters aren't sitting back and leaving things in the hands of the current politicians.

Provincial legislation finalized on April 14th includes a new rule allowing the provincial cabinet to ask the Ontario Land Tribunal to review municipal plans such as the Hamilton one being finalized next month by city council. This extraordinary step presumably will occur sometime this Summer if the Ford government is reelected on June 2nd.....

....Stop Sprawl Hamilton has had three rallies in a few days, and is distributing a striking short video on the city's response to the provincial legislation. The video is titled "More problems for everyone", is a not so subtle poke at the "More Homes for Everyone" moniker the Ford government has attached to its recent provincial legislation.... The clips main conclusions shows that the provincial bill means higher property taxes for Hamiltonians, more power for the developers and putting public safety at risk. It also contends that the new legislation knee-caps local decision making and won't even succeed in building more houses. ...

....In February, chief planner Steve Robichaud announced that Hamilton achieved a record 67% intensification rate last year-far higher than staff and consultant's prediction that had been used for argue for adding 3000 acres of farmland to the current urban area....."

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