



Palm Place Mayoral Advisory Group
FINAL REPORT

Mr. Brian Miller, Chair
January 2008

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**Mayoral Advisory Group – His Worship Robert Burton, Mayor
Town of Oakville**

Palm Place Development Process

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Purpose:

1. To explore the process which led to the development outcome at 3506 Lakeshore Rd. W., Oakville (hereinafter referred to as “Palm Place” or “Shell House Lands”) and explore factors that contributed to the outcome being contrary to the Town of Oakville Official Plan/Zoning designation, provincial strategic direction to protect waterfront, general consensus local residents and Council recommendations; and further
2. To provide the Mayor with recommendations for future development application processes that may prevent similar outcomes for the community.

Scope of Work:

1. Identify key elements in the Palm Place development application process and outcome;
2. Identify responsibilities and actions of stakeholders and staff;
3. Obtain necessary information from key decision-makers and/or advisory sources to understand possible process changes and/or irregularities; and
4. Formulate recommendations.

Methodology:

1. Identify statements of facts from Bronte Village Residents' Association (hereinafter referred to as BVRA)/community perspective – as understood by them during the Palm Place development application process (acknowledging not all information was available to the public);
2. Identify expectations of BVRA/community;
3. Present questions of clarification to identified involved parties;
4. Analyze responses with assistance of professional planner and legal counsel; and
5. Provide report to Mayor and for public dissemination.

Timelines:

1. Research relevant facts and issues – May-September, 2007
2. Questions to stakeholders – September 30, 2007
3. Review with professional planner – October 2007
4. Final report – JANUARY 2008

Introduction and History

The 9.03 acre subject property is located on the shores of Lake Ontario, south of Lakeshore Road and between Great Lakes Boulevard to the east and Burloak Road to the west in Oakville, Ontario.

In 1999, the property could be described as completely vacant with a large portion of the property covered in woodlot and meadowland or grass. It was largely left undisturbed; having years of vegetation growth and plentiful wildlife. Several generations of deer live on the property.

The property was sold to Metrus Development by Shell Canada Ltd. in December 1999 as a small part of a very large development site (327 acres).

The majority of the property purchased by Metrus is north of Lakeshore Road, bordered by Shell Park, Burloak Road and Rebecca Street. Metrus initially filed a proposed Official Plan Amendment, Plan of Subdivision and Zoning Amendment (separate and apart from any development application regarding the Shell House Lands.) The Official Plan (Secondary Plan) required high density residential units within the mix of housing types in this part of the development. Metrus wanted this requirement removed and appealed to the Ontario Municipal Board.

Ultimately this development application was approved by Oakville Town Council on **February 26, 2001** and the OMB appeal was withdrawn by Metrus.

The approved development consisted of 1,430 single family homes and semi-detached homes. It was the largest single development application approved in Oakville and is now known as Lakeshore Woods. There are no high density residential units within the mix of housing types offered within this subdivision plan contrary to this requirement within the Official Plan (Secondary Plan).

The Shell House Lands were not included as part of the application and despite public enquiries at the time of the Lakeshore Woods application, the developer indicated they had not developed plans for the Shell House Lands. (Further details of this approval will follow – see “Parkland Credit Agreement Letter” section.)

In **September 2001**, when the sales office for the approved Lakeshore Woods subdivision opened, the sales brochures identified the Shell House Lands as “proposed future high density development”. This brochure was the first ‘public’ disclosure of the owners’ intention for high density development on the Shell House Lands.

Local residents became aware of the sales office brochure and contacted their Ward 1 Councillors (Councillors Ralph Robinson and Kevin Flynn). Residents were anxious to understand how it could be possible for the Shell House Lands to be developed as high density residential when the property was zoned “Private Open Space” and ‘Low Density Residential’.

Sufficient concern and interest was shown in the community for the Ward 1 Councillors to organize a public information meeting at the Bronte Legion. Approximately 75-100 residents attended the meeting in **November 2001**. Oakville planning staff and Ward 1 Councillors explained the current zoning on the property and a development application process in general. The Oakville planning staff presented an overhead projector display of several housing layouts which would fall within the zoning allowances. Numerous questions regarding the development application process were presented by community members; clearly demonstrating an interest in the future of the waterfront property.

Community members expressed concern over the natural habitat of the waterfront property and the old-growth trees that could be harmed and destroyed with development. There was also much discussion about traffic problems that massing in that area would create. The community unanimously requested the Councillors advise the developer/owner that the neighbourhood community strongly disagreed and disapproved of high density residential development on this waterfront property.

It was clear the community members were at the meeting to understand how and what the developer could do, the status of the property, what they could expect in the process and how they could articulate their community disapproval.

On **January 16, 2002** local community residents were advised the Ward 1 Councillors (Robinson and Flynn) had followed up with the community request and had met with Mr. Bob Hooshley, the Shell House Lands property manager.

Councillor Robinson advised they had strongly reiterated the message given by the community members – anything other than ‘singles’ (within the current zoning designation) would not be supported. Councillor Robinson advised that Mr. Hooshley had only indicated he had not been given any direction from the owners of Metrus regarding the property.

On **January 17th, 2003** the Shell House Lands property owners (Metrus) unveiled their preliminary plans during a meeting with Ward 1 Councillors. The proposal was for high density residential condominiums. This information was informally passed along to several community members, including Mike Lansdown and Laurie McGinn (contributors to this report).

A Town of Oakville pre-application meeting was held with representatives of the property owners and Mr. Peter Cheatley, Director of Planning for the Town of Oakville on **February 19, 2003**. The purpose of the meeting was to outline and clarify the application submission requirements and on **July 18, 2003** a formal Official Plan and Zoning By-law Amendment application for the property was filed. The application by “Palm Place Developments Inc.” was 1000 units of high density residential condominium units in two concepts:

- a. four (4) 25 storey towers; or
- b. eight (8) 15 storey towers.

Part of the mandatory requirements of any development application subject to Official Plan Amendment and Zoning by-law Amendment is for the applicant to provide signage on the property to notify the public of the existence of the application. There was a very significant delay in the signage being posted – a total of four and half months.

In fact, signage on the property was not erected until after the Municipal and Provincial elections. The signs were erected on **November 23, 2003**; two weeks after the municipal election.

Without signage to notify the community of the application, it was only through interaction of neighbours that information related to the application was being disseminated. As more community members became aware of it however, it was clear that the concept of this unprecedented massing and height on the waterfront in Oakville was not welcome within the community. Consequently, the Bronte

Village Residents Association (BVRA) was formed to challenge the development application.

The Town's planning staff had indicated to Palm Place Developments from the date of the application that the application was incomplete and there was insufficient information from which they could form an opinion to Council.

Rather than provide Town planning staff with sufficient information, on **November 17, 2003**, Palm Place Developments filed an appeal to the Ontario Municipal Board pursuant to Section 34 (11) of the Planning Act as the Town had not provided a definitive response to their application within 90 days. (Note that the signage on the property was not erected until even after the applicant had filed with the Ontario Municipal Board).

No public meeting had been held regarding this application to this date.

On **December 8th, 2003** the Bronte Village Residents Association presented a delegation to Council and spoke against the application. The Council chambers were full and members were vocal and unanimous in their position of opposition to the development application. The extent of the community opposition was reiterated as front page news in the Oakville Beaver newspaper.

The BVRA continued to meet with Councillors, attend Council meetings, met with federal officials, provincial officials, regional/municipal officials, the Mayor and planning staff to oppose the 1000 units of apartments on the waterfront.

A letter writing campaign was initiated and hundreds of letters and e-mails were received by the Mayor, Town Council, the Ontario Municipal Board, Provincial MPP (Kevin Flynn – who left Municipal Council and was elected in the October 2003 Provincial Election) and the Premier opposing the application.

Members of the BVRA also met with the Honourable David Crombie, author of the federally sanctioned 1991 report “Royal Commission on Waterfront Regeneration”. This Royal Commission report includes “Recommendation #60” specifically discussing the Shell House Lands and recommending no development on the Shell House Lands. Mr. Crombie was disappointed to learn of the application and called it ‘people warehousing’ and contributing to “Urban Sprawl”.

Between December 2003 and March 2004 members of the community, planning staff and Ward 1 Councillors met, not less than eight times to discuss the development application.

During one of the meetings in March 2004, Mr. Cheatley, Director of Planning, indicated that should the development application be appealed to the Ontario Municipal Board, the developer may argue the Town had already contemplated high density residential given the existence of an agreement to a 300 unit credit of parkland dedication.

Members of the community monitoring the Shell House Lands development process were not aware of the **“Parkland Credit Agreement Letter”**. The letter outlines conditions for which the Lakeshore Woods subdivision was approved. It was attached to the 100+ page public recommendation report related to the Lakeshore Woods subdivision application (available approx. 5 days prior to the Council meeting which approved the Lakeshore Woods subdivision). (The Letter is attached to this report).

The Parkland Credit Agreement Letter was not mentioned or explained by either the Ward 1 councillors or Town staff as a significant consideration for this application process for the first three years members of the community expressed interest and concern about the Shell House Lands development process.

“The Parkland Dedication Agreement Letter” Explained

The original plan of subdivision for the property to the north of Lakeshore Road (owned by New Province Homes Ltd – Metrus Development Inc.) was the subject of an Official Plan Amendment and Zoning Amendment.

The Town was facing an Ontario Municipal Board appeal for this application – filed October 2000.

On February 15, 2001 a staff report to Council (Council date February 26, 2001) recommended the approval of the New Province Homes Plan of Subdivision (Lakeshore Woods) subject to several conditions.

The staff recommendations were approved by Council; including approval by both Ward 1 Councillors; Kevin Flynn and Ralph Robinson.

For our purposes herein, 2 conditions that were approved by Council are important:

- a) release the requirement of New Province Homes subdivision plan to include high density residential in the housing mix as was required in the Official Plan; and
- b) approve a letter of **February 13, 2001** from Metrus which releases the owner from parkland dedication on the Shell House Lands for up to 300 units of development – should future development be approved.

To explain the ‘parkland dedication credit’, one must understand the statutory provisions for subdivision development applications including a requirement of dedicating 5% of developable land mass area as parkland within a subdivision or providing cash in lieu to the municipality.

In the case of Lakeshore Woods, 327 acres or 132.334 hectares was the subject of the development application. Included in this area mass were several natural areas (woodlots), valley and watershed features which became important to retain.

It was agreed between the planning staff and the developer, that the application would require a total parkland dedication of 19.38 hectares to meet the requirements of the Planning Act and the Town of Oakville’s Secondary Plan (Official Plan) for this property.

The application brought forward by Metrus (New Province Homes) included parkland dedication that was calculated at 33.10 hectares and included two significant woodlots on the property that were designated as Natural Area in the Official Plan.

The woodlots comprised an area of 16.38 hectares – within the 33.10 hectares of calculated parkland dedication. In addition to these woodlots there were valley areas surrounding a creek, areas desirable as parkland, and other natural areas that together totalled 33.10 hectares. It should be noted environmental studies on the

areas had also identified environmentally sensitive and protected tree species and birds/wildlife using the areas as habitat.

As a result, the developer contended in order to retain all 33.10 hectares of parkland, there was an “over-dedication” of parkland for which the developer needed to be compensated.

Discussions between the Town’s planning staff and representatives of the developer ensued in order to find a solution to the ‘over-dedication’. These discussions resulted in a letter from Mr. Robert Hooshley of Metrus (New Province Homes) to Mr. John Ghent, Manager of Planning for the Town, dated 26 January 2001. (Letter is attached to this report). The letter outlining the calculations of “over-dedication” and the “remedy” for the over-dedication were never made public and only became available to this Mayoral Advisory Group through a request to Mayor Burton in December 2007.

The letter indicates the development proposal would be ‘some 30 acres over-dedicated’ and considering the Town’s comments that the Town did not have excess cash to pay for parkland, Metrus was prepared to absorb a portion of the ‘over-dedication’ if the Town agrees that some of the excess could be applied to fulfill the parkland dedication requirements for up to 400 units of residential development on the Shell House Lands and other property (Eanarch Industrial Lands). The Metrus position as stated in the letter was:

“We will ‘call it even’ provided excess dedication is used to satisfy park dedications for lands Eanarch Industrial Lands, north of Rebecca and up to 400 units on the 14ac parcel south of Lakeshore Blvd.”

The staff report to Council recommended that in compensation for the ‘over-dedication’ of parkland within the development site, Metrus would receive agreement from the Town that the Shell House Lands would require no parkland dedication for the first 300 units of development, should high density development be approved for this property. The Town would also be conveyed a 15 metre walkway along the waterfront on the Shell House Lands.

The letter specifically indicates the Town makes no prior commitment for residential development approval. This letter was dated February 13, 2001 and was included in the lengthy staff report dated February 15, 2001.

This Mayoral Advisory Group was unable to reconcile the actual calculations of parkland dedication. There are no known explanations by Town staff that would clearly explain the calculations. The only calculations are found in the letter from Metrus to Mr. Ghent dated January 26, 2001 which was never made public until this report. It remains unclear how the Town reconciled the calculations that were done by Metrus and whether the calculations done by Metrus reconciled to Town policies on determining 'developable' and 'non-developable' land mass.

Further, the requirement for a 15 metre walkway along the waterfront was an existing requirement within the Official Plan in support of shoreline protection and access for the public for many years prior to the property being purchased by Metrus.

Oakville Town Council Decision on the Application

On **April 16, 2004**, the applicant submitted a revised application for 400 residential units on the western part of the Shells Lands site and identified the eastern part of the site as a "Future Development Area".

On **October 21, 2004** the Public Information Meeting was held in Council Chambers. The chambers were standing-room only (250+) and a video feed was set up for additional community members who were unable to get in the room.

The BVRA provided a power point presentation detailing the many concerns of the community and the rationale for opposition based on planning principles, Official Plan intentions, traffic concerns, environmental concerns, non-compatibility with existing community area and community character impact.

The applicant was asked to provide comment as to what benefit the application would have to the community and the response was "No Comment".

In excess of 500 letters and emails were received raising concerns about the proposed development. To put this into perspective, staff commented to Laurie McGinn (then BVRA president) that there were very few development applications in recent history which resulted in this level of public opposition. The story was carried on the front page of the Oakville Beaver not less than 12 times during this

process. The story also appeared in The Toronto Star on 2 occasions and was featured on CHCH news.

A status report was received by Council from the planning staff in November and again the Bronte Village Residents Association presented a delegation to Council identifying significant issues which had yet to be addressed and reinforcing the strong community opposition to the application.

February 28, 2005 – The staff report forwarded to Council recommended 300 units of development (to a maximum of 8 storeys) on the west side of the property with the east side being conveyed to the Town for parkland.

Mr. Peter Russell, representative for the applicant at the meeting, was specifically asked at the meeting if he believed the owner would accept this development proposal and he indicated – “No”. The BVRA presented a delegation at this Council meeting to again publicly oppose the application and challenge the planning staff’s compromise recommendation.

After 2 evenings of delegations and in-camera discussions, Council rejected the staff report and voted unanimously to support only 27 single family units on the property; within the current low density zoning limits.

Concurrently, the Ontario Municipal Board agreed to delay the OMB appeal hearing until a migratory bird study could be completed to review Conservation Halton’s reason for opposition to the application – that the property is an important migration path for birds and should be considered a Significant Wildlife Habitat.

May, 2005 – BVRA general meeting – unanimously supports Council’s position and prepares for the Ontario Municipal Board hearing as a full Party to the case; along with Conservation Halton and the Town of Oakville.

During this period, members of the Bronte Village Residents Association met with Mr. Kevin Flynn, (who had become the M.P.P. in the 2003 provincial election) on numerous occasions requesting intervention and/or assistance from the Province.

Early in the discussions, Mr. Flynn had sent a letter to the BVRA indicating that the property could be saved if it could be expropriated or purchased. The Bronte Village Residents Association repeatedly met with Mr. Flynn to seek his assistance. Although sympathetic to the situation, Mr. Flynn did not provide

assistance that resulted in any tangible results. Numerous different scenarios were presented to Mr. Flynn which required assistance from the Province such as a declaration of Significant Wildlife Habitat, assistance with funding in order to purchase the property, assistance with a declaration of legislative private members Bill, assistance to bring this to the attention of the Premier/Minister of Natural Resources, assistance with witnesses at the Ontario Municipal Board hearing, etc.

Every opportunity for provincial support was unsuccessful however for a variety of reasons. Mr. Flynn indicated the Province could not be involved in a matter before the Ontario Municipal Board, the Province was unable to view this as a priority and it would be difficult to become involved as it could set a precedent of getting involved in a matter that was a municipal consideration. Mr. Flynn indicated if the Province helped out, other communities may follow, seeking Provincial assistance with saving property for parkland purposes.

In fact, the provincial government has intervened when other cases before the Ontario Municipal Board such as the Oak Ridges Moraine case. Legal counsel contended, therefore, it was not clear why the Province could not get involved in this case.

The Bronte Village Resident Association also contacted Bonnie Brown, Oakville's Federal M.P. to review the issue of the property being adjacent to a major gasoline pipeline and gasoline shipping pier. Ms. Brown indicated she forwarded the BVRA letter to the Minister of Transportation. The Minister acknowledged receipt but no meaningful response was ever received from either the Minister or Ms. Brown.

The Ontario Municipal Board hearing was conducted over a seven week period in **January – February 2006**. There were 3 parties in opposition to the application; The Town of Oakville, the Bronte Village Residents Association and Conservation Halton. Evidence was heard by experts in the areas of shoreline protection, traffic, trees/environment, migratory birds and planning rationale. The hearing was long and complicated. The hearing officers were Mr. N. Jackson and Mr. G.C. O'Connor. The hearing included a public night which invited members of the public to attend and provide input. The hearing rooms were filled to capacity and ten residents officially addressed the Board in opposition to the application.

The 63 page Ontario Municipal Board hearing decision was issued on **May 18, 2006** and concluded that 300 units of development in three buildings conforming

generally to the developable area footprint established in the **February 28, 2005** staff report to Council represented good planning.

The Ontario Municipal Board hearing for this development application cost Oakville taxpayers over \$900,000.

Subsequent to the Ontario Municipal Board hearing decision, The Bronte Village Residents Association requested answers to specific questions on why the Town's position was not successful. The report from staff responding to the BVRA's questions did not, in the opinion of the BVRA, provide satisfactory answers to the questions raised. Further, the report was tabled at a meeting which the BVRA were unable to attend due to insufficient notice from the Town.

As a result, Mayor Rob Burton while attending the 2007 BVRA AGM appointed this Mayor's Advisory Committee with Brian Miller as Chair.

ISSUES OF FACT AND PUBLIC EXPECTATIONS

ISSUE #1 – Public Understanding

February 26, 2001 - Council approves the Lakeshore Woods draft development plan. The "Parkland Credit Agreement Letter" is included as a condition of approval. The letter is dated 13 February 2001 and references an agreement made February 7, 2001 and a related letter to John Ghent dated January 26, 2001.

BVRA/COMMUNITY EXPECTATIONS

THAT any implications of a new condition of development approval are made public and sufficient time be provided to allow the public to form opinions and provide input to staff and Council; and further;

THAT any implications of a new condition of development approval be scrutinized, evaluated and included in the staff report.

ISSUE #2 – Pre-Application Discussions/Negotiations

February 2001 – Parkland Credit Dedication Agreement letter provides contemplation for high density development on Shell House Lands.

January 23, 2003 –Ward 1 Councillors are shown plans for 1000 units of condos on the Shell House Lands prior to development application.

February 19, 2003 – Pre-application consultation meeting between developer representatives and Director of Planning indicating intention for 1000 units of residential condominiums.

July 18, 2003 – Application for 1000 units of development was received by Town of Oakville.

BVRA/COMMUNITY EXPECTATIONS

THAT, in the interest of full transparency, there be a record of all pre-application communications between Councillors/staff and developers; and intentions be available to interested members of the community as early as possible; particularly when the application is vastly different that current zoning designation.

ISSUE #3 – Disclosure/Relevance of Pre-Existing Agreement

No disclosure of the 300 unit “Parkland Credit Agreement Letter” is made by those who are aware of it to interested members of the community. (Members of the public would have to read the lengthy Lakeshore Woods staff report to find the Letter that had implications on the Shell House Lands development).

BVRA/COMMUNITY EXPECTATION

THAT any background information (and its relevance) and/or prior communications related to possible development on subject property be disclosed to the public as early as possible.

ISSUE #4 – Public Signage of Development Applications

The application for development was received on April 18, 2003. No public notification through signage on the property was erected until 23 November 2003; after the application had been appealed to the Ontario Municipal Board.

The requirement of the public to be advised of major development applications is of paramount importance for the community to provide input.

BVRA/COMMUNITY EXPECTATIONS

THAT the Town ensures all public notification signage is erected on the subject property by the developer upon application and in a timely manner and further that there are significant penalties for not doing so.

ISSUE #5 – Staff Recommendations of Compromise

Mr. Peter Cheatley, Oakville Director of Planning, testified at the Ontario Municipal Board hearing that a large part of his staff report recommendation rationale (March, 2005) was derived from what he believed the developer would accept and was as a result of compromise. Mr. Cheatley further testified that he did not consider a low-density option because it was not going to be satisfactory to the developer.

BVRA/COMMUNITY EXPECTATIONS

THAT planning staff not consider what the developer will accept as a factor in their formulation of 'best land use' planning recommendations; and further

THAT all planning staff recommendations regarding development applications not be based on compromise but focus on "best land use" regardless of the applicants desires.

ISSUE #6 – Importance of Housing Mix

Mr. Alan Ramsay, Senior Planner for the Town of Oakville testified at the OMB hearing that Bronte did not need this development to satisfy high density housing requirements (from estimates to year 2021 in OP). In fact, there are LOW density housing shortages in Bronte; not high. Mr. Peter Cheatley was not aware of this and did not use this as a factor in considering his staff recommendations on the application. Mr. Cheatley also testified he was aware that Bronte has a higher level of high and medium density than the rest of Oakville.

BVRA/COMMUNITY EXPECTATIONS

THOSE planning staff recommendations to Council include housing mix requirements as an important consideration in their formulation of 'best land use' and recommendations regarding any development application.

ISSUE #7 – Fully Research Conditions of Development

Mr. Frank Lewinburg, Planning Expert hired by the Town of Oakville, testified at the OMB “the town got taken on the ‘deal’ [*Parkland Credit Agreement Letter*] and potentially compromised the ‘public interest’ in respect to subsequent development applications”.

Mr. Lewinburg further testified the developers came to Oakville with an attitude that they have **a right** to high density even though there are no grounds to accept this, staff accepted the developers have **a right** to high density and responded in kind. Mr. Lewinburg went on to conclude in his testimony “This is not appropriate.”

Mr. Cheatley described the ‘Parkland Credit Agreement Letter’ as a “landmine which could blow up at any time” and would never have agreed to it.

The Canadian Institute of Planners Code of Ethics: Section 2.9 “*requires that members inform all relevant parties and provide the member's professional recommendation in situations that may adversely affect the public interest;*”

BVRA/COMMUNITY EXPECTATIONS

THAT Council and the public be advised of any possible adverse consequences related to conditions of development applications (such as “Parkland Credit Agreement Letter”) that may compromise future planning decisions – particularly on property that may be subject to future development applications.

ISSUE #8 – Conditions Outside of Subject Application

The Ward 1 Councillors advised members of the BVRA (March 2003) that the “Parkland Credit Agreement Letter” had no value; it was a negotiated settlement that avoided an “out of Oakville” OMB decision. It formed no intent to allow 300 units on the Shell House property.

Mr. Cheatley testified regarding the 300 unit credit that he and the developer believed the letter was something of ‘value’.

OMB hearing had testimony from Mr. Cheatley indicating he understood that the owner, Mr. Marco Muzzo, believed the 300 unit credit letter was an invitation to the landowner for 300 units. Mr. Cheatley indicated Mr. Muzzo showed Mr. Cheatley the letter and stated “look its contemplated”.

BVRA/COMMUNITY EXPECTATIONS

THAT no development credits be made for property not part of a development application.

ISSUE #9 – Changes to High Density Locations

The Official Plan (Bronte Secondary Plan) contemplated a mix of housing types for the lands now known as Lakeshore Woods – including high density in the core of the property. The New Province Homes subdivision proposal did not include high density housing. By excluding high density within the interior of Lakeshore Woods, it gave some substantiation for high density to be placed on the Shell House Lands.

BVRA/COMMUNITY EXPECTATIONS

THAT housing mix is an important consideration in draft plan approval and any down-grading of density should be analyzed in relation to the Official Plan and best planning principles to determine any possible adverse consequences.

ISSUE #10 – Planning Staff

Mr. Cheatley testified at the Ontario Municipal Board – “My planning opinion and the Town’s perceptions are different” when asked about building height and high density apartment building in Oakville.

BVRA/COMMUNITY EXPECTATIONS

THAT Oakville planning staff support the Towns perceptions of building height and high density apartment buildings in Oakville; as indicated in the Official Plan.

ISSUE #11 – Traffic Considerations in Development

Mr. Gordon, Traffic Expert to the Town of Oakville at the OMB hearing, testified the traffic implications this development represented, although marginal in volume, would negatively contribute to ever increasing and unacceptable traffic congestion in South West Oakville.

“Approving the application will put the traffic volumes at unacceptable levels at 3 intersections using Oakville’s traffic guidelines as the test.” He indicated the municipality did not plan for this.

Mr Cheatley did not consider traffic implications as a significant issue in his decision-making and testified that at some point in the future, mitigating traffic improvements would resolve the traffic problems and if necessary a hold could be placed on the development.

BVRA/COMMUNITY EXPECTATIONS

THAT traffic implications be a major and important consideration in any development application review.

ISSUE #12 – Realistic Development Applications

The developer's expert planner, Mr. Peter Russell, admitted under testimony at the OMB hearing that there was little planning justification for 1000 units. Mr. Lewinberg described the application for 1000 units as a 'shot across the bow'.

BVRA/COMMUNITY EXPECTATIONS

It is speculated that developers may submit a proposal that is considerably higher in massing, height and density than they would expect to have approved in the end – but it becomes a starting point for negotiations.

THAT all applications for development within the Town of Oakville be scrutinized from the initial stages as realistic and reasonable.

ISSUE #13 – Official Plan Interpretations

The Official Plan contains 4 tests of location criteria for consideration of high density within the existing Official Plan. The Towns' planning staff recommendation report for 300 units indicates that 300 units 'passes' all 4.

Mr. Lewinberg, the Towns planning expert at the OMB hearing disagreed. He testified that in his professional opinion it fails on 2 counts. Mr. Martin Rendl, the Bronte Village Residents Association professional planner also testified the proposal for 300 units fails on 2 counts. The Official Plan states a proposal for high density must pass on all 4 criteria to be acceptable.

BVRA/COMMUNITY EXPECTATIONS

THAT the Official Plan "location" criteria for high density should be written such that interpretation is clear and consistent by planning experts and not subject to interpretation.

ISSUE #14 – Community Character

The Official Plan of Oakville speaks to the importance of preserving or maintaining the character of a community. There are at least 13 references in the Official Plan. The staff report recommending 300 units does not discuss how this development application preserves or maintains the character of the Bronte community. The Bronte Village Residents Association strongly argued the development would negatively impact the Bronte community character.

BVRA/COMMUNITY EXPECTATIONS

THAT Community Character be better defined in the Official Plan and be an important consideration for development application review; in order to protect, preserve and maintain.

ISSUE #15 – Federal Recommendations

In 1991, The Royal Commission on Waterfront Regeneration recommended that all levels of government work together to find a way to save the Shell House Lands from development.

BVRA/COMMUNITY EXPECTATIONS

THAT staff review all Royal Commission Reports where the subject involves Oakville and if approved by Council, the intentions should be followed and, if necessary, be made part of the Official Plan.

ISSUE #16 – Parkland Dedication Priority

The negotiations between planning staff and the developer on remedies to the ‘over- dedication’ of parkland within the Lakeshore Woods subdivision application were contained in non-public documents and included calculations of non-developable land. It is unclear how ‘hazard lands’, lands on either side of creek beds (set-backs) and other lands were calculated into the equation. It is further unclear how 400 units of high density residential not requiring parkland dedication is rationalized as “calling it even” – in the words of the developer.

The Metrus letter dated 26 January 2001 indicates that Town staff confirmed “paying for” the ‘over-dedication’ was not an option. This was determined without public consultation.

BVRA/COMMUNITY EXPECTATIONS

THAT details of parkland ‘over-dedication’ be subject to extreme sensitivity and public scrutiny. The public expects all efforts and opportunities to maximize parkland dedication be taken advantage of including:

- calculations of over-dedications as presented by developers should be verified;
- hazard lands and set-backs accounted for;
- opportunities to protect the property due to natural sensitivities;
- is the value of waterfront comparable to other lands?
- serious consideration of paying for the parkland?

RECOMMENDATIONS

1. Develop and implement a Town Policy such that no conditions of development approval can affect non-subject land. There should be no deals or compromises made that infringe or adversely implicate the Official Plan vision and goals. No deals should be made that infringe on zoning that applies to different property. It is clear the developer in this case *believed they had an entitlement, they were 'owed', they were in a credit position* – and irrespective if the 'Parkland Credit Agreement Letter' came with guarantees – it had an impact on the development outcome on the Shell House Lands – for which the public had limited or at the very least, incomplete information from which to comment.
2. Develop and implement a Town Policy such that the public is provided at least 60 days notice of all conditions of approval for development applications subject to Official Plan and Zoning Amendment. This allows the community to scrutinize the conditions and contemplate any adverse consequences.
3. Improve the format of all staff recommendation reports to Council which are the subject of development applications requiring Official Plan and Zoning Amendment, to include a minimum of three (3) viable, creative and distinct options for approval with discussion of advantages and disadvantages. Do not have planning staff provide only one option as this can become heavily weighted by Ontario Municipal Board hearing officers in their decision and may in fact be

more of a consideration than Council's direction. Further, staff should not engage in speculation as to the future decision of developers and/or Ontario Municipal Board decision; in determining their own recommendations.

4. Improve the format of all staff recommendation reports to Council which are subject of development applications requiring Official Plan and Zoning amendment, to include the itemization and discussion of Official Plan intent, vision and goals. Staffing reports should clearly relate the application in terms of 'supporting' or 'not supporting' Official Plan contents. To improve public understanding and consultation, staff reports should include a checklist of issues and how the application supports or does not support the Official Plan and existing zoning of the property. The issues should include impact on traffic, density, community character and environmental conditions. This will also help the public to understand staff rationale and justifications for their recommendations.
5. Improve the format of all staff recommendation reports to Council which are subject of development applications requiring Official Plan and Zoning amendment by including a statement of "Potential Adverse Consequences".
6. The Official Plan speaks of "Community Character" as an important amenity which should be retained and protected. However, the Official Plan does not define "character" or adequately describe the character of individual communities in Oakville. This allows for

wide-ranging interpretation of a development application's effect on something that is not defined and yet very important to community members. Define Community "Character" in the Official Plan and thoroughly define the character of each community within Oakville as well as Oakville as a whole.

7. The Ontario Municipal Board hearing, in this case, heard a wide range of professional planning opinion on "best land use" for the Shell House Lands from four professional planners. The positions of the Director of Planning in Oakville versus the Town's expert planning professional hired for this OMB hearing contained very different opinions, views and interpretations of the application and how it relates to the Oakville Official Plan. Since many planners have considerably different views, the Town of Oakville should seek to hire planning staff that are respectful and supportive of the Oakville Official Plan.
8. The Town of Oakville development application process should require developers to consult officially with Residents Associations prior to applications being submitted. The Official Plan encourages community consultation on development applications.
9. The Town of Oakville development application process should seek to determine a developer's intentions for all property that is intended for development. If developers divide property into separate development applications, it contributes to piece-meal planning. Developers should be required to submit proposals for all of the area intended for development at the same time. There

should be penalties when applications are not submitted in compliance with this requirement – such as disallowing a secondary application on adjacent or contiguous property for a period of time – 2 years for example.

10. To ensure that high density development occurs where the Official Plan and Secondary Plan provides for it, and not in areas not contemplated – provisions of down-grading of density must be analyzed for possible adverse consequences. In this case, the end result of the development of the entire property purchased by Metrus has the location of high density moved from its intended Secondary Plan location (in the heart of Lakeshore Woods) to the waterfront (Shell House Lands).
11. In keeping with good business practices, scrutinize all Ontario Municipal Board results – both “wins” and “losses” including public review and public recommendations. Involve outside consultants to critique actions to improve accountability and ensure transparency of process.
12. Develop and implement new planning staff review criteria from which a development application can be considered to have true merit to avoid “shots across the bow”. This may involve research to determine what criteria would be used. Criteria for frivolous applications should be identified and treated accordingly.

13. The Official Plan “location” criteria for high density development should be written such that interpretation is clear and consistent and not subject of wide-reaching interpretation.
14. Staff records of public consultation meetings should be detailed and formally recorded to ensure documentation of meetings is accurately reflected in reports.
15. The Town should rigorously enforce requirements for public signage immediately upon receipt of a development application. Significant penalties should be invoked to developers failing to meet this public awareness requirement.
16. All efforts should be made to ensure calculations of statutory parkland requirements are correct and made public. Definitions should be in place to determine what non-developable land should be reduced from the calculations – including all hazard lands, set-backs and significant wildlife areas.
17. Any Royal Commission report recommendations involving Oakville should be the subject of a Town Council report which would decide if the Town should have regard to the report and if so, amend the Official Plan to reflect the recommendations.

With thanks...

The Mayor's Advisory Group wishes to thank Mayor Burton for the opportunity to bring forward our findings and recommendations on this development application process. Our efforts and research were done in the spirit of improving effective community involvement in the shaping of Oakville's future, in bettering our understanding of the development application process and to help align community opinion, Official Plan effectiveness and preserve our community's treasured attributes. We sincerely hope you find this report useful in your tenure as Mayor.

Oakville is a very unique and special place to live. We are all custodians of its natural attributes and have a responsibility to contribute to the best policies and practices that will ensure development is done for Oakville's betterment into the future.

Signed this 31st day of January, 2008.

Brian Miller, Chair

Laurie McGinn

Mike Lansdown

Sara Alexander

CONSULTATION AND INFORMATION GATHERING

In September, 2007, the Mayor's Advisory Group requested consultation and opinion gathering from those we considered to be relevant parties; Mr. Peter Cheatley (then Director of Planning), Mr. Kevin Flynn (MPP & form Ward 1 Councillor) and Mr. Ralph Robinson (Ward 1 Councillor). Each was provided a preliminary draft report along with a series of questions which we wanted answers to. We provided ample opportunity for a written response from each. Unfortunately neither Councillor Robinson, Mr. Cheatley nor Mr. Flynn provided the requested comments within the designated time frame. In the fact the only comment received was that Councillor Robinson who verbally indicated he wished to seek professional advice prior to commenting. It should be noted all parties were provided additional time to provide comments, however none did.

The following is the list of questions provided to the above parties:

- 1. Please review ISSUES and BVRA/COMMUNITY EXPECTATIONS and provide comment as you deem appropriate;**
- 2. What can you offer as suggestions to reduce the gap between the ISSUES and BVRA/COMMUNITY EXPECTATIONS for future development application processes;**
- 3. What would you do differently to prevent OMB decisions that are so different from Council and public desire?**
- 4. Recommendations for future development application process that would prevent similar outcomes for the community – what would you suggest could be done differently?**
- 5. Mr. Flynn/Mr. Robinson– What were your expectations regarding the letter of credit?**

6. **Mr. Flynn – How could the Province help in dealing with development applications in the future when they are so contrary to public, Council and Official Plan vision?**
7. **How do you see the public most effective in the development process and what do you suggest individuals do to ensure their community vision is maintained?**
8. **Any other comments?**

PARKLAND CREDIT AGREEMENT LETTER



1700 Langstaff Road, Suite 2003, Concord, Ontario L4K 3S3

Tel: (905) 669-5571
Tor: (416) 798-7229
Fax: (905) 669-2134

February 13, 2001

Town of Oakville
1225 Trafalgar Road
P.O. Box 310
Oakville, Ontario
L6J 5A6

Attention: **Mr. Ted Salisbury, MCIP, RPP, Director of Planning**

Dear Sir:

Re: **New Province Homes**
Draft Plan Application, 24T-00004

This letter will summarize the matters agreed to in our meeting February 7th regarding the issues referred to in our letter dated January 26, 2001 to Mr. John Ghent.

1 Parkland Dedication

New Province will dedicate the parkland and open space lands shown on the January 8th version of the Draft Plan to the Town as various phases of the plan are registered which include these parkland and open space blocks. In consideration of the overdedication related to these conveyances, the Town agrees that the statutory parkland payments or dedication related to the former Shell Lands, north of Rebecca St., recently purchased by Eanarch Investments Ltd. have been fully satisfied as well as up to 300 units of Residential Development on the lands owned by New Province Homes south of Lakeshore Boulevard, immediately south of this Draft Plan. The Town makes no prior commitment to Residential Development approvals on the southerly lands and it is understood that New Province Homes must go through an application on these lands under the normal process. Furthermore, New Province Homes agrees to dedicate a 15 metre wide (walkway block) strip of land along the lake frontage of this Lakeshore south parcel to the Town by Reference Plan simultaneously with the registration of the first phase in the plan north of Lakeshore Boulevard. It is also understood that New Province Homes will be responsible for any shoreline erosion mitigation consistent with the Town's normal policies at the time of development south of Lakeshore, and that New Province Homes will receive credit for any matters related to this walkway block consistent with the Town's Development Charge Policy, and furthermore that the Town intends to build the walkway and related improvements at its cost, using funds collected through Town-wide development charges.

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Town of Oakville
Attention: Mr. Ted Salisbury, Director of Planning
February 13, 2001

2. Woodlot Extension

It was agreed that Block 1154 on the Draft Plan would be zoned to permit 100 units of either medium density residential or a seniors housing project consistent with the Town's current zoning policies, and that a holding zone would apply until Site Plan Approval is obtained which will deal with Tree Preservation and other relevant matters.

3. Affordable Housing and Density

The Region appears to be satisfied with the medium density housing on the plan including the proposed procedure for Block 1154.

4. Frozen Lots next to Storm Water Management Ponds

Metrus has agreed to work with Town staff to resolve this issue prior to Draft Approval.

5. Revised Acoustic Report

The parties agreed that a Draft Plan Condition can deal with this matter.

6. Sanitary Capacity

The Region has agreed that 300 unit capacity is available less whatever is required for the current site plan application north of Rebecca Street.

7. Traffic

It was agreed that two thirds of the lots within the Draft Plan can proceed to registration with no restrictions related to traffic capacity. Furthermore the third phase can unconditionally be released once the Ministry has widened the Q.E.W. at Bronte Road. If the QEW widening is delayed, the third phase will be released upon the developer providing a supplemental traffic assessment to show that the traffic predictions identified in the DS-Lea Traffic Report related to the opening of the 407 (or other anticipated road improvements) resolve the traffic issue related to the safe operation of the Burloak Rd./CNR crossing, or upon this supplemental study identifying other required improvements to create a safe crossing of Burloak Rd. at the C.N.R.

8. School Sites

It was agreed that the Developer will negotiate directly with the School Boards regarding purchase of the School sites.

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Page 3.
Town of Oakville
Attention: Mr. Ted Salisbury, Director of Planning
February 13, 2001

9. Interim Zoning of future Phases

It was agreed that Metrus would deal with interim use of undeveloped areas of this site separate from the Draft Approval process, and based on the merit of the proposed interim uses.

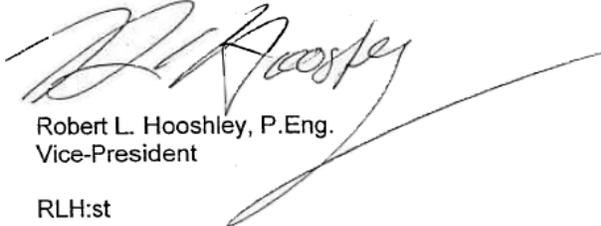
10. Petro Canada Notice on Title

New Province Homes is agreeable to using the same warning clause that was used for the Greenpark Development in Burlington, on the west side of Burloak Rd, which is also at edge of the nuisance barrier limit.

Various matters related to above items can be included in the Subdivision Agreement to be entered into between the Parties.

We trust this letter summarizes the matters agreed to, and we look forward to receiving the Draft Staff Report as soon as possible, and we thank you for your assistance on this application.

Yours truly,
METRUS DEVELOPMENT INC.



Robert L. Hooshley, P.Eng.
Vice-President

RLH:st



1700 Langstaff Road, Suite 2003, Concord, Ontario L4K 3S3

Tel: (905) 669-5571
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Fax: (905) 669-2134

2/F

January 26, 2001

Town of Oakville
1225 Trafalgar Road
P.O. Box 310
Oakville, Ontario L6J 5A6

RECEIVED

JAN 26 2001

PLANNING SERVICES
DEPARTMENT

Attention: Mr. John Ghent, Manager Current Planning

Dear Sir:

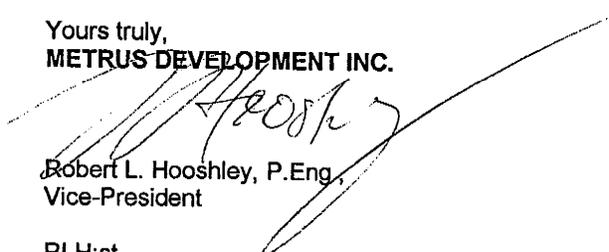
**Re: New Province Homes Application
Draft Plan File 24T-00004**

Further to our meeting of Friday, January 26, 2001, we are summarizing our position with respect to various items related to the Draft Plan Approval of this project. The attached summary lists these items and our position on these matters as discussed in the meeting.

With regard to the parkland dedication matter, we reiterate that we are some 30 acres overdedicated based on the policies contained in the Town's Secondary Plan, taking into account the woodlots and parks shown on the January 8th 2001 version of the Draft Plan. Considering the Town's comments that it does not have excess cash to pay for parkland, we are prepared to absorb a portion of this overdedication, provided that the Town agrees that some of this excess can be applied to fulfill the parkland dedication requirements of the approximate 240 acres recently purchased by Eanarch Investments Limited north of Rebecca Street (former Shell Industrial Lands), as well as up to 400 units of residential development on the 14 acre parcel owned by New Province Homes south of Lakeshore Boulevard. Furthermore we would not ask for further parkland credit for the 15m wide lakefront trail to be acquired by the Town on the south Lakeshore parcel. This compromise still leaves the Town in a considerable positive position with respect to Parkland acquisition and achieves your goal of acquiring the designated woodlot areas.

We ask for your review and acceptance of the enclosed information, and thank you for your assistance.

Yours truly,
METRUS DEVELOPMENT INC.


Robert L. Hooshley, P.Eng.
Vice-President

RLH:st
Encl.

c.c. Jim Kennedy, KLM Planning Partners Inc.



Issues List - Jan. 26, 2001

Issue	Agency	Metrus Position
1 Parkland Dedication	Town	Plan is overdedicated. We will " call it even" provided excess dedication is used to satisfy park dedications for lands Eanarch (former Shell) Industrial Lands, north of Rebecca and up to 400 units on the 14 ac parcel south of Lakeshore Blvd.
2 Woodlot Extention	Region, EACC	Plan conforms to Town's secondary plan and Consultants recommendations. Tree preservation will be undertaken on block 1154, at site plan stage, and Metrus is pursuing a dense housing form, possibly a seniors complex.
3 Affordable Housing, Density	Region	Plan has 20% medium density, plus small lot singles. Traffic concerns regarding any increased unit count. Adjacent lands in Burlington should also be considered in meeting Regional objectives.
4 Frozen Lots next to SWM Ponds	Town	Our Engineer has provided preliminary SWM Pond Grading plans to Town Works Dept., to support SWM blocks on Draft Plan ".Frozen" areas are not required
5 Revised Acoustic Report Requested	Town and Region	Draft Plan condition can require a final Acoustic Report based on Final lot grading etc.
6 Sanitary Capacity	Region	300 unit capacity available now, less what ever needed for " Ontario Concrete Products" project to the north. We agree, since OCP is has low sanitary needs (10 unit equivalent).

7	Traffic Capacity and Phasing	Town	Can't accept indefinite deferral of 3rd Phase. Will agree to provide Traffic Study update upon completion of 2nd phase and identify improvements required (if any) , but will not agree to remaining phase being frozen for traffic reasons.We have less units than anticipated in OP, therefor Town should plan for full development of these lands accordingly.
8	School Sites	School Boards, Town	Request draft approval condition to specify how long these sites are to be held for Board Purchase. Say 5 years or 80 % of plan built, and we also request alternate residential zoning now, to ensure avoid issues if schools not built.We will request concurrence from School Boards.
9	Zoning	Town	Since this is a phased development, we request alternate interim agricultural use for undeveloped areas.This assists in property maintenance, weed control and trespass problems.
10	Petrocan Notice on title	Petrocan, Region Health Unit	We have respected the 1 km setback, and disagree a notice is required or that it is our obligation to provide.We will pursue MOH for example of other similar situations.

New province Homes- Parkland Dedication Calculation

Plan Area	132.35 ha
Open Space(Non.dev.)	12.67
Developable Area	119.68
Comm. Areas	7.71
Net Dev. Area	111.97

Statutory Parkland Required	
@ 2%	0.15
@5%	5.60 @ 1ha/300 units
Total Req'd	5.75

Park Areas on Plan	N'hood Parks	3.07	3.07
	Woodlot Parks	16.38	16.38
	Total Parks	19.45	19.45
Over-dedication on plan			
	@5%	13.69 ha	@1/300
		33.84 ac	14.53 ha
			35.89 ac

RLH 01/01/26





THE CORPORATION OF THE TOWN OF OAKVILLE
 P.O. Box 310, 1225 Trafalgar Road
 Oakville, Ontario L6J 5A6
 Phone (905) 845-8601

Lakeshore Woods Park Land Dedication

Building Services Department
 Technical Services Business Unit
 December 7th, 2007

© CORPORATION OF OAKVILLE DATA DEVELOPMENT
 WOODLANDS, WOODS, MAJOR PARKS

Legend:

- Park Land Dedication
- Palm Place Park Land Dedication
- Town Park Land
- Woodlots

Park Land Dedication:

- A - 0.66 ha
- B - 13.20 ha
- C - 9.59 ha
- D - 9.40 ha
- E - 0.06 ha
- F - 0.11 ha
- G - 0.08 ha

Total = 33.10 ha

