

ISSUE DATE:

**April 25, 2012**



PL090114

Ontario Municipal Board  
Commission des affaires municipales de l'Ontario

IN THE MATTER OF subsection 17(36) of the *Planning Act*, R.S.O. 1990, C. P. 13, as amended

Appellants: See below  
Subject: Rural Hamilton Official Plan  
Municipality: City of Hamilton  
OMB Case No.: PL090114  
OMB File No.: PL090114

**List of Appellants**

No.	Appellant
1	Ontario Stone, Sand & Gravel Association (OSSGA)
2	Paletta International Corporation
3	P&L Livestock Limited
9	St. Marys Cement (Canada) Inc.
10	Demik Developments
11	1694408 Ontario Inc.
13	Artstone Holdings Limited
14	Artstone Holdings Limited
15	Weizer Investments Limited
16	Corpveil Holdings Limited
18	Ancaster Christian Reformed Church
19	456941 Ontario Ltd., 1263339 Ontario Ltd. and Lea Silvestri ("Silvestri Investments")
20	Angelo Giacomelli and Mario Nesci
21	Earl Fransden and Kirsten Fransden
22	Keith Pickles and Brenda Pickles
23	John Paolini, Gino DalBello, Olindo DalBello, Luigi DeTina, Peter Djeneralovic, Jim Swick and Quinto Simone
24	New Country Investors Limited
25	1507565 Ontario Inc.
27	Lafarge Canada Inc.
28	Peter Cartwright
29	City of Hamilton
30	Dr. Tom Nugent
31	1478742 Ontario Inc. and 2157722 Ontario Inc.

32	DiCenzo (Golf Club Road) Holdings Inc.
33	Dufferin Aggregates (a division of Holson Canada Inc.)
35	David E. Mercer
36	Multi-Area Developments Inc.
37	Paletta International Corporation (Elfrida Lands)
39	2101510 Ontario Inc. (subsumed by Paletta International Corporation)
40	2000963 Ontario Inc.
41	Mud & First Inc.
42	2084696 Ontario Inc.
43	2188410 Ontario Inc.

**APPEARANCES:**

**Parties**

**Counsel**

City of Hamilton

M. Minkowski and M. Kovacevic

Ministry of Municipal Affairs and Housing

R. Boxma and C. Young

Paletta International Corporation and P&L Livestock Limited

S. Snider

Ontario Stone, Sand & Gravel Association (OSSGA); St. Marys Cement (Canada) Inc.; Lafarge Canada Inc.; and Dufferin Aggregates (a division of Holcim (Canada) Inc.)

J. Kahn

Friends of Rural Community and the Environment (FOREST)

T. Halinsky

Dr. Tom Nugent

**DECISION DELIVERED BY A. CHRISTOU AND ORDER OF THE BOARD**

This Pre-hearing Conference (“PHC”) relating to the appeals to the Rural Hamilton Official Plan (“Rural OP”) took place on March 29, 2012. It is one of a series of hearings

to deal with procedural matters. The PHC was specifically geared to the appeals in Groups 1, 3 and 9, and in addition, to hear a Motion regarding the Tom Nugent appeals.

At the start of the hearing, Mr. Minkowski, Counsel for the City of Hamilton (“City”), advised the Ontario Municipal Board (“Board”) that the City had three different settlements to the Rural OP.

More specifically:

1. A settlement has been reached between the City and the Aggregate industry (Groups 1, 3 and 9);
2. A settlement has been reached between the City and Paletta International Corporation and P&L Livestock Limited (Groups 1, 3 and 9); and
3. A settlement has been reached between the City and Paletta International Corporation with respect to Group 5 – severances, (except for one issue which is to be dealt with at the next hearing starting April 30, 2012).

### **The Aggregates industry settlement**

The Board heard planning opinion evidence from a panel of two City planners – Kristin Maxwell (land use planner) and Catherine Plosz (Natural Heritage and land use planner). Ms. Maxwell testified that the settlement deals with two definitions – Significant Woodland and Sensitive Land Uses – which were subject to deferral by the Ministry of Municipal Affairs and Housing (MMAH) and one policy change. Ms. Plosz provided in explanation that when the Rural OP was adopted, there was no appropriate definition for “Significant Woodland;” however, the Province of Ontario (“Province”) has now released criteria regarding this definition and the three parties involved have reached an agreement, which incorporates the following:

a) To include an addition of implementation policy C.2.6.3. The changed is to include:

ii) “...woodland criteria shall be defined by the Province”.

1. Adds two Significant Woodland criteria.

2. Definition of “Woodland” – does not include fruit or nut orchards or plantations for Christmas trees.

It was the panel’s opinion that the proposed policy changes and definition represent good planning for the municipality, are consistent with the Provincial Policy Statement (PPS), conform to the Greenbelt Plan and are in the public interest.

With respect to the proposed changes to the Sensitive Land Use definition, shown in Exhibit 2, page 4, Ms. Maxwell testified that it provides clarity on interpretation; the modification removes two examples – d) and e); and that the revised introduction sentence matches the PPS. It was her opinion that the proposed definition represents good planning for the municipality, is consistent with the PPS, conforms to the Greenbelt Plan and is in the public interest.

Ms. Maxwell recommended that the Board modify the definitions and policies as set out in Exhibit 2A and approve them as modified.

### **The Paletta International Corporation and P&L Livestock Limited settlements**

Ms. Maxwell testified that:

#### Group 1: Natural Heritage System

Items 1, 2, and 3 of the Issues List (Exhibit 1) have been resolved and withdrawn. Issue 4 remains under appeal and is to be dealt with at the next hearing starting April 30, 2012.

#### Group 3: Land Use Designations and related Rural OP policies

Issue 1 has been withdrawn.

#### Group 9: Site Specifics

Issue 1, relating to 88 and 92 Highland Road East, the City will be dealing with as modification.

Exhibit 4A provides the following changes:

- Volume 3 – a new site-specific policy for 92 Highland Road East to recognize the existing abattoir;
- Chapter D – Goals; and
- Changes to policy D.1.3 and D.1.4 to recognize the need for farming by encouraging all lands used for agricultural uses to remain in agricultural uses

Ms. Maxwell testified that these policy changes and site-specific policies are important to ensure the City does not lose agricultural uses in the future. It was her opinion that the proposed changes represent good planning for the municipality, are consistent with the PPS, conform to the Greenbelt Plan and are in the public interest. She recommended the Board should approve the modified policies as shown in Exhibit 4A.

Mr. Minkowski requested that the Board modify the Rural OP in accordance with Exhibit 4A and all the appeal withdrawals indicated in Exhibit 3 be noted. The Board was asked to direct that all these policies should come in to effect in the OP.

### **Group 5: Severances**

Ms. Maxwell testified that Group 5 deals with severances and that Paletta is the only appellant. There are six issues identified in Exhibit 5, Issues List. Issues 1, 2, 5 and 6 are part of a settlement, Issue 3 (Section F.1 Planning Act Implementation Tools in the Rural OP), has been settled with changes and Issue 4 has been withdrawn.

### **Exhibit 7A, Chapter F – Implementation**

- Policy F.1.14.2.1 d) clarifies the intent of the policy for agricultural-related uses and adds “agricultural-related” uses to the report requirements.
- Policy F.1.14.2.2 (farm consolidation), provides for a farm residence. It also clarifies the intent of Abutting Lands and Non-Abutting Lands, to ensure that no additional or new houses can be built.

- Chapter G – (Definitions), provides adjustments to recognize changes to the Niagara Escarpment Area.

It was Ms. Maxwell's opinion that the proposed changes represent good planning for the municipality, are consistent with the PPS, conform to the Greenbelt Plan and are in the public interest. She recommended the Board approve the modified policies as shown in Exhibit 7A.

Mr. Minkowski requested that the Board modify the Rural OP in accordance with Exhibit 7A; and all the appeal withdrawals indicated in Exhibit 6 be noted. The Board was asked to direct that all these policies should come in to effect in the Rural OP.

#### **Motion to dismiss without a hearing Dr. Nugent's appeal in Groups 1, 3 and 9**

Mr. Minkowski advised the Board that everything has been resolved with Group 1 appeals, except issue 4 and Tom Nugent (page 42 Motion Record). Dr. Nugent's issue is: Are the core areas identified in Schedules B, B-2, B-4, B-7 and B-8 accurate?

By way of this Motion, the City seeks dismissal of the appeal. The Motion is supported by MMAH. Mr. Minkowski submitted that:

- Subsection 17(45) of the *Planning Act* provides for dismissal without a hearing when no apparent land use grounds have been provided in the appeal. Dr. Nugent has not provided written reasons in the appeal notice and has not responded to requests for further information. He has also failed to provide a witness list by January 31, 2012 and witness statements by March 16, 2012 as required by the Procedural Order (PO).
- The Notice of Motion was served to Dr. Nugent on February 13, 2012, but he has not provided any written response by way of Notice of Reply; has not filed any Affidavit material; and has not cross-examined the City's witnesses.
- The Notice of Appeal (Tab 2B Motion Record) deals with mapping of the core areas.

- The letter of appeal deals with soils, inconsistencies on Province's agricultural designations, mapping of agricultural uses, and growth area issues. It does not deal with Schedule B issues.
- The letter of appeal does not deal with Natural Heritage mapping and core areas and no reasons are set out for appeals to Schedule B. It fails to identify an issue with core areas.

Tab 2, Motion Record, includes the Affidavit of Joanne Hickey-Evans, Manager of Policy Planning. The Affidavit indicates that the appeal is silent with respect to Natural Heritage; no correspondence has been received by the City setting reasons for the appeal; no planning grounds, rationale or reasons have been forthcoming; and no Environmental Impact Statement (EIS) has been submitted for the Nugent property to support any reconsideration. As he is also involved as an appellant with the Hamilton OP, he understands the process and has an obligation as a party to follow the process. Dr. Nugent has not filed any reply, Affidavit, or supplementary information. He has failed to appeal Schedule B and no other party has appealed Schedule B. There is nothing he can attach to come to the Board. As he has not stated any reasons pertaining to core area issues, the appeal is deficient and the Board has no information upon which to adjudicate his appeal. Therefore, the appeal should be dismissed.

Dr. Nugent responded that there is a mistake in the address the City is referring to in Tab 2, page 11, with respect to his property. The same mistake took place during the Greenbelt process a few years ago. He feels that the City is not dealing with his case appropriately and they have not contacted him to resolve the matter and use the correct address for his property. He submitted that he wrote a letter of clarification addressing his concerns with respect to the Greenbelt and has been trying for years to resolve the problem, but nothing has been done. He does not contest every property with respect to the Natural Policies, only his own property.

## **Disposition**

The Board has dealt with the management of the Rural OP file for over a year and is pleased that the City and the appellants are resolving the appeals through settlement

agreements. This hearing dealt with settlements for Groups 1, 3 and 9 involving the Aggregate industry and the Paletta companies and Group 5, regarding severances. The Board heard uncontradicted planning opinion evidence in support of the three settlements. Each of the appellants consents to the changes as generally described by the City witnesses.

The proposed changes to the Sensitive Land Use definition (Exhibit 2, page 4), is to provide clarity on interpretation. The modification provides conformity with the PPS. The Board is satisfied that the proposed definition represents good planning for the municipality, is consistent with the PPS, conforms to the Greenbelt Plan and is in the public interest. The Board will modify the definitions and policies as set out in Exhibit 2A (Attachment "1" to this decision) and will approve them as modified. The Board orders that all these policies should come into effect forthwith.

The proposed Natural Heritage System, Land Use Designations and related Rural OP policies (new site-specific policies in Volume 3 of the Rural OP) are important to ensure the City maintains its agricultural uses in the future. Changes to policy D.1.3 and D.1.4 have been incorporated to recognize the need for farming by encouraging all lands used for agricultural uses to remain in agricultural uses. The Board is satisfied these policy changes and site-specific policies are important to ensure the City does not lose agricultural uses in the future. As the proposed changes represent good planning for the municipality, are consistent with the PPS, conform to the Greenbelt Plan and are in the public interest, the Board will approve the modified policies as shown in Exhibit 4A (Attachment "2" to this decision). All the appeal withdrawals indicated in Exhibit 3 are noted as Attachment "3" to this decision. The Board orders that all these policies should come into effect forthwith.

Group 5 deals with severances and most appeals have been settled or withdrawn.

Policy F.1.14.2.1 d) clarifies the intent of the policy for agricultural-related uses and adds "agricultural-related" uses to the report requirements. Policy F.1.14.2.2, farm consolidation, provides for a farm residence and clarifies the intent of Abutting Lands and Non-Abutting Lands, to ensure that no additional or new houses can be built.

Chapter G – Definitions, provides adjustments to recognize changes to the Niagara Escarpment Area.



Based on the uncontradicted evidence, the Board is satisfied that the proposed changes represent good planning, are consistent with the PPS, conform to the Greenbelt Plan and are in the public interest. The Board will approve the modified policies as shown in Exhibit 7A (Attachment "4" to this decision). All the appeal withdrawals indicated in Exhibit 6 are hereby noted in Attachment "5" to this decision. The Board orders that all these policies should come in to effect forthwith.

### **The Motion to dismiss**

The appellant, Dr. Nugent, has been a party to these appeals and has followed closely the evolution and resolution of the various appeals before the Board. It appears that this gentleman's property has been affected by previous planning actions when the Province approved the Greenbelt Plan and his property was included in the development restrictions of that plan. The City's Rural OP is required to conform to the Greenbelt Plan and similarly provides development controls not to Dr. Nugent's liking. Hence, he filed an appeal to the Rural OP.

It appears Dr. Nugent filed his appeal letter unaided by legal counsel or planning advice and to the best of his ability he tried to convey what the issues and concerns were. In an adversarial system like appeals to the OMB, the appellant bears some heavy responsibilities to define his case and provide the necessary supporting information required to defend his case in a timely fashion. The Board understands the heavy burden unrepresented parties have to bear. Unfortunately, the statutory requirements and regulations relating to appeals require, at the minimum, that planning reasons be provided at the time of the appeal notice. Although Dr. Nugent's letter is eloquent, it fails to provide coherent planning reasons to support his allegations.

Subsection 17(45) of the *Planning Act* provides for dismissal without a hearing when no apparent land use grounds have been provided in the appeal. The City has painstakingly asserted that Dr. Nugent has not provided written reasons in the appeal notice and has not responded to requests for further information. He has also failed to provide a witness list by January 31, 2012 and witness statements by March 16, 2012 as required by the PO.

The City suggests that Dr. Nugent's argument is not with the Rural OP, but his concerns reside with the Greenbelt Plan. The appeal deals with soils, inconsistencies on Province's agricultural designations, mapping of agricultural uses, and growth issues. It does not deal with Schedule B issues that he refers to and there is no legitimacy on the grounds of the appeal. Therefore, there are no triable issues for the Board to adjudicate and the appeal is not worthy of the adjudicative process.

The Board agrees that the Rural OP must conform to the Greenbelt Plan, and as such, Dr. Nugent's issues cannot be addressed under the Rural OP appeal process because the Rural OP has to conform to the provincial plan. The Greenbelt Plan will be coming up for review in the next two years and that is the process Dr. Nugent ought to address his concerns to. If his concerns are that his property is inappropriately designated, he needs to undertake the appropriate technical studies and submit them to the proper government agencies for review.

For these reasons, the appeal by Dr. Tom Nugent to the Rural OP is dismissed without a full hearing.

This is the Order of the Board.

"A. Christou"

A. CHRISTOU  
MEMBER

**Exhibit No. 2A**  
Rural Hamilton Official Plan  
OMB File No. PL090114

## ATTACHMENT 1

### CLEAN VERSION

#### CHANGES TO RURAL HAMILTON OFFICIAL PLAN POLICIES March 29, 2012 Aggregate Industry Settlement (Groups 1 and 3)

As approved by City of Hamilton Council on March 7, 2012

1. Amend Volume 1 Policy C.2.6.3a) by adding a new clause as follows:  
**C.2.6.3** A new *mineral aggregate operation*, and a new *wayside pit or quarry* within the Greenbelt Plan Natural Heritage System listed in Table C.2.6-1:
  - a) shall not be permitted in the *key natural heritage features* and *key hydrologic features* listed in Table C.2.6-1 and identified by the letter A.
    - i) Notwithstanding a) above, the uses identified in Section C.2.6.3 shall not be permitted in a *significant woodland* unless the woodland is occupied by a young plantation or early successional habitat (as defined by the Province). Where extraction in a *significant woodland* is permitted, it must be demonstrated that the criteria of Sections D.6.24 b) and c) and D.6.25 c), are satisfied.
    - ii) Notwithstanding the definition of *significant woodland*, for the purposes of Policy C.2.6.3a) and C.2.6.3.a)i), the significant woodland criteria shall be defined by the Province.
2. Amend the criteria within Significant Woodlands definition in Volume 1 Chapter G:  
**Significant woodland:** means an area which is ecologically important in terms of:
  - a) Features such as species composition, age of trees, stand history;
  - b) Functionally important due to its contribution to the broader landscape because of its location, size, or due to the amount of forest cover in the planning area; and
  - c) Economically important due to site quality, species composition or past management history.

MNR identifies criteria, as amended from time to time for the forgoing (Greenbelt Plan, 2005).

In the City of Hamilton, *significant woodlands* must meet two or more of the following criteria:

**Exhibit No. 2A**  
Rural Hamilton Official Plan  
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Criterion	Description
Size	Forest Cover (by planning unit)
	< 5 %
	5-10 %
	11-15 %
	16-20 %
	21-30 %
Interior Forest	Woodlands that contain interior forest habitat. Interior forest habitat is defined as 100 metres from edge.
Proximity/Connectivity	Woodlands that are located within 50 metres of a significant natural area (defined as wetlands 0.5 hectares or greater in size, ESAs, PSWs, and Life Science ANSIs).
Proximity to Water	Woodlands where any portion is within 30 metres of any hydrological feature, including all streams, headwater areas, wetlands, and lakes.
Age	Woodlands with trees of 100 years or more in age. Age will be determined initially using FRI mapping and can be verified during the EIS.
Rare Species	Any woodland containing threatened, endangered, special concern, provincially or locally rare plant or wildlife species.

3. Amend the definition of Woodlands in Volume 1 Chapter G:

**Woodlands:** means treed areas that provide environmental and economic benefits to both the private landowner and the general public, such as erosion prevention, hydrological and nutrient cycling, provision of clean air and the long-term storage of carbon, provision of wildlife habitat, outdoor recreational opportunities, and the sustainable harvest of a wide range of woodland products. Woodlands include treed areas, woodlots or forested areas (PPS, 2005). Woodlands do not include a cultivated fruit or nut orchard or a plantation established for the purpose of producing Christmas trees.

4. Amend the definition of *sensitive land use* in Volume 1 Chapter G:

**Sensitive Land Uses:** means a building, 'amenity area', or outdoor space where routine or normal activities occurring at reasonably expected times would experience one or more 'adverse effect(s)' from contaminant discharges generated by a nearby 'facility'. The 'sensitive land use' may be a part of the natural or built environment. Examples may include but not limited to:

<p><b>Exhibit No. 2A</b> Rural Hamilton Official Plan OMB File No. PL090114</p>
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- a) residences or facilities where people sleep (e.g. single and multi-unit dwellings, nursing homes, hospitals, trailer parks, camping grounds, etc.). These uses are considered to be sensitive 24 hours/day.
- b) a permanent structure for non-facility related use, particularly of an institutional nature (e.g. schools, churches, community centres, day care centres); and,
- c) certain outdoor recreational uses deemed by a municipality or other level of government to be sensitive (e.g. trailer park, picnic area, etc.).

**Exhibit No. 4A**  
Rural Hamilton Official Plan  
OMB File No. PL090114

## ATTACHMENT 2

### CLEAN VERSION

#### CHANGES TO RURAL HAMILTON OFFICIAL PLAN POLICIES March 29, 2012 – Paletta Settlement (Groups 3 and 9)

As approved by City of Hamilton Council on March 7, 2012

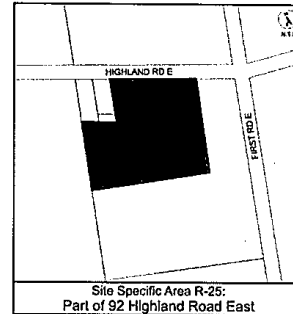
#### Chapter D - Goals

- D.1.3 Preserve and enhance *prime agricultural areas* and *specialty crop areas* for farming.
- D.1.4 Encourage all lands used for *agricultural uses* to remain in *agricultural uses*.

#### Volume 3

R-25 Lands known as part of 92 Highland Road East, former City of Stoney Creek.

- 1.0 In addition to the uses permitted in Section D.2.0, Agriculture Designation of this Plan, for the lands designated Agriculture, municipally known as part of 92 Highland Road East, and identified as Site Specific Policy R-25, consisting of approximately 2.25 hectares (5.56 acres), an abattoir and meat processing operation with an accessory retail outlet, accessory warehousing, and accessory wholesaling may be permitted.



<b>Exhibit No. 3</b> Rural Hamilton Official Plan OMB File No. PL090114
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**ATTACHMENT 3**

**Groups 1, 3 & 9 - Settled Paletta Rural Official Plan Appeals\*  
March 29, 2012**

<b>Volume 1 Policy #'s (in effect March 7, 2012)</b>	<b>Type of Resolution</b>
Chapter A -Introduction	
A.2.2.1	Settled with change
Section C.2 -Natural Heritage System	
C.2.2.1	Withdrawn
C.2.4.1	Withdrawn
C.2.4.4	Withdrawn
C.2.4.11, 2.4.12 & 2.4.13	Withdrawn
2.5.5 b) and c) 2.5.6 a)	Withdrawn
C.2.5.7	Withdrawn
C.2.5.8	Withdrawn
C.2.7	Withdrawn
Chapter D-Rural Systems	
D.1.3	Settled with change
D.1.4	Settled with change
Section D.2.0-Agriculture Designation	
D.2.1.2	Withdrawn
D.2.1.3.1	Withdrawn
D.2.1.3.2	Withdrawn
Section D.4.0-Rural Designation	
D.4.1.1b)	Withdrawn

<b>Volume 2 Policy #'s (in effect March 7, 2012)</b>	<b>Type of Resolution</b>
Chapter A – Rural Settlement Area Plans	
A.1.2.5	Withdrawn

\*Excepting Special Policy Area B (Elfrida Area) appeal and Policy D.2.2.1

**Exhibit No. 7A**  
Rural Hamilton Official Plan  
OMB File No. PL090114

**ATTACHMENT 4**

**CLEAN VERSION**

**CHANGES TO RURAL HAMILTON OFFICIAL PLAN POLICIES**  
**March 29, 2012 – Paletta Settlement (Group 5 – Severances)**

**As approved by City of Hamilton Council on March 7, 2012**

**Chapter F - Implementation**

F.1.14.2.1 the addition of the following new subsection after subsection F.1.14.2.1 c): (renumbered as F.1.14.2.1 d))

F.1.14.2.1 d) New lots and lot additions shall be considered for agricultural and agricultural-related uses only and shall demonstrate by a report prepared by an accredited professional knowledgeable in farm economics, such an agrologist or agronomist, that the proposed agricultural uses on the severed and retained lots are each of sufficient size and nature to be reasonably expected to:

- i) Sustain a commercially viable farm operation;
- ii) Allow farm operators the flexibility to change the existing and proposed farm operation in the event of business failure; and
- iii) Allow farm operators the flexibility to diversify and intensify the production of agricultural commodities in response to changing economic conditions and trends in agriculture.
- iv) The City may request comments on this report from the Ministry of Agriculture, Food and Rural Affairs or other independent peer reviewer prior to consideration of the new lot or lot addition for severance approval.

F.1.14.2.2 An existing farm dwelling that is a residence surplus to a farming operation as a result of a farm consolidation may be severed provided that:

**Abutting Lands**



**Exhibit No. 7A**  
Rural Hamilton Official Plan  
OMB File No. PL090114

- a) In cases of a farm dwelling made surplus as a result of merging in title of abutting parcels of land on which farm operations are conducted, applications for severance shall comply with the following conditions:
  - i) The owner and operator of the farm maintains another existing dwelling on land that has been or is to be merged in title; **(Remains under appeal)**
  - ii) In cases where one of the farm parcels does not contain an existing farm dwelling, Policy F.1.14.2.2 a) i) shall not apply.
  - iii) The area of the merged farm parcel after the surplus farm dwelling lot is severed shall be a minimum of 8.1 hectares (20 acres) in size for lands designated Specialty Crop on Schedule D - Rural Land Use Designations, or 16.2 hectares (40 acres) in size for lands designated Agriculture or Rural on Schedule D - Rural Land Use Designations; and
- b) The lot to be created for the surplus farm dwelling shall comply with the provisions of Section F.1.14.2.2 d) of this Plan.

**Non-Abutting Lands**

- c) In cases of a farm dwelling made surplus as a result of acquisition as part of a farm operation that does not result in the merging in title of parcels of land, applications for severance of the surplus dwelling shall comply with the following conditions:
  - i) The owner and operator of the farm maintains an existing dwelling on land that is also part of the consolidated farm operation and is located in Rural Hamilton; **(Remains under appeal)**
  - ii) The parcels of land comprising the consolidated farm operation shall be a minimum of 38.4 hectares (95 acres) in total;
  - iii) The parcel of land from which the surplus dwelling is severed shall be a minimum of 8.1 hectares (20 acres)

**Exhibit No. 7A**  
Rural Hamilton Official Plan  
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in size for lands designated Specialty Crop on Schedule D - Rural Land Use Designations, or 16.2 hectares (40 acres) in size for lands designated Agriculture or Rural on Schedule D - Rural Land Use Designations;

- iv) Prior to granting of final consent, one of the following conditions shall be met for the retained farm parcel as a result of a surplus farm dwelling severance:
  - 1. The land owner shall apply for and receive final approval to rezone the farm parcel to prohibit the construction of a dwelling unit; or
  - 2. The land owner shall grant in favour of the City, a restrictive covenant which prohibits the construction of any dwelling unit.
- v) If the land owner grants a restrictive covenant in favour of the City, the City shall rezone the farm parcel to prohibit the construction of any dwelling unit.

**Abutting and Non-Abutting Lands**

- d) In all cases where surplus farm dwellings are to be severed the following conditions shall also apply:
  - i) The proposed surplus farm dwelling:
    - 1. shall have been built on or before December 16, 2004; and,
    - 2. shall be habitable on the date of the application for the surplus farm dwelling severance and shall meet the City's standards for occupancy without requiring substantial demolition and new construction.
  - ii) The surplus dwelling lot shall be a minimum of 0.4 hectares (1 acre), or such larger area as may be required by Section C.5.1, Sustainable Private Water and Wastewater Services of this Plan;

<p><b>Exhibit No. 7A</b> Rural Hamilton Official Plan OMB File No. PL090114</p>
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- iii) A private water well and private sewage disposal system shall be provided in accordance with Section C.5.1, Sustainable Private Water and Wastewater Services of this Plan;
- iv) The shape and dimensions of the surplus farm dwelling lot shall:
  - 1. not impair agricultural operations on the retained land; and
  - 2. generally not exceed a depth of 122 metres (400 feet); and
- v) The surplus dwelling lot shall not include barns or other farm buildings which are not suitable to be used as accessory structures to a residential use prescribed by the Zoning By-law, and no such buildings or structures shall be used for industrial or commercial purposes.
- vi) Where a barn or other farm building exists within the immediate vicinity of the surplus residence, the City may require demolition of the barn.

**Chapter G**

**Existing:** when used in reference to a use, lot, building or *structure*, means any use, lot, building or *structure* legally established or created prior to the day of final approval and coming into effect of the relevant sections of this Official Plan or at some earlier date as may be specified in the policies such December 16, 2004 for the Greenbelt Plan policies.

**Farm Consolidation:** means the acquisition of additional farm parcels to be operated as one farm operation, for the purposes of expanding the *farm operation* and/or sustaining viability of continued *agricultural use* of the lands.

**Residence Surplus to a Farming Operation:** means one or two or more existing farm residences located on lands held under the same *farm operation* as a result of a *farm consolidation*.

**Exhibit No. 7A**  
Rural Hamilton Official Plan  
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**Chapter C – City Systems/ Designations**

- C.1.1.6 c) No new lots shall be created in Escarpment Natural or Protection Areas unless such lot creation is for the purposes of correcting conveyances, enlarging existing lots or acquisition by a public body or authority, and to allow surplus farm dwelling severances in the Escarpment Protection or Escarpment Rural Areas; and,

**Chapter A.2 Strategic Directions**

- A.2.2.1 At the present time, there are hundreds of vacant residential lots inside the Rural Settlement Area's and approximately 200 outside the Rural Settlement Area's that could accommodate future residences, therefore there is very little need to create additional lots.

**Exhibit No. 6**  
Rural Hamilton Official Plan  
OMB File No. PL090114

**ATTACHMENT 5**

**Group 5 - Settled Paletta Rural Official Plan Appeals\***  
**March 29, 2012**

<b>Policy #'s (in effect March 7, 2012)</b>	<b>Type of Resolution</b>
Chapter A -Introduction	
A.2.2.1	Settled with change
Section C.1-Provincial Plans	
C.1.1.6c)	Settled with change
Section F.1-Planning Act Implementation Tools	
F.1.14.2	All <b>except</b> F.1.14.2.2a)i) & F.1.14.2.2c)i) settled with changes
F.1.14.2.5 & 1.14.2.8	Withdrawn
Chapter G-Glossary	
Existing	Settled with change
Farm consolidation	Settled with change
Residence surplus to a farming operation	Settled with change

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\*Excepting Special Policy Area B (Elfrida Area) appeal and Policy D.2.2.1