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



ISSUE DATE: November 20, 2020

CASE NO(S): PL180470

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

PROCEEDING COMMENCED UNDER subsection 17(24) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended

Appellant:	Parkland Fuel Corporation
Appellant:	Stremma Developments (St. George) Inc.
Subject:	Proposed Official Plan Amendment No. OPA-A-16-RA
Municipality:	County of Brant
LPAT Case No.:	PL180470
LPAT File No.:	PL180470
LPAT Case Name:	Parkland Fuel Corporation v. Brant (County)

Heard: November 12, 2020 by telephone conference call

APPEARANCES:

Parties

Counsel

County of Brant

J. Zuidema

Parkland Corporation (formerly
Parkland Fuel Corporation)

M. Kemerer

Stremma Developments (St.
George) Inc.

M. Flowers and J. Cole

Riverview Highlands (St. George)
Holdings Ltd.

J.A. Hitchon

**MEMORANDUM OF ORAL DECISION DELIVERED BY BRYAN W. TUCKEY ON
NOVEMBER 12, 2020 AND ORDER OF THE TRIBUNAL**

[1] A settlement hearing is convened regarding the matter of appeals to the Local Planning Appeal Tribunal (“Tribunal”) by Parkland Corporation (“Parkland”) and Stremma Developments (St. George) Inc. (“Stremma”) against an Official Plan Amendment (“OPA”) adopted by the County of Brant (“County”) pursuant to section 17(24) of the *Planning Act*.

[2] The Tribunal was advised on October 27, 2020 that Losani Homes is “hereby withdrawing as a Party” from these proceedings.

[3] Empire Communities, a participant, attended these proceedings and is represented by Paul DeMelo.

[4] The County adopted OPA 8 affecting the settlement area of St. George following the completion of the St. George Area Study and addendum report. Parkland appealed the OPA as it relates to existing propane facilities and Stremma appealed the OPA relating to land use designations, phasing and servicing.

[5] The Tribunal is provided with a copy of the two executed Minutes of Settlement (“MoS”) regarding this matter. The first MoS is between Parkland and the County and the second between Stremma and the County.

[6] Counsel for the County, Jyoti Zuidema, advised the Tribunal that they have entered into a lengthy, detailed and iterative process with both parties after receiving the appeals and have come to a settlement on all substantive matters. All suggested changes have been reviewed with the County planning department and are approved by County Council.

PARKLAND

[7] As set out in the MoS, Parkland and the County have agreed to jointly request the Tribunal to revise the original policy 2.8.9 of OPA 8.

[8] Parkland called one land use planning witness in support of the settlement.

Harry Froussios is qualified as an expert in land use planning and gave evidence evaluating the proposed policy modifications against relevant public policy. His affidavit is Exhibit 1 in this proceeding.

[9] Parkland operates a long established propane facility located at 183 Industrial Boulevard in the urban settlement area of St. George. Parkland is required by legislation to map all “public receptors within the hazard distance applicable to the facility to determine the acceptable levels of public risk for surrounding land uses.” Parkland appealed OPA 8 because “locating a high density residential and/or sensitive land uses within the applicable risk contours gives rise to issues of community health and safety and land use compatibility.”

[10] Parkland maintains that, the original OPA policy section 2.8.9 is not in sufficient detail to protect the Parkland facility from new development. Parkland and the County entered discussions and negotiated a settlement by revising section 2.8.9 to more appropriately recognize the Parkland facilities and address in policy, land use compatibility matters.

[11] The revised version of section 2.8.9 of OPA 8 is found in Attachment 1 to this decision.

[12] Mr. Froussios opined that the proposed revised policy change represents good planning and are:

- a) consistent with both the 2014 and 2020 Provincial Policy Statements (“PPS”) and the A Place to Grow: Growth Plan for the Greater Golden Horseshoe, 2019 (“Growth Plan”);
- b) has appropriate regard for matters of provincial interest and subdivision sections 2 and 51 (24) of the *Planning Act*, and
- c) conforms to the County of Brant Official Plan (“BOP”) and Zoning By-law No. 61-16.

[13] The Tribunal accepts the evidence of the planner for Parkland in its entirety and finds the revised policy 2.8.9 of OPA 8 meets all the relevant policy tests of the *Planning Act*, PPS, Growth Plan and BOP. It represents good planning and is in the public interest.

STREMA

[14] As set out in the MoS, Stremma and the County have agreed to jointly request the Tribunal to allow the Stremma appeal against OPA 8 in part and modify and approved portions of said OPA. The MoS is Exhibit 2 to this proceeding.

[15] Counsel for Stemma, Mark Flowers, advised the Tribunal of the reasons for the appeal of the Stemma lands (“subject lands”) known as “The Oaks of St. George Golf Course”. The two key issues with the enactment of OPA 8 are as follows:

1. The subject lands are being designated as “Secondary Urban Settlement Area” by the OPA which differs from the previous designation of a “Primary Urban Settlement Area”. This designation change has the effect of limiting the redevelopment potential of the subject lands; and
2. A specific minimum reserve capacity was not provided for infill or intensification. The subject property was purchased by Stemma to redevelop for residential purposes.

[16] Ms. Zuidema advised that the original planning policy for St. George was adopted many years ago and there has been considerable public policy change in the interim. The County is being proactive in the challenges of updating planning policy in keeping with the availability and subsequent allocation of municipal services as well as developing an appropriate cost sharing regime to pay for necessary servicing.

[17] Stremma called one land use planning witness in support of the settlement. David Falletta is qualified as an expert in land use planning and gave evidence evaluating the proposal against relevant public policy. His affidavit is Exhibit 3 to this

proceeding.

[18] Mr. Falletta described the surrounding land use context and the immediate surroundings of the subject lands. It is currently used as an 18-hole golf course with a club house and is interspersed with natural heritage features. The subject lands are located within the built boundary and designated as Parks and Recreation on Schedule A-2, Land Use Plan St. George of the BOP. Being located within the built boundary, any residential development would constitute intensification under the Growth Plan and contribute to the County's minimum intensification target.

[19] The effect of OPA 8 is the removal of the subject lands from "Primary Urban Settlement Areas" and placing them in "Secondary Urban Settlement Areas". The major impact of the change is the subject lands would find themselves in a lower priority for growth thereby limiting redevelopment potential with possible servicing limitations as there is no specific reserve capacity provided for infill or intensification development.

[20] Stremma and the County had detailed discussions and agreed on three modifications being:

1. The establishment of a Site Specific Policy Area 26 for the subject lands to be included on Schedule A-2, Land Use Plan St. George;
2. Modify OPA 8 by adding a new section 4.2.26 – Site Specific Policy Area 26 which states the subject lands designation as a "Secondary Urban Settlement Area" shall not limit future redevelopment potential and clarifies the criteria for the potential redevelopment of the subject lands requiring land use designation changes subject to all applicable Plan policies (including a Planning Justification Report); and
3. A modification to Policy 2.8.3 c. to include a minimum of 7.5% reserve capacity for infill and intensification. If this reserve is not used by 2028, the county can re-allocate the remaining reserve capacity to development ready lands.

[21] Schedule A-2 Land Use Plan St. George identifying Site Specific Policy Area 26, the additional Section 4.2.26 – Site Specific Policy Area 26 - 269 German School Road and the revised version of section 2.8.3 c. of OPA 8 are found in Attachment 2 to this decision.

[22] Mr. Falletta provided opinion evidence to the Tribunal regarding the proposed changes with respect to relevant planning policy documents, being:

- a) has regard to section 2 Provincial Interests found in the *Planning Act*;
- b) are consistent with the PPS (2020) by accommodating infill and intensification, ensuring the availability of required servicing, providing for additional opportunities for new housing (subject to further planning approvals) and using existing infrastructure within the built-up area;
- c) are in conformity with the Growth Plan for similar reasons as the PPS along with providing sufficient land and infrastructure to meet minimum intensification targets for the County;
- d) are in harmony with the policy intent of the BOP by allowing opportunities for a range and mix of housing, facilitate intensification and expand the County's Framework for future growth, infill and intensification within the built boundary.

Mr. Falletta is of the opinion that “the proposed modifications constitute good planning and are in the public interest.”

[23] The Tribunal accepts the evidence of the planner for Stremma in its entirety and finds the revised Land Use Plan Schedule A-2, the proposed policy 4.2.26 being added to OPA 8 and modified policy 2.8.3 c. vi. meet all the relevant policy tests of the *Planning Act*, PPS, Growth Plan and BOP. It represents good planning and is in the public interest.

[24] Mr. Flowers advised that with this oral decision of the Tribunal allowing the Stremma appeal in part, the balance of Stremma's appeals against OPA 8 could be withdrawn. He will do so by way of a letter to the County.

[25] Accordingly, the Tribunal Orders:

1. That the Parkland Corporation appeal is allowed in part and Amendment No. 8 to the Official Plan for the County of Brant is hereby modified and approved in accordance with Attachment 1 to this Order.
2. That the Stremma Developments (St. George) Inc. appeal is allowed in part and Official Plan Amendment No. 8 is hereby modified and approved in accordance with Attachment 2 to this Order.

"Bryan W. Tuckey"

BRYAN W. TUCKEY
MEMBER

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

Local Planning Appeal Tribunal

A constituent tribunal of Ontario Land Tribunals

Website: www.olt.gov.on.ca Telephone: 416-212-6349 Toll Free: 1-866-448-2248

ATTACHMENT 1

2.8.9

The County recognizes that there are existing propane/fuel storage uses/facilities in St. George and the importance of those uses/facilities to the County. It shall be a policy of the County to ensure that any development applications located in St. George and any proposed new or existing propane facilities shall be in accordance with the following policies:

- a) Land use compatibility matters, particularly in the form of public safety risks associated with propane facilities, shall be addressed to the County's satisfaction, including in accordance with the Technical Standards and Safety Authority Guidelines or any successors thereto, as may be amended from time to time. To implement this policy, the County:
 - i) may implement zoning or other land use controls that are more restrictive than the applicable land use designation; and/or
 - ii) shall require the proponent to implement any required mitigation measures, which may include innovative and feasible mitigation measures either on-site or off-site of a propane/fuel storage use/facility.
- b) Where new propane/fuel storage uses/facilities are proposed or where existing facilities are proposed to be expanded, the County will require the propane/fuel storage use/facility operator to consider existing and planned land uses; to assess and consider long-term public safety risk; and to implement any required mitigation measures.

ATTACHMENT 2

Policy Modifications

That Section 4.2 is amended by adding a new Section 4.2.26 – Site Specific Policy Area 26 – to immediately follow Section 4.2.25, as follows:

4.2.26 SITE SPECIFIC POLICY AREA 26 269 GERMAN SCHOOL ROAD

- a. Notwithstanding the contextual statements and policies of this Plan, it is not to be interpreted that Site Specific Policy Area 26 is of a lower priority for growth and development or will accommodate limited growth on the basis that the lands are within a Secondary Urban Settlement Area. Rather, it is recognized that the application of the Secondary Urban Settlement Area is principally related to the availability of services, which shall not limit the redevelopment potential of Site Specific Policy Area 26.
- b. In order to permit redevelopment of the lands subject to Site Specific Policy Area 26, a land use designation change may be required. Any proposed land use designation change shall be subject to all applicable policies of this Plan, including policy 4.2.26 a. Further, notwithstanding the contextual statements and policies of this Plan, it is not to be interpreted that Site Specific Policy Area 26 is required to upgrade to a Primary Urban Settlement Area as part of its redevelopment, including for new residential development, which will require a planning justification to support the redesignation.
- c. The phasing policies in Section 2.8.4 shall not prevent the redevelopment of Special Policy Area 26. However, the redevelopment of Site Specific Policy Area 26 shall be subject to the availability of appropriate servicing systems.
- d. Redevelopment of Site Specific Policy Area 26 for new residential development shall not be subject to the preparation and approval of an Area Study or a Secondary Plan. However, if the County initiates an Area Study or Secondary Plan for the Secondary Urban Settlement Area of St. George, the County shall require redevelopment to be coordinated with the process, if appropriate. The County will exercise reasonableness with respect to this policy. It shall not be the intent of the County to frustrate the development application review process where an application has been submitted, but rather to ensure that an application is coordinated with any County initiatives when it is feasible to do so.

Proposed Policy 2.8.3 c. vi. is modified to read as follows:

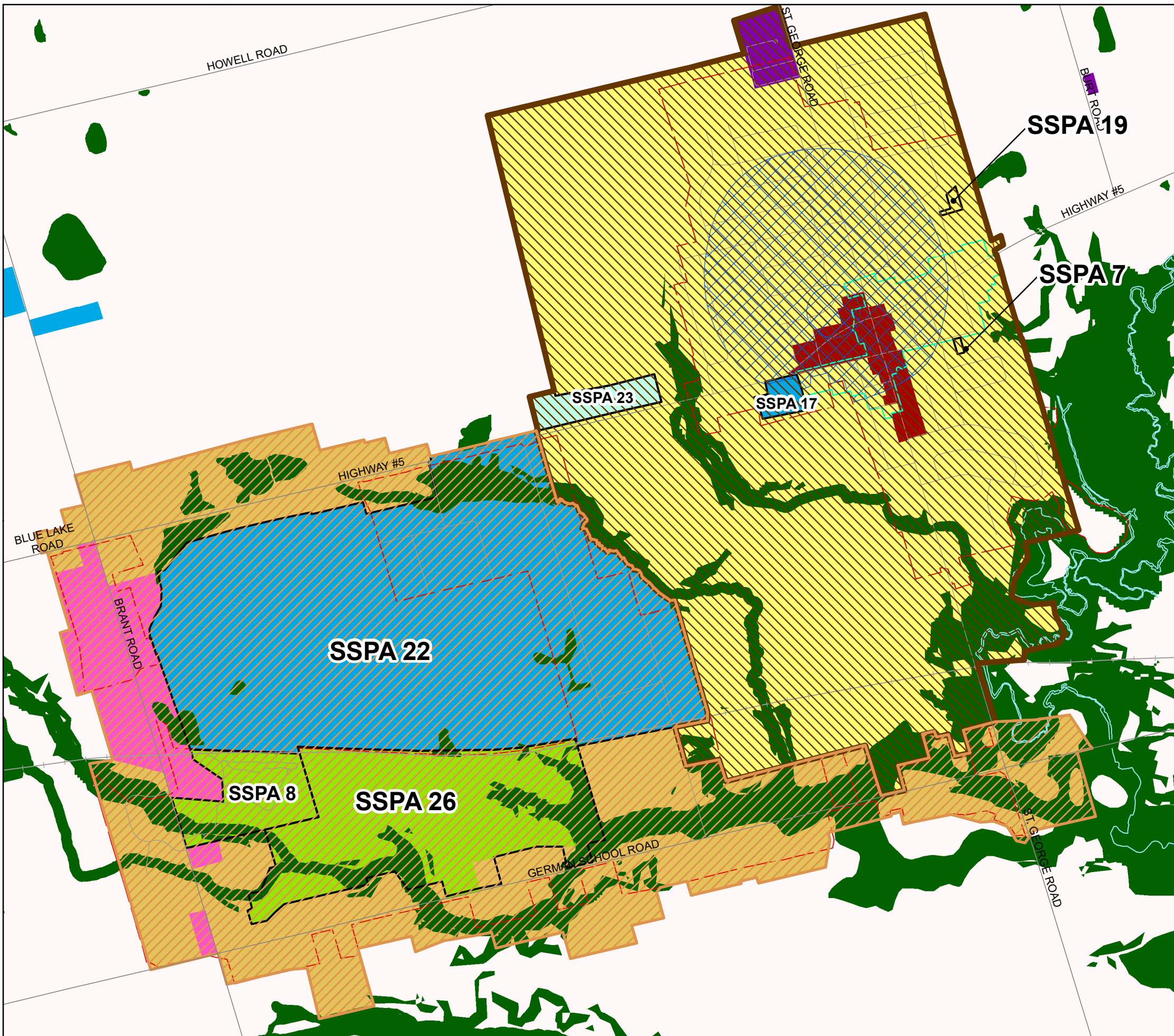
- vi. Establishes a limited reserve capacity that provides for infill and intensification to occur, as contemplated in the St. George Area Study, with a minimum of 7.5 percent of the total servicing capacity to be reserved and allocated for infill and

intensification within the built boundary of St. George as shown on Schedule A-2 to this Plan, in order to assist the County in meeting its minimum intensification target. However, if the reserve capacity has not been utilized by 2028, the County has the ability to re-allocate the remaining reserve capacity to development ready lands at the County's discretion and in accordance with the approved servicing allocation policy.

Schedule Modification

That proposed Schedule A-2 - Land Use Plan St. George is modified by adding Site Specific Policy Area 26 to the subject lands described municipally as 269 German School Road, as shown on the attached Schedule "1".

OFFICIAL PLAN
 SCHEDULE A-2
 LAND USE PLAN
 St. George
DRAFT

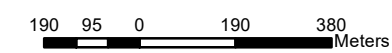


LAND USE DESIGNATIONS

- AGRICULTURE
- URBAN RESIDENTIAL
- SUBURBAN RESIDENTIAL
- HAMLETS AND VILLAGES
- RURAL RESIDENTIAL
- CORE AREA
- GENERAL COMMERCIAL
- SHOPPING CENTRE COMMERCIAL
- MIXED USE
- EMPLOYMENT
- RESOURCE DEVELOPMENT
- INSTITUTIONAL
- PARKS AND RECREATION
- NATURAL HERITAGE SYSTEM

LEGEND

- BUILT BOUNDARY
- HERITAGE AREAS
- WELLHEAD PROTECTION AREAS
- SITE SPECIFIC POLICY AREA (SSPA)
- COUNTY BOUNDARY
- PRIMARY URBAN SETTLEMENT AREA BOUNDARY
- SECONDARY URBAN SETTLEMENT AREA BOUNDARY
- HAMLET BOUNDARY
- ROAD
- ACTIVE RAILWAY
- FORMER RAILWAY



THIS SCHEDULE SHOULD BE READ AND INTERPRETED IN CONJUNCTION WITH THE OFFICIAL PLAN IN ITS ENTIRETY, INCLUDING THE POLICIES AND OTHER SCHEDULES AND APPENDICES OF THE PLAN

