Dear PALS’ Supporter,

Fall 09 brings with it some crucial land use tests for the Province, and we anxiously await the results of two very important issues that are integral to the Provincial Greenbelt and the Places to Grow Acts.

The first, as so well described in the body of this newsletter, are the challenges of the Places To Grow Act by a number of municipalities, with Niagara Region being the first to be served a notice that the Province will oppose its plans for growth at the Ontario Municipal Board.

Last year, the Ministry of Infrastructure Renewal successfully took Niagara Falls and the Region to the OMB regarding the municipalities plans to sprawl on 500 acres in the rural Willoughby NF, and we are most pleased that our researcher John Bacher has again prodded the Ministry into action. John will develop our case, and with the help of PALS’ member Professor Hugh Gayler, our witness, and member Jean Grandoni, will represent PALS at the OMB hearing.

Provincial involvement in both of these important land use cases shows their intent to ensure that urban growth does not sprawl, but takes place in provincially assigned growth areas and predicated on Provincial population figures. This involvement is a good indicator of the probable outcome of the OMB Hearing, but not necessarily a sure one. And, recent municipal challenges hint strongly that there are troubles on the farms both in and out of the Greenbelt.

Even in Niagara, where incomes are higher than elsewhere in the province, anti-Greenbelt signs have been sprouting up, an elderly farm family is asking St. Catharines to move the urban boundary back to its pre-1981 location, and while other farmers say this would set a precedent, they don’t disagree that Niagara fruit farmers, who they consider to be “trapped” in the Greenbelt, are in financial difficulty. And, lately we have politicians in at least four Regional municipalities wishing to “break-out” of their boundaries, even tho they are not in the Greenbelt.

All of this speaks to the most important issue for PALS, that is, the need for certainty of the Greenbelt boundaries, to provide a predictable and ongoing land base for fruit growing in “perpetuity” through a long-term Provincial program that invests in farmers if they place restrictive covenants on their fruit land. We have once again been promised a meeting about this key issue - one and a half years after we initiated our drive to convince the Minister of Agriculture of the easement program’s value and a year after Dr. Wayne Caldwell’s report was submitted. We truly hope that our efforts, which are strongly backed by Minister of Transportation Jim Bradley, will succeed and that the Province will not fail the test!

Val O’Donnell

Don’t Miss PALS Heritage Quilt

Ticket Sales / Events
- Willowbank Arts & Crafts Show (Queenston), Sunday September 6th, 9a.m.to 5p.m.
- Pioneer Day (Jordan) Saturday October 3rd 10a.m. to 4 p.m.
- Women’s Place Niagara South (Centennial High Welland) Saturday & Sunday October 17th &18th, 10 a.m. to 5 p.m.
- St. John Ukranian Catholic Church Activity Centre (91 Lakeshore Road) Friday and Saturday November 13th and 14th 10 a.m. to 6 p.m.
### PALS Wins Major Victory in Provincial Appeal of Regional Niagara Plan Amendment 2-009

Since the establishment of the Greenbelt boundaries, PALS has been successful in defeating all attempts at urban or rural estate zoning expansions onto agriculturally zoned protected lands in the Niagara Region - the most recent victory by PALS being to persuade the Ministry of Infrastructure Renewal to challenge Niagara Region at the Ontario Municipal Board regarding Amendment 2-009, which sets the rules for urban boundary expansions.

While urban boundaries in parts of Niagara (Grimsby, Lincoln, Niagara-on-the-Lake, St. Catharines and Pelham), are in the Greenbelt, those of Thorold, Welland, Wainfleet, West Lincoln, Port Colborne, Niagara Falls and Fort Erie, are outside and regulated by the Province’s Growth Management Plan.

The Growth Management Plan appears to have far more teeth than the older Planning Act, which still governs land use planning outside of the Golden Horseshoe area around Toronto. For instance it has much stronger regulations which prohibit any more rural estate residential designations and its urban boundary expansion standards are very tough requiring that expansions must be justified on the basis of large regional municipalities or unified cities, and also, that there must be only a 15 year residential supply on hand. Furthermore, the municipality must meet restrictive overall density requirements.

Port Colborne, Wainfleet and Thorold are not seeking urban boundary expansions, however, in Fort Erie, Welland, West Lincoln and Niagara Falls developers are attempting to expand the urban boundaries through amendments to Official Plans that would erase current agricultural zoning protections.

As part of this crucial planning exercise, the Niagara Regional Planning Department developed a careful two year consultation regarding the Region’s conformity to the Provincial Growth Management Plan. It found that since the Niagara Region had a 41 year supply of residential land (even using a growth estimate higher than what is used by the Province - itself a violation of the Growth Plan), that there would be no urban boundary expansions within the next five years. With such a large surplus of lands, it would be almost a half century before Niagara could show the type of density increases which would allow any boundary expansions using the criteria of the Growth Plan. Regional planners and their consultants called this approach to having no urban boundary expansions for the five year period of municipal plan review Option D and it was initially approved by Regional Council.

In response, developers, led by the local chapter of the Urban Development Institute, (UDI) mobilized from around the Niagara Region. Developers and allied builders had a convoy go to the Niagara Regional Council in support of a brief to permit urban boundary expansions. In response, the Niagara Regional Council supported the UDI through the institution of a “notwithstanding” clause. This essentially means that if anyone wants an urban boundary expansion, regional policies to discourage low density sprawl will be discarded.

Following the adoption of the notwithstanding clause for Regional Amendment 2-009 (which was opposed by only three Regional Councillors), PALS went to work to both prepare its own OMB appeal, and to persuade the province to launch one. After securing an expert witness to defend our position, Brock Geography Professor Hugh Gaylor (who previously played this role for PALS in our successful defense of the threatened Garner Road Forest), PALS wrote an lengthy brief to the provincial government. Both appeals were made on the same day.

In our brief to the Province PALS wrote that, “The attitude of the Niagara Regional Council is simply that Provincial Policy can be disregarded. This emerges most clearly in the new 4.6.6 Section. It stresses that urban boundary expansions ‘will be considered on their merit and not pre-judged’ by the policies of the Growth Plan. This is what is meant by the insertion of a ‘notwithstanding’ clause in relationship to the policies of Section 4.2.3 of the proposed amendment. This is the section that contains municipal population, household and employment targets, based on the applications of the principles of the provincial growth plan.”

PALS also told the Province that we were struck by the absence of technical arguments in relationship to the principles of the Growth Plan. What was relied upon was the use of population projections higher than the provincial average, and the division of the Niagara Region into distinctive sub-market areas, justified on the basis of the real estate promotion slogan, “location, location, location.” ...the region also “suggested that urban designated lands in Port Colborne and Fort Erie be down-zoned to agricultural use to justify expansion of West Lincoln and Niagara Falls.”

In our brief, PALS summarized some of the urban boundary expansion proposals. Our critique is included here.

### A - Welland

The urban expansion proposed for Welland involves land that is designated as Good General Agricultural in the Niagara Regional Policy Plan. It also contains two forests which are designated as Significant Environmental Conservation areas in the Niagara Regional Policy Plan. Welland Council passed a resolution indicating that it would not support any expansion here, as long as other municipalities in Niagara did not obtain such expansions.
B - West Lincoln

The West Lincoln urban expansion proposal would inevitably involve the loss of designated Good General Agricultural Land. The expansion area in the community of Smithville, is entirely surrounded by such high capability soils. Much of the area surrounding Smithville is comprised of ecologically sensitive Karst formations. These lands, underlain by soluble rocks such as limestone and dolomite, contain sinkholes, depressions, underground caves and buried rivers. They contain important hydrological features that contribute to ground and surface water supplies. Development here can be the focus for sinkhole formation which is dangerous for urban development. Groundwater on such lands can be easily polluted and if contaminants are introduced they can spread quickly.

Further urban boundary expansions in Smithville are a threat to the vulnerable Twenty Mile Creek. The watershed plan for the Creek developed by the Niagara Peninsula Conservation Authority notes that it is stressed by “increased stormwater flows and flooding, erosion and sedimentation and the loss of natural features.”

C - Niagara Falls

While formally designated as Good General Agricultural Land in the Niagara Regional Policy Plan, the lands on which an urban expansion is proposed for Niagara Falls is actually Good Grape land, and as such, should be protected through the Provincial Greenbelt. It is composed of predominately well drained, Class One Oneida soils, and has the excellent microclimate conditions for grape growing enjoyed by the lands immediately across Mountain Road that are in high quality grape production. It also contains many forests and is a headwaters for the Ten Mile Creek. A significant Carolinian forest here is proposed to be disrupted by a storm water management pond to facilitate development.

Province Plans to Gut Fonthill Kame Area of Natural and Scientific Interest.

The Ontario government has announced that it is planning a further weakening of land use restrictions for a part of the Fonthill KAME, a post-glacial moraine feature that straddles the Escarpment and is responsible for the unique soil and climate features that allow the growing of tender fruit in this unique area surrounding the Town of Fonthill in Pelham. The KAME is designated as a Provincial Area of Natural and Scientific Interest (ANSI), and while recognized as a part of Niagara’s specialized tender fruit growing lands, and within the Greenbelt, its fruitlands already have fewer restrictions on sand and gravel mining than those north of the Escarpment (e.g. Lincoln, St. Catharines and Niagara-on-the-Lake), where new gravel pits are not allowed. Now, existing ANSI protections, which permit the Provincial Government to appeal to the OMB, zoning changes or proposed mineral resource extraction permits on lands that are especially designated because of their special environmental characteristics, may be removed from certain portions of the KAME that are owned by the La Farge Sand and Gravel Co. The Region, led by planners and the Pelham Mayor Dave Augustine are urging the Province to withdraw this plan. (*see article by Pelham Mayor Augustine)

PALs Calls for National Park in Niagara-on-the-Lake

The Preservation of Agricultural Lands Society, has put forward the concept of a Tecumseh National Park as an alternative to the Project Niagara Symphony proposal to place a concert hall capable of holding at least 9,000 people, (and washrooms, shopping venues and parking for 1,500 cars + buses) on the current Niagara-on-the-Lake sewage lagoon site. One of the proposed locations that has been suggested for a replacement sewage plant is a peach orchard, and others are proposed in a Carolinian forest on-site (the last Carolinian forest on Lake Ontario) and on Niagara-on-the-Lake’s New Park.

In a brief putting forward the Tecumseh National Park concept, (the name being taken from a great Indian leader who advocated forest protection to preserve water quality), PALS stressed the harm being done to Niagara-on-the-Lake by its historic extreme deforestation. This has caused destructive stream gullies to form which threaten to destroy valuable agricultural land. PALS stresses that, “One of the future benefits of a National Park, is that over time, through purchasing conservation easements, National Parks could improve water quality of Four, Three and Two Mile Creeks, which all suffer from ecological degradation.”

In summary PALS has urged that people concerned with protecting the environment, “work to create a Tecumseh National Park, whose interpretative center would be combined with an improved constructed wetland to clean the sewage of the Town of Niagara-on-the-Lake, The boundaries would protect and expand a very large area of connected Carolinian forest habitat. It would be from the Four Mile Creek outlet to the eastern edge of the Department of National Defence Lands, and would cross
preserving the ANSI and the Fonthill Kame (Voice of Pelham, August 19th 2009), Mayor Dave Augustyn’s Column

If you’re anything like me, you drive up and down it a couple of times each day.

Or, you admire its soil as you plant trees in your backyard. Or, you farm on it and sell your special crops at the road or the Pelham Farmer’s Market. Or, you admire the spectacular view from it as you plan a round of golf.

What am I talking about, you ask? The Fonthill Kame-Delta, of course.

The what?

The Fonthill Kame-Delta is our rare, 75-metre-tall landmark that that was formed by retreating glaciers 13,000 years ago. It’s 6 km long and 3 km wide – nearly 1000 hectares – and boasts the highest point in the Niagara Region and the headwaters of the Twelve Mile Creek.

Microclimatic conditions create an ideal atmosphere for tender fruit production on the Kame including peaches, sweet and sour cherries, apples and pears.

The Fonthill Kame was originally identified in 1980 as a provincially significant area and became an “Area of Natural and Scientific Interest” (ANSI) in 1983. This ANSI designation restricts development for reasons of heritage, science or education.

In May 2009, however, the Ontario Ministry of Natural Resources recommended new boundary changes to the ANSI area.

While a new area to the south side of the Kame would be added to the ANSI, other changes would significantly reduce the protected area. In fact, only small portions of the main components of the Kame-Delta complex would be included and the landform as a whole would no longer be protected.

The area that the MNR proposes to remove from the ANSI encompasses much of what is called the Upper Terrace. The Upper Terrace to be removed stretches from across from EL Crossley High School, past Eoffingham, to Lookout Street and lies between Tice Road and Highway 20. This area is the most vulnerable to development pressure – especially in the form of aggregate extraction!

That’s why Niagara Regional Council recently recommended that the ANSI be maintained. That is also why I led a delegation that included Regional Chair Peter Partington and Town Councillors Dave Emmons and Jim Lane to meet with Natural Resources Minister Donna Cansfield this week to request that the Ministry not reduce the ANSI. I also met with our MPP, Tim Hudak, about the matter.

If you would like to support our efforts and pressure the Minister, please contact me at Town Hall or via email at mayordave@pelham.ca for more information.

ACROSS THE PROVINCE

PALS Goes to Public Consultation to Defend Fruit Land Conservation Easements

At a meeting in September 2008, with Professor Wayne Caldwell of Guelph University, who was, after several years of lobbying by PALS, entrusted by the Provincial government to research the possible use of easements to protect Niagara fruitlands, PALS recommended that the Ontario Food Land Trust be endowed by the Provincial government to administer just such a program. Almost a year later PALS researcher John Bacher, went to a meeting sponsored by the Ontario Greenbelt Foundation in the Wentworth County Fairgrounds in Ancaster, to present PALS this same position.

The minutes of the Ancaster meeting highlight Bacher’s plea for the restoration of the Niagara Tender Fruit Lands Program. They note that, (at the time of PALS original plea for an easement program) “When the tariffs were removed from imported fruit, there was no compensation for the tender fruit growers for the removal of tariff protection. …. A program developed in 1994, but that was cancelled by Harris, called the Niagara Tender Fruit Lands program, would have paid the fruit growers to have restrictive covenants on their land, and help provide the financial adjustment...” (Now, without such a program) “There is a risk of Niagara being a mono-culture. (Referred to in Caldwell’s report). It will be interesting to see what comes of that.”

The minutes of the session also record how PALS stressed, “Grape and tender fruit farmers ... are almost entirely in the Greenbelt so any problems facing them are unique to the Greenbelt ... Wine VQA content requirements and the Canadian grape wine content should also be addressed. The issues for fruit growers have become Greenbelt issues.”

Toronto Environment Alliance Strategy to Curb Gravel Pits.

The Toronto Environment Alliance (TEA) has developed a strategy to reduce the amount of land gobbled up by sand and gravel (aggregate) mining in the Greater Toronto Area, (GTA) over the next twenty five years. In its report, “Dig Conservation Not Holes,” TEA notes that, “Currently about 75%
of the virgin aggregates used in the GTA come from the Niagara Escarpment and Oak Ridges Moraine, two ecologically sensitive areas found within the Niagara Greenbelt.” TEA calls upon GTA municipalities to immediately begin reducing virgin gravel demand by requiring the use of recycled gravel and to adopt policies to reduce the overall need for gravel.

**Aerotropolis Battle Continues**

The City of Hamilton’s battle to re-zone 3,000 acres of good general agricultural land which provides the headwaters for the Welland River and Twenty Mile Creek is continuing. The City of Hamilton has spent one million dollars in planning studies attempting to justify this urban boundary expansion, after being challenged by the Province through an OMB appeal and entering as a compromise, a lengthy public consultation exercise. The Province has challenged Hamilton’s “need” projections for the expansion, forcing Hamilton to agree to more realistic calculations that will result in a much reduced boundary expansion, if any is permitted.

**Major Environmental Groups Applaud Province For Rejecting Regional Amendment**

Since the Niagara Region is attempting to persuade the Province to backdown from its appeal with “a compromise”, it is significant that two major Canadian environmental groups, Environmental Defense, and the Ontario Greenbelt Alliance have applauded the Province’s strong decision. This was done in their recently released report, Places to Sprawl, which monitors municipal conformity with the Growth Plan. Here they aptly term the Niagara Regional Amendment as “Places to Bulldoze Farms”.

In Places to Sprawl, it is stressed that the Niagara Region “has submitted an official plan amendment in which population projections are in excess of what was allocated to the Niagara Region in the Province’s review of the area. In the case of Niagara, inflated population growth numbers are being used to support lower tiers (a term in the Planning Act for an individual local municipality) in their quest to expand current urban boundaries in order to build low density sprawl. Conceptual expansions that have been developed for the Region include a potential to build on 390 hectares of high quality agricultural land and include lands that contain or are immediately adjacent to 440 hectares of the Core Natural Heritage System, which includes Provincially Significant Wetlands”. The report also notes that “the province is challenging the amendment at the Ontario Municipal Board based on the fact that the region used inflated population and employment forecasts inconsistent with those developed in conjunction with the province.”

It is hoped that the strong praise in Places to Sprawl of the Province’s appeal will bolster its determination to challenge the Niagara Region at the OMB.

**Waterloo Region Rejects Urban Boundary Expansions**

In the debate at Niagara Regional Council over the growth plan, much was made of the fact that like Niagara region itself, in the past the Region of Waterloo has permitted urban boundary expansions. Unlike Niagara however, during its exercise to be in conformity with the Growth Plan, Waterloo Region has firmly rejected any urban boundary expansions during the next five years.

Environmental Defence and the Greenbelt Alliance conclude that Waterloo Region is a good example of what they term, “Places to Follow.” They note that, “The Region of Waterloo has submitted a plan that incorporates a number of new and innovative initiatives to strengthen and protect the area’s environmentally sensitive lands. This includes the inclusion of the “Country Line Concept” (which puts a hard line between the Region’s urban and rural limits for the next 40 years)” and strict aggregate mining policies, and a focus on developing rapid transit systems. The Official Plan also designated two new Environmentally Sensitive Landscapes and includes a broad band of permanently protected environmental features and agricultural lands considered as Protected Countryside.

From consideration of light pollution to increasing the number of bicycle racks, Waterloo Region’s official plan goes beyond the regulations of Places to Grow and is truly directed at the creation and maintenance of a thriving community that balances and respects urban and rural areas.”

When the Niagara Regional Planning Department attempted to persuade the Niagara Regional Council to freeze its urban boundaries, they pointed out that the province is generously funding Waterloo Region’s plans for light rapid rail transit. Niagara in contrast, in its determination to facilitate boundary expansions, is disregarding public transit completely, claiming it is a matter for individual urban municipalities, and subjecting any policy changes to its approach of a weighted voting system.
Halton Region Rejects Sprawl

Environmental Defence and the Greenbelt Alliance issued strong praise to Halton Region for rejecting intense pressures from developers for urban boundary expansions. They note that “Regional Council has fought back enormous pressures from new home developers to create, map and preserve and enhanced natural heritage system. The regional system will extend greenbelt style protection to thousands of hectares in North Halton”. What makes this stand so commendable is that Halton Region, in contrast to Niagara is actually experiencing rapid population growth.

Several Regions Facilitating Sprawl.

In addition to taking Niagara to the OMB, the Province has challenged other upper tier municipalities for attempting to justify urban boundary expansions using criteria that are inconsistent with the Growth Plan. To use a Chinese term, which was actually developed to ridicule nonsensical extremism, Niagara appears to be part of a rough, “Gang of Four”, upper tier municipalities that are trying to wage costly legal battles at the OMB in defense of sprawling development interests. Other rebellious municipalities are: Durham Region

The Province has taken Durham Region to the OMB because its plan proposes a 2,865 hectare expansion of its urban boundary onto prime agricultural land and environmentally sensitive areas. Like Niagara, it employs higher population projections than those accepted by the Province to justify their expansions. The Places to Sprawl report notes that, “the Region ignored existing designated and approved residential lands in its supply analysis. Instead, the plan proposes low density development that expands into some of the Region’s prime agricultural land and environmentally significant areas including the Carruthers Creek Headwaters. The amendment was approved by Durham Council without performing a watershed study or even a financial analysis to understand the impact of development in the area.”

Simcoe County

For Environmental Defense, which has waged million dollar OMB battles here, Simcoe County is the ultimate of the “Places to Sprawl”. It notes that the proposed County Official Plan, does not conform to Places to Grow, “because it scattered residential development in all of the County’s municipalities at densities generally below provincial targets. Simcoe’s County’s approach looked like ‘Places to Sprawl and Idle’. “...

York Region

The Places to Sprawl report terms York Region one of the worst “Places to Drive Over Mature Forests”. They note that the stated goals of York’s draft regional plan amendment stand “in direct contradiction to the Region’s interests in expanding urban boundaries.” Such schemes are facilitated by their support for the proposed extension of the Highway 404, which the report warns, if approved, “will travel through the Greenbelt along the Maskinonge River, a river identified the Lake Simcoe Protection Act as being stressed and of concern, and will destroy a east-west natural heritage linkage system. The Ministry of Natural Resources has identified over 20 healthy butternut trees in the forests that will be affected and it is predicted that over 60 acres of wetland and forest will be destroyed.”

Brantford Challenges Brant County At OMB Over Sprawl.

The Places to Sprawl report, influenced by the remarkable farmer-academic Ella Haley, stresses the importance of protecting farmland in Brant County. The report notes, that the County “is composed of vast amounts of prime farmland. It borders the western edge of the Greenbelt, and faces serious threats of “leapfrog” development pressure including a proposed highway that would connect Highway 404 and Highway 403.” The report also notes that “Brant County Council voted to rezone Prime farmland to heavy industrial in the protected countryside in the east end of the county, a move that is in direct opposition to the county planner’s advice and the official plan.” The City of Brantford, the Province and a local resident, are taking the county to the Ontario Municipal Board over the zoning decision. Brantford has taken the exemplary step of adopting portions of its Official Plan through regional negotiations with First Nations communities. ■

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