



**City of Kingston
Report to Planning Committee
Report Number PC-14-079**

To: Chair and Members of Planning Committee
From: Lanie Hurdle, Commissioner, Community Services
Resource Staff: Sheldon Laidman, Acting Director, Planning and Development
Date of Meeting: August 7, 2014
Subject: Public Meeting Report
Application for Official Plan Amendment
City of Kingston
Estate Residential Subdivisions
File Number D09-019-2014

Executive Summary:

The following is a Public Meeting report to the Planning Committee for a City-initiated Official Plan Amendment with respect to estate residential subdivisions.

The City has received several applications for new estate residential subdivisions and many inquiries from land owners wishing to pursue estate residential subdivisions. Recently, the Planning and Development Department's decision to not support two applications for estate residential subdivisions on Isle of Man Road was challenged by appeals from the property owners to the Ontario Municipal Board. At the time of writing this report, a decision from the Ontario Municipal Board had not been rendered.

The Planning and Development Department examined the current estate residential subdivision policies and determined that amendments to the policies are necessary in order to clarify the intent of the Official Plan regarding estate residential subdivisions. This review will help to satisfy one of Council's six priorities, as set out in Kingston's Strategic Plan to "*develop policies to prevent urban sprawl*" as part of the goal of Creating and Protecting Greenspaces (5.1).

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Authorizing Signatures:

ORIGINAL SIGNED BY COMMISSIONER

Lanie Hurdle, Commissioner, Community Services

ORIGINAL SIGNED BY CHIEF ADMINISTRATIVE OFFICER

Gerard Hunt, Chief Administrative Officer

Consultation with the following Commissioners:

Cynthia Beach, Corporate & Strategic Initiatives Not required

Denis Leger, Transportation, Facilities & Emergency Services Not required

Jim Keech, President and CEO, Utilities Kingston Not required

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Options/Discussion:

Prior to the preparation of the new Official Plan, the Planning and Development Department conducted a review of estate residential subdivisions and prepared two Background Reports (PC-08-012 and PC-08-052) that lead to the recommendation of the current policies in the Official Plan. The Background Reports on estate residential subdivisions were presented to the Planning Committee on May 15, 2008 and June 19, 2008.

The Background Reports reviewed each of the then existing Estate Residential designations against the *Provincial Policy Statement* (PPS) and seven different criteria were used to determine the appropriate designation for these areas as part of the new Official Plan review. The seven criteria included: isolation from settlement areas; large lot sizes; lack of municipal water or sewer services; development on local internal roads; development through a plan of subdivision; low density residential dwellings as the predominant land use; and the inclusion of local park space. Based on the review, a number of subdivisions were recommended to maintain the Estate Residential designation for the new Official Plan, while the others were designated as Rural Area.

The new Official Plan intentionally did not pre-designate new areas for estate residential development as the Provincial Policy Statement is very clear that the majority of new development in municipalities should take place within settlement areas (i.e. within the Urban Area or Hamlets). As a result, proposals for new or expanded estate residential subdivisions would have to amend the Official Plan and submit the required studies to determine whether the development is appropriate. Policies were introduced in the new Official Plan that strongly discourage and potentially prohibit the development of new estate residential subdivisions or the expansion of existing estate residential subdivisions.

Some of the key concerns with the existing policies in the City of Kingston Official Plan include:

- Estate Residential is a distinct designation on Schedule 3 of the Official Plan however there are no distinct policies associated with the designation. The existing policies for Estate Residential are within the Rural Area designation section;
- Inconsistencies between the policies for the creation of a rural residential lot through a consent application and through a plan of subdivision;
- The lack of policies to deal with the creation of rural residential lots (parcels) through a plan of condominium;
- Confusion created by policies that discourage and potentially prohibit new or expanded estate residential developments with the criteria established in the Official Plan that would permit an estate residential subdivision; and
- Confusion between clusters, which are permitted, and ribbon development which is prohibited.

The proposed amendment affects the lands within the rural area, outside of the Urban Boundary. A key map is provided to show the area where the proposed amendments apply (see Exhibit A – Key Map).

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To address these concerns, the proposed amendments to the existing Official Plan policies are shown in Exhibit B of this report.

Anyone who attends the Planning Committee Public Meeting may present an oral submission, and/or provide a written submission on the proposed amendment. Also, any person may make written submissions at any time before City Council makes a decision on the application.

If a person or public body does not make oral submissions at a Public Meeting or make written submissions to the City of Kingston before the application is approved, the person or public body is not entitled to appeal the decision of the City of Kingston to the Ontario Municipal Board. If a person or public body does not make oral submissions at a Public Meeting or make written submissions to the City of Kingston before the By-Laws are passed, the person or public body may not be added as a party to the hearing of an appeal before the Ontario Municipal Board unless, in the opinion of the Board, there are reasonable grounds to do so.

Anyone wishing to be notified of Council's decision on the subject amendment must submit a written request to:

Karen Fraser, Senior Planner
The Corporation of the City of Kingston
216 Ontario Street
Kingston, Ontario, K7L 2Z3

The Planning Committee will consider a comprehensive report and recommendation from the Planning and Development Department, respecting the subject amendment, at a future meeting. The Committee will make its recommendation to City Council at that meeting. The decision of City Council will be final unless appealed.

All persons who made oral or written submissions, or have requested notification in writing, will be given written notice of the future meeting(s) of Planning Committee at which the subject application will be considered.

Existing Policy/By-Law:

The Planning and Development Department's review has looked at all of the policies in the Official Plan. In particular:

- Section 2 which establishes the strategic policy direction for the City of Kingston and includes such matters as the City's approach to growth and intensification, the Urban Boundary and the fundamental urban structure;
- Section 3.12 which establishes the land use designation and policies for lands designated Prime Agricultural Area;
- Section 3.13 which establishes the land use designation and policies section for lands designated Rural Area;
- Section 3.14 which establishes the land use designation and policies section for lands designated Hamlets; and

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- Section 9.6 which establishes the general administration and implementation policies relating to land division.

The existing Zoning By-Laws or associated zone provisions are not part of this Official Plan Amendment review.

Notice Provisions:

Pursuant to the requirements of the *Planning Act*, a notice of the statutory Public Meeting was provided by advertisement in the form of a *Kingston Whig-Standard* ad twenty (20) days in advance of the Public Meeting.

Accessibility Considerations:

Not applicable

Financial Considerations:

Not applicable

Contacts:

Sheldon Laidman, Acting Director, Planning and Development 613-546-4291 extension 3252

Cherie Mills, Manager, Policy Planning 613-546-4291 extension 3289

Karen Fraser, Senior Planner, Policy Planning 613-546-4291 extension 3287

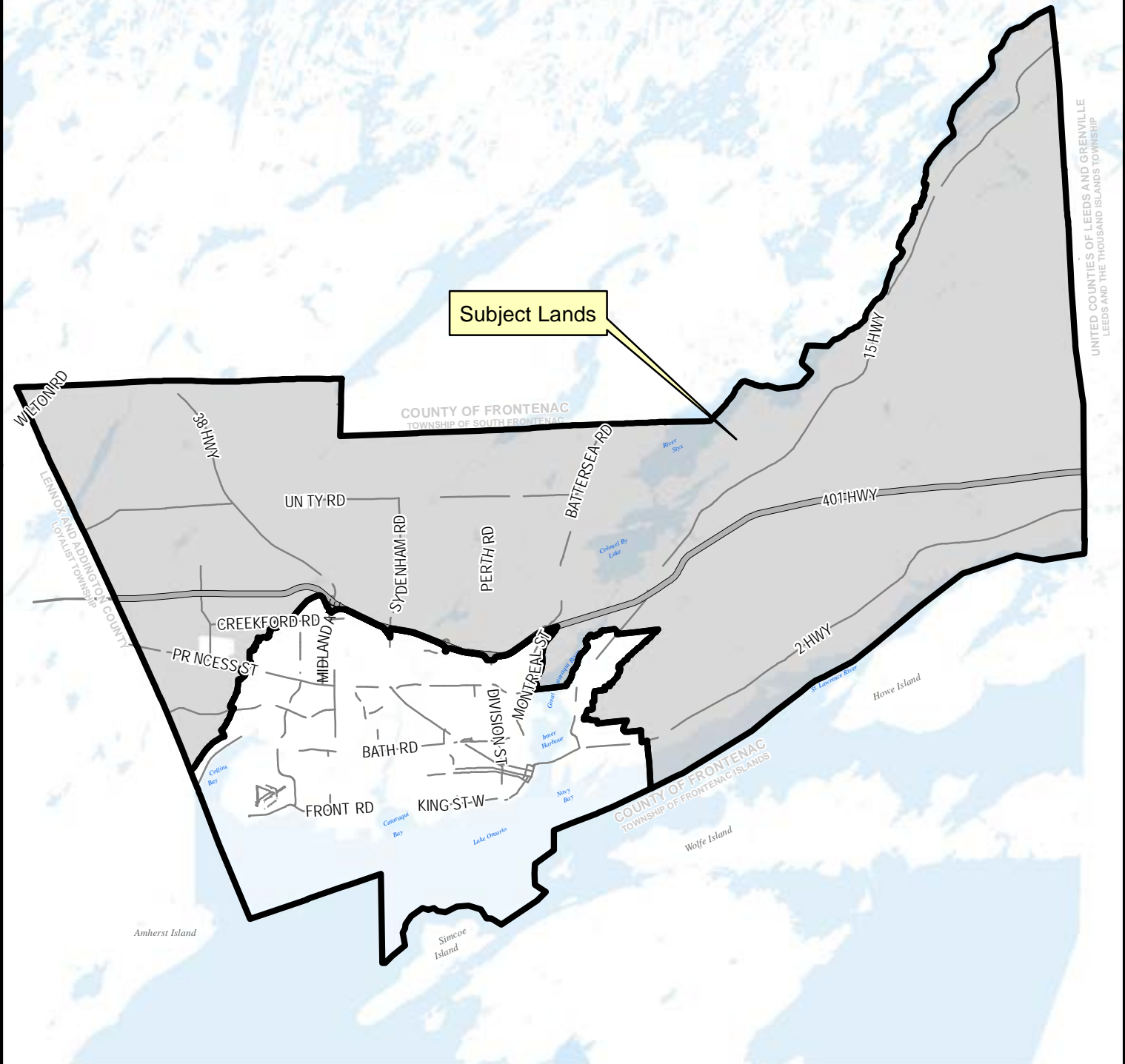
Departments/Others Consulted and Affected:

The proposed amendments have been circulated to various internal departments and external agencies for review and comment. The responses to the technical circulation will be addressed in the technical review and included in the comprehensive report to a future Planning Committee meeting.

Exhibits Attached:

Exhibit A Key Map

Exhibit B Proposed Official Plan Amendments



Subject Lands



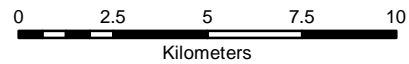
THE CORPORATION OF THE CITY OF KINGSTON

KEY MAP

Applicant: City of Kingston
File Number: D09-019-2014

Planning & Development
a department of
Community Services

- Subject Lands
- 401
- MAJOR ROAD
- URBAN BOUNDARY
- Municipal Boundary



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Exhibit B: Proposed Official Plan Amendments

In order to address the concerns regarding residential development in the Country Area, the Planning and Development Department propose the following changes to the existing Official Plan policies (shown below):

- | | |
|----------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Country Areas | <p>2.2.17. Country Areas are intended to recognize the critical role these lands play in protecting the rural values and rural community of the City. These areas sustain <i>natural heritage features and areas</i> that are important to the ecosystem of the entire City and provide for the integration of limited new <i>development</i> on lands deemed appropriate due to lower soil capability for agriculture and limited <u>will not negatively</u> impact on-adjacent agricultural operations <u>or natural features and functions</u>. There are also areas identified as Prime Agriculture, which are to be protected for <i>agricultural uses</i> and <i>agriculture-related uses</i>, as well as other lands having aggregate or <i>mineral</i> potential that would be preserved for future use, and sites currently engaged in aggregate extraction located in the Country Area. Hamlets are recognized as historic <i>settlement areas</i> outside the <i>Urban Boundary</i> <u>and are intended to be the focus of any development in the Country Areas</u>.</p> |
| Limits on Lot Creation | <p>3.12.13. The creation of lots by way of consent <u>land division</u> for all new non-farm related residential lots and the severance of existing non-farm residential dwellings (principal dwelling, secondary farm dwellings, mobile homes, and <i>garden suites</i>) are prohibited within Prime Agricultural Areas.</p> |
| Permitted Uses | <p>3.13.2. Permitted uses in the <i>Rural Area</i> include all <i>agricultural uses</i> and <i>agriculture-related uses</i> as permitted in the Prime Agricultural Area designation, sports and outdoor <i>recreation</i> activities in accordance with Section 3.13.4, and <u>limited single</u> detached dwellings in accordance with Section 3.13.44<u>10</u> and that are <i>compatible</i> with adjacent land uses.</p> |
| <u>Non-farm Residential Development</u> on Existing Lots | <p>3.13.10. New residential <i>development</i> in the <i>Rural Area</i> is generally discouraged and single detached dwellings are only permitted in accordance with the following criteria:</p> <ol style="list-style-type: none"> a. on existing lots of record; b. as minor infilling of <i>development</i> <u>by way of consent only</u>, subject to the policies of Sections <u>3.13.9, 3.13.14 and</u> 9.6 of this Plan; c. on a lot with a minimum lot area of at least 1 hectare; d. on a lot that is in compliance with all of the policies governing area of influence as set out in Section 9.6 of this Plan; e. on a lot that will be buffered along the boundary where the |

Rural designation abuts the Prime Agricultural Area designation;

- f. on a lot that meets the private *individual on-site well and sewage services* policies of Section 4.4 of this Plan; and,
- g. subject to the appropriate criteria and conditions of approval as set out in Sections 9.6.13 and 9.6.17 of this Plan; and,
- h. for existing lots of record on private roads, development must meet the policies of Section 4.6.61 of this Plan.

Existing Clusters

- 3.13.14.** The *Rural Area* also contains clusters of residential lots that may have a local identity and a name but have not developed the mix of uses or extent of *development* that is typical of the Hamlets designated in this Plan. A cluster is a definable node consisting of a minimum of five developed properties located either on both sides of an opened public road or within a quadrant of an intersection of two opened public roads. Additional *development* is permitted in these clusters only if it can be demonstrated that the proposed use:
- a. represents infill within the cluster of development and does not expand the outer boundary of the cluster,
 - b. is located on an existing lot of record or new lot created by consent only;
 - c. is small scale, has frontage upon, and access to, an existing public road that has been assumed by the City;
 - d. meets the requirements of Sections 3.13.9, 3.13.10, and 9.6;
 - e. does not impact the surrounding agricultural operations' ability to conduct normal farm practice; and,
 - a-f. and will not jeopardize the resource protection or environmental objectives of the *Rural Area Plan*.

Estate Residential

- 3.13.16.** The limited additional residential development anticipated by this Plan in the Country Area shall be accommodated in the Hamlets and Rural Areas by way of consent. No new, or expanded existing plan of subdivision or plan of condominium may occur in the Rural Area unless at the time of a comprehensive review. Plans of condominium will only be permitted to recognize existing residential development.

Renumber Section 3.13.17 to 3.13.20

3.14A ESTATE RESIDENTIAL

The Estate Residential designation recognizes existing estate residential development. The Estate Residential designations, shown on Schedule 3, are intended to maintain their form and represents limited development outside the Urban Boundary.

Goal:

To provide an alternative form of housing on large lots in the rural area which contribute to the City's range and mix of housing while protecting the role of the Rural Area for agricultural production, forestry and mineral resources, natural areas and wildlife habitat.

Estate Residential**Policies:**

3.13.1614A.1. Existing estate residential *development* as shown on Schedule 3, consisting of single detached houses and any common recreation or open space areas, are intended to be recognized in the zoning by-law. ~~Compliance with minimum distance separation formulae is required.~~ Within an existing estate residential subdivision, only an application for consent for technical purposes is permitted.

Proposal for New Estate Residential Development

3.13.1714A.2. ~~Approval of new~~ New areas or expansion of existing areas designated of eEstate residential Residential on Schedule 3 may only occur at the time of a comprehensive review. At that time, any proposed new designation or expansion of an existing designation must demonstrate need and justify location for the proposed use in development is strongly discouraged by Council and, upon review of the following criteria, may be prohibited. Any proposal to expand or designate new estate residential areas requires an amendment to this Plan, rezoning, and a plan of subdivision. All applications are required to demonstrate conformity to the following principles through submission of supporting plans and studies as may be required in accordance with Section 9.12 of this Plan, and prepared by qualified persons to the satisfaction of the City:

- a. estate residential *development* must be limited in scale, both in the context of the amount of *development* in the municipality as a whole and in the context of specific proposals for individual sites;
- b. ~~the site has~~ tree cover, ~~that are~~ varied topography or other interesting landscape characteristics suitable for residential development and these qualities are preserved in the proposed *development*;
- c. ~~the open space amenity is preserved by clustering residential lots and protecting no negative impact on~~ the natural heritage system features and areas from *development*;
- d. the distance from the urban area is sufficient to ensure that there are no future demands for extension of municipal water or sewer services; and

~~d.e.~~ the City is satisfied that there will be no other undue financial

demands on the municipality;

~~e.f.~~ the soil and groundwater conditions are capable of supporting necessary *individual on-site water and sewage services* with no *adverse effects* on the proposed *development lands, adjacent lands* or on ~~the-both~~ surface water and groundwater systems as demonstrated by an engineering and hydrogeological report to the satisfaction of the City, KFL & A Public Health Unit and Ministry of Environment, as appropriate;

~~f.g.~~ access is from a public road that has been assumed by the City;

~~g.h.~~ _____ in areas that abut a watercourse or water body, all setbacks are those set out in this Plan or such additional setback as may be determined through consultation with the Cataraqui Region Conservation Authority, or as established in the implementing zoning by-law;

i. on lands not suitable for agricultural use, forestry or mineral resource production;

~~h.i.~~ where estate residential *development* is proposed on *adjacent lands* to the Rideau Canal, it does not impact upon the *natural heritage system* or *cultural heritage resources* of that setting;

~~i.k.~~ the minimum lot area is 1.0 hectare, ~~or as may be determined by the above criteria, as applied to the site,~~ and shall be established in the implementing zoning by-law; and,

~~j.l.~~ the area of influence in proximity to any *Mineral Resource* designation and the *minimum distance separation formulae* in proximity to *livestock operations* must be met.

3.14A.3. Any proposal to expand or designate new estate residential areas requires an amendment to this Plan, rezoning, and a plan of subdivision and/or condominium. The comprehensive review must be completed and approved by Council before the amendment to this Plan, rezoning, and a plan of subdivision and/or condominium are commenced. The City may require that the studies in support of the comprehensive review undergo a peer review by an independent third party.

Plans of Condominium

3.14A.4. Plans of condominium outside of the Urban Boundary or the Hamlets will only be permitted to recognize existing residential development.

Plans of Subdivision

~~3.13.18. All proposed plans of subdivision accompanying an application to amend this Plan to permit an estate residential development or the extension of an existing estate residential area as shown on Schedule 3, must indicate:~~

~~a. detailed topographic information;~~

~~b. the location of all proposed buildings (or building envelopes) and all proposed individual on site water and sewage services;~~

- ~~e. the location of all existing and all retained landscape features within the site as well as beyond the site, adjacent to its perimeter; and,~~
- ~~d. the location of all proposed roads and utilities.~~

Renumber Section 3.14 to 3.14B

Additional Hamlet Development **3.14B.4.** Additional *development* within a Hamlet designation will only be permitted under the following circumstances:

- a. on existing lots of record;
- b. as infilling, provided the minimum lot size is generally 1 hectare, there is adequate access from a public road, and the lot can accommodate *individual on-site water and sewage services* to the satisfaction of the City, KFL&A Public Health, and the Ministry of the Environment;
- c. in accordance with the ~~consent-land division~~ policies of Section 9.6 of this Plan; and,
- d. in accordance with the area of influence policies of Section 9.6.14 of this Plan.

Applicable Policies
Plans of Subdivision

9.6.4. Plans of subdivision must conform to the policies of this Plan, and to the Provincial Policy Statement, as amended, and other requirements of senior levels of government. Council must be satisfied that:

- a. the proposed subdivision can be adequately supplied with municipal *infrastructure* and services in an economic manner if located within the *Urban Boundary*, or if located outside ~~any settlement areas~~ the Urban Boundary, the proposal is adequately supplied with *individual on-site water and sewage services*;
- b. the proposed subdivision has been designed to integrate compatibly with transit and the broader transportation system, adjacent existing and planned land uses, and both the *natural heritage system*, and *cultural heritage resources*;
- c. the plan of subdivision has been designed so there are no *negative impacts* on the *natural heritage features or areas* ~~or~~ and to avoid lands that are subject to natural hazards ~~land areas~~;
- d. the proposed *development* addresses issues of *energy conservation* and *sustainability*;
- e. the proposed subdivision is necessary, timely and in the public interest; and,
- f. the design of the proposed plan of subdivision meets accepted design principles and standards of the City, and has had adequate regard for any urban design guidelines, land acquisition programs, or other policy initiatives that are relevant to the area.

**Direction for
Growth by
Consent**

9.6.12. New residential development created by consent is encouraged to locate in areas designated for growth such as lands within the Urban Boundary, ~~and~~ the Hamlets. Limited additional residential development within, and the Country Areas as minor infilling where infill residential development is permitted. In order to fully assess an application for consent (or land severance), the Committee of Adjustment or approval authority may require the submission of additional information and studies as detailed in Section 9.12 of this Plan.

**Criteria for
Consent Approval**

9.6.13. The creation of individual parcels of land by way of consent are subject to the following criteria:

- f. minor infilling of residential development is permitted except where the new lots would result in ribbon development of more than four non-farm residential lots that takes the form of a single depth of houses or other land uses fronting along roads in the Country Area;
- g. infill residential development is permitted within the Country Area where there is a distance of 100 metres or less of frontage between two non-farm ~~residences~~ residential lots on the same side of the road and the lot can meet all of the other policies of this Plan and requirements of the zoning by-law;