

THOMAS H. SIMPSON

April 26, 1998

To: Fellow Members of the Cedar Springs Community Club

Re: Conversion of Seasonal Residences to Year-Round Residences

In an effort to assist the Community to bring closure to an extremely divisive issue, I commissioned an expert study to answer the following questions once and for all: What approvals are required to convert seasonal residences to year-round use? Can any member property meet those requirements? What would it cost? When I did so, I had no idea what conclusions these experts would draw, but I believed that continuing the residency debate without the benefit of this expertise could very well destroy the Springs we all love.

The report's main conclusion is that there is not one member property that can meet current minimum requirements for septic systems to convert a three bedroom or larger dwelling from seasonal to year-round use. There are just two member properties which each might support a septic system for a two bedroom dwelling, but it would cost thousands of dollars for studies and applications without certainty of obtaining approvals for year-round use.

While the community might choose to bypass the septic system restrictions by putting in modern communal water and sewage systems, the studies and applications alone will cost several hundred thousand dollars because communal systems are generally not permitted in rural areas. There is uncertainty that the necessary waivers and approvals would be granted, particularly because of the political input process. Even if approved, the system would likely cost the Club \$1,900,000 to build and an unknown amount to operate. To ensure the proper construction, operation and repair of the systems, the Region would want financial security by way of an additional initial capital payment of about \$615,500 and annual payments to a capital reserve of approximately \$60,000.

The planning expert recommends that we maintain the status quo by continuing to keep within the limit of 12 year-round residences contained in the Burlington Official Plan. He confirms the long-held belief of many members of the community that seeking a change from seasonal to year-round use will increase the risk that the existing servicing conditions and practices will be opened up to outside scrutiny with significant unknown costs and consequences.

I enclose a copy of the report for your consideration. However, if you read nothing else, at least read the Summary and Conclusions on pages 19 and 20 of the report. It is my hope that if we all have these facts and expert opinions before us, we can come to some final conclusion in the seasonal residency debate and then renew friendships so that we may enjoy to the utmost all that our community has to offer.

Sincerely,



Tom H. Simpson

THOMAS H. SIMPSON

May 16, 1998

Presentation at the General Meeting of Members of the Cedar Springs Community Club

Re: Conversion of Seasonal Residences to Year-Round Residences

The Burlington Official Plan provides for a maximum of 12 year-round residences and prohibits any further conversion of seasonal residences to permanent residences. However, the Springs is a legal non-conforming use in several respects and so long as we continue with the existing seasonal use we do not have to comply with a whole range of modern legal requirements.

There is an interest by some members to change to year-round use. Brad Crawford wrote to several government agencies to inquire whether this was possible. Brad did not write to the Regional Health department but public health and environmental regulations are also central to a decision to convert to year-round use. So I took the next logical step and commissioned an expert report to answer the following questions: What government approvals are required to convert seasonal residences to year-round use? Can any member property meet those requirements? What would it cost?

I hired Ken Dakin, a land use planner, to deal with government officials to determine the various agencies' positions and requirements for conversion.

Ken met one-on-one with each of the relevant government officials. There are many issues, most of which could be resolved (for example, some of the corners in our roads may have to be straightened to accommodate fire vehicles). However, he determined that the three biggest obstacles to convert seasonal residences to year-round use were:

- An Official Plan amendment is required to change the current number 12.
- Current modern water and waste water requirements must be met.
- Environmental constraints will limit upgrades to dwellings on lots along the creek and on the floodplain.

I then hired Ray Blackport, a hydrogeologist (water and septic expert), who is familiar with the area. He did work for the Regional Health department this past winter in studying a water quality problem in Kilbride.

I also hired George McKibbin, an environmental planner and one of the authors of the original Niagara Escarpment Plan.

Following the meetings, there were numerous telephone calls with government officials and so the Dakin report is not just an expert opinion but also represents a report of the positions of various government agencies with respect to the specific issue of conversion of seasonal residences to year-round use. In other words, we can expect that any other expert would get the same responses on the same issues.

It turns out that waste water requirements are the main obstacle to converting to year-round use. The basic premise is that you can do what you want on your property if there is no environmental impact beyond your property boundaries. The biggest problem is nitrates which are a normal by-

product of a properly functioning septic system, even the new high-tech systems. There is a minimum amount of tableland required to dilute the nitrates to safe levels. There are just two member properties which each might support a proper septic system, but only for a two bedroom dwelling. Not one member property can meet current minimum requirements for septic systems to convert a three bedroom or larger dwelling from seasonal to year-round use. Regional health officials take the view that since our septic systems and lots cannot meet minimum requirements, the way to limit health and environmental impacts is to limit the number of days of use. This is done through the seasonal residency requirement imposed through the Official Plan and a seasonal residency undertaking imposed in development permits issued for property improvements.

Members who have upgraded their septic systems may think that the approvals obtained mean that they meet current requirements. This is not the case. Prior approvals were granted on a discretionary basis in the hope that improved systems would lower the environmental impact of an otherwise legal non-conforming septic system. Staff with the Regional Health unit says to his knowledge, none of these systems were approved to be in compliance with requirements for year-round use.

While the community might choose to bypass the septic system restrictions by putting in modern communal water and sewage systems, the studies and applications alone will cost several hundred thousand dollars because communal systems are generally not permitted in rural areas. There is uncertainty that the necessary waivers and approvals would be granted, particularly because of the political input process. Even if approved, the system would likely cost the Club \$1,900,000 to build and an unknown amount to operate. To ensure the proper construction, operation and repair of the systems, the Region would want financial security by way of an additional initial capital payment of about \$615,500 and annual payments to a capital reserve of approximately \$60,000. The communal option is the only solution that meets public health and environmental concerns but the costs and the risks probably make it impractical for the Club to undertake.

In addition to what is contained in the Dakin report, I have a map that he prepared which shows features of the Springs which put constraints on certain members' lots in complying with environmental and waste water regulations.

Dakin recommends that we maintain the status quo by continuing to keep within the limit of 12 year-round residences contained in the Burlington Official Plan. He confirms the long-held belief of many members of the community that seeking a change from seasonal to year-round use will increase the risk that the existing servicing conditions and practices will be opened up to outside scrutiny with significant unknown costs and consequences.

Given all of this, it is my conclusion that we should stop fighting over something we can't have or afford to have. We should just put the desire to have more permanent residences behind us and get on with life at the Springs.

There are other issues of concern which were raised in the course of Ken Dakin's study:

The City doesn't recognize our transfers of permanent residency status from cottage to cottage. If we continue to approve transfers, we may effectively extinguish those rights over time. This may happen as owners of those properties seek development permits and are not able to get approvals without undertaking to convert back to seasonal use.

The cumulative environmental impact of greater use of cottages should be of concern to all members, no matter how little a particular member may use his own cottage. Even if we maintain seasonal use, we are still obligated not to pollute the environment and must meet water quality standards. The creek is designated as a type 1 trout fishery resource under control of the federal Fisheries Act which can also trigger the Canadian Environmental Assessment Act. If a septic impact assessment showed contamination of the shallow aquifer, wells or Bronte Creek, it could lead to Orders under the Environmental Protection Act, the Ontario Water Resources Act or the Health Protection and Promotion Act. In Dakin's view, because of the nature of the Springs, it is likely that the Ministry of the Environment would look to the Club to study the problem and identify remedial action at the Club's cost.

Replacement of our existing communal water system will require extensive and expensive approvals. A new system would have to operate under higher standards with higher costs. The hydrogeologist said that not every lot could support a well because of the close proximity of septic systems. This means that there could be numerous cottages without running water. We must find a way to keep our communal water system in constant good repair (i.e. in a way which doesn't constitute a replacement).

Approvals for septic systems have moved from the Regional Health department to the City building department which is more likely follow the book and exercise less discretion than the Region did in the past. This means applications to upgrade septic systems to take on larger dwellings or greater use may not be approved.

And finally, here is food for thought. Although there is no specific definition of seasonal use under the Burlington Official Plan, the Region of Halton has one under its urban and rural servicing guidelines for water supply and waste water treatment. It relates to permission to use water storage tanks and/or sewage holding tanks for "seasonal use". Seasonal use is defined as "uses for periods of time not exceeding three (3) months during any twelve (12) month period" (i.e. seasonal use means use during only one season throughout the course of a year).

Sincerely,



Tom H. Simpson



MAY, PIRIE, DAKIN & ASSOCIATES LIMITED

LAND USE PLANNING CONSULTANTS

PRINCIPALS: MORGAN PIRIE, MCIP, RPP
KENNETH DAKIN, MCIP, RPP

ASSOCIATES: BRENDA KHES, MCIP, RPP

ADVISOR: DONALD MAY, MCIP, RPP

CEDAR SPRINGS COMMUNITY PROPERTY INVESTIGATION

A. BACKGROUND

- The Cedar Springs Community is located in rural Burlington on Cedar Springs Road in Part Lots 6 and 7 Concession 2 NS, former Township of Nelson, now in the City of Burlington.
- The community was established as a rustic summer camp about 1924 by W.D. Flatt and developed under a general building scheme dated July 9, 1932 between Flatt, the Cedar Springs Community Club and its members at the time.
- The community members own their lots and enjoy use of approximately 400 acres of Club owned common land and facilities including, access roads, a clubhouse, a 9 hole golf course, tennis courts, a swimming area and beach, trails and accessory facilities.
- The community consists of 83 member properties with single detached dwellings, of which 12 enjoy permanent (year round) residential status pursuant to By-law 13 of the Club and the (1994) City of Burlington Official Plan. There is an additional year round residence used by a gatekeeper/groundskeeper who is a paid Club employee.
- The balance of the dwellings are restricted to seasonal use pursuant to By-law 15 of the Club and the Burlington Official Plan. Under the Club By-law, a seasonal residence is not used as the only residence between November 1 and May 1 of the following year. In other words, the owners of these seasonal dwellings maintain a principal residence off-site in this period.
- It is understood that the practice of the Board of Directors of the Club is to permit use of these seasonal dwellings during weekends and statutory holidays during this period. There have been several exceptions where year round use has been permitted in extenuating circumstances. With respect to existing permanent status, we understand that the Club By-law has been amended on a couple of occasions to transfer permanent residential status from one lot to another, although the number of residences with year round status is unchanged.

- All dwellings are serviced by private waste water systems constructed to varying standards depending on age of the system and lot conditions. Water supply is by a combination of communal and private individual systems. Approximately two-thirds of the dwellings are on communal water supply from spring-fed reservoirs located on the valley slope and gravity-fed by a system of shallow small diameter pipes. Many of the dwellings on the south side of Bronte Creek are serviced by individual shallow wells and/or spring-fed cisterns typically up slope of the dwellings.
- Table 1 provides a list of the properties within the community by lot size based on assessment rolls. There are some inaccuracies in the data, for example, Lot 7 is overstated as 2.6 acres, whereas the measured lot area is approximately 1 acre. For the purpose of this review, the lot size data is assumed to be generally accurate.
- Generally, the lot sizes in the community are small by today's standards for rural residential development on individual private services. The larger lots tend to be located along Cedar Springs Road and on both sides of Bronte Creek where there is floodplain and/or steep slopes.
- Most of the dwellings are cottages or cabins. Several seasonal cottages have been replaced by new dwellings with upgraded waste water systems, but restricted to seasonal use, in accordance with the requirements of the approval authorities.
- There is an interest by some members in obtaining a change to the City of Burlington Official Plan to permit permanent residential status for some of the seasonal dwellings, beyond 12 currently permitted.
- This report has been prepared to summarize the issues and technical requirements associated with conversion of the community, all or in part, to permanent residential status.

B. METHOD

- Air photos and topographic mapping were obtained and examined, coupled with a site visit to the property. The topographic mapping included engineered floodlines, and flood elevations for Bronte Creek, supplied by the H.R.C.A.



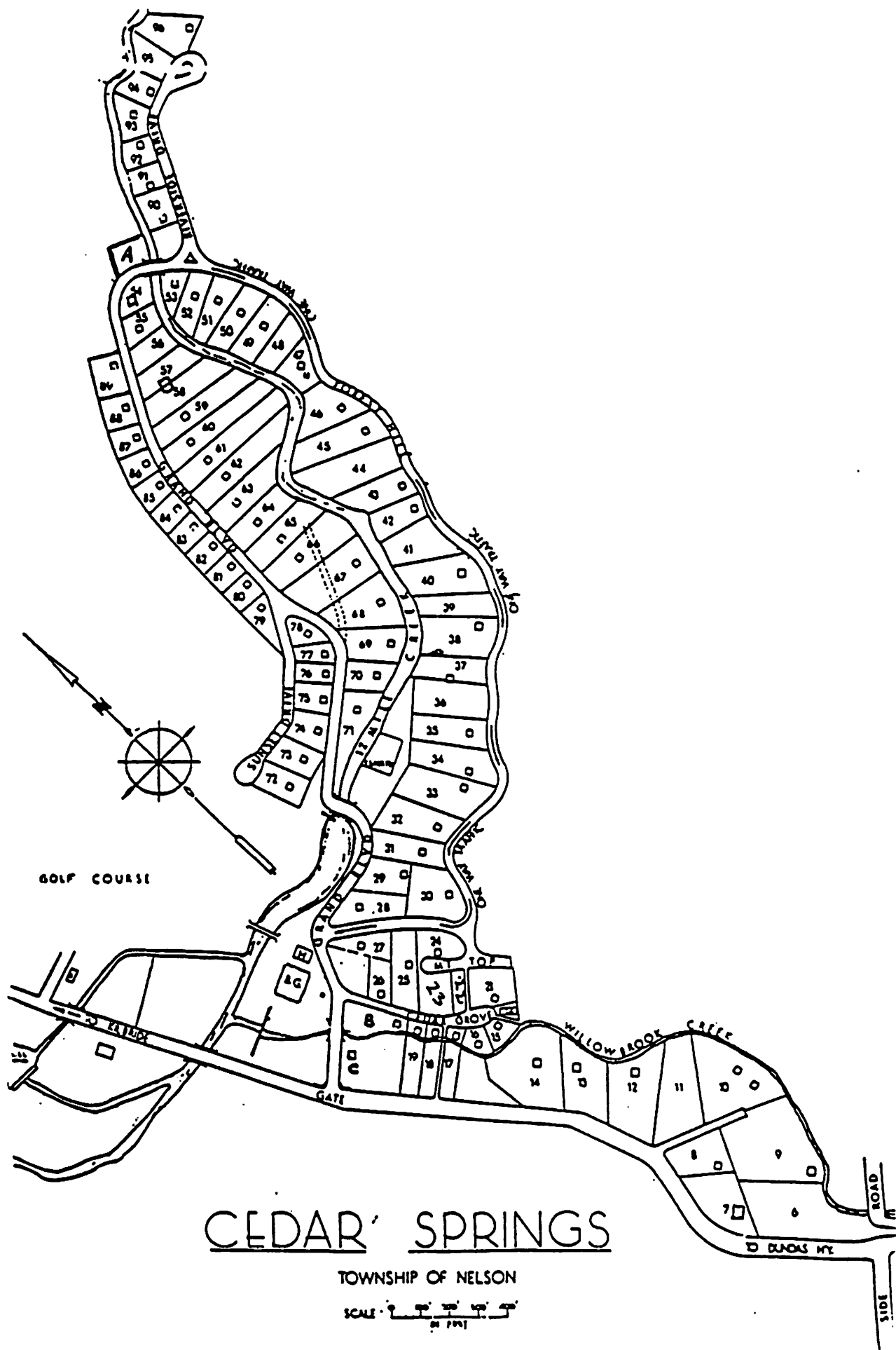


TABLE 1
CEDAR SPRINGS MEMBER PROPERTIES BY SIZE

NAME	ADDRESS	LOT(S)	ACRES	PERM.
Lonsway	6031 Cedar Springs Road	6, 9	3.00	N
Muirhead	6097 Cedar Springs Road	14	2.02	YES
Bissell	2213 Forest Hill Road	41, 42	1.50	N
Warren McCrea	6069 Cedar Springs Rd.	8, 11	1.47	N
Freeman	6071 Cedar Springs Rd.	10	1.47	N
Riley	2169 Forest Hill Road	37, 38	1.46	N
Paget	2244 Grand Blvd.	57, 58	1.40	N
Acheson	2224 Grand Blvd.	61	1.30	N
Simpson	2230 Grand Blvd.	60	1.11	N
Olmsted	6075 Cedar Springs Rd.	12	1.00	N
Beyers	2220 Grand Blvd.	62	1.00	N
McDowell	2202 Grand Blvd.	66	1.00	N
Calder	2196 Grand Blvd.	67	1.00	N
Crawford	2243 Forest Hill Road	45	0.91	N
Yates	2133 Forest Hill Road	33	0.90	N
Abel	2235 Forest Hill Road	44	0.90	N
Lindop	2240 Grand Blvd.	59	0.90	YES
Giacomelli	2188 Grand Blvd.	68	0.90	N
Fisher	6051 Cedar Springs Road	7	0.86	YES
Cathcart	6087 Cedar Springs Rd.	13	0.80	YES
Schmidt/Kirpalani	6103 Cedar Grove	21	0.80	YES
Holmes	2265 Forest Hill Road	47, 48	0.80	N
Harrison	6125 Mountain Top	22, 23	0.78	N
Wilmott/Smith	2109 Forest Hill Road	30	0.78	N
Sproule/Craven	2201 Forest Hill Road	40	0.77	N
Hartwell	2125 Forest Hill Road	32	0.76	N
Thomson	2098 Grand Blvd.	28	0.75	N
Arnett	2355 Riverside Dr.	95, 96	0.72	N
Lindley	2216 Grand Blvd	63	0.71	N
Walker	6104 Cedar Grove Road	15	0.70	N
Cook	6110 Cedar Grove	16	0.70	N
Spear/Fitzsimmons	6126 Cedar Grove Road	19	0.69	N
Fletcher/Black	2208 Grand Blvd.	65	0.68	N
Pelech	6129 Mountain Top	25	0.66	N
Mains	2084 Grand Blvd.	27	0.66	N
Bartram	2249 Forest Hill Road	46	0.66	N
Westmoreland	2176 Grand Blvd.	69	0.63	N
Brash	2158 Grand Blvd.	71	0.62	N
Lawrence	2212 Grand Blvd.	64	0.61	N
Dempster	2152 Sunset Drive	74	0.60	N
Forrest	2117 Forest Hill Road	31	0.58	N
Waszczuk	2285 Grand Blvd.	A	0.56	N
Hooper	2151 Forest Hill Road	35, 36	0.55	N
Wilby	2143 Forest Hill Road	34	0.51	N
Crane	2191 Forest Hill Road	39	0.50	YES
Watson	2225 Forest Hill Road	43	0.50	N

TABLE 1 (CONTINUED)

NAME	ADDRESS	LOT(S)	ACRES	PERM.
Dart	6119 Mountain Top Road	24	0.49	N
Benetti	2108 Grand Blvd.	29	0.49	N
Taylor	2333 Riverside Dr.	93	0.48	N
Johnston	6116 Cedar Grove	17	0.45	N
Lonsway	2168 Grand Blvd.	70	0.45	YES
Baxter	6122 Cedar Grove Road	18	0.44	N
Stevenson	2136 Sunset Drive	72	0.44	N
Chisholm	2263 Grand Blvd.	89	0.44	N
Miles	2273 Forest Hill Road	50	0.42	N
Ashley	2269 Forest Hill Road	49	0.41	N
Corp	2277 Forest Hill Road	51	0.41	YES
Cornale	2281 Forest Hill Road	52	0.41	N
Meens	2146 Sunset Dr.	73	0.41	N
Bell	2264 Grand Blvd.	55, 56	0.37	N
Paget	2221 Grand Blvd.	88	0.37	N
Maughan	2187 Sunset Dr.	79	0.33	N
Ulmer	2160 Sunset Dr.	75	0.32	N
Hummel	2227 Grand Blvd.	85	0.32	N
Searle/Nixon	2317 Riverside Dr.	91	0.32	N
Cook	2323 Riverside Dr.	92	0.31	N
Myers	6139 Cedar Grove	26	0.30	YES
Keogh	2285 Forest Hill Road	53	0.30	N
Cannon	2168 Sunset Drive	76	0.29	N
Gardner	2203 Grand Blvd.	80	0.29	N
McDade	2215 Grand Blvd.	82	0.29	N
Mulligan	2219 Grand Blvd.	83	0.29	N
Cornale	2223 Grand Blvd	84	0.29	N
Jones	2231 Grand Blvd.	86	0.29	N
Galbraith	2241 Grand Blvd.	87	0.29	YES
Wasik	2209 Grand Blvd.	81	0.28	N
Galea	2343 Riverside Dr.	94	0.28	N
MacIntyre	2311 Riverside Dr.	90	0.27	YES
Brouwers	2276 Grand Blvd.	54	0.25	YES
Blake	2180 Sunset Dr.	78	0.24	N
Thornton	Gatehouse	LOT C	0.20	YES
Kelley	2174 Sunset Drive	77	0.16	N
Rogers	6132 Cedar Grove	LOT B	0.09	N
Stoneham	6099 Cedar Grove	20	0.08	N
			54.74	

1. Acres Source: Records of the Regional Property Tax Assessor.

- The applicable planning documents were reviewed (Appendix A), followed by meetings with key agency staff as follows:

City	A. Ramsey	Planning
Region	B. Criger M. Dickhout	Planning Health
NEC	K. Jordan K. Whitbread	Development Control/ Plans Administration
HRCA	R. Versteegen	Resource Planning

- Following these meetings, sub-consultants were retained to review servicing and environmental considerations in greater detail - Stanley Consulting Group Ltd. - Ray Blackport, Hydrogeology, and McKibbon Wakefield Inc. - George McKibbon, Environmental Planner.

C. GENERAL PLANNING OVERVIEW

- The Cedar Springs Community is a different and unique situation under the relevant policies because it is an existing use.
- All applicable planning documents permit the existing use, including dwellings in the floodplain which are recognized in the Burlington Official Plan and in the policies of the H.R.C.A.
- The key issues related to conversion of the existing seasonal dwellings to permanent use are servicing capability, environmental impact and, to a lesser extent, floodplain and fill impacts.
- At a minimum, an amendment to the Burlington Official Plan will be required to convert any existing seasonal dwellings to permanent use.
- Prior to an amendment being considered, it will be necessary for Burlington City Council to grant a waiver to the City Rural Development Moratorium Policy based on a satisfactory hydrogeological analysis and arrangements for servicing.



- The general policy is that all lots proposed for conversion would be serviced by private individual systems to the satisfaction of the Regional Health Department. Few lots would meet basic criteria for private systems such as Nitrate loading from septic beds due to lot size and physical constraints affecting the available lot area. Nitrate in waste water is considered to be a critical contaminant for potable water and the environment.
- Communal services are an option should private individual services not be feasible for conversion of seasonal dwellings to permanent use. New communal systems (water or wastewater) require Class Environmental Assessment approvals and a Regional Official Plan Amendment because communal systems are not permitted outside designated Hamlets and Rural Clusters in Halton. Such systems in the general rural area would raise issues of development precedent. Alternatively, the Cedar Springs Community could be added to the Kilbride Settlement Area where communal systems may be permitted, but this would also require a Regional Official Plan Amendment and a Niagara Escarpment Plan Amendment. Adding the site to the settlement area raises issues of the appropriate settlement area boundaries and whether other lands should be added including Club-owned lands.
- The use of communal services would raise issues of capital costs, operational responsibilities and financial securities and default agreements from the community, satisfactory to the Region.
- The amendments to the Official Plans to convert the seasonal community to permanent use must be supported by appropriate hydrogeological and servicing studies and environmental impact studies, which could affect all dwellings in the community depending on the servicing method.
- Regardless of conversion, some dwellings are affected by floodplain restrictions where it may be necessary to relocate dwellings and private wastewater systems should the dwelling be replaced. Restrictions would also apply to the location and extent of expansions or additions to existing dwellings in the floodplain.
- Together with the Official Plan Amendment(s), a general Niagara Escarpment Commission Development Control permit would be required for the conversion of seasonal use dwellings to permanent use and any common infrastructure improvements. Certificates of Approval would be required for wastewater systems



and individual Development Permits would be necessary for alterations to individual dwellings, subject to the exemptions for certain classes of development.

D. ISSUES

D.1 Environment

- The environmental features of the Bronte Creek Valley through the site are significant and recognized in the planning documents at all levels with policies which provide for the protection of these features. An environmental impact study would be required to evaluate the impacts of conversions on these features and apply the appropriate measures to mitigate these impacts. It is not possible to predict the study outcome. However, in the opinion of the environmental consultant, there are several environmental standards which should be applied to the conversion of some lots.
- The Bronte Creek and its tributaries are Type 1 fisheries resources and a significant limiting factor for servicing impacts. The permissible concentrations for water quality which need to be met for private individual or communal systems are contained in the Provincial Water Quality Objectives. Where water quality in the creek meets the standards, off-site impacts should not result in increased concentrations. These off-site impacts would include nitrate loadings from private individual or communal wastewater systems.
- The other environmental features of the site are the floodplain, organic soils, riparian wetlands, and floodplain vegetation, forested slopes related to the Escarpment and wooded tablelands.
- Where development is proposed adjacent to Bronte Creek and its tributaries, a 30m buffer should be established from the stream bank to protect the creek and fisheries resource. The existing riparian vegetation should be maintained and restored within the buffer with no buildings, structures or septic systems.
- It may be necessary to re-site seasonal residences proposed for conversion outside the 30m buffer where this can be accomplished. This could affect lots 12, 13, 15 to 20, 44, 48 to 54, 67 to 71, 90 to 96, Lot B and Lot C.

- There are steep slopes along the south side of Bronte Creek and in some areas on the north side. In these areas, sufficient tablelands should be provided on each lot for the residential use without affecting the stability of the slope or the dwelling. Buildings, structures and septic systems should be setback 7.5m from the crest of stable slopes and 10m where communal systems are provided. Regrading within this setback should be minimized and slope vegetation should be preserved.
- It may be necessary to re-site seasonal dwellings proposed for conversion to a location outside the 7.5m/10m buffer where this can be accomplished. This could affect Lots 32 to 46, lots 72 to 78 and, possibly, lots 23, 24 and 25 depending on the slope characteristics.
- Within the floodplain and adjacent to the creeks are areas of organic soils, riparian wetlands and springs along the creek banks and lower valley slopes. These should be mapped in detailed site investigations and used to consider individual conversions since they contribute to the system of features which form part of the Cedar Springs environment.
- In addition, a Provincially Significant Area of Natural and Scientific Interest (Life Science) and Environmentally Sensitive Area overlap the Cedar Springs community. An Environmental Impact Study would be required to demonstrate that the environmental features and functions which form the basis of these designations can be maintained with conversions. There may be sensitive features (e.g., plant habitats) which may require further protection over and above the prescriptive measures described above.
- Wherever possible, forested lands should be maintained on individual lots where conversions result in redevelopment. This would affect lots on both sides of the creek and particularly on the south side where excavation and fill would be necessary to obtain appropriate grades for servicing to applicable standards.
- Fisheries Act approvals may be required should communal services cross the Bronte Creek and affect fish habitat. The Fisheries Act is listed as a trigger for the Canadian Environmental Assessment Act which means, at a minimum, an environmental screening process will be necessary for servicing if Fisheries Act approval is required.

- The scope of the environmental study required for conversion will be a function of the scale of conversion proposed. In other words, the terms of reference of the study would be determined by the number and location of individual lots proposed for conversion and the environmental features which may be affected with the most significant feature being Bronte Creek. If it can be shown that the impacts of servicing do not extend beyond the boundaries of the lots, then the scope of the study could reflect this condition.

D.2 Servicing

- In the absence of municipal piped services, conversion of seasonal dwellings in Cedar Springs to permanent use would require private individual systems on each lot or communal systems which meet current standards.

D.2.1 Private Individual Services

- If all lots were to convert to permanent use on private individual systems, preliminary assimilative assessment indicates that nitrate loadings would likely be exceeded in Bronte Creek given the average existing lot sizes and the location of lots relative to the creek.
- There are several seasonal lots where the existing wastewater systems have been upgraded for one reason or another, often in conjunction with replacement or improvements to the dwellings. Based on our discussions with the Regional Health Dept., it cannot be assumed that these properties comply with current requirements and standards for permanent residential status. We are advised that these upgraded systems do not meet all regulatory requirements, because they are replacement systems for existing seasonal uses. Where there is an existing use, the Health Department has the discretion to vary from the requirements with the upgrades to mitigate adverse impacts.

It should be noted that effective April 6, 1998, approvals under Part 8 of the Environmental Protection Act for wastewater systems rated under 10,000 litres/day was transferred to the Building Code Act. We understand that the new regulations for wastewater systems are more prescriptive and there may be less discretion to vary from the regulatory requirements for existing uses.



- The Region considers Cedar Springs as a "legal non-conforming use" from a servicing perspective. The conversion of existing seasonal use dwellings to permanent use is considered to be a "change of use" and an alteration to the use of a wastewater system where compliance will be required with current standards including minimum physical requirements.
- Minimum physical requirements means a lot of sufficient size and shape to accommodate the dwellings, the private well, the private sewage system and a reserve tile field area while maintaining compliance with the Environmental Protection Act and Ontario Regulation 358 (private sewage disposal systems) and Ontario Regulation 903 (well construction).
- In the opinion of the hydrogeologist, it would be impossible to obtain private individual servicing to current standards for conversion of all existing seasonal dwellings to permanent use based on the existing lot sizes and conditions. It would appear that few of the lots would meet basic criteria such as nitrate loadings from private septic systems.
- The minimum lot size is typically controlled by the amount of infiltration required to dilute the septic effluent to acceptable concentrations of nitrate at the property boundary. The amount of infiltration is determined by permeability of the soil. Specific criteria are used for nitrate loading calculations.
- The importance of minimum lot size is demonstrated by the following example:

If a three bedroom house was being used as a permanent dwelling, then the daily sewage flow based on Ministry of Environment guidelines is assumed to be 1600 litres per day with a nitrate concentration of 40mg/L for a standard Class IV septic tank system. If the infiltration rate is assumed to be 25 cm of infiltration per year which is moderate and reasonably conservative for the club property, then, in order to meet the Ontario Drinking Water Objective of 10mg/L at the property boundary, the lot size would have to be at least 1.9 acres to provide sufficient dilution. Using the same parameters, a two bedroom permanent dwelling would require at least 1.2 acres to have acceptable nitrate concentrations at the property boundary.

- It is noted that these lot sizes are used as examples only on the basis of estimated nitrate loading calculations. Consideration must be given to other parameters in determining the appropriate lot size, including:
 - dwelling size
 - water quality standards for Bronte Creek and its tributaries due to fisheries,
 - soil permeability,
 - ground contours and terrain where steep slopes reduce infiltration and increase the required lot area,
 - floodplain which is discounted from the lot area,
 - the location and condition of wells and septic systems on the subject lot and on adjacent lots; to achieve minimum separation distances between a well and a source of pollution in accordance with Provincial regulations (i.e., 15m separation from drilled wells with at least 6m of depth which is cased and 30m separation from dug wells), and
 - the need to provide an acceptable well on the lot which will add to the minimum lot size constraints (the existing shallow communal water system would not be acceptable for permanent uses.
- To determine which lots or area of lots could convert on the basis of private services would require a servicing report and a screening process which may require a phased level of investigation. Through the screening process, some lots may not meet the first "cut" based on lot size or other constraints and size of the dwelling without any testing. Other lots may require on-site testing to determine the minimum lot size for nitrate loadings, public health and environmental impact.
- As a preliminary screening, a review of Table 1 indicates that there are 7 existing seasonal lots which are larger than the minimum 1.2 acre lot area required for a 2 bedroom permanent dwelling on private individual services, based on the assumptions outlined previously. These are lots 6/9, 8/11, 10, 37/38, 41/41, 57/58 and 61. (Lots 7 and 14 are existing permanent dwellings.)

There is only one seasonal lot which is larger than the minimum 1.9 acre lot area required for a 3 bedroom permanent dwelling (Lot 6/9).



- The remaining 64 seasonal use lots are too small to consider permanent dwellings of a two bedroom size on private individual services based on the minimum estimated lot size for nitrate loading. In addition, these lots may not comply with minimum physical requirements.
- With respect to the 7 seasonal lots, Table 2 summarizes the physical constraints which affect the lot size and suitability for permanent dwellings on private individual services. Lots 57/58 and 61 are constrained by floodplain and Lots 10, 37/38 and 41/42 are constrained by steep slopes and/or floodplain. Due to these features, these lots are well below the minimum estimated lot size of 1.2 acres for a two bedroom permanent dwelling.
- Based on the preliminary screening, only two lots would appear to have sufficient lot area (after discounting physical constraints) to warrant further testing for nitrate loading for a two bedroom permanent dwelling. These are lots 6/9 and, possibly, lots 8/11.
- There do not appear to be any lots which have sufficient lot size (after discounting constraints) to warrant testing for a three bedroom permanent dwelling.

TABLE 2
PHYSICAL CONSTRAINTS AFFECTING EXISTING SEASONAL LOTS
OVER 1.2 ACRES IN SIZE

LOT NO.	LOT SIZE	STEEP SLOPE	FLOODPLAIN	NET LOT AREA
6/9	3.00 acres	yes	no	1.4 acres +/-
8/11	1.47 acres	yes	no	1.2 acres +/-
10	1.47 acres	yes	no	0.8 acres +/-
37/38	1.46 acres	yes	yes	0 acres
41/42	1.50 acres	yes	yes	0 acres
57/58	1.40 acres	no	yes	0.8 acres
61	1.30 acres	no	yes	0.7 acres

D.2.2 Private Communal Services

- Communal services provide the only opportunity for conversion to permanent status for all existing dwellings in Cedar Springs. However, special approvals would be required from the Region and Ministry of the Environment as private communal systems are not currently allowed.
- The approvals include a Regional Official Plan Amendment together with Class Environmental Assessments depending on the nature of the communal system.
- A communal wastewater system requires a large area of flat accessible land such as the golf course for subsurface disposal (surface discharge will not likely be accepted).
- A gravity collection system would not be possible. Each residence would be equipped (as necessary) with low pressure pumping units which would discharge into common forcemains. Due to the topography and the creek crossing, intermediate pumping stations will likely be required.
- For a communal water system, a production well or supply is required to meet the single maximum daily demand of the community (theoretical highest demand for a single day during the year).

This will require hydrogeologic investigations and pump testing of wells which will raise water supply issues in the community of Kilbride.

- Disinfection, usually with chlorine, is required and a distribution network of watermains.
- There are on-going costs for any communal system including power, maintenance, repairs, chemical supplies and monitoring. Operating responsibilities, financial securities and default agreements will also be an important issue for the approval authorities.



D.4 Floodplain and Fill Impacts

- The Halton Region Conservation floodplain policies apply to all dwellings within the floodplain of Bronte Creek in the Cedar Springs Community regardless of seasonal or permanent residential use. These policies generally permit replacement of existing dwellings within floodplain and additions to existing dwellings within certain portions of the floodplain, subject to criteria and conditions.
- There are 22 dwellings within or partially within the floodplain under Regional storm conditions (lots 44, 47/48 to 55/56, 55, 67 to 71, 90 to 95/96 and Lot A). Eight of these existing dwellings are within or partially within the floodplain under 100 year storm conditions where the risk of flooding is the greatest (lots 44, 53, 54 and 67 to 71). Two of these dwellings are recognized for permanent residential use (lots 54 and 70).
- Should Cedar Springs convert to a permanent year-round community, there will be incentive for owners to replace their existing dwellings or to expand their existing dwellings including those dwellings within the floodplain. An individual lot by lot analysis would be required to determine how the floodplain policies would apply to each dwelling based on site specific conditions and whether there are limitations to replacements or building additions. Several general statements can be made.
- For all dwellings within the floodplain, the policies would permit replacements but it may be necessary to relocate the dwelling to reduce flood risk. In individual cases, there may be constraints on the ability to relocate a dwelling such as limited available land area or other limiting factors such as steep slopes.

If the replacement dwelling is still within the floodplain, the size of the replacement dwelling would be restricted to the area of the existing dwelling "footprint." Compliance with all other relevant floodplain criteria would be required before a replacement could be considered.

- Subject to engineering confirmation, it appears that additions to the existing dwellings on lots 53 and 67 to 69 would not be permitted because these existing dwellings are located entirely within the 100 year floodplain. Additions to the other existing dwellings located partially within the 100 year floodplain or within the Regional floodplain will depend either on the flood depth and velocity conditions on the



affected lots or the ability to locate the addition completely outside of the floodplain. In some instances, it would be necessary to construct the addition on the front of the existing dwelling.

- For servicing by individual wastewater systems where system upgrades are required due to conversion, replacement dwellings or additions to existing dwellings, the Conservation Authority will consider a fill permit if it is not a raised tile bed. The water table will be shallow enough in most areas of the floodplain that a raised bed would be required.

E. COST CONSIDERATIONS

- Approximate costs related to permanent residential use in the Cedar Springs Community are provided for private individual servicing and private communal servicing, as follows:

E.1 Private Individual Servicing

Study Costs

- Based on preliminary screening, lots 6/9 and possibly 8/11 may warrant further testing for lot size based on nitrate loading. Depending on the dwelling size and other parameters, these lots may not meet the standards for permanent use. All other lots are too small or constrained by steep slopes or floodplain to warrant investigation.
- Individual on-site assessment costs are as follows:

- septic system	\$1,500 to 2,000 per lot
- water supply test well	\$1,500 to \$4,000 per lot
(test well costs are dependent on drilling depths)	
- The testing will determine whether the lots meet minimum standards for permanent use with no adverse impacts beyond the lot boundaries, and whether an adequate supply of potable water is available in terms of quantity and quality.
- If the test well results are acceptable, the test well could be converted to a domestic well.



- Applications for a Burlington Official Plan Amendment and Niagara Escarpment Development Permits and Certificates of Approval for wastewater systems will be required for conversion of two seasonal dwellings to permanent use. The application fees are \$4,000.
- An Environmental Impact Study integrated with the site specific servicing analysis will be required at an estimated cost of \$3,000 to \$5,000 provided that the scope of work is confined to the two lots.
- There is the possibility that the regulatory and approval agencies will require a review of the existing servicing conditions in the community and the impacts on water quality in Bronte Creek. The estimate of cost for a Septic Impact Assessment on Bronte Creek is \$15,000 to \$20,000 depending on drilling requirements.

Cost Estimate

- Septic Testing (2 lots)	\$3,000 to \$4,000
- Water Supply Well Testing (2 lots)	\$3,000 to \$8,000
- Environmental Impact Study	\$3,000 to \$5,000
- Application Fees (City/Region)	\$4,000
- Planning and Coordination	<u>\$20,000 to \$25,000</u>
<i>Sub-total</i>	<i>\$33,000 to \$46,000</i>
- Septic Impact Assessment	<u>\$15,000 to \$20,000</u>
Total	\$48,000 to \$66,000

- The approximate time for approval of the Official Plan Amendment and Development Permits for permanent use of two additional lots is 1 to 1-1/2 years with a 75% probability of success. The risk is that the existing servicing conditions in the community and the impacts will be open to review and scrutiny by the regulatory and approval agencies.
- If there is an appeal of the planning applications and a Consolidated Hearing before the Joint Board is required, these costs could increase by 50% to 100%. It is not possible to estimate costs related to the results of any Septic Impact Assessment on Bronte Creek for the existing Community.
- In the past, permanent residential status has been transferred between lots with the approval of the Club Board of Directors. These transfers could be considered as



contrary to the intent of the Burlington Official Plan. From the standpoint of the regulatory agencies, there is no certainty that the lots benefitting from the transfer are capable of sustaining the permanent use over the long term without adverse impact in terms of nitrate loadings beyond the lot boundaries.

- In the event that an Official Plan Amendment is processed for 2 additional permanent lots, we anticipate that the City would take the opportunity to review the issue of transfers of permanent residential status with the Club. However, from our discussion with City staff, it appears that the City has no means of regulating transfers and would rely on the cooperation of the Club and the lot owners. The City could request a copy of the Club By-law which specifies the permanent use lots and provide this to the approval authorities for their information. Should an application be made for a Certificate of Approval for a wastewater system on a lot where permanent status has been transferred, the Health Department would then be in a position to compare the application to the list to determine whether the lot was seasonal, and whether the change of use requires compliance with current standards for private individual services.
- Should land assembly and redesign of the community be considered an option to achieve the minimum lot areas for permanent use on private individual services, then the regulatory agencies will require a comprehensive approach to all servicing and environmental studies in order to determine the maximum development and related impacts. The agencies would treat this option as essentially new development from an impact assessment perspective.
- This option would require that some of the community lands be converted to private lots because there is insufficient land area with appropriate conditions on the seasonal and permanent lots to achieve 83 member properties on private individual services. The existing seasonal and permanent lots occupy only 56 acres. These lands are limited in terms of the potential lots for permanent use due to steep slopes, floodplain and environmental features.
- The golf course is the only practical area due to the relatively flat terrain and open areas. To achieve 83 member properties for permanent use on private services would require that development be relocated away from the Bronte Creek area to the golf course.



- Based on the individual on-site assessment costs outlined previously and assuming 83 member properties, the estimated study costs for this option would be \$200,000 to \$300,000.

Capital Costs

- The estimated capital costs for individual private services are as follows:
 - Individual Wastewater Treatment System (per lot) \$15,000 to \$20,000
 - Individual Water Supply (per lot) \$8,000 to \$12,000
(depending on the depth of well and related plumbing)
- Total** **\$23,000 to \$32,000 per lot**

E.2 Private Communal Servicing

- An assessment of communal services could require a significant up front expenditure related to test well drilling and pumping tests for water supply as follows:

Study and Process Costs

- Test well drilling, pump tests and documentation \$75,000 to \$100,000
- Septic bed evaluation (in ground disposal) \$30,000 to \$40,000
- As the Class Environmental Assessment process requires a detailed evaluation of alternative solutions, the study costs for communal systems could be \$100,000 to \$200,000.
- Applications would be required for a Burlington Official Plan Amendment, a Regional Official Plan Amendment, a comprehensive Niagara Escarpment Development Permit and possibly a Niagara Escarpment Plan Amendment if Cedar Springs is added to the Kilbride Rural Settlement Area in conjunction with communal servicing.
- An Environmental Impact Study covering the entire community would also be required at a cost estimate of \$30,000 to \$35,000.

Cost Estimate

- Class Environmental Assessments	\$100,000 to \$200,000
- Environmental Impact Study	\$30,000 to \$35,000
- Application Fees	\$10,000
- Planning and Coordination	<u>\$100,000 to \$150,000</u>
Total	\$240,000 to \$390,000

- These planning approvals would require at least 3 years to process due to the complexity and the need for a hearing and Cabinet decision if a Niagara Escarpment Plan Amendment is involved. The probability of success is 75% or greater due to the fact that the community is an existing use and there is need to resolve the long term servicing arrangements.
- The approval agencies would prefer that all lots in the community hook-up to the communal system and would encourage the Club to require hook-up. If the option was available not to hook-up, then conversion to permanent residential status would require compliance with the minimum lot size and minimum physical requirements for private individual services. If these standards could not be met on a lot, then the lot would be restricted to the existing seasonal use.
- Costs related to individual Development Permit applications to upgrade individual dwellings in the event that communal services are approved would be relatively insignificant and the responsibility of individual lot owners.

Capital Costs

- The following are preliminary estimated capital costs for private communal water and wastewater systems for the community as provided by the consulting engineer:

i) ***Communal Water Supply***

- production well(s) and control building	\$400,000.00
- distribution watermain (2000m @ \$100/m)	200,000.00
- water services (83 @ \$1,000)	<u>83,000.00</u>
Total	\$683,000.00



ii) *Communal Wastewater Treatment*

- individual pumping units (83 @ \$6,000)	\$498,000.00
- forcemains (2000m @ \$100/m)	200,000.00
- intermediate pump stations (4 @ \$25,000)	100,000.00
- treatment plant	<u>500,000.00</u>
Total	\$1,298,000.00

These capital costs would be payable by the community for the system construction.

Communal Systems Securities

- The Regional Official Plan states that communal systems will only be considered provided that:
 - the system conforms to Regional and Provincial by-laws, regulations and standards
 - the costs and benefits of the system can be justified compared to private individual systems
 - the systems are owned, operated and maintained by the Region or its agent, and
 - costs of construction, operation, maintenance, administration and risk assumption, in the event of malfunction or failure, are totally borne by the connecting owners by agreement with the Region.
- The Region of Hamilton-Wentworth has prepared a Technical Checklist and Guideline for the Review of Communal Sewage/Water Systems which provides an example of the financial security requirements under Communal Systems Agreements. Based on discussions with Hamilton-Wentworth staff, typically, the components to financial securities are as follows:
 - 25% of the estimate total cost of construction including consulting engineering fees and maintenance fees to be provided up-front,
 - 100% of the estimated cost of operating and maintaining the communal systems for a period of three years, and
 - pay annually, a contribution over a specified period, equal to 100% of the capital replacement cost of the entire communal system.
- Based on this Hamilton-Wentworth example and the capital costs outlined previously, the following are estimated financial securities which would be in addition to the capital costs and payable by the community for communal systems:

- communal water* \$231,000
in construction and operating securities plus \$25,000/year in capital reserve
 - communal wastewater* \$384,500
in construction and operating securities plus \$35,000/year in capital reserve
- *For the community-owned components, assume a 20 year operating life for mechanical systems and a 40 year operating life for in-ground pipes, etc.

F. SUMMARY AND CONCLUSIONS

- Cedar Springs is an existing use and a unique community where permanent and seasonal use dwellings are recognized, but conversions which add to the number of permanent use dwellings is restricted. The site presents many difficult issues with respect to additional permanent use dwellings and related servicing due to the terrain, the creek, the location and conditions on individual properties, and sensitive aquatic and terrestrial environments.
- For conversion of existing seasonal dwellings to permanent use on private individual services, the agencies will require compliance with today's standards for minimum lot size and minimum physical requirements with no adverse impacts in terms of nitrate loadings beyond the lot boundaries. An adequate supply of potable water will also be required in terms of quantity and quality.
- It should not be assumed that seasonal lots with upgraded tile bed systems meet these standards for permanent use. According to the Regional Health Unit, these are replacement systems for existing seasonal dwellings and do not comply with regulatory requirements.
- Due to the lot sizes and other constraints, a process of screening is required to determine which lots could be considered for permanent uses. Based on a preliminary screening, lots 6/9 and possibly lots 8/11 may have sufficient lot size to warrant further testing for nitrate loadings for two bedroom permanent dwellings. Depending on the dwelling size and other parameters, these lots may not meet the standards for permanent use. There does not appear to be any lots which have sufficient lot sizes to warrant testing for a three bedroom permanent residence (after discounting constraints).



- In our opinion, it would be impossible to obtain private individual services on the other lots in the community with respect to conversion to permanent use because the lots are too small or constrained by floodplain and steep slopes to meet minimum standards.
- Subject to results of testing and supporting studies, applications to convert these two lots to permanent use could succeed, but there is risk that the existing servicing conditions and practices in the community will be opened up to scrutiny.
- Communal services provide equal opportunity for conversion by all seasonal dwellings to permanent use, but the process, study costs, capital costs and securities are significant. The studies alone are several hundred thousand dollars and the capital costs are on the order of \$1.9 million. There is some uncertainty that communal systems would be approved due to political input in the process.
- If conversion of the community occurred by communal services, there are floodplain restrictions which will prevent or limit the expansion of certain dwellings within the floodplain. These restrictions apply in the current situation. Environmental requirements could result in relocation of some dwellings to less sensitive portions of the existing lots.
- Maintaining the status quo may be the best option, provided that any adverse impacts on Bronte Creek and the sensitive aquatic and terrestrial environments are not increased.
- The community should be aware that future replacement of the existing communal water system will require approvals and potentially significant process, study, capital and security costs.

APPENDIX A - PLANNING REVIEW



APPENDIX A PLANNING REVIEW

A. NIAGARA ESCARPMENT PLAN

- The NE Plan is the senior applicable planning document as approved by Cabinet, June 1994.
- The Plan provides that implementation shall be consistent with Provincial Policy Statements and with the requirements of the senior levels of government, for example, the Federal Fisheries Act.
- According to Map 2 to the Plan, the Cedar Springs Community is located outside of the approved boundary of the "Kilbride Minor Urban Centre." The Minor Urban Centre boundaries are fixed and can only be changed by way of amendment to the NE Plan.
- The bulk of the Cedar Springs Community is designated "Escarpment Protection Area" including most of the dwellings and the golf course. The balance of the property is designated "Escarpment Natural Area" which is the most restrictive designation in the Plan.
- Several existing dwellings on the east portion of the site, north of Bronte Creek, and on the southwest portion adjacent to Cedar Springs Road, may be within the "Escarpment Protection Area" designation. The NE Plan provides that the boundaries between designations may be interpreted based on the designation criteria and conditions on-site.
- Subject to Part 2 of the Plan (Development Criteria), the permitted uses in both designations include Existing Uses, defined as any use of land, building or structure legally existing on the date of approval of the Plan (June 12, 1985).
- The relevant General Development Criteria under Part 2 of the Plan are concerned with the sustainability of development, impact on the escarpment environment, public safety and health. Under these general criteria, permitted uses are allowed provided that:



- the long term capacity of the site can support the use without serious detrimental impact on the escarpment environment,
 - the cumulative effect of development will not have serious detrimental environmental impact,
 - the site is not hazardous to life or property due to unstable slopes or flooding, and
 - development meets all government regulations including health and servicing.
- The Development Criteria for Existing Uses (Part 2.2) provide that an existing use may change to a similar use or more compatible use if it is sufficiently demonstrated that the objectives of the applicable designation are met.
 - In addition, the Development Criteria state that an expansion or enlargement of an existing use shall be minor in proportion to the size or scale of the building or use at the date of the approval of the Plan and shall not result in intensification.
 - This criteria could restrict the size of building expansions or replacements regardless of seasonal or permanent use. Since the residential use of the properties exists, the NEC staff regard the conversion of seasonal to permanent use as a local matter, provided that all technical and environmental requirements are met.
 - There are several additional Development Criteria of a technical nature which would also apply to conversion(s) given the natural features of the site, including:
 - development adjacent to steep slopes,
 - water quality,
 - fisheries,
 - floodplains,
 - woodlands,
 - Areas of Natural and Scientific Interest.

B. REGION OF HALTON OFFICIAL PLAN

- As approved on November 27, 1995, the Regional Official Plan incorporates the policies of the Niagara Escarpment Plan and is more restrictive in some areas.



- Under the Regional plan, there are a number of mutually exclusive designations on the property. Generally, the boundaries between these designations may be interpreted based on detailed information.
- All development is subject to general Development Criteria. Under the criteria, uses are permitted as specified in each land use designation provided that the site is not hazardous due to unstable soils or flooding and all applicable Federal, Provincial, local municipal regulations and Official Plan policies are met.
- In addition, development shall have regard to:
 - Policies for lands adjacent to wetlands (where development is permitted if it can be demonstrated that development will not result in negative environmental impact), and
 - Fill lines, where placement of fill is regulated by the Conservation Authorities.
- Land use designations on the property are divided into two categories, the Rural System, which generally includes all agricultural lands, hamlets, etc., and the Greenland System, which includes the Bronte Creek valley.
- The general intent of the Plan is that all development in the Rural System will be on the basis of individual well water supply and private individual waste water systems. Provision is made for the adoption of Rural Servicing Guidelines. The Regional Plan makes no provision to consider communal water and waste water systems except in designated Hamlets and Rural Clusters, such as Kilbride. Communal Systems will be considered only in these areas provided that:
 - the system conforms to Regional and Provincial By-laws, Regulations and Standards
 - the costs and benefits of the system can be justified compared to individual private systems
 - the systems are owned, operated and maintained by the Region or its agent, and
 - costs of construction, operation, maintenance, administration and risk assumption in the event of malfunction or failure are totally borne by the connecting property owners by agreement with the Region.



- Under the Rural System, the undeveloped portions of the site along the north and south boundaries are designated “Escarpment Protection Area.” Subject to all applicable policies and regulations, the permitted uses in this designation include existing uses.
- Under the Greenlands System, the Bronte Creek Valley is designated “Greenlands A,” “Greenlands B” and “Escarpment Natural Area” with an “Environmentally Sensitive Area” overlay designation. The permitted uses in the ESA overlay designation are governed by the underlying land use designations. The precise ESA boundaries are to be defined by site specific environmental studies.
- The “Greenlands A” designation includes the floodplain of Bronte Creek and its tributaries. In this designation, existing uses are not recognized as permitted uses. The general intent is to require local zoning to prohibit new development and expansion or replacement of existing non-conforming uses unless specifically exempted by the local municipality and Conservation Authority. Provisions are included for structural setbacks to be imposed from the floodplain depending on the hazards.
- The “Greenlands B” designation appears to include most of the developed portions of the property, but excluding the floodplain. The “Escarpment Natural Area” designation includes the undeveloped valley slopes, south of Bronte Creek and the northeast corner of the site. Subject to all applicable policies and regulations, the permitted uses in these designations include existing uses.
- The Regional Official Plan defines existing use as the use of any land, building or structure legally existing on the day of adoption of the Plan by Regional Council or in the case of the N.E. Plan Area, the day of approval of the N.E. Plan. Except as provided in the policies for Greenlands “A”, an existing use, building or structure may expand or be replaced in the same location and of the same use provided that it can be demonstrated that the objectives of the applicable designation are met.
- The E.S.A. designation encompasses all of the Bronte Creek valley within the site. This designation is based on the 1993 E.S.A. Study prepared for the

Region which identified E.S.A. No. 9 Lowville - Bronte Creek Escarpment Valley as having fulfilled 5 of 11 primary criteria and 3 of 4 secondary criteria for designation based on natural features and functions.

- The general intent of the E.S.A. designation is to protect the area and to restrict alteration of the physical and biological features. The policies require that development proponents carry out an Environmental Impact Study unless the use conforms to the local municipal official plan. Any alteration of any condition or land use within an E.S.A. may be subject to site plans and agreements.
- In order to implement the E.S.A. policies, the Region maintains an Ecological and Environmental Advisory Committee to review and advise the Region on Environmental Impact Studies and procedures.

B.1. Rural Servicing Guidelines

- The Region has formally adopted Rural Servicing Guidelines pursuant to the Regional Official Plan and Provincial statutes and requirements and having regard to Provincial Policy Statements.
- The guidelines are oriented to developments requiring Planning Act or other approvals and generally require that servicing capability be demonstrated in accordance with Regional and Provincial requirements as a pre-requisite to consideration of development.
- Where municipal services are unavailable, the guidelines interpret the Regional Official Plan to require all development to be self-sustaining on private individual water supply and wastewater systems. Public or private communal services are not generally not permitted.
- In terms of servicing, the Region regards the Cedar Springs as a “legal non-conforming use.” The conversion of existing seasonal dwellings to permanent residential status is considered as a change of use from a servicing standpoint where compliance is required with today’s standards.
- In general, the guidelines require demonstrated capability for self-sustaining development in terms of sufficient lot size and shape to accommodate a dwelling, private well, private waste water system and reserve tile field area in compliance with the applicable statutes and regulations based on site specific hydrogeological investigation.



- The guidelines set out the technical requirements for Preliminary Investigation Reports concerning water supply, waste water disposal and predictive quality and quantity impact assessments which are required in support of applications under the Planning Act or other approvals.
- Effective April 6, 1998, approvals under Part 8 of the EPA Act for waste water systems under 10000 litres/day will be transferred to the Building Code Act. This means that permits and inspections for private waste water systems typically required for single detached dwellings will be the responsibility of Municipal Building Departments. The Ministry of the Environment will retain responsibility for approvals and inspections for waste water systems over a rated capacity of 10000 litres/day.
- The Region of Halton will retain delegated responsibility for the review of groundwater quantity and quality studies, servicing option studies and communal waste water system studies under the Memorandum of Understanding between the Region and the Province.

C. CITY OF BURLINGTON OFFICIAL PLAN (1994)

- The City Official Plan as approved in March, 1997 incorporates the policies of the Niagara Escarpment Plan and the Regional Official Plan and is more restrictive.
- The Plan policies are divided into two categories, Functional Policies and Land Use Policies, including designations and policies for the Rural Planning Area.
- On Schedule C, Rural Planning Area, most of the property is designated "Greenlands (Escarpment Plan Area)" with an "Environmentally Sensitive Area" overlay designation. Small portions of the property at the northern and southern extremities are designated "Escarpment Protection Area."
- The boundaries between designations are flexible and can be interpreted within the intent of the Plan except that that adjacent boundary of the Kilbride Rural Settlement Area is fixed and can only be changed by way of a plan amendment.
- The general policies of the Rural Planning Area recognize specific land uses including the Cedar Springs Community. The site specific policy states "subject to all applicable municipal by-laws, policies, site plan requirements and the Development Criteria of the Niagara Escarpment Plan, the following is permitted:



operation of a private self-sustaining development with a maximum of 12 year round residences and 82 seasonal cottages at the Cedar Springs Community on Cedar Springs Road. The conversion of seasonal residential dwellings to permanent residences within the Cedar Springs Community shall not be permitted.”

- Under the Interpretation policies of the Plan, there is provision for minor variation from numeric requirements provided that the general intent of the Plan is maintained. The general intent of the Plan is that conversions at Cedar Springs shall not be permitted.
- With respect to Rural Lands, the general intent is that all development, unless specifically identified, will be based on self-sustaining well water supply and wastewater disposal and shall meet the requirements of the approval authorities.
- The Official Plan also contains evaluation criteria for development on Rural Lands which reflect the Development Criteria of the Niagara Escarpment Plan and the Regional Official Plan with two exceptions:
 - all development is to be designed and located, having regard for the preservation of natural and visual features, and
 - the groundwater impacts of development are evaluated.
- Within the “Greenlands (Escarpment Plan Area)” designation, the permitted uses include existing uses.
- Within the E.S.A. overlay designation, the intent is to restrict alteration of physical and/or biological features. Any development requires an Environmental Evaluation and the Environmental Impact Study required by the Regional Official Plan is considered sufficient for this purpose. Alteration of any condition or land use in the E.S.A. is subject to approval and may require site plans and agreements.
- Within the “Escarpment Protection Area” designation, permitted uses include existing uses.
- In 1992, the City Council formally adopted a Rural Development Moratorium, pending completion of comprehensive hydrogeological studies by the Region for



rural settlement areas. A Rural Servicing Study was recently completed for Kilbride by the Region which addresses water quality and settlement capability.

- Under the Rural Development Moratorium, Council requires that a waiver be granted based on evidence of servicing design and impacts prior to considering applications under the Planning Act generally for multi-lot or multi-unit development. Where the waiver is granted, approvals for development may be conditional on compliance with standards for potable water supply higher than the normal Regional standards.

D. DEVELOPMENT CONTROL REGULATIONS

- Zoning By-law 1642 of the City of Burlington has been repealed and replaced by Regulation 828 which is the N.E.C. Development Control Regulations.
- Essentially development control is a form of site plan approval which replaces zoning and requires specific details for each proposal (versus compliance with prescriptive standards).
- Under the Development Control Regulations, a development permit is required for all forms of development except certain relevant classes of development which are exempt, as follows:
 - construction of any building or structure for which a building permit was issued prior to June 10, 1975.
 - repair or reconstruction of a building or structure damaged or destroyed after May 29, 1975 by causes beyond the owner control provided that reconstruction of a building is on the same site as the former building.
 - maintenance, improvement or other alteration of a building interior.
 - extensions of single dwellings where the following conditions exist upon completion:
 - minimum side yard - 15 feet
 - minimum rear yard - 25 feet
 - no part of the extension projects beyond the original front wall
 - the height of the extension does not exceed the original dwelling height
 - the space of the extension does not exceed 1,000 feet.



- maintenance, repair, replacement of a septic tank system
- digging of a well used as a water supply source for a single dwelling.
- There are several other exemptions for construction of or extensions to buildings or structures accessory to single dwellings.

E. FILL, CONSTRUCTION AND ALTERATIONS TO WATERWAY REGULATIONS

- Under the Conservation Authorities Act, the Halton Region Conservation Authority administers and enforces Fill, Construction and Alterations to Waterway Regulations (Ontario Regulation 150/90).
- Under the Regulation, a permit is required from the Conservation Authority to:
 - erect a structure or building within the floodplain as defined by the Regional storm,
 - place fill within an area defined on schedules where, in the opinion of the Conservation Authority, the placement of fill will detrimentally affect:
 - the control of flooding,
 - the control of pollution, or
 - the conservation of land.
 - alter, divert or change a watercourse
- The Conservation Authority has prepared schedules showing fill line regulated areas which encompass all portions of the property consisting of the floodplain and the Bronte Creek valley.
- In addition, the Conservation Authority has prepared engineering floodline mapping which indicates 22 dwellings are within or partially within the floodplain under Regional storm conditions. Of these dwellings, 8 are within or partially within the floodplain under 100 year storm conditions where the risk of flooding is greatest.
- In order to implement these regulations, the Halton Region Conservation Authority has adopted Integrated Land Use Policies pursuant to the Provincial Policy Statement.



The policies indicate that applications can be considered for minor additions to existing buildings or relocate existing buildings which are legally established year-round uses, provided that:

- the site is on the flood fringe outside of a minimum 100 year storm floodway where the depth of flooding is less than one metre and velocities are less than one metre per second,
 - it can be shown that such works will not increase the risk to life or damage to existing floodplain properties,
 - the works are floodproofed to Regional storm flows, and
 - no alternate site exists for the proposed work outside of the Regional storm floodplain.
- It appears that the Conservation Authority also has an unwritten policy for replacement buildings in the floodplain based on the following criteria:
 - justification for demolition (evidence by a qualified professional concerning structural integrity or unsuitability for habitation).
 - relocation of the replacement building to minimize flood risk.
 - replacement buildings must match the footprint of the existing building (otherwise the minor additions policy applies), and
 - the replacement building is floodproofed to Regional storm flows.
 - Based on precedents in the Cedar Springs Community, it appears that this unwritten policy permits replacement of seasonal dwellings in the floodplain, subject to the criteria. Given the longstanding nature of the community, the minor additions policy may be interpreted to apply to existing seasonal dwellings (i.e., not restricted to permanent or year-round dwellings).



- The general preference of the H.R.C.A. is that private waste water tile fields avoid locations in the floodplain due to high water table conditions and potential water quality impacts. Tile fields in the floodplain must be approved by the appropriate approval authority. The H.R.C.A. will not support raised tile fields in the floodplain due to fill requirements unless it is by incremental balanced cut and fill to minimize floodplain impacts.

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