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**Official Report
of Debates
(Hansard)**

Monday 20 September 2004

**Journal
des débats
(Hansard)**

Lundi 20 septembre 2004

**Standing committee on
general government**

Strong Communities
(Planning Amendment) Act, 2003

**Comité permanent des
affaires gouvernementales**

Loi de 2003 sur le renforcement
des collectivités (modification
de la loi sur l'aménagement
du territoire)

Chair: Jean-Marc Lalonde
Clerk: Tonia Grannum

Président : Jean-Marc Lalonde
Greffière : Tonia Grannum

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LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

**STANDING COMMITTEE ON
GENERAL GOVERNMENT**

**COMITÉ PERMANENT DES
AFFAIRES GOUVERNEMENTALES**

Monday 20 September 2004

Lundi 20 septembre 2004

The committee met at 0903 in room 151.

SUBCOMMITTEE REPORT

The Chair (Mr Jean-Marc Lalonde): Could we take our seats, please? It being 9:04, I just want to try to be on time for most of the presenters who are going to be here. The last presenter will be at 6 o'clock tonight. Don't forget that we have an hour for lunch—

Interjection.

The Chair: Oh, it has been changed to 5 o'clock. Did you get the new agenda? OK.

Before we start with the minister, I'm going to ask Lou Rinaldi to report on subcommittee business.

Mr Lou Rinaldi (Northumberland): Your subcommittee met on Friday, July 23, 2004, to consider the methods of proceeding on Bill 26, An Act to amend the Planning Act, and recommends the following:

1. That the committee meet for the purpose of public hearings on Bill 26 on September 20, 21, 22 and 23, 2004.

2. That the committee meet in Toronto September 20, 2004, from 9 am to 5 pm, and that the committee meet in Kapuskasing, London and Ottawa on September 21, 22 and 23, 2004, from 10 am to 5 pm. Times and locations are subject to change and based on witness response and travel logistics.

3. That the committee seek permission from the House leaders to meet an extra day in Toronto on September 27, 2004, from 9 am to 5 pm, should witness response warrant.

4. That an advertisement be placed for one day in the English dailies, the one French daily, and also in the French weeklies affecting the surrounding areas where the committee intends to meet, and the advertisement be placed on the ONT.PARL channel and the Legislative Assembly Web site.

5. That the deadline for those who wish to make an oral presentation on Bill 26 be 4 pm on September 14, 2004.

6. That the clerk provide the subcommittee members with the list of witnesses who have requested to appear by 5 pm on September 14, 2004, and that the caucuses provide the clerk with a prioritized list of witnesses to be scheduled by 11 am on September 15, 2004.

7. That organizations and individuals be allotted 15 minutes in which to make their presentations.

8. That the Minister of Municipal Affairs and Housing be invited to make a half-hour presentation before the committee the morning of September 20, 2004, followed by a half-hour technical briefing by the ministry staff.

9. That opposition critics be allotted 10 minutes each to respond to the minister's and ministry staff's briefing on September 20, 2004.

10. That the research officer provide the committee with a summary of witness presentations, prior to clause-by-clause consideration of the bill.

11. That the deadline for written submissions on Bill 26 be 5 pm on September 24, 2004.

12. That amendments to Bill 26 should be received by the clerk of the committee by 4 pm on September 27, 2004.

13. That the committee meet for the purpose of clause-by-clause consideration of Bill 26 on September 29 and 30, 2004, in Toronto.

14. That the clerk of the committee, in consultation with the Chair, be authorized, prior to the passage of the report of the subcommittee, to commence making any preliminary arrangements necessary to facilitate the committee's proceedings.

The Chair: Are there any questions or comments?

If none, all those in favour of the subcommittee report? Carried.

**STRONG COMMUNITIES
(PLANNING AMENDMENT) ACT, 2003**

**LOI DE 2003 SUR LE RENFORCEMENT
DES COLLECTIVITÉS (MODIFICATION
DE LA LOI SUR L'AMÉNAGEMENT
DU TERRITOIRE)**

Consideration of Bill 26, An Act to amend the Planning Act / Projet de loi 26, Loi modifiant la Loi sur l'aménagement du territoire.

**MINISTRY OF MUNICIPAL AFFAIRS
AND HOUSING**

The Chair: Now I would ask the Minister of Municipal Affairs and Housing, the Honourable John Gerretsen—welcome to the committee. I think your presentation will be quite important, because I think it's one

of the most important bills that we could have for the future of our municipalities.

Minister, you have 30 minutes, and then we will proceed with the ministry technical staff.

Hon John Gerretsen (Minister of Municipal Affairs and Housing, minister responsible for seniors): Good morning, everyone. Let me, first of all, say how pleased I am to be here this morning and also say how important the committee work of the Legislative Assembly is. I always enjoyed working on these committees for the last eight years, and I certainly hope that I will enjoy this morning as much as I did in the past, sitting on the other side. But it's nice to see everyone here. Of course, I've seen my caucus members a number of times this summer, but it's also nice to see the members of the opposition here to discuss this particular bill.

It's my understanding, Mr Chairman, and you could correct me if I'm wrong, but following my statement I'd be more than pleased to answer any questions at that point in time. I understand that the opposition and the third party will be making their 10-minute statements before the technical briefing. That was my understanding, anyway.

The Chair: That is the way we are going to proceed. I'm sorry about the fact that you have to leave. We know that you have a really busy schedule, so after your presentation, we'll move on to the official opposition critics.

0910

Hon Mr Gerretsen: Never too busy to lay out this good piece of legislation before the committee and to discuss it in a very positive fashion, Mr Chairman.

I'm happy to join you here today in a discussion of Bill 26, the proposed Strong Communities (Planning Amendment) Act, 2003.

The strong communities act, 2003, is proposing fundamental reforms to the land use planning system that will shape how our communities grow and prosper. Effective land use planning is one of our commitments to the people of Ontario. It's a key element of our long-term strategic approach to effective and efficient use of the province's land, water and food resources.

Over the next 30 years, four million new residents will call Ontario home. The question is, are we prepared to provide the enhanced, vital services, including affordable housing, efficient transit, safe water and a clean environment, expected of a province like Ontario? The government is setting a course for building strong, safe and livable communities in our province that offer residents a high quality of life. Our approach for attracting healthy and sustainable growth will be clear, consistent and responsive to Ontario's priorities. This will require making decisions that will lead to long-term benefits.

We are working toward promoting economic growth, or livable communities, enhanced transportation choices, clean and safe water and better protection for our environment. The land use planning system is of key importance in achieving these goals in Ontario. Land use planning establishes the rules for development and helps to determine how our communities grow. Ontario's land

use planning system defines the interests and responsibilities of all Ontarians in planning for future land uses.

Our municipalities are confronting, as we know, many challenges. Among these are increasing gridlock as a result of urban sprawl; unprecedented growth pressures, such as in the Golden Horseshoe area; loss of prime agricultural land and other resources; the need for enhanced environmental protection; and the need for a strong economy. It is also clear that Ontario's communities and the public need to have an effective voice in land use planning. Municipalities must also have the right tools to achieve good land use planning. As a first step in planning reform, I introduced Bill 26, the Strong Communities (Planning Amendment) Act, in December of last year. Bill 26 will amend the Planning Act and provide an enhanced framework for planning in Ontario. If passed, the act would be the first step in building the foundation for strong, safe and livable communities.

Here's how this proposed legislation will achieve this goal. First, Bill 26 will give the citizens of our communities a stronger voice to shape how their communities should grow and prosper. For the public, they would have more opportunity to contribute to decisions on development proposed for their communities. The public has told us their concerns for cleaner air and water, communities that are safe and cities and towns that work for the people who live in them. The people's concerns are our concerns, and their input will be vital as we move toward more effective land use planning.

For municipalities, the bill would mean more time to review planning applications, especially changes to official plans. For example, the time frame to consider amendments to official plans and applications for approvals of subdivisions would double to 180 days from the current 90 days, zoning applications would increase to 120 days from 90 days, and applications to sever property would increase to 90 days from 60 days. We recognize that dealing with official plan amendments and subdivision and condominium matters are usually more complex than zoning bylaw amendments and consent-to-sever applications. If passed, Bill 26 would give municipalities more time to review the proposals and negotiate solutions to issues that may arise with respect to the proposals.

Second, Bill 26 would strengthen the municipality's authority to act on local matters before they can be appealed to the Ontario Municipal Board. Bill 26 would allow municipalities to determine their urban development boundaries, not the Ontario Municipal Board. As well, an applicant's right of appeal to the OMB would be eliminated for alterations to urban settlement area boundaries or the establishment of new urban settlement areas which are not supported by municipal councils. Elected officials and the public will have a choice in the way their communities grow and prosper.

Third, the proposed legislation would change the implementation standard to "shall be consistent with" provincial policy statements issued under the act. We want to ensure that land use decisions are "consistent

with” the province’s priorities for environmental protection and community growth. This is a change from the current “have regard to” standard that currently allows decision-makers to overlook key matters of provincial interest and creates ambiguity for communities and the Ontario Municipal Board.

Lastly, planning reform would give the province the option to exercise authority on significant matters that affect provincial interests. It would provide the province with the authority to confirm, vary or rescind an OMB decision if it adversely affects a declared provincial interest regarding official plans and zoning.

In summary, the Strong Communities Act (Planning Amendment), 2003, would put more planning power in the hands of communities and would put the public interest first. Our government introduced the act because effective governments manage growth instead of being managed by it. We introduced this bill because we believe in local democracy and putting the public interest first. Our government introduced this bill to support other government priorities, including the proposed Greenbelt Protection Act, the growth management strategy, source water protection, the Greater Toronto Transportation Authority and waste management. All these priorities are linked to one another and support our commitment for well-planned, managed growth.

This government is giving our democratically elected local officials the planning authority that rightfully belongs to them. Our government recognizes that more needs to be done in reforming key aspects of the planning system. That is why the past three months were spent in consultation with stakeholders and the public on the various components of planning reform. Ministry of Municipal Affairs and Housing staff consulted with the public on whether further changes needed to be made to the Planning Act and to Bill 26; the need for implementation tools to help support and implement a strong and effective land use planning framework in Ontario; proposed revisions to the provincial policy statement, which provides policy direction on land use planning; and the need for reforms to the Ontario Municipal Board. This gives us the opportunity to review the land use planning system to ensure that it meets today’s needs.

I want to remind you that we are not rebuilding the system from scratch. We know there are many parts of the current land use planning process that work. Our goal is to make improvements to the parts that simply do not work.

The strength of Ontario depends on the strength of its communities. We are committed to delivering real, positive change to build stronger and better communities. We believe that the proposed Strong Communities (Planning Amendment) Act, 2003, is a step in this direction.

That being so, it would be ill-advised to look at Bill 26 in isolation. Proposed changes to the Planning Act, as embodied in Bill 26, would also have an impact on the provincial policy statement and would change the Ontario Municipal Board’s role in the planning process. I will explain very briefly why Bill 26, the provincial

policy statement and the Ontario Municipal Board are linked.

As I’ve already mentioned, Bill 26 would amend the Planning Act and provide an enhanced framework for planning in Ontario.

The provincial policy statement, or the PPS for short, sets out the province’s policies on land use planning, the government’s priorities, as well as the direction we all want Ontario to take. It is the complementary policy document to the Planning Act that embodies good planning principles and seeks to protect the public interest. The PPS is reviewed every five years to determine whether revisions are needed, based on its effectiveness and its ability to address emerging issues that are of potential provincial interest.

0920

The Ontario Municipal Board is an independent adjudicative body that plays a key role in resolving planning disputes. It provides a forum where members of the public, landowners and others can appeal planning decisions. It hears appeals of municipal decisions and appeals where no decisions have been made on planning applications within the timelines set out in the Planning Act.

We have consulted on the board’s role in the planning process to ensure it is consistent with improvements to the system as a whole. The result of the consultation of the last three months will give us guidance in the direction we should take to ensure an effective and more efficient land use planning system.

Mr Chairman and members of the committee, it’s time for well-managed plan growth. We cannot wait for population growth and uncontrolled development to overwhelm Ontario’s resources. We have to manage growth in a planned and intelligent way, and we have a responsibility to oversee this growth. The people of Ontario want well-planned, responsible, managed growth and the tools to administer land use planning conscientiously over the long term.

Smart land use planning is vital to well-planned, safe, livable communities. We all want an Ontario where communities are vibrant, with plenty of green space, jobs, and diverse and prosperous neighbourhoods, but this demands strong, imaginative leadership and collaboration among all levels of government, and legislation on which to build the foundation for change.

Well-planned growth requires input from the people who live in our communities, so we know if their needs are being met and if our policies on land use planning are working. Well-planned growth also requires commitment. This government is committed to delivering the real, positive change that will make a difference in the way we live and work in Ontario.

The Strong Communities (Planning Amendment) Act, 2004, is the first step to real, positive change for those Ontario communities, and our government’s vision of strong communities includes sustainable government services and appropriate municipal tools. It means infrastructure support and the protection of provincial interests.

Strong communities also mean more collaboration between the province and municipalities, and greater accountability for local governments. I believe the people of Ontario deserve nothing less. By strengthening the communities in which we live, we are providing the people of Ontario with a quality of life that is second to none.

The Chair: Merci, monsieur le ministre. Thank you.

Now I will pass on to the official opposition.

Mrs Julia Munro (York North): I certainly want to thank you, Minister, for coming here this morning to give us a picture of the bill as you see it.

I guess we all understand that historically the Ontario Municipal Board has existed to hear planning issues and disputes between municipalities and citizens, whether it's those defending the status quo or, in fact, seeking to change it. I think we all appreciate the kind of contribution the Ontario Municipal Board has made over the years to provide that, but recognize that there has developed criticism over the years that the board, somehow, sometimes appeared to favour one position over the other. I guess that's the context in which your government had chosen to make the kinds of changes you are providing for us in Bill 26.

I remember too that the Liberal platform last year promised a new era of transparency, accountability and empowerment for municipalities in bringing forward these changes. However, I think that when we look at certain aspects of this bill, there are some fundamental contradictions to those laudable goals that were espoused during the election. So I'm going to make most of my comments specifically with regard to the power of the minister.

You have mentioned briefly the fact that there is a new section that would deal with the power of the minister, and I see it as two particular parts. The first is obviously the power to declare a provincial interest, and second, with that power to declare comes the power in the minister himself or herself to inject into the process. It's around those two features that I think there are a number of concerns.

Let me share with you some of those concerns. I guess the first one deals with the definition of a provincial interest, which lies then, according to the bill, within the power of the minister. In subsection 17(52), the minister "is not required to give notice or to hold a hearing"—in other words, give reasons for his involvement in the process.

We're also left to draw the conclusion that nothing guides the minister in defining a provincial interest. There's no stated obligation to, using words quoted elsewhere, "be consistent with" or "have regard for" provincial policy statements. In short, there is no accountability in this particular part of the bill.

The second part of the power of the minister is contained in subsection 17(53), wherein the power of the OMB—and, I think, important for all of us, recognizing that by association we're talking about the power of municipalities—is to all intents and purposes eliminated by a decision that may be made at the cabinet table.

The minister has always had significant powers under the Planning Act, whether as a party to the Ontario Municipal Board hearing or approval authority under subsections 17(6) and (12) of the Planning Act. However, the changes put before us in Bill 26 dramatically alter the position of the minister and the cabinet. These changes take decision-making from the OMB, where, as a quasi-judicial body, transparency has always been a hallmark. These changes effectively ignore the public process that precedes the OMB hearing. That public process has been designed to give all parties their fair share: a voice to be heard, ideas to be debated and decisions to be made. So much for empowerment of municipalities.

The third Liberal promise was accountability. The new powers ascribed to the minister are protected from accountability. There is no requirement for reasons for a declaration of provincial interest. There is no requirement for consistency with provincial policy statements. There is no requirement for a hearing. In other words, a trip to the minister's office eliminates all those pesky formalities.

As you can see from these brief comments, accountability, transparency and empowerment for municipalities may have sounded good last year, but today we have a bill before us that takes us in the opposite direction. This is particularly worrisome for all citizens as we face huge challenges in planning decisions for the future of our province. I would certainly want to make mention of the fact that the minister, I think, has been very clear to us about those kinds of challenges. We are looking at four million people in the next 30 years. We certainly recognize the pressures of growth and the kinds of complexities that represents. But I think one of the responses by this government has been to hastily introduce Bill 27, a time out in setting the moratorium for the lands around the Golden Horseshoe. More recently, the Places to Grow discussion document appeared.

0930

Clearly this government recognizes the importance of planning decisions. However, this bill gives cold comfort to anyone seeking transparency, accountability and empowerment, and this comes just at a time when it would seem to us to be most necessary. Instead, the government is poised to usher in a new era of the opposite. Planning will be done by a political process, a process that is closed, a process that doesn't have to hear evidence, a process that doesn't have to judge credibility of witnesses, a process that doesn't have to provide reasons for its decisions. Most people want fairness, a process they can follow and understand. Instead, they're going to see the trail to the cabinet table.

The Chair: Thank you, Mrs Munro. It's good to see you back.

Mrs Munro: Thank you.

The Chair: I'll move on to the third party. Ms Churley, you have 10 minutes.

Ms Marilyn Churley (Toronto-Danforth): The minister looked anxious to be able to respond to those accusations.

Hon Mr Gerretsen: Do I get an opportunity to respond, Mr Chairman?

The Chair: You might get two minutes at the end.

Ms Churley: The first thing I'd like to say is that before the last election, the Liberals, as I understand, were going to abolish the OMB. I wonder what happened to that. Do you remember that?

Hon Mr Gerretsen: No, I don't.

Ms Churley: Yes. I think it was Mike Colle.

Hon Mr Gerretsen: Some individual candidates may have said that—

Ms Churley: Some individuals made quite a point of saying it was—

Hon Mr Gerretsen: —but I don't think it was party policy.

Ms Churley: But it was said quite frequently by prominent Liberal members.

Listen, we're glad that the Liberals have seen the light here and are bringing back many of the Planning Act amendments in the new act—Minister, you weren't here then—brought in by the NDP in the early 1990s. This is a little bit like fashion. You know how every now and then fashion from previous times makes a comeback? Well, the concepts from the early 1990s are making a comeback here today in terms of land use planning, and I think that's a good thing. In particular, the whole concept around rulings by the OMB and other government agencies being consistent with government's planning policy statements is really important.

This is something the NDP brought in. John Sewell, Toby Vigod and others went across the province and consulted broadly. It came in under budget too, and John was very proud of that. I suppose there were some compromises on both sides overall, but basically people were pretty happy with that legislation. Then the Tories came in and threw it all out, and I remember sitting in this committee room having a major fight over—and maybe it sounds like semantics to some people—the concept of “be consistent with” rather than “have regard for” as absolutely key. We're really glad to see you're bringing that back, because obviously what we were seeing was that the OMB and others could look at it and say, “OK, we regarded that,” and throw it aside and carry on. But this is key in that it makes very clear again that it has to be consistent with provincial policy.

Having said that, I don't think we know what the provincial policy statement is going to be under the Liberals because it's still under review and in consultation, but I assume it's going to be a strong statement. I do want to say that some of the things that have happened previously under the Liberal government—as the minister and members here are well aware, I've kicked up quite a fuss, publicly as well as privately, over the decisions. I'll name a few in particular: the decision to approve the big pipe, which is something that will drive sprawl into the heart of the greenbelt itself, and then the Oak Ridges moraine. Seeing that that was allowed to go ahead was extremely alarming in the context of this act and many other acts, such as source water protection and growth and other acts

that the government is working on. As you know, Minister, there's already a declining supply of prime agricultural land, and this, in many people's view, including mine, threatens the headwaters that feed the Humber River and eventually Lake Ontario. I have to speak up on this, because those sources have an impact on Toronto's drinking water.

I am going to try to leave you a couple of minutes to respond to some of these things because they are of great concern.

Very recently, another issue I raised is that perhaps one government arm is not talking to the other. The government attempted to repeal the bylaw restricting industrial livestock operations near Lake Huron. What was said, I believe by the Minister of Agriculture at the time, was that they were repealing it on the basis that it goes against the provincial policy statement. So there was a contradiction there. We have grave concerns, as do the people in the Lake Huron area and other areas of Ontario, that these large factory farms impact their environment, their water, and have other possibly dire environmental consequences. The municipality said no, based on many of these things, to a large pig farm, and the province has been attempting to appeal and overturn that decision.

Those are the kinds of things I hope this act would actually fix. If it doesn't and if it's geared to one particular piece, then it isn't going to work. That is one of the questions I have for you: Would the growth management plan, obviously the source water protection, nutrient management, all those things, be looked at in the context of the provincial policy statement so that all the arms of government, when it comes to protecting prime agricultural land and the environment, are included under this policy statement?

The other question I have for you is around the areas of provincial interest and how you define that. Have you decided yet how that would be defined? Will there be an explicit list of what constitutes a matter of provincial interest? That would be necessary for the interests of transparency. Let me give you some examples. During the greenbelt hearings, the greenbelt group brought forward 10 hot spots as matters in which it should be considered that the province has an interest, and some of them are before the OMB right now: for instance, Castle Glen on the Niagara Escarpment, and you'll remember I raised that with you; Pickering; the Duffins-Rouge agricultural preserve in Simcoe county—that's before the OMB—and many others. I would like to know if those 10 hot spots that have been identified would come under perhaps provincial interest.

I have a final question—although there's not a lot of time and I do want your response—of I guess the key ones from me. Ms Munro has been raising the cabinet powers being given in this bill. Would the cabinet also be covered by provincial policy, ie, have to be consistent with government planning policy? I think that would be key. It's a double-edged sword, because there are times, especially depending on the makeup of the OMB, when it could be important for a municipality and local

environmental groups etc to have that option, but it can work the other way as well. If you're going to have that process there, there's got to be a really good reason for it and it's got to be clear and consistent. The kinds of concerns raised by the official opposition I think are well said, and I would need to know that those protections are there for the cabinet as well. I'd like to understand a little better why you would give the cabinet those kinds of powers and what kinds of checks and balances would be put in place.

I hope there are a few minutes left so the minister can respond to some of those concerns.

0940

The Chair: Thank you, Ms Churley. I have 10 minutes left, Minister, so you should have enough time, probably.

Ms Churley: I didn't mean to give him 10 minutes.

Hon Mr Gerretsen: Would you like to continue on?

Where to start on this? There have been an awful lot of good issues raised and concerns expressed by both members. Let me say to Ms Munro, it's nice to see her back here after her absence from this place for some time.

Let me first of all say, with respect to the Ontario Municipal Board, yes, some individual members may have recommended the abolition of the Ontario Municipal Board. We are somewhat unique in the province of Ontario as far as the Canadian setting is concerned. Not every province has an organization like the Ontario Municipal Board. I think that, by and large, it has always provided and stood us in good regard in this province. But the Ontario Municipal Board can only play by the rules which it's given, and it's our feeling that the rules have to be changed to some extent, whereby municipalities basically determine where their urban settlement areas within their urban boundaries are going to be. I think that's probably the most significant change that I see in the long run, as far as this particular bill is concerned. Most of the other aspects of the bill deal more with the questions of timing and process as to how quickly matters can come before the Ontario Municipal Board and how much time a municipality should be allowed in order to make changes to its official plan, zoning bylaws, approved subdivisions, condominiums and things like that.

We are currently looking at the Ontario Municipal Board Act to see what kind of changes should be made in that regard as well. Hopefully, those proposed changes will be coming forward within the next number of months as well.

As far as the provincial policy statement is concerned, it is out for consultation right now as well. It has been available to the public for at least the last month and a half, if not two months, for comment. We've received some excellent comments. I will be the first to admit to you that, at times, there may be an inconsistency between looking at the provincial policy statement, which, after all, is the government's view as to how the province as a whole should be developed, and empowering local mu-

nicipalities by giving them the power as to what should be in official plans and zoning bylaws—but basically official plans. Some people might see that there sometimes is a conflict. The province may have this point of view as to how the province should be developed, particularly in the long range, when you see there are four million more people coming to the province of Ontario, and the local municipalities might see it slightly differently as to how they are going to be involved in that overall provincial policy debate. That will be the creative tension, in my opinion, that will always exist between provincial objectives and local objectives. When all is said and done, we as a province, as a government, have the responsibility to make sure that the overall province is properly planned for the next number of years. To that extent, local desires, local initiatives, will have to come within the confines of the new provincial policy statement.

We're looking for comments from the public at large, from interest groups, from different political points of view etc. Ultimately, once we have determined what those comments are, we will be coming out with a provincial policy statement, hopefully at the same time as we deal with the Ontario Municipal Board review, and hopefully at the same time as Bill 26 goes through the process.

I think it's very important that the growth plan, which is basically under the direction of Minister Caplan as the Minister of Public Infrastructure Renewal, and the Greenbelt Protection Act, which comes within the jurisdiction of the Minister of Municipal Affairs and Housing, that those two initiatives are, first of all, in sync with one another, that they jibe with one another, and also jibe with the overall objectives of the provincial policy statement. That's why it's so crucial that all of these three initiatives take place at the same time and that there's a lot of public debate. With respect to the greenbelt initiatives, I know the Greenbelt Task Force made some excellent recommendations as to what principles should guide and govern the greenbelt protection area. It's very important that those three initiatives go hand in hand and be dealt with at the same time.

With respect to the 10 hot spots that Ms Churley mentioned, all I can say is that, as you know, some of these are before the Ontario Municipal Board so I'd rather not make any particular comment. It remains to be seen, obviously, how they are going to be dealt with by either the government or the Ontario Municipal Board, whatever the case may be.

The other thing that we should keep in mind is that section 2 of the Planning Act already outlines the areas of provincial concern. It talks about economic development, energy and water, and it specifically mentions that it is supplemented by the provincial policy statement. So I think these all work in conjunction with one another.

My final comment—and I'd be more than pleased to answer any other questions if I've forgotten anything—deals with the issue that Ms Munro mentioned with respect to subsections 17(52) and (53). All I can say is

that we are bringing the system back into line with the way it was prior to the changes that were made by the previous government in which, in our opinion, the Ontario Municipal Board was given too much power. So the power of the minister and the power of cabinet will basically be in line with the way it existed before 1996 or 1997.

I might also note that during all those times when those particular provisions of the Planning Act were in effect, it's my understanding that there were only four times that there were previous declarations of provincial interest pursuant to this particular section in the Planning Act. I'll enumerate them for you, just so there's no misunderstanding: In 1984, it dealt with a Thunder Bay airport situation; in 1989, with respect to the Etobicoke motel strip; in 1994, with respect to the Rouge Park; and also in 1994, with respect to the Metro Toronto Convention Centre expansion. There were four times when this power was used, so it hasn't been, in my opinion, abused in the past and I, for one, certainly don't intend to abuse this in the future. That's really about all I want to say at this stage.

The Chair: Thank you, Minister. We have approximately two minutes left. I'm going to go Mrs Munro or Mr Yakabuski.

Mr John Yakabuski (Renfrew-Nipissing-Pembroke): Thank you, Minister, for joining us today.

First, I just wanted to comment on something that a member from the third party said about the Sewell report. Perhaps it came under budget because they forgot to travel outside of Toronto when they did the report. I recall that report. It called for the banning of all private septic systems. Then, when those people had to go up and travel to those cottages in rural Ontario, they realized that they had some real problems. So it wasn't quite the wonderful report that the member from the third party thought.

Anyway, getting back to Bill 26, we all want well-planned growth. That's why the previous government came up with the Smart Growth committee. We know that, with the number of people we're going to expect as part of the growth in Ontario over the next several years, we have to deal with those numbers. The real problem I have with this bill—and you've touched on it, but how do we address it? You've got the municipalities, which you promised in the election campaign that you were going to give more power and more autonomy over their growth and planning. To me, this bill does exactly the opposite.

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The other thing is a declared provincial interest. Does this come before? It seems to me that municipalities can invest a great deal of time, money and resources in dealing with a planning situation only to have the feet pulled out from under it at the 11th hour by the minister. That would certainly, in my opinion, be counter-productive to the affairs of municipalities and the work they do.

Is there some process by which the government is going to have to declare what provincial interests are so

that municipalities have something to go by? It would seem like we're putting the cart before the horse. They really don't have many guidelines, as I see, as to how they should be proceeding in everything they do. If it is well-lobbied by one side of the equation or the other, it could come down to a ministerial decision. So is planning going to be just a provincial responsibility and the minister is going to plan for the growth of Ontario, or are we actually interested in how municipalities choose to develop their own areas?

Hon Mr Gerretsen: All I can say is that this particular section has only been used four times in the past. When you look at the thousands upon thousands of applications that are out there, particularly over a 30- or 40-year period of time, obviously any government, whether it's our government or any other government, would only use this power in the most drastic of circumstances. I would suggest that that has been the experience of the past and undoubtedly that will be the experience of the future.

Although I can understand that there may be some concerns about that, I think that this bill, by and large, gives municipalities much greater powers back by, in effect, allowing them to decide where their urban boundaries are going to be. I think that's much more appropriate for an elected council that is accountable to its citizens, that is elected every three years. It's much more important for them to have that power rather than the Ontario Municipal Board, which is currently the case.

Ms Churley: You may be getting a visit from Mr John Sewell after that statement.

For the record, that committee travelled far and wide throughout Ontario and worked very hard to get rural and municipal voices clear across the province heard. In fact, it listened very closely to people, and the end result turned into very good legislation—which, I should add, the Liberals voted against as well back then. But we passed it. It was unfortunate that it was repealed. I am happy to see that the particular component “be consistent with” is back, because that was the backbone of that piece of legislation. Without that, you can make all the great policy statements in the world, but if not everybody is adhering to it, it's not worth the piece of paper it's written on. That's what we've found over the past several years.

Minister, one of the questions that you didn't answer—and perhaps you could be a bit more specific. You said that you're not going to be the minister forever.

Hon Mr Gerretsen: Do you know something I don't?

Ms Churley: Governments come and go. I should congratulate the Tories for electing their new leader today, Mr Tory. That's why it's so important that we understand the definition of what kind of rules the cabinet will abide under, should something be appealed to cabinet or be declared a provincial interest. I would ask you the question: Would it as well have to abide by the same rules as the OMB and all of the other bodies, and that is, all the decisions be consistent with?

Hon Mr Gerretsen: Certainly, in sort of a general way, you would expect any cabinet to adhere to its own

provincial policy statement. As to what may happen in any one particular case, who knows what other interests may come forward? But as a general rule, there's no question about it: The government of the day should stand by its own provincial policy statement because it, after all, put that forward.

Ms Churley: Just very quickly, the other questions I raised were around other ministries; for instance, the Minister of Agriculture, the Minister of Transportation. There are often, as you well know, conflicts between the ministries. Will they be included in the policies of those ministries so what's happening with, for instance, appealing a municipality's decision to stop a big hog farm—it has just been isolated out of good planning. They say that, because it's part of their policies to allow these big farms to go ahead, they can override the municipality in making its own decisions on those things.

Hon Mr Gerretsen: One of the processes this government has set up is a nine-minister committee that basically deals with all of the land use issues around not only our ministry but nine other ministries as well, and these issues relating to growth and greenbelt protection etc are being discussed on an ongoing basis. It's my understanding that it's the first time it has ever been attempted at that scale. It has worked extremely well so far. It's obviously my hope that all government ministries adhere to the provincial policy statement. That's really about all I can say about that at this stage.

The Chair: Minister, I thank you very much for taking the time. It's a very important piece of legislation, and it is for the future of our communities.

Hon Mr Gerretsen: Thank you very much for your kind attention and for the thoughtful questions that were posed today. I wish you well in your deliberations and I look forward to your report.

The Chair: Our next group is the technical staff from the Ministry of Municipal Affairs and Housing. Can you introduce yourself, sir, please?

Mr Ken Petersen: Yes, I'm Ken Petersen, a manager in the provincial planning and environmental services branch in the Ministry of Municipal Affairs and Housing.

The Chair: We have exactly 30 minutes, of which you can either take the whole time or leave some time for question period at the end.

Mr Petersen: Good morning, Mr Chairman and members of the committee. I'm here to provide a technical briefing on Bill 26. To begin with, I'll provide an overview of the binder in front of you that you received.

To begin with, in tab one, there's a copy of Bill 26, the bill that we're dealing with today, the Strong Communities (Planning Amendment) Act. In tab two is the compendium, which provides an overview of the bill in plain language. In tab three is a copy of the Planning Act, which is the act that is being potentially impacted by Bill 26. In tab four is Hansard, including the debates in the Legislature for December 15, 2003, and May 4, May 12, May 13 and June 1, 2004. Tab five includes the press releases and backgrounders related to Bill 26. In tab six you will find the planning reform consultation press

releases and backgrounders, as well as consultation papers related to the broader planning reform initiative, which the minister spoke about earlier.

If there are no questions with respect to the actual binder, I can move to the slide deck that everybody has. If we go to page two, I'm going to cover the following areas in this briefing. First, I'll provide an introduction to Bill 26 and some context for it. Then I'll provide an outline of some other initiatives that are related to the bill. This will be followed by an overview of land use planning in Ontario, then a summary of Bill 26, including an overview of why the government has initiated Bill 26, a summary of the proposed reforms and an explanation of transitional matters. Finally, I'll provide an overview of the consultation that has taken place with respect to Bill 26 and the broader planning reform initiative.

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Moving on to page 3, the government has indicated that it is committed to building strong, livable and healthy communities in order to provide for a higher quality of life, a clean and healthy environment, and a vibrant economy. Bill 26 was initiated by the government to support these commitments by, among other things, allowing more time for municipal and public scrutiny of planning matters while providing stronger direction to decision-makers through a stronger standard for implementing provincial policies.

Moving on to page 4, Bill 26 is part of the government's planning reform initiative. The various components of the planning reform initiative include Bill 26. They also include potential additional reforms to the Planning Act, a review of the provincial policy statement, consideration of new or revised land use planning implementation tools, and Ontario Municipal Board reform.

Moving on to page 5, Bill 26, as part of the government's planning reform initiative, otherwise known as Places to Grow, is also linked to a number of other provincial initiatives, including strong communities, the Golden Horseshoe greenbelt, growth management in the Golden Horseshoe, source water protection and the rural plan.

Moving on to page 6—the next few slides deal with how the land use planning system in Ontario works—there are several key documents which guide development. At the provincial level, there is the Planning Act. There is also the provincial policy statement, and there are provincial land use plans which cover various parts of the province. At the local level, the documents include municipal official plans and municipal zoning bylaws. I will discuss these documents in a little more detail in the following slides.

Page 7 outlines that the Planning Act provides the legislative framework for land use planning in Ontario. It is the basis for local planning administration. It's a basis for the preparation of planning policy at the municipal level; for instance, municipal official plans. It's the basis for development control, things like zoning at a municipal level, and also for land division; for instance, sub-

divisions and consents. It also identifies provincial interests in land use planning. As well, it sets out the role for the OMB in the planning process and establishes the requirements and process for public participation in planning.

Moving on to page 8, some of the fundamental aspects of Ontario's planning system are that the province's interest in planning is to protect the social, economic and natural environment for Ontario's residents. Municipal planning is mandatory throughout most of the province and is supported by the provincial policy statement, which guides the preparation of municipal official plans and local decision-making. The Planning Act provides for a process which permits municipalities to change or amend planning documents at any time.

Moving on to page 9, general provincial interests are listed in section 2 of the Planning Act—that came up earlier this morning. These include such things as the protection of agricultural resources and ecological systems, orderly development of communities, and public health and safety. More details on provincial interests are contained in the provincial policy statement, which is issued under section 3 of the Planning Act. At present, all decision-makers must have regard for provincial interests when making land use planning decisions. There are three area-specific provincial plans in Ontario: the parkway belt west plan, the Oak Ridges moraine plan and the Niagara Escarpment plan.

Moving on to page 10, the PPS—the provincial policy statement—is approved by the Lieutenant Governor in Council and is issued by order in council under the authority of the Planning Act. It articulates and provides detail on provincial policy interests in land use planning and guides municipalities in formulating local planning decisions. The Planning Act requires that a review of the PPS be undertaken or commenced every five years to determine whether or not changes are needed to the policy statement. The PPS is under review at this time as part of the planning reform initiative.

Moving on to page 11, the government has initiated Bill 26 and has embarked upon the planning reform initiative because it heard that the planning system is not working as effectively as it should. Changes are required to give municipalities more tools to control their own growth. It also heard that there is a need for more accountability, transparency and public input.

Bill 26 received first reading on December 15, 2003, and received second reading on May 13 this year. The government feels the proposed reforms would open up the planning process and make it more responsive to local needs.

Moving on to page 13, the principal reforms in Bill 26 include the elimination of appeals for proponent-initiated applications for settlement-area boundary alterations or for the creation of new settlement areas unless those applications are supported by the municipality.

It would also provide for increasing the timelines for making planning decisions, for changing the implementation standard for provincial policies to “shall be

consistent with,” and for the declaration of provincial interests on matters that are before the Ontario Municipal Board.

I'll go into a little more detail on these proposed changes in the next few slides. In fact, if you turn to slide 14, you'll find that the next three slides deal with the first proposed change I mentioned; that is, the right to appeal planning matters.

The existing Planning Act provisions permit the right of appeal for all applications to amend official plans and zoning bylaws. This right is triggered when a council or approval authority fails to make a decision within 90 days of the application's receipt or when an application is refused or approved.

Moving on to page 15, the proposed Planning Act changes would eliminate that right of appeal on a proponent-initiated amendment which is related to the alteration of all or part of a settlement-area boundary or the creation of a new settlement area and the municipality or approval authority has not supported the amendment.

It's important to stress that this only applies to proponent-initiated applications that alter settlement-area boundaries or create a new settlement area and the local municipality or approval authority does not support them.

On page 16, the rationale for the proposed change is that the ability of applicants to appeal urban boundary decisions or non-decisions has frustrated municipalities. They have indicated that their approved official plans have already been the subject of substantial public consultation, expense and staff resources. These types of appeals have resulted in additional municipal expense and the use of resources to defend approved official plans before the Ontario Municipal Board.

Moving on to page 17, the next area of Bill 26 that I will discuss is the proposed increase in decision timelines before direct appeals may be made to the Ontario Municipal Board. This chart identifies the proposed changes.

You'll see that in the case of subdivision plans, condominium plans and official plan amendments, the existing Planning Act provides timelines of 90 days before appeals may be launched. The timeline would change to 180 days under Bill 26. For zoning bylaws and holding bylaws, the timeline presently is 90 days. That would change to 120 days. For consents and severances, the timeline is 60 days right now, and that would change to 90 days.

In addition, the existing Planning Act provides a 45-day trigger. If notice of a public meeting to consider a proposed official plan amendment is not made within 45 days of receipt of the application, a direct appeal to the Ontario Municipal Board can be launched by the applicant. That's under the existing provision in the Planning Act. Bill 26 proposes to eliminate the timeline for that appeal trigger. However, it's important to say that the public meeting would still take place. There just wouldn't be this requirement for the 45-day notice.

Similarly, the current Planning Act provisions establish an appeal trigger if a public meeting is not held with-

in 65 days of the complete application being received. That is actually proposed to be eliminated with Bill 26.

Moving on to page 18, it's important to note that the timelines I was mentioning start when an application is deemed to be complete. That means that all the required information which is set out in regulations under the Planning Act is provided. So an application has to have a minimum amount of information for it to be considered complete and for the clock to start ticking.

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The rationale for the proposed changes under the Bill 26 system would be that municipalities have advised that there is insufficient time to give meaningful consideration to planning applications. As well, the public has not been able to fully participate in the planning process because of the limited application review time periods. So the proposed changes are intended to address those issues.

Moving on to page 19, the third area I will discuss is the implementation standard for the provincial policy statement. The existing Planning Act provisions provide that decision-makers "shall have regard to" provincial interests and the PPS in exercising any authority that affects a planning matter. The proposed Planning Act changes would provide that decisions of the decision-maker "shall be consistent with" the policy statements issued under the Planning Act when exercising any authority affecting a planning matter.

Moving on to page 20, the basis for the change is that the government is committed to, among other matters, stronger protection of the province's natural environment, prime agricultural lands and mineral resources while supporting strong and sustainable communities. It believes that the Planning Act requirement of "shall have regard to" is not strong enough to implement provincial policies effectively.

Moving on to page 21, the last major area for change that I will discuss concerns the provision of declaration of a provincial interest. The existing Planning Act provisions do not allow the province to declare a provincial interest on matters before the Ontario Municipal Board. As a consequence, the province does not make the final decisions on matters before the OMB.

Moving on to page 22, the proposed Planning Act changes would provide that for official plan amendments and official plans, zoning bylaws and holding bylaws, the minister would have the authority to declare a matter that is before the Ontario Municipal Board to be of provincial interest. If that is declared, the OMB hears the matter but its decision may be confirmed, varied or rescinded by the Lieutenant Governor in Council.

Moving on to page 23, the rationale for this change is that situations arise where conflicts result in decisions which could adversely affect stated provincial interests. Through Bill 26, the province has proposed this mechanism to protect provincial interests. This provision existed previously in the Planning Act but was removed in 1995.

Moving on to page 24: In terms of transitional matters, if passed, this legislation is deemed to have come into force on December 15, 2003. The legislation would allow for regulations to be made to deal with transitional matters; for example, planning applications that are currently in process.

Moving on to the last page, page 25, I've mentioned that Bill 26 is one component of the government's planning reform initiative. Through the planning reform initiative, consultation has been underway not only on Bill 26 but also potential additional changes to the Planning Act that may be necessary, and also implementation tools that could possibly make the planning system more effective. It also included Ontario municipal reform consultation and a review of the draft provincial policy statement which was released on June 1. That consultation took place between June 1 and August 31.

Bill 26 is the first step toward further reforms of the planning system, and the government has indicated that it intends to proceed with these reforms in the future.

That concludes my presentation, Mr Chair. If there are questions, I'd be happy to answer them.

The Chair: Thank you, Mr Petersen. Questions or comments?

Mrs Munro: I just wondered if you could explain again, on page 17, the last two parts on the chart where there is the elimination of the timeline. Could you just explain that again, please?

Mr Petersen: Certainly. Right now, under the Planning Act, there is a provision that indicates that once an application is received in complete and final form by a municipality, there is a clock that starts ticking. A municipality has 45 days to give notice of a public meeting, for one thing, and if you don't meet the 45-day clock, an applicant could launch an appeal. That is proposed to be eliminated.

Similarly, the deadline for holding a public meeting: Right now, the Planning Act provides that a public meeting must be held within 65 days of the application being deemed to be complete. If that meeting is not held, an appeal could be launched to the Ontario Municipal Board. Both of those provisions are proposed to be eliminated, but what I must add is that the requirement that the municipality must hold a public meeting is still there; there's just more flexibility in terms of when the municipality would actually hold the public meeting.

Part of the rationale for that is that we've heard from citizens' groups and the general public that because these meetings were having to be held so soon, it was making it difficult for them to fully understand the extent of what was being proposed and to properly prepare for them. So this would allow the meeting to be held prior to council actually making a decision, but there'd be a little more leeway in terms of when that meeting would actually take place.

Mrs Munro: My question came from the idea of how far out it goes from there. Obviously that would just be open to the interpretation of the municipality at the time, if they don't meet the 45-day deadline.

Mr Petersen: They would still need to hold the public meeting, though, within the time frames that are eventually decided upon; for instance, within that 180 days.

Mrs Munro: That's really where my question was coming from.

Mr Petersen: So the meeting would still be necessary. It would still have to be held before a determination.

Mrs Munro: Can I ask another question?

The Chair: Yes, you still have time.

Mrs Munro: On page 20, when you talk about the need for change, I wonder if the ministry has a definition of prime agricultural lands.

Mr Petersen: There is a definition in the provincial policy statement that identifies the lands that are of priority to be protected. It includes—and I'm going off the top of my head here—class 1, 2 and 3 agricultural lands plus specialty crop lands.

Ms Churley: Thank you very much for your presentation. That was very helpful. Just a couple of questions: On page 9 you mention, in the third bullet, "All decision-makers 'shall have regard to' provincial interests," as opposed to, in all the other areas we talk about, "be consistent with." Can you explain the difference in this case, why it's saying "have regard to" instead of "be consistent with"?

Mr Petersen: This is actually referencing the present rules in the Planning Act.

Ms Churley: Oh, I see. OK.

Mr Petersen: So the present rules actually have—

Ms Churley: So that's all you mean there?

Mr Petersen: That's correct, yes.

Ms Churley: OK, good, because I wasn't clear on that.

The other question I have—and this is a bit worrisome—it's necessary, I understand, when you're in transition and going from old rules to new rules, but on page 24 you say that the legislation would take effect on December 15, 2003, and then, "Legislation would allow for regulations to deal with transitional matters." As I understand it, the minister can make regulations, including which applications already in progress will be dealt with under the old rules and which will be subject to the new rules. I understand that's what it means. I guess I'm wondering how that's going to work. I think those provisions should go into the act, but at the very least, the regulations, which are often done quietly, behind closed doors, should be made public so that all of those concerned—developers, municipalities and communities—know where they stand. Maybe it's more of a political question, but I find that this section of the bill, giving cabinet the final say on these planning matters, appears to give them more power than necessary, and I'm wondering how that can be mitigated. As I said, I understand that in transition there are going to be some left up in the air and have to be balanced, but how are those going to be dealt with?

Mr Petersen: I think, ultimately, it'll be the government's decision to make, but I'll just provide a little bit of a rationale in terms of that. The government knew it

would be consulting on the broader planning reform consultation, which included Bill 26, additional changes to the Planning Act and also the provincial policy statement. Out of that consultation, it anticipated that there would be issues that would be raised by stakeholders and others that likely would be best handled through a regulation so that all the issues could be taken care of and so that things were properly addressed.

1020

Ms Churley: OK. Those are all my questions.

The Chair: Thank you, Ms Churley. The government side: Mr Rinaldi.

Mr Rinaldi: Ms Churley asked the question I was going to ask.

The Chair: Mrs Van Bommel?

Mrs Maria Van Bommel (Lambton-Kent-Middlesex): I just wanted to clarify the issue Ms Churley brought up about when all this would come into effect and the issue of retroactivity in the transition. During consultations we have heard a lot of concern expressed about that particular part, and we are certainly looking at that very, very carefully.

The Chair: OK. Thank you very much, Mr Petersen, for taking the time and briefing our committee on the technical side of the Planning Act.

TORONTO CATHOLIC DISTRICT SCHOOL BOARD

The Chair: We're a little bit ahead of time, but we'll move on just the same. Is Oliver Carroll, chair of the Toronto Catholic District School Board, here? Yes, they're right here. Thank you very much. You have 15 minutes, of which you can take the whole 15 minutes or leave time at the end for questions from the three parties.

Mr Oliver Carroll: Thank you, Mr Chairman and members of the committee. I'm also joined by Paul Crawford, who's the board's superintendent for planning.

Later today you will hear from the two major associations representing school boards in Ontario. We're in support of what they're going to say, but I wanted to give you some specifics around the broad policy issues.

In Toronto, we have a little over 90,000 students in 200 locations. One of the main concerns we have about both the current Planning Act and the proposed changes to it is that it doesn't recognize education as a major component within a community. It talks about the general planning issues and provincial policies and strong and sustainable communities and all the rest, but it doesn't recognize the role that education plays.

In the province, there are approximately two million students in our elementary and secondary schools. While we all have reasonable relationships with our respective municipalities, I guess—I'll step out on a limb there; we have pretty good ones with the city of Toronto—the fact of the matter is that on a fairly regular basis we find ourselves in the situation of having either to bring portables on to our property or to build new schools where we hadn't anticipated them previously.

The nature of enrolment, of course, is that people move and decide, for a variety of reasons, to send their children to one school or another. In many cases, they take that decision a couple of days before school starts, or they may take it earlier in the summer, but they certainly don't inform the school boards themselves that they're going to do that until school opens the day after Labour Day. So the use of portables and the building of new schools is a major issue, especially for boards like ours and boards in the 905 that face a fair amount of growth.

I'll give you an example. Our secondary schools have a capacity enrolment of 115%, which means that we put more students in the classrooms than the government suggests we should. With our elementary schools, and the average across the province, it's in excess of 90%. The problem with numbers like that is that it doesn't recognize individual communities. It does show you that the schools are fairly well filled to capacity, but any particular community at any point in time may find itself actually over capacity.

The problem arises in trying to secure approvals from the municipality. The municipality has to take heed of the Planning Act and the policies, but as I say, education is not included in there. We want to suggest that the government seriously consider amending the act to include education in both that and its policy statements. The problem in not doing it is that if the government doesn't consider education as a priority around its facilities, then there's really no need for the municipality to do that. For us to approach them and suggest that education is important—and while everybody recognizes that, including this government, the fact is that if it's not enshrined in both statute and policy, it's a lot of talk, from the point of view of the municipalities.

Trying to secure building permits to bring in portables a couple of days after school starts can in many cases take a couple of months. With class size caps in the secondary schools from collective agreements and with the government's proposal now to put caps on the primary grades, we find ourselves more and more having to look to external, external to the actual building facilities, and that includes portables.

Let me give you an example here in the city of Toronto. Because of the move to the 20 cap in the primary grades, as we all know—we have a school where we have an outside daycare with about 25 children, and we have to give notice to that daycare to move out so we can ensure there are enough classrooms for the primary grades. At the same time, we can't secure a permit from the city in any type of timely manner to bring in a portable. So we have a situation where on the one hand we're of course supporting the government's direction around primary grades, and on the other hand we're also trying to support the direction around daycare but have been forced into a situation where we're going out looking for daycare spaces for private community operators.

The city has its own share of issues and problems and rightfully turns back to us and says, "We know it's a

priority for you, but it's not a priority for anybody else, in that there are a lot of issues we have to deal with."

The groups this afternoon will discuss specific changes to the act, but to make it simplistic, we really think the role of education in strong and sustainable communities should be enshrined in the act and in the policy statement. I would be glad to answer any questions you have on that.

The Chair: Thank you. We'll move to the official opposition side.

Mrs Munro: I wonder if you would care to comment on some of the timelines being extended and whether or not that might make things easier for you or more difficult. I'm thinking of going to 180 days from 90 days.

Mr Carroll: From our perspective, that applies mostly to putting up new buildings. The issue isn't so much around that period; it's the period after, when we're trying to secure building permits and the last part of the technical matters from the city. We have two high schools where this has gone on now for a couple of years; it might have gone on even longer except for the fact that the new mayor has a very personal interest in this and stepped into it. That particular 180 days is not an issue in and of itself to us.

Interjection.

Ms Churley: Do you want me to go ahead and then come back?

Mrs Munro: Would you? Thank you very much.

The Chair: We'll come back. You'll still have a minute and a half.

Ms Churley: I just have a brief question, because I agree with your proposition here. I'm just wondering if you have a suggestion for an amendment that will fix this.

Mr Carroll: The actual legal amendment I'll leave to the associations. Both the public and the Catholic boards will be here this afternoon.

Ms Churley: So we can get more information from them about the best approach to this.

Mr Carroll: That's right. They'll give you direct information.

Ms Churley: I think everybody will agree that this is an area we need to fix—perhaps an oversight. I'm not sure. We'll pay attention this afternoon and think about how to amend the act to include education and schools.

The Chair: Is Ms Munro ready?

Mrs Munro: Thank you. I'm sorry. My question actually relates to that. I took from the comments you made that you saw the opportunity through something like a provincial policy statement as being the appropriate vehicle for doing something like this. It would seem to me that that would obviously serve the interests of schools throughout the province. Am I correct in assuming that that's the direction you wish to go?

Mr Carroll: Absolutely, and as I say, we're here to give you on-the-ground examples; the associations themselves will address the broader issue. It is a large issue, and the timing around getting things done is important, but again, not around the preliminary approval period.

1030

The Chair: The government side.

Mrs Van Bommel: Thank you very much for your presentation. I should note for you that section 2 of the Planning Act, which details provincial interests, already mentions education. So I take it from your presentation that you want more involvement in the provincial policy statement or something more specific in the act. Could you tell me exactly what you're looking for?

Mr Carroll: We're looking for something much more direct and that education will actually be considered by the municipality in the development of its official plan and the impact. Of course, out of that flows all the bylaws and the permit processes and committees of adjustment etc. So we're looking for a much stronger statement.

The Chair: Thank you very much for taking the time to address your concerns to the committee.

RENEE SANDELOWSKY

ALLAN ELGAR

The Chair: We'll move on to Renee Sandelowsky and Allan Elgar. Please come up to the table.

Mr Shafiq Qaadri (Etobicoke North): Didn't you miss somebody, Mr Chair?

The Chair: They're not here yet. We're ahead of time.

You have 15 minutes. You can take the whole 15 minutes or leave some time at the end for questions from the three parties. Welcome to the committee.

Ms Renee Sandelowsky: I'm just going to take half the time and Allan will take the other half, if that's OK. We discussed that before with Tonia.

Thank you very much for the chance to speak. My name is Renee Sandelowsky. I'm a resident of Oakville as well as a town councillor for ward 4, which is in north Oakville. I'm here today to speak as a resident and as someone who has been disillusioned with the way planning is currently managed in Ontario.

In my opinion, the system works really well if you are a developer or another special interest. Too often, I find it is the special interests, those whose only bottom line is profit, who gain from the way we plan in Ontario. It is the regular people who suffer, because it is the quality of our lives and of our children's that is being compromised.

Obviously, I don't have time now to give you all my comments, so I would just like to make a few points about the OMB and the provincial policy statement.

Regarding the OMB, I would abolish it altogether and start over with a new appeal board that people can have confidence in, because if you had designed the OMB with the actual intention of making it totally user-unfriendly, I don't think you could have done a better job. I spent last summer at the OMB with Oakvillegreen, a grassroots, all-volunteer environmental group, appealing Oakville's decision to develop north Oakville. I can

tell you from first-hand experience that it was frustrating and intimidating. If the province really wants residents to get a fair hearing, then there must be a level playing field. In my opinion, there is absolutely no way an individual or a group of volunteers can successfully fight against corporations and their high-priced lawyers the way the system is currently set up, particularly with the threat of costs hanging over our head. Certainly intervenor funding would be a good start to help solve the problem.

Regarding the provincial policy statement, the vision for Ontario's land use planning system states that "the long-term prosperity and social well-being of Ontarians depend on maintaining strong communities, a clean and healthy environment and a strong economy." For the last five years that I've been actively involved in community issues, I've got to tell you that I found "a clean and healthy environment" to be very low on the province's priority list.

When I first read the natural heritage section of the provincial policy statement, where it says in section 2.1.2 that development and site alteration will not be permitted in environmentally significant areas unless it has been demonstrated that there will be no negative impacts on the natural features or the ecological functions for which the area is identified, I was duly impressed. But when I saw the reality of planning decisions, I was mortified. You can't really expect us to believe that the Red Hill Creek Expressway hasn't destroyed acre upon acre of significant lands, that the mid-peninsula highway won't eat up parts of the Niagara Escarpment or that the potential paving over and development of the Trafalgar moraine in Oakville and the headwaters of many of Oakville's major creeks won't have a negative impact on our community. How about the fact that five out of seven environmentally sensitive areas in Oakville have either been destroyed or taken off the list because the qualifying criteria could no longer be met?

Where is this balance that we're supposed to have? I think we need clear definitions and strongly and clearly worded policies and laws that will ensure that development cannot occur at the expense of our natural systems. We need clear and stronger policies and laws regarding health effects of land use decisions. We need stronger policies and laws to ensure a Walkerton can never happen again and to ensure that not one more person will die from causes directly related to our declining air quality.

I applaud this government's initiative in attempting to reform our existing land use planning system. I think what you are doing is a great beginning; however, I believe you should take it further and be stronger and be very clear in your words, because the bottom line is that this system is not working. There is too much ambiguity.

To conclude, there are a couple of very important land use decisions that need to be made in Oakville, and the residents expect that the province will do everything in its power to help us. After all, that's why we elected you.

First, the public owns 1,100 acres of land in north Oakville. These 1,100 acres include the headwaters of 11

streams and approximately 22 wetlands. The town wants to use much of this land for industrial/employment purposes. The people say no. Conservation Halton says no. I, along with many others, expect the province to keep its election promise to protect these lands by donating them to Conservation Halton to be preserved as part of the Golden Horseshoe greenbelt in perpetuity.

Second, I along with many others also expect the province to commit to the protection of our natural heritage system in north Oakville, the system that the province itself helped design, by declaring it an area of provincial interest and doing whatever is necessary to ensure it is protected forever.

Municipalities are extremely vulnerable to development pressure. We need more than weak provincial guidelines that can be interpreted in many different ways. We need concrete, clear provincial policies that are written in law, such as no development in an ESA or an ANSI, period. We need your leadership. Thank you very much.

I'll let Al take the rest of the 15 minutes.

Mr Allan Elgar: My name is Allan Elgar. I am a resident of Oakville and a regional and town councillor. I'm speaking on behalf of myself as a person who has been involved in the planning process and witnessed how the current system does not work for the residents.

I am grateful that the government has started to take steps to rectify the gaping holes and weaknesses in the Planning Act, the provincial policy statement and the long overdue reform of the Ontario Municipal Board.

I will be brief and to the point.

On the Planning Act and the planning system, the reforms to the Planning Act through Bill 26 are a step in the right direction. Preventing appeals to the OMB of urban expansions that are opposed by municipal governments is excellent. The increased time available to review applications is a must.

However, the preamble to the Planning Act should state the following: "It is established law in Canada that compensation does not follow land use planning decisions, whether land uses are increased or decreased. Thus landowners are not compensated for decreases in land uses, nor do they have to reimburse the government when they receive an increase in land use made pursuant to the land use planning process."

The Planning Act should provide specific zoning for all woodlots, wetlands, buffers, groundwater recharge and discharge, areas containing flora and fauna etc and natural heritage systems to ensure that these lands are not part of the development envelope.

Environmental assessments should be cumulative environmental assessments. Today it is death by a thousand cuts.

In the provincial policy statements, the consultation paper on the Web site states that "this is a complementary policy document to the Planning Act—it embodies good planning principles and seeks to protect the public interest."

I have to wonder whose public interest they are referring to. In 1998, Environment Canada, the Ontario Ministry of Natural Resources and the Ontario Ministry of the Environment provided guidelines for rehabilitation of habitat in Ontario, where they stated that a watershed should have 30% woodland cover.

In 2001, American Forests recommended that 40% woodland cover should be maintained to benefit air quality due to the function of leaf structures as ozone reaction sites. Retention of forest cover is even more significant on shorelines receiving pollution across the Great Lakes. Because ozone is not depleted over water, ozone concentrations are higher along shorelines.

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In 2001, Oakville had only 12.2% woodland cover. In Halton region, if you look at all the land below the escarpment, we had only 12.17% woodland cover.

The province should demonstrate concern for the public health of its citizens by establishing minimum targets in the PPS which would ensure that woodland coverage is increased to a level that will protect residents; for example, 30% to 40% woodland coverage versus the 12.2% and declining in Oakville.

If the Ontario Realty Corp lands in Oakville, which are 445 hectares, were given to the conservation authority and the lands were reforested, our woodlot coverage would be increased by approximately 259 hectares, which would increase our coverage by just 1.86%.

Between 1995 and 2001, our woodland coverage was actually reduced by 180 hectares. We just lost 80% of another woodlot in Oakville a few weeks ago.

Minimum wetland coverage targets should also be included in the provincial policy statements. All moraines should be mapped to ensure that they do not negatively impact groundwater recharge and discharge.

For preserving green space, the province must supply strong guidance on how to map out natural heritage systems with adequate buffers, since the systems we have today do not have any teeth. Whenever I refer to the natural heritage reference manual, I am reminded that it's only for reference purposes.

In part I, the preamble to the PPS should clearly state that if a priority is to be identified, it should be the protection of the natural heritage system and related features and functions. All matters of provincial interest should be equally balanced. The statement should state, "... provides for an appropriate balance to guide growth and development while protecting the quality of the natural environment, resources of provincial interest and public health and safety."

In part IV, "Vision for Ontario's Land Use Planning System," it should be pointed out in the last paragraph that long-term environmental health and social well-being should take precedence over short-term economic prosperity considerations.

In part V, "Building Strong Communities," under "Expansion of Boundaries of Settlement Areas," where boundaries have been expanded prior to an environmental analysis being completed, there can be no assurance

that there will be any development, and natural heritage systems and related features and functions will be protected. It should be stated that land uses and development patterns which may cause environmental or public health and safety concerns will be avoided.

The policy should be revised to acknowledge that the continued maintenance of a 10- to 20-year supply of residential and urban expansion is not appropriate where other aspects of the PPS are considered to be in the public interest. There needs to be flexibility to allow the protection of prime agricultural land to take precedence over urban expansion.

In the natural heritage policy, 2.1.1—"should be maintained, restored or improved, where possible." This type of wording allows the developers to drive a truck through the loopholes.

On Ontario Municipal Board reform: In my opinion, their powers should be gutted. Fear of the OMB has forced council to make decisions in haste instead of waiting until information was available to make educated decisions.

I remember hearing at our final meeting prior to the approval of the Oakville official plan amendment, "We have to make a decision due to the fact that we could be at the OMB as early as July," even though environmental studies were not even close to being completed.

Recently, council approved removal of 80% of a small two-hectare woodlot because of fear of the OMB costs.

Currently, in my opinion, the OMB works for the developer but not for the residents who live here. If residents are to have a say, intervener funding must be provided for the case, and there must be no awarding of costs to residents' groups.

The province must provide the regions and municipalities with the tools necessary to make the proper decisions for the residents, ie, zoning, and appropriate legislation to ensure that the OMB is not able to overturn sound environmental decisions.

In closing, I would ask that you listen to what our provincial leader told us in Oakville in September 2003 and prepare an implementation plan to ensure that north Oakville is protected. The front-page headline was, "McGuinty Would Keep ORC Lands Safe from Developers."

For more specific information related to changes that should be made to the planning reform, I would ask that you visit the following links. I have listed them. I know you don't want me to read them out, but it's www.escarpment.org/cgi-bin/Other_PDF_reports/Prov.Policy.Statement.Aug.19.pdf. The Niagara Escarpment Commission has prepared some excellent documentation that I really hope everyone here will read and listen to and take direction from.

Thank you very much for listening.

The Chair: We have time for one question, which is going to be the government side.

Mrs Van Bommel: I want to thank you both for your participation in this process. I wonder, are you aware

that, under the Planning Act, the municipalities have the right to restrict use of natural heritage resources?

Mr Elgar: What we are being told by our staff is that we do not have the power to restrict. We have not been given the powers to do that and, therefore, we will not be able to save a natural heritage system, for example. Zoning itself will not do that. They keep saying, "You might have to compensate," and we are saying—I am a firm believer of what you were saying, that compensation is not required, but this is where we have such a huge gap right now in Oakville. It's a major concern. So if you can give us exactly where we can apply it, I would love to get that information so I can take it back to council.

Mrs Van Bommel: Well, certainly, we'll make sure we get that to you. Also, you mentioned intervener funding. Could you tell me who you think should qualify for intervener funding?

Mr Elgar: What is referred to at most OMB hearings—the lawyers will bring up special interest groups. The people who have no vested interest and no financial gain they call "special interest groups," when, in fact, the special interest groups are, in my opinion, the developers themselves who own the land, who stand to profit.

I feel the residents are at a huge disadvantage today to take any case to the OMB because of the costs. You need lawyers. You can't go without lawyers, really, because you don't have the details, and they tie you up in red tape. The residents feel totally unheard. Then you will also have the lawyers of the developers say, "You could be awarded all costs." When you start thinking of thousands and thousands of dollars—and residents have children to put through school and houses to pay for. It just isn't working. That's the fear. They call it the thin veil. Even if you're incorporated, as a residents' group, you can be awarded costs. So that has to completely be killed.

The Chair: Thank you very much, Mr Elgar, and thank you for taking the time to inform this committee on your concern.

Mr Elgar: I appreciate the privilege of being here to at least voice our concerns. I think, too often, the developers are the only ones at the table most of the time, and I think this government has taken a huge step forward by trying to get public input. So thank you.

ONTARIO PROFESSIONAL PLANNERS INSTITUTE

The Chair: The next presenter will be the Ontario Professional Planners Institute, and it's going to be Loretta Ryan, Greg Daly, and Donald May, president.

Once again, thank you very much for taking the time. We're a little bit ahead of time, but we appreciate the fact that you are here before your time was scheduled. You have 15 minutes, of which you could take the whole 15 minutes or leave some time for the three parties for questions.

Mr Donald May: Good morning. My name is Don May, and I am the president of the Ontario Professional

Planners Institute. With me today is Greg Daly, who is chair of our policy development committee, and Loretta Ryan, who is our staff manager of policy and communications.

I would like to thank the committee for the opportunity to speak and note that my remarks today are based on recommendations contained in our letter to the minister dated March 15, 2004, and in our submission regarding planning reforming consultations, dated August 30, 2004. A copy of these are included in your package.

The Ontario Professional Planners Institute, also known as OPPI, is the recognized voice of the province's planning profession. OPPI provides leadership and vision on policy matters related to planning, development and other important socio-economic issues.

Over the years, OPPI has contributed to the reform of planning in Ontario. We have demonstrated a strong commitment to working with all governments. As the Ontario affiliate of the Canadian Institute of Planners, OPPI brings together the 2,600 practising professional planners from across the province. In addition, there are approximately 400 student members.

The breadth of our members' knowledge and the diversity of their experience provide OPPI with a unique perspective from which to contribute to planning reform. OPPI members work for government, private industry, a wide variety of agencies, not-for-profits, and academic institutions, engaging in a broad range of practice areas, including urban and rural community planning and design and environmental assessment.

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OPPI is a professional association funded entirely by membership fees and program and activity revenue.

Through our public policy program, we conduct research on planning issues and general quality of life issues. We distribute this information to our members, government, the public and the media. Our purpose is to provide objective and balanced submissions based on the collective experience and wisdom of our members.

Overall comments:

We are pleased that the government is committed to improving the land use planning system in Ontario.

Communities need not only the proper tools to deal with the range of issues affecting how they grow and prosper but a complete range of tools to do so. If the proposed legislation does not give them a complete range of usable tools, it will simply complicate the planning process rather than make it more responsive to local needs.

The province has undertaken an ambitious program and schedule of reform of the Ontario planning system, with several initiatives simultaneously taking place within a number of ministries. There is concern about the need to undertake these reforms in a coordinated and thoughtful manner and to ensure that there is sufficient time for review and comment.

A number of planning reforms underway are interconnected. Some of the planning reform issues are on their own track, but many others are complicated and

interconnected. The PPS and the Planning Act should, for example, move forward together.

It is key that these initiatives are clearly understood within the Ministry of Municipal Affairs' areas of responsibility and also within the broader framework of planning reform underway at the Ministry of the Environment and the Ministry of Public Infrastructure Renewal. Growth management issues are an example, as these are intertwined with planning initiatives. Many issues are also highly technical and complicated in nature. It is difficult, for example, to ascertain the structural relationship between watershed planning and planning reform.

Interconnectedness is not only at the provincial level. These reforms impact many local planning processes and documents. More time is needed to properly assess the implications of these changes.

At this point in time, we would like to provide comments on four areas as they pertain to Bill 26: (1) the importance of the provincial policy statement, (2) the need for definitions, (3) the declaration of provincial interest, and (4) local autonomy.

The importance of the provincial policy statement: The provincial policy statement, PPS, sets out overall policy direction on matters of provincial interest. The review of the PPS has been underway since 2001. The importance of this planning document cannot be understated. While the PPS may not garner as much attention as some of the other major initiatives the government has unveiled lately, it is the tool that makes everything else work. The review should be finalized and action taken to implement the revisions as soon as possible.

One area of implementation that must be addressed is how to ensure that planning decisions are consistent with the PPS. The wording "be consistent with" is intended to result in decisions that more closely reflect the intent of the PPS. There needs to be clear guidance on how competing interests might be balanced, and it must be made clear that there is room for practical planning decisions. You do not want literal interpretations or minor inconsistencies in phraseology to cause good planning to be delayed or frustrated.

One of the essential elements of planning is balancing social, economic and environmental interests. Planning involves a comprehensive analysis of all resources and application of all pertinent policies. Without clear direction on the province's priorities for environmental protection and community growth and on what to do when conflict occurs, the new wording provides continued challenges. Exactly what are municipalities expected to be consistent with?

Finally, the various planning reform initiatives provide an excellent opportunity to provide a coordinated framework through which the government sets an overall direction for growth in the province. Within such a framework for growth, there should be flexibility so that individual communities—rural areas, small cities, northern Ontario, the GTA—can make decisions that respond to local needs. This flexibility must also address the

ability of some municipalities to go beyond the minimum standards in the PPS and still be consistent with provincial policy.

Definitions require further refinement to achieve what the province intends. As noted earlier, we are particularly concerned that a working definition of “be consistent with” be clearly established so that municipalities understand what is intended by the phrase and how it is to be applied, recognizing that the application will vary from circumstance to circumstance.

To clarify intent, the province should ensure that identical definitions are included in all planning reform legislation. I believe that in the legislation right now we have three or four definitions for “brownfield,” and it would be better if we had one definition.

Declaration of provincial interest: We have three main concerns with the sections on declaration of provincial interest. First, we believe that the PPS should clearly and concisely state the criteria used to identify a matter of provincial interest. Second, the province should declare a provincial interest much earlier than the minimum 30 days before an OMB hearing. Matters of appeal that involve a provincial interest are major policy decisions, and all parties need to prepare properly before making arguments at a hearing. Third, the wording in Bill 26 on planning matters under appeal to the OMB needs to be clarified. It appears that the intent is to maintain the province’s interest in a matter under appeal to the OMB where the reason for appeal relates to conformity with the PPS whether or not the minister formally identifies it as a provincial interest. The current wording suggests that unless the minister declares the matter of provincial interest, the province’s interest is waived in matters before the board.

Local autonomy: Bill 26 seeks to give Ontario residents more of a say in how their communities grow. OPPI believes that providing adequate time to obtain input and resolve disputes promotes good planning, particularly for complex proposals. Ensuring that local councils are able to prevent premature urban boundary expansions is also consistent with good planning, especially when comprehensive growth management strategies are in place. Provided that time is allowed for parties to undertake the statutory actions required of them and for the public to be involved in the establishment, review or amendment of public policy, OPPI supports this approach.

Although we support the amended time frames proposed in Bill 26, we are concerned with the wording of proposed subsections 17(53) and (54) and parallel sections of the Planning Act related to cabinet’s role in situations in which a development application adversely affects a matter of provincial interest. While the province may need to express provincial interests that override local perspectives, this section appears to express the exact opposite of municipal empowerment by giving decision-making power to a body removed from the local issue. In reality, especially if the province takes an expansive view as to what is of provincial interest, all of

these decisions except the most controversial ones will be rubber-stamped by an overburdened cabinet committee entirely on the basis of provincial staff reports. The proposed wording suggests a process that is less than transparent, timely or efficient and fails to give the community any reassurance that its concerns are being properly addressed. Strengthening the PPS would be a more efficient way to address or even avoid situations in which cabinet has the final decision on planning matters.

I think the important point there is that it would also reduce the number of matters having to go to cabinet if it’s much clearer in the policy statements. I think when the policy statements are clear, we can all perform and implement those policies better, as we did in the affordable housing area before. Those policies were very helpful throughout the province for the profession.

Implementation: We are pleased the Ontario government is committed to improving the land use planning system in Ontario. However, the substantive and comprehensive nature of many of the proposed amendments will place a significant burden on municipalities as these jurisdictions endeavour to apply the new provisions. New components such as watershed base plans, performance monitoring and indicators are welcome, but need to be accompanied with sufficient provincial direction and supporting resources to make them possible. Further consideration needs to be given regarding additional tools to those proposed in current available documentation since no new implementation tools are identified. Transferable development rights, incentives and other implementation tools need to be considered.

In summary, we are dedicated to the promotion of good planning and would welcome the opportunity to work with the Ministry of Municipal Affairs, the Ministry of Public Infrastructure Renewal and its Smart Growth Secretariat and other ministries to help explain publicly the critical importance of managing growth. This is important, given the significant amount of land already approved for development in growing Ontario municipalities.

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Ontario’s registered professional planners have a great deal to contribute to both the policies and mechanics of better planning, and unparalleled knowledge of how to make the government’s policy directions actually work effectively across the province. We encourage you to use OPPI’s resources in planning for growth management, economic development, environmental policy and effective public engagement as part of the plan to bring change to land use planning in Ontario.

Thank you, and we would be pleased to answer any questions. I’d also like to make a comment on the record that Rural Town Planning Day is November 8.

The Chair: Thank you, Mr May. We have time for questions. We have three minutes left, and I’ll go on to Ms Churley.

Ms Churley: Thank you once again for your very informative presentation. It’s much appreciated. You, in your presentation, highlighted an area of concern that

was expressed here this morning when the minister was here, and that is appeals to cabinet and that sort of thing.

I wanted to ask you, and I'm not sure if you addressed it or not, but that is, this bill, if passed, is retroactive, I believe, to December 2003. What the bill says is that the minister may make regulations on the transitional matters, including which applications already in progress will be dealt with under the old rules and which will be subject to the new rules. I'm very worried about that, for obvious reasons. If it's not in the legislation, it will be made by regulation. Have you thought about that? It's a very complicated area, when you bring in a bill retroactively, how you deal with existing applications.

Mr May: If I could ask Mr Daly to answer that.

Mr Gregory Daly: I think it's important to understand that there is, for the public, for municipalities and for developers, the need for a consistent approach, that there be consistency in the way in which the government approaches the implementation of the legislation. So the transition provisions will be an essential element of the legislation that comes forward.

To do it by regulation is difficult because it then establishes a process by which those who are most affected by the legislation don't know the means by which it's going to affect them. So it would be my thought that, to the greatest extent possible, the transition provisions be brought forward as part of the legislation so that everyone can understand how the implementation is to occur.

You heard in our presentation to you this morning that implementation is the key to this, both the resources which the government provides to municipalities, to individuals, to ensure that there is consistency, and also that the regulations are there just so everyone can understand what the scope of this change is going to be. Regulation after the fact makes it difficult for everyone to understand how it's going to affect them. So it's imperative that this all occur at the same time, in the same way that we said that, for example, the provincial policy statement changes must come forward at the same time as the Planning Act changes, because they are so interrelated. The provincial policy statement is the underpinning to all of this change. So they must come together.

Ms Churley: Yes, I agree with that, and I was making some of those points this morning. I also agree that it should be in the legislation itself. But I guess at the very least, the regulation should be made public as soon as possible so that all the developers, municipalities and communities know exactly where they're standing and can be involved in the process around making those regulations.

Mr Daly: I think that our—

The Chair: If you would, for our record purposes, state your name, please.

Mr Daly: I'm sorry. My name is Gregory Daly.

The Chair: Thank you, and our time is up.

Mr Daly: Yes, sir.

Ms Churley: But you agree with me.

The Chair: Thank you very much for taking the time.

URBAN DEVELOPMENT INSTITUTE/ONTARIO

The Chair: The next group to be called is Urban Development Institute/Ontario (UDI): Mr Neil Rodgers, president. The committee would like to welcome you to the public hearings for this most important piece of legislation, the Planning Act, Bill 26. You have 15 minutes.

Mr Neil Rodgers: Thank you, Mr Chairman and members of the committee. My name is Neil Rodgers. I am the president of the Urban Development Institute/Ontario. We are happy to be here.

UDI members play a crucial role in the provincial economy and its sustainable growth. The land development and construction industries are vital contributors to the provincial economy. We account for over 10% of the gross domestic product—some \$50 billion—and employ over 350,000 workers. Ontario's construction industry in 2003 expanded at a rate of almost 9%, which was twice the annual growth rate of the province of Ontario as a whole. This economic growth is essential in order for the government to provide necessary services such as health care, education and infrastructure.

Our members remain committed to planning and building the best possible communities for Ontarians. Our industry supports strong environmental protection measures and believes that growth can be achieved in balance with environmental protection.

Fairness, accountability, transparency and certainty are the principles Ontarians expect from their elected officials and in fact were the core values in the government's campaign commitments. During the past several months, Minister Gerretsen has echoed these principles in various public speeches, as exemplified by his remarks at the recent AMO conference, and I'd like to quote: "In order to help you"—municipalities—"do the good job that you do even better, our government is moving forward ... giving councils greater decision-making power so you can protect and enhance the best interests of your communities—through planning reforms, empowering municipal councils and through changes to the Municipal Act allowing for more permissive legislation."

UDI recognizes the challenges presented by attempting to successfully balance the competing priorities inherent in land use planning. UDI is concerned that Bill 26, as drafted, has many unintended consequences and, in fact, runs counter to the principles and ideals expressed by the government and the minister. Specifically, certain provisions of the bill place decision-making in a black box that is in want of due public process, the very opposite of transparency and accountability.

In our opinion, the bill as drafted requires some substantive amendments in order to ensure strong communities while delivering accountability and transparency in the planning process. UDI recognizes the government's intention to reform this process, but in our respectful submission, the proposed changes to the bill fail to create a more robust planning system and remove transparency, accountability and certainty from the planning process.

More importantly, to realize real, positive planning reform, the government must integrate innovative fiscal tools and policy approaches as well as examine existing regulatory processes that are barriers to progressive solutions in order to promote growth in a responsible manner.

UDI submits that the proposed power of the minister to declare a provincial interest with respect to municipal planning documents should be removed from the bill. The bill provides that when the minister declares a provincial interest, such decisions of the OMB may be confirmed, varied or rescinded by the Lieutenant Governor in Council. The municipal planning process in the existing Planning Act is rigorous and affords the minister ample opportunity to comment on planning matters. In some cases, the minister is still the approval authority for official plans, and in any event the minister has always had the power to comment on planning matters. These are under subsections 17(6) and (12) of the Planning Act. This authority gives the minister broad scope to impose provincial policy at the local level. The minister always has the option of being a party to any OMB hearing to advance provincial policy as set out in the provincial policy statements. The minister's voice, which is a powerful one, will always be heard and taken into consideration.

In comparison, cabinet decision-making is a closed and political process. Cabinet ministers making the decisions will not have had the benefit of hearing the evidence, judging the credibility of the witnesses or the merits of an application. This is truly black-box decision-making. Such a process undermines the credibility of the planning process and the independence of administrative tribunals.

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Lastly, it is unclear whether parties to the proceedings will be able to present written submissions to cabinet. Also, will cabinet provide reasons for its decisions? This precludes the transparency that the government claims is essential to public process and creates further uncertainty in planning matters.

However, if the government does not intend to remove the provision from the bill, we recommend that the scope of this power be narrowed considerably. The power to declare a provincial interest should be limited to a municipality's official plan. If the minister seeks to intervene, he should do so only at the policy stage. The official plan phase is when planning policy is addressed, to which the minister has input and is often still the approval authority. Zoning bylaws and holding removal bylaws are the implementation of official plans and not matters of policy. We submit that intervention at the implementation stage, as contemplated in this bill—sections 6 and 7—after landowners and other stakeholders have come to rely on decided policy, is far too late in the process. Ministerial/cabinet intervention at this stage is extremely prejudicial to landowners and does not respect municipal autonomy. For these reasons, UDI submits that the above-referenced sections of the bill must be deleted in their entirety.

In summary, we recommend that the bill be amended accordingly: that declarations of provincial interest be related solely to section 3 of the Planning Act and restricted to official plan policy only; that the minister give written notice, with reasons, for the declaration; that the notice of a declaration of provincial interest be filed in writing to all parties at least 60 days in advance of a pre-hearing conference; and that cabinet appeals be excluded from this bill.

As currently written, Bill 26 would apply retroactively to December 15, 2003. The proposed section 70.4 would also grant the minister extremely broad discretionary powers to make regulations addressing transitional matters, which regulations would prevail over any section of the act.

This amendment would grant the minister the authority to determine which matters and proceedings, even those commenced before December 15, could be confirmed and disposed of under the Planning Act as it existed before or after the 15th. These provisions are extraordinary and create far too much uncertainty in the planning process for both municipalities and landowners. The problems associated with this uncertainty have been magnified by the passage of time since December 15, 2003, as applications have been processed and decisions and investments have been made in the intervening period. Further, in our opinion, this provision in the bill violates the principle of transparency and accountability.

Historically, amendments to the Planning Act have included transitional provisions that protect applications filed before a certain date and that continue to be processed under the act as it existed at that time. Even where there were exceptions to the rule, the exceptions were clearly stated and generally related to cases where no decision had been made prior to the new legislation coming into force. An example of this is the Oak Ridges Moraine Protection Act. At the very least, landowners are entitled to know what the rules of the game are for existing applications. Those rules should be clear and should not unfairly prejudice those who have invested time and money in the processing of applications under the existing rules and relied, in good faith, on decisions of a municipality.

In light of fairness and due process, we request the government to reconsider this section in its entirety and recommend that the new legislation apply only to applications commenced after the legislation receives royal assent and not be applied retroactively.

Bill 26 would alter the "have regard to" test in the current act by requiring decisions, comments, submissions or advice with respect to planning matters to "be consistent with" policy statements issued under section 3. UDI continues to believe that the "have regard to" test is the most appropriate. The current test respects the diversity of communities across the province and encourages locally driven solutions, but at the same time ensures that the overall preferred provincial direction is respected while allowing for a balancing of the interests. Furthermore, it will impede the province's own decision-

making ability to undertake provincial capital-related schemes and undertakings. The “be consistent with” test will exacerbate these problems, whereas the “have regard to” test allows for an appropriate balancing of PPS policies.

UDI opposes AMO’s most recent stated position supporting an alternate test “in conformity with.” UDI submits that the test of conformity is a fundamental departure from AMO’s previous position, does not reflect the true diversity and makeup of its membership and does not bring into balance a system of competing priorities. Conformity is at least as restrictive, if perhaps not more restrictive, than “be consistent with.”

It is worth noting that AMO supported the return of the “have regard to” clause during the Bill 20 debate, believing “that the rigid operating clause limits municipal decision-making authority on the form and nature of development in their communities. AMO is very supportive of returning to the ‘have regard to’ operating clause. It readily acknowledges the need to balance what are often conflicting policy interests.” That comment was made to the standing committee on resources development in 1996.

In conclusion, we submit that Bill 26, in its current form, provides isolated amendments to the Planning Act, which, rather than encouraging municipalities to plan responsibly, risk simply bogging down planning in even more process, threaten private sector investment and municipal autonomy and will produce a host of unintended consequences.

We are, as an organization, committed to the principles of fairness, accountability, certainty and transparency. We hope that you support these principles and support the recommendations to amend the bill as stated in this submission. Thank you.

The Chair: Thank you. You have four minutes left, of which I will give two minutes to the official opposition and the third party.

Mrs Munro: Thank you very much. Mr Rodgers, I’d like to come to the point in your presentation where you talk about the “be consistent with” section. You may have heard the previous presenters, who talked about the importance of balancing in planning social, economic and environmental interests. They raised the question in their presentation about exactly what municipalities are expected to be consistent with. They also refer to the need for a framework that would provide flexibility.

I wonder if, in your experience, particularly as you look at some changes in positions taken, for instance, by AMO, you could give us some examples of the kinds of problems that are inherent, as the presenters before us have suggested, in balancing social, economic and environmental interests. In your experience, are there specific examples that would demonstrate the kind of complexities that come when you move from “have regard to” to “be consistent with?”

Mr Rodgers: Thank you for the question. Planning is an incredibly dynamic process. There is no one solution, no one silver bullet that can solve the problem. We like

to use the term “competing interests.” You have, for example, competition of the appropriateness of agriculture versus aggregates. You have the protection of wetlands versus other economic activities, whether they be land development or mineral extraction. You put them all into a basket and it becomes incredibly difficult for municipalities, for landowners.

I would suggest to you that the province of Ontario has many conflicts or potential conflicts with the provincial policy statement. It may be a public good such as extending a subway or transit line into the 905 region, which nobody will argue is necessary to help people move faster. Clean air—when you begin to add them all in, I do not envy anybody in the process who is trying to make the best decision, but what the provincial policy statements try to do is provide a framework and guide the parties involved in the decision-making process to come up with the best solutions. There may have to be mitigation strategies to do that, and that could be part of the ultimate approval.

1120

Ms Churley: Here we are again. You spend a good part of your life coming before the—

Mr Rodgers: And I left you some time to ask me a question this time.

Ms Churley: You did, too. Gee, I wish I could remember what we left hanging the last time.

You and I don’t agree on lots of things. For instance, the “have regard to” versus “be consistent with”: You know I argued that when we brought it in and then when the Tories took it out, we were on different sides.

There is an area here where we agree—perhaps not to the ultimate solution—and that is the regulations for the transitional period. I’m very concerned about that. I spoke to the minister a bit about it too. I believe it should be in the legislation or, at the very least, it should be made very public and not be done behind closed doors and be a big surprise.

You mentioned the Oak Ridges moraine as an example of—I don’t have time to go into it. But what I’m asking you quickly is, do you have examples of some projects or developments that could get caught up in this that could be very harmful to communities or to developers or whatever?

Mr Rodgers: I don’t have any particular examples because our reading of the bill suggests that the minister, by regulation, could go back to a development anywhere in Ontario and say that this project should be applied under this bill, Bill 26, and not the Planning Act as it was in place the day the applicant made the application. That’s the concern we have as an industry. We are aware of municipal councils operating now that really have been questioning whether or not they should process particular applications received at their planning counter because they don’t know how far back, at any time, the minister can go.

The fact that there are no reasons to be provided concerns us greatly. We do not know what reasons, whether they be appropriate or inappropriate, may be used. I

would have to rate our strongest concern with this bill, retroactivity, at number 10 on a scale of one to 10, with 10 being the highest.

The Chair: Mr Rodgers, thank you once again for your comments and also for bringing to the attention of the committee your concerns.

GREATER TORONTO
HOME BUILDERS' ASSOCIATION

The Chair: I would call on the next presenter, the Greater Toronto Home Builders' Association: Jim Murphy, director of government relations, and Jeff Davies, member of the GTHBA. You have 15 minutes to make your presentation. You can take the whole 15 minutes or leave some time at the end for questions. You can proceed.

Mr Jim Murphy: Good morning. I'm Jim Murphy, director of government relations for the 1,200-member-company Greater Toronto Home Builders' Association. With me this morning is Mr Jeff Davies, who's a member of our government relations committee. I'm going to be providing an overview of the housing industry in the GTA today and Jeff is going to speak to some specifics about the legislation itself.

We've distributed as part of your package—I hope everybody has copies of it—three pieces of material within there. The first is entitled Turning Dirt Into Gold, which is a paper we did last spring that highlights the increasing land costs and lot costs within the greater Toronto area. The second paper, which I believe is in blue, is entitled Growing Strong Communities or Growing More Uncertainty?, our formal response to both Bill 26 and Bill 27, which were introduced last December at about the same time. Then we've also included our recent submission to the minister on the provincial policy statement. We've also included a copy of our brochure entitled Powerhouse, which talks about the important economic contribution of the housing industry.

Restrictive land policies imposed by the provincial government are driving up the cost of new housing throughout the GTA. Restrictive land policies are making housing less affordable and threaten to reduce the job and tax revenue that the housing industry generates for all levels of government.

As referred to in our Turning Dirt Into Gold paper, on average in the last two years, land costs in the GTA have increased by more than 50% and lot costs for fully serviced lot prices have increased by 40%. These numbers are from last spring and, if anything, the prices have been increasing over the course of the summer.

More worrisome is that entry-level housing for first-time buyers, like the 20-foot townhouse lot, for example, which is fairly common in many of the 905 communities, has risen the most, making home ownership more difficult for young families. It is these smaller lot sizes that promote smart growth. Indeed, the GTA is already one of the most densely built urban communities in North

America. It is something that the province wants to promote further, and not discourage.

Simply put, the GTA is growing by more than 100,000 people annually and they have to live somewhere. Our industry, aided by low mortgage rates, a healthy rental market and good job growth, has been a strong economic contributor to the overall health of the provincial economy.

As noted in our Powerhouse document, the housing industry in the GTA generated nearly 170,000 jobs last year and added nearly \$12 billion to the overall economy. CMHC notes that every new house or condominium is responsible for three jobs. Yet today our industry is faced with a plethora of new initiatives, regulations and legislation from the province. I know that the minister referred to some of these when he spoke to the committee this morning. They include Bill 27, the greenbelt legislation which was recently passed by the Legislature, and in fact there will be a second piece of greenbelt legislation this session as the year's freeze ends; the actual greenbelt task force report and its recommendations which are now out for further comment; and Bill 26, the changes to the Planning Act, which is before this committee. The ministry has also released a discussion paper on a new provincial policy statement, which is very important. It is directly linked to the Planning Act and the changes that are before you today. There was also a discussion paper released on the future of the Ontario Municipal Board. There is in Minister Caplan's ministry a proposal for a new growth plan—I say here that it's for the entire GTA; actually, it's even larger than that as it goes down to Niagara and out to Peterborough. Finally, the government has stated that it will bring in changes to rent control legislation in this session.

Our concern and fear as an industry is that all this increased regulation will result in higher land and, inevitably, higher housing costs for purchasers. We would encourage the government in general—we've been saying this to all ministers we meet with—to move slowly and make sure it does things right, if for no other reason than to ensure that the continuing economic health of our sector is maintained.

Jeff is going to speak to some of the specifics in the legislation before you.

Mr Jeff Davies: Good morning, ladies and gentlemen. I will speak to some of the GTHBA's direct concerns with the legislation before you. These are highlighted in our paper, which is in your package: Growing Stronger Communities or Growing More Uncertainty?

First of all, Bill 26 prohibits landowners and builders from appealing to the OMB if a municipality turns down or does not render a decision on an urban boundary expansion. As Mr Murphy indicated, land supply is quickly becoming an issue. I noted from the minister's remarks this morning that the government's intention in the planning reform agenda is to bring back local accountability and transparency to land use planning. Our observation is that if you don't allow any appeals on expansion of urban boundaries, you will be taking away

transparency, because these decisions will be made behind closed doors. Few reasons will be given, the debate will be among an elite, there will not be appropriate transparency or public consultation and you will be into an area which is scandal-prone because different players will be looking to endear themselves to the local council in a manner that is simply not transparent.

We recognize that these matters are becoming more complicated, so we would suggest that an even longer time for urban boundary expansion—say, a year—be given to the municipalities, and then allow the right of appeal to be reinstated in the legislation. That would keep matters transparent and would provide the municipalities with plenty of time to deal with the requested urban expansion.

Second, and very much along the same line, we have grave concerns about the power given to cabinet in Bill 26 where matters are declared to be of provincial interest. Again, if the agenda of the government, as stated by the minister, is to bring back transparency and accountability—we all know that cabinet, through Canadian tradition, operates in secrecy. That's not meant to be a criticism; it's just an observation on the truth. The decisions that come out of cabinet—cabinet minutes—are not made public. Cabinet decisions are not generally accessible to the public. The public doesn't know how the cabinet is or is not lobbied, pressured. We don't want a fourth arm of the government—namely, the media—to get involved in these things to the extent where it pressures cabinet to come up with a different outcome.

1130

We say that the way the act is written now, there is substantially less transparency and accountability, and that's not appropriate. If you're going to proceed to have cabinet appeals and cabinet decisions, then, in order to address our concern with respect to transparency and accountability, the GTHBA recommends that the province develop criteria for applications that are appealable to cabinet, including what types of applications are appealable, and institute criteria on which cabinet would judge the appeals.

Second, cabinet must issue its decision within a certain time frame—we suggest 90 days—and issue reasons for its decisions on applications before them, similar to decisions given by the OMB or other tribunals.

Third, we're opposed to any retroactivity in the rules covered by Bill 26. The legislation allows the minister to select which planning applications currently in the system may be affected by the new rules. As the previous speaker indicated, we are in favour of clear transitional rules, so that applications commenced under the rules in effect on the day of the application remain in effect.

Once again, we say that allowing the minister by regulation or otherwise to select, in such a *carte blanche* way, which applications are going to be proceeded with under the old rules and which applications are going to be proceeded with under the new rules means less accountability and transparency, more power to the minister and less power to the local municipalities and other stakeholders. In addition, it engenders substantial

unfairness and uncertainty, not only to the planning process but to the economy and to society as a whole.

Those are our requests. We ask you to reinstate appeals for urban boundary expansions but allow slightly longer time periods for the municipalities. We ask you to live up to your pledge to keep the Planning Act more, not less, transparent. We say that the bill works in the opposite way.

We'd be happy to take your questions.

The Chair: We have approximately six minutes left, which is going to give two minutes for each party.

Just before we proceed, for purposes of the record I think the heading of your document should read, "Bill 26, An Act to Amend the Planning Act," not "the Greenbelt Protection Act."

Mr Murphy: As I said in my comments, there is a lot going on.

The Chair: Ms Churley from the third party.

Ms Churley: I wanted to talk to you as well about the transitional period and the fact that this is going to be dealt with by regulation. Obviously, when a new bill is coming into force there is a transitional period, particularly when it's retroactive. What's your vision of how to deal with all those applications caught up in that transitional period?

Mr Davies: Our view is that all applications which were commenced under the old act—certainly prior to December 15 when Bill 26 was introduced—should, by statute—in other words, by a provision in Bill 26—be continued under the legislation they started under. If, on the other hand, an application was filed after December 15, when Bill 26 was introduced, then we can see the validity in some transitional rules.

There are proposed regulations in the draft provincial policy statement—on page 32, I think—which could be applied to applications filed after December 15, 2003. But if applications were filed before December 15, 2003, we say that they should continue on the basis of the rules which were in effect on the date of the application.

Mr Murphy: Can I just add to that? Since there's so much going on in terms of legislation and regulations affecting our industry, this is an issue that not only applies to Bill 26 but it will apply to Bill 27, the greenbelt legislation. It will also apply to the provincial policy statement, in terms of what rules are to be in place at the time of application. So this is a very fundamental and important issue, and we've always taken the position that there should be no retroactivity.

Ms Deborah Matthews (London North Centre): My question relates to the point you made when you related the increase in lot prices to some of the legislative restrictions. I wonder if you have any research or anything that would give us some guidance on what—low interest rates, for example, and you mentioned an increase in population. All of those things obviously contribute to an increase in lot prices. Can you break it down and tell us how much of it you can attribute to each of those different factors?

Mr Murphy: That's a hard exercise. The point of our report that we talked about, Turning Dirt Into Gold, was

just looking at land prices and lot prices. There is information that's readily available. We've noticed large increases over the last year or so. The housing market itself, certainly within the GTA, has actually been fairly healthy for a much longer period of time than that—I would say going back to the late 1990s—because of population growth, low mortgage rates and a fairly healthy rental market.

Our point is that there's a lot of uncertainty right now. We have the changes that are before you on Bill 26, we have the greenbelt legislation. We still don't know as an industry, a year after that legislation, what the boundaries are for it. So the market will respond to the thinking that there will be less and less land. We saw a similar response when the Oak Ridges moraine legislation was brought in by the previous government. It's just a cause and effect of basic economics. When there's less of something, prices will increase for the remaining that are allowable to proceed. It's just a supply and demand issue.

The other thing I would say that is very evident—and I think this is a concern—is you're seeing leapfrogging development. This is particularly an issue in south Simcoe county, where Barrie is the fastest-growing city in the province. You've got a lot of applications in for new development in south Simcoe county. Our view is, when you start restricting development in the central part of the GTA, people will go further and further afield. They're going to start skipping over—Guelph or Orangeville in the west. We're seeing evidence of this by new home sale numbers, any way that you measure it, land deals that have been done. That's also responding to what's happening.

Mr Davies: If I could just add very briefly, and I know we're time-limited, we have the freeze with Bill 27 and we have the promise to make urban expansion substantially more difficult via Bill 26, together with cabinet interventions. So it certainly makes the market believe that it's much more difficult to do development in greenfields. On the other hand, in every intensification case in the GTA, there is opposition. It's equally difficult to do intensification. So no matter what you do today, it's exceedingly difficult. As a result, it has had an effect on supply. I think, aside from low interest rates and a healthy economy, these regulatory measures are driving up prices. I don't think there's any doubt about that. If it was just the difficulty with intensification with more freeboard on the urban expansion, that might be different, but if you combine the two of them, there's undoubtedly a big impact on the market.

Mrs Munro: I want to carry on in the same area that you were just responding to. The fact is that frequently greater density is seen as the answer for better land use, so to speak, yet as you point out, we have 100,000 people annually coming. You alluded to the opposition that you see to any intensification undertakings, but I also wondered if you had done any work in the area of looking at people's expectations in terms of being homeowners and also the kinds of, perhaps, unintended consequences that come with greater intensification.

Mr Murphy: We're actually doing that right now as part of our response to the growth plan that Minister Caplan has released. In fact, we are doing some focus groups of residents in the GTA. We'll be doing some polling on that very question.

Of the initial results we've seen, the real issue in the GTA is transportation, it's infrastructure, it's people who, whether they're in the 905 or in the city, are stuck in traffic. They want investments in public transit and they want more roads, essentially. They're very passionate about that.

So we are doing some work on that, and I should just say, to add to Jeff's comments, at GTHBA, we're very strong supporters of intensification. We have many members in the city who build condominiums and small townhouse in-field projects. Twenty-five per cent of all new home sales in the GTA are in the city, which is very healthy and very positive, and we obviously want to see that continue. A third of all the home sales in the greater Toronto area are condominium, the vast majority of those high-rise; again, another sort of positive form of housing that promotes intensification.

But as Jeff has said, when you do that in a city, and even in some communities in the 905, there are a lot of residents and existing neighbourhoods that don't want change. So this is the issue that we're dealing with. As land is further restricted, where is that growth going to go, when you're bouncing up against people who don't want a 10-storey condominium in south Oakville on Lakeshore Boulevard?

The Chair: Thank you, both of you gentlemen, Mr Davies and Mr Murphy, for your comments and your concerns.

Mr Davies: Thank you, Mr Chairman. We're very hopeful that we've been heard and that there will be some amendments to the bill which will result in some real transparency and accountability. We're very hopeful about that.

The Chair: The next group, I believe, just arrived. We could take a five-minute recess.

The committee recessed from 1142 to 1147.

ONTARIO HOME BUILDERS' ASSOCIATION

The Chair: We'll proceed immediately with the next presenter, the Ontario Home Builders' Association, Mr Peter Saturno, who is the president.

Mr Peter Saturno: Thank you very much, Mr Chairman and members of the committee. My name, as the Chairman said, is Peter Saturno. I am president of the Ontario Home Builders' Association. I have also served as president of the Durham Region Home Builders' Association—you'll have to excuse me; I've been told to speak quickly so there's time for questions. I've been involved in the residential construction industry for almost two decades, and I am president of Midhaven Homes. Together with my father, Sam, our firm has built hundreds of homes in the east end of the GTA, but

primarily in Durham region. I am a volunteer member in this association and, in addition to my own business and personal responsibilities, I am dedicated to serving this industry.

The Ontario Home Builders' Association is the voice of the residential construction industry in Ontario. As a volunteer organization, we represent about 3,600 member companies that are organized into 30 local associations across the province and employ roughly 250,000 to 300,000 people directly. Our membership is made up of all disciplines involved in residential construction. Together we build 80% of the province's new housing stock and renovate and maintain our existing stock.

The residential construction industry has generated tens of thousands of new jobs and contributed billions of dollars in direct tax revenue in Ontario over the past few years. Our housing starts reached a 14-year high of 85,180 in 2003, and the new-housing industry directly provided over 240,000 person-years of employment last year. The combined impact on the economy for new housing and renovation was approximately \$33.6 billion in GDP for the province of Ontario. Thus far, 2004 is shaping up to be another banner year for the industry, with Canada Mortgage and Housing Corp forecasting 84,500 housing starts for the upcoming year.

We are pleased to be given an opportunity to present our views on Bill 26 with respect to planning reform, the provincial policy statement and the OMB. We applaud this initiative by the government, which is timely considering the anticipated growth in our great province.

While our members are supportive of some of the discussion and proposed reforms, they've also expressed serious concerns with the provincial direction on other issues with respect to the Planning Act, the OMB and the PPS, or policy statement.

Our members from across the province have noted that the provincial policy statement has been formulated in the context of growth anticipated in the GTA, which is not necessarily representative of the situation in the rest of the province. We are also deeply concerned that the current direction of the provincial policy statement removes the freedom of choice for Ontario families about where they can live and what type of home they can live in.

Our members are pleased that the province has seen the importance of discussing reforms to the OMB in context with the discussions around planning reforms. We suggest that the present structure of the OMB should not be significantly changed. The development industry wants to ensure that the OMB is a fair and impartial third party that will make informed decisions based on the merits of the application in front of the board itself.

The OHBA strongly recommends that any decisions made by the government on the various planning reform initiatives currently underway be done in a consolidated manner so that a decision on one piece of legislation does not preclude the implementation of another.

Bill 26 has proposed new timelines to review planning applications, which will lead to further delays in an

already lengthy process. We suggest that if the province wishes to extend the decision-making time for municipalities, then the Planning Act should also specify the maximum circulation time that agencies be allowed to make comment on an application. We also question the wisdom of lengthening the severance application from 60 to 90 days and recommend that the original 60 days was more than sufficient. The province should focus on ensuring existing time frames are met rather than slowing the entire process.

The province's redevelopment and intensification policies are admirable, and we are in support of these initiatives. However, these policies need to be flexible enough to adapt to individual situations. It should be noted that NIMBYism and municipal politicians who play into the hands of organized ratepayer groups are the single largest obstacles to intensification efforts in Ontario. The OHBA stresses that what Ontario's communities need is not necessarily the same as what the residents of those communities want. Redevelopment and infilling based on intensification need special status within the Planning Act in order to overcome opposition to such projects from existing residents.

We encourage the province to maintain the current standard of updating official plans every five years, and zoning bylaws should be updated every 10 years. The province should also leave enough flexibility in the system for municipalities to review their official plans to accommodate future growth.

With respect to the transition provisions in implementing Bill 26, the Ontario Home Builders' Association requests that applications already in the system or applications submitted up to three months after the passing of Bill 26 should be grandfathered in and not be subject to the current requirements.

With respect to the provincial policy statement, I would reiterate that our members have expressed concern that the PPS has been formulated in the context of growth anticipated in the GTA, which is not necessarily representative of the rest of the province. Perhaps a second set of policy statements should be written to address growth within smaller rural and northern communities.

We would further recommend that reasonable goals be set for intensification and redevelopment by a municipality, using local historic trends as a basis of forecasting future growth. Allowances for flexibility should be made to revise these goals as they become more achievable.

The policy statement in the efficient settlement pattern section of the housing section should be reviewed to ensure that, while opportunities for intensification and redevelopment within built-up areas be encouraged, the ability to extend development into designated growth areas should not be compromised.

In regard to land supply, the OHBA seeks to clarify the definition of "available land." The term "available" for redevelopment and intensification could be interpreted as vacant and suitable for development. However, just because the land is available does not mean it is marketable to new housing consumers. Therefore the

OHBA suggests that land for both long-term and short-term supply be deemed “marketable” versus “available.”

Our members also seek clarification and consistency in many specific policy statements which are more thoroughly outlined in our written submission. The wording in some sections contradicts other areas of the policy statement, which could create problems if new development must be consistent with the inconsistent provincial policy statements.

Therefore, OHBA very strongly recommends that the current wording of the Planning Act be retained to reflect that planning authorities “shall have regard for” provincial policy statements.

A final comment on the provincial policy statement is that it seems to suggest what the development industry is not allowed to do, or is telling us what we’re not allowed to do, rather than clarifying what we are allowed to do. It provides no clear direction to the private sector on how it should invest in, or indeed plan for, the provision of affordable, healthy communities in the future. As it stands now, the policy statement gives the impression that Ontario is closed for business.

The Ontario Home Builders’ Association has several recommendations regarding the future of the Ontario Municipal Board as well. The OMB has served a vital role as an independent adjudicative body in the province of Ontario since 1897. It’s actually been the envy of the other provinces. The OMB ensures that land use decisions are made based on good planning in adherence of the stated goals of the province.

In our opinion, the role of the OMB should not diminish such that it becomes a shell without any authority. It has always been intended as an appellate body to which decisions made by a municipal body could be referred and tested against proper planning policies. Sometimes decisions made at the municipal level are the outcome of emotional public debate. It is therefore appropriate to have an independent body like the OMB to provide sober second thought, to remove the emotion and provide a decision based on the planning merits of the application.

The NIMBY syndrome is the single largest threat to the province’s stated intensification and growth management goals. Opposition to development from neighbours often impacts municipal council decisions. Unnecessary delays often occur when municipalities are reluctant to deal with controversial applications, especially intensification projects, even though they conform to policy statements passed by the province and local zoning bylaws. The OMB is crucial in situations like this to ensure that land use decisions are based on the merits of the application and not on volatile political opposition. Again, what Ontario communities need is not necessarily what some of those residents of the communities want.

The OHBA recommends that the government enhance the role of the OMB by attracting and retaining highly qualified members to the board who are experienced in land use planning and legislation. The residential construction industry further recommends an increase in

remuneration for board members and a lengthening of a member’s tenure to a minimum of five years. Board members should be subject to an annual performance review as well as receive training to enhance mediation and alternative dispute resolution in the OMB process.

Valid concerns about new development should always be brought forward to the OMB; however, frivolous applications have no place before the Ontario Municipal Board. Sometimes, the issues of concern to the appellant are unrelated to planning principles but rather are based on misconceptions of the development and the process involved. If a case is not made in good faith or is frivolous or vexatious, or is made only for the purpose of delay, costs should be awarded against the appellant.

The planning system is best served by the province articulating its interests through the policy statement, with municipalities adopting clear policies through their official plans. The industry strongly supports an independent OMB that provides checks and balances outside the political process.

Mr Chairman, members of the committee, the Ontario Home Builders’ Association is committed to working with government at all levels to create the right balance and to ensure that Ontario is prosperous and healthy, and that we always have an affordable housing stock.

I thank you for your attention and interest in my presentation, and look forward to hearing any comments now or any time in the future as well.

The Chair: We have four minutes left. We’re going to give two minutes to two parties. I’ll go to the government side. Any questions?

Mrs Van Bommel: Yes, thank you, Chair. Thank you very much for a very thought-provoking presentation. Looking at page 3 of your presentation, in which you say, “Perhaps a second set of provincial policy statements should be written to address growth within smaller rural or northern communities,” could you explain to me how this would differ from what we have now, which is one statement of policy for the entire province?

Mr Saturno: I’d be happy to. The policy statement that has been written now and the policy statement that was there beforehand have always been based in the GTA or the Golden Horseshoe and the growth patterns that are happening there. Once you get into rural Ontario or into northern Ontario, you don’t have the same growth patterns, you don’t have the same pressure on growth, the urban sprawl that everyone talks about. The policy statement will hinder growth in those areas, and we get that from our member communities, from Sault Ste Marie, from Sudbury, from Thunder Bay. We’re painting everything with one brush rather than looking at the distinct differences between large, urban areas and rural areas.

Mrs Van Bommel: Can you give me any specific incidents that would demonstrate what you’re talking about?

Mr Saturno: I’ve actually got some that my staff would have. I’d be happy to provide something like that to your office.

Mrs Munro: I wanted to come back to a point that you made right at the end of your presentation on the support for the independent OMB and your comment, “outside of the political process.” I wondered if, in looking at this bill, you would regard the new role of the minister to be something that could, in fact, be considered in that area you described about the political process. Is that the sort of thing you were referring to?

Mr Saturno: Actually we’re referring to the fact that the OMB should be arm’s length from any political process or manoeuvring of any political thoughts. Unfortunately—and I’m speaking at the municipal level with no offence to anyone—short-sighted political decisions will sometimes rule at a city council, where, if you’ve got the non-partisan, arm’s-length direction of the OMB to actually rule for that—and there I do have an example, if you want, in Toronto itself of a high-rise intensification proposal by Minto a few years back. Local politicians were actually unseated because they supported it because it fell within all the guidelines. So we’d like it to be actually completely arm’s length from any political manoeuvring.

Mrs Munro: And obviously with the appropriate provincial policy statements that would guide the OMB in making those decisions so they are above that kind of influence.

Mr Saturno: Yes.

Mrs Munro: Thank you.

The Chair: Thank you very much, Mr Saturno, for taking the time to express your concerns to this committee.

We will recess until 1:15.

The committee recessed from 1202 to 1317.

EARTHROOTS

The Chair: I will call this hearing to order. The next person we have on the list is Josh Matlow, campaign director for Earthroots. You have 15 minutes, of which you can take the whole 15 or leave some time at the end for question period from the three parties. You can proceed.

Mr Josh Matlow: Thank you very much, Chair, and members of the committee, for allowing me the opportunity to speak with you today.

Earthroots, as you may know, is an Ontario-based environmental advocacy organization founded in 1986 with a mandate to protect wilderness, wildlife and watersheds through research, education and action. Earthroots has been involved in preserving green space in southern Ontario for many years. Our organization and its members have been actively engaged in working to protect the Niagara Escarpment and the Oak Ridges moraine. As a result, we have taken a keen interest in all the government’s recent initiatives aimed at curbing urban sprawl in the greater Toronto area and throughout the Golden Horseshoe.

Primarily through Earthroots’ experience with our campaign to protect the Oak Ridges moraine, our group

has been an outspoken critic of how the Ontario Municipal Board, and the land use planning process in general, has operated in this province. Therefore, we are encouraged by the reforms to the Planning Act that the government has laid out in Bill 26, the stronger communities act. We are cautiously optimistic that, in tandem with other measures that the province is taking, and others we hope to see, Bill 26 will help to curb sprawl, thereby protecting the ecologically sensitive green space areas and wildlife corridors from urban development.

Earthroots is pleased that section 2 of the bill amends the Planning Act to ensure that all planning decisions made in Ontario must be consistent with provincial policy instead of merely making reference to it. Without this change, municipal councils, the Ontario Municipal Board and other decision-making bodies could nullify the efforts of this province to control sprawl and protect much-needed green space.

While we applaud this initiative, our friends at the Pembina Institute have stated—and we agree—that it is imperative that Bill 26 be put in place after the government adopts the revised provincial policy statement, or PPS. If Bill 26 were to become law before the new PPS is adopted, planning decisions would have to be consistent with the current PPS, which does not entirely espouse the principles of sustainable development and green space protection that the current government claims to support.

1320

Earthroots is encouraged by the reforms to the OMB appeals process included in Bill 26. First, the extension of the time period given to municipalities to make a decision on a planning matter before the applicant can appeal a decision to the OMB is a sound decision. Currently, developers are able to appeal to the OMB and, in some cases, before a municipal council even has a chance to review the merits of an applicant’s proposal. There are cases, such as some high-profile developments in Richmond Hill and in the Yonge and Eglinton area in Toronto where developers have, in my opinion, purposefully gone to the OMB before the municipality has had an opportunity to make a decision, because they believed that their permit would be rubber-stamped.

I would ask each committee member to take a look at the very sound recommendations that FoNTRA, the Federation of North Toronto Ratepayers’ Associations, has made on how to reform the OMB. I would also direct members to read through Legislature Hansard and read speeches on the subject by your colleague Mike Colle, MPP for Eglinton-Lawrence. I would be very happy to provide these documents to you. These are prime examples of how the OMB has been used by some developers to usurp local democracy. We are glad this bill will give municipal councils the time they need to make informed decisions on how their communities will grow in the future.

Second, the right to appeal to the board would be stripped in situations where an applicant is requesting an alteration to the boundary of an urban settlement area or wishes to create a new urban settlement area in most

cases where that could conceivably arise. This is a good reform. There have been far too many instances where planning has been done by developers with the consent of the OMB. This reform would eliminate their right to appeal a municipality's decision not to extend their boundaries and encroach on green space or agricultural land. Earthroots is, of course, strongly in favour of this consequence of this reform.

However, there have been many decisions by municipalities to encroach on green space and agricultural lands. I have concerns about the consequences of this reform in cases such as these. I have been told that there is ministry staff available to answer questions and I will read out the exact portion of the bill for you, and then I would appreciate if staff would indulge me and answer the following question after the conclusion of my deposition.

Subsection 4(7.1) of the bill states that, "a person or public body may not appeal to the municipal board in respect of all or any part of a requested amendment if the amendment or part of the amendment proposes to alter all or any part of the boundary of an urban settlement area in a municipality or to establish a new urban settlement area in a municipality."

Would this amendment restrict the right of an individual or citizens' group to appeal to the OMB in a situation where a municipality adopted an amendment to their official plan that expanded their urban settlement area, or if a citizens' group put forward an amendment to appeal their municipality's current urban boundary on the basis that it was originally adopted as a result of an earlier poor planning decision?

Let me tell you why I asked. According to the Toronto Star, one third of the total land that is presently designated "urban" in the GTA has yet to be developed. Some of the proposals the Liberal government is trying to put in place now are an indication of the shift toward sustainable land use practices, including urban infill, brownfield development and building communities at a higher density in general. Then I would argue that a lot of the land I mentioned that is yet undeveloped is not necessary for commercial or residential development. Let us leave it as green space for now. I am worried that the public's right to enact these changes will be lost in this bill.

The other reason I posed this question is I'm concerned that the act is too focused on the OMB and does not address the impact that decisions made at the municipal level have on sprawl. There are certainly many development proposals that are antithetical to the principles of sustainable community building that never get to the OMB because they are approved by the municipality.

Even with a share of the provincial and federal gas tax money, the majority of the revenue raised by municipalities will still come from property taxes. As a result, unless a drastically different arrangement is worked out and a genuine new deal for Ontario cities is initiated now, many municipal governments will still find it in their best

interest to opt for expanding their communities in order to balance their budgets.

Many developers, for many years, have contributed significantly to municipal politicians' campaign coffers. By doing this, and having the financial means to do this, developers have been in an advantaged position to have an undue amount of influence on decisions regarding urban planning made at councils.

When an appeal is taken to the OMB, developers have the financial ability to hire the best experts and lawyers and are not overly concerned about workdays spent in the proceedings. This is, however, a very different scenario for private citizens and community groups fighting an appeal at the OMB. Most are not in a position to hire expensive experts and lawyers or to take days or weeks off work. The province must do something now to make this process more equitable for them.

In this context, I would like to move on to the last section of the bill: matters of provincial interest. Bill 26 allows the minister to advise the OMB that a matter before it is likely to be adverse to the provincial interest. In those cases, the board's decision is not final, and the decision rests with the Lieutenant Governor in Council. While Earthroots agrees with this amendment to the Planning Act, we feel that this right should be extended, given that there is a great deal of development that is adverse to the provincial interest which never comes before the OMB. We feel it is essential for the minister to have the same privilege in planning matters before a municipal council or other planning body while they operate under this status quo.

There must be election finance reform. If the province can contribute toward restraining the influence of developers over many municipal councils, I believe it will find that more councils will operate and make decisions in the long-term interest of the people of Ontario rather than the short-term financial interests of some developers.

Along with restoring the integrity of the planning process through municipal electoral reform, I believe that the manner in which OMB members are selected must be reformed as well. I believe that OMB members should merit their appointment because of the expertise in the issues that they will be given the privilege to deliberate over. Really, it should simply be what they know, rather than who they know, with respect to how they are selected.

In conclusion, I want to thank the committee very much for taking on this honourable and timely task to make our municipalities, the provincial government and the OMB work better for the people of Ontario.

The Chair: We have four minutes left. Two parties will have a chance to ask questions. I'll start with the official opposition.

Mrs Munro: I'm sorry I was unavoidably detained and not able to be here right at the beginning. One of the issues that we've heard from other presenters has to do with some kind of surety in terms of planning. You referenced in your presentation some issues that you felt

demonstrated poor planning. I wonder if you could give us your perspective on some of the issues around surety in terms of people looking at decisions that have been made by a previous council in a municipality, for instance, and have gone through the appropriate process of the day, where there might then develop some questions around the kind of surety that people would have in the concerns you've raised.

Mr Matlow: Obviously, it's important to provide a certain level of surety to any company that puts money into an investment, that believes government is there to provide a stable economy they can work through. I don't accuse developers of doing much wrong. What I do suggest is that the province has not often been responsible with respect to balancing the needs of the developers and many communities and, of course, habitat for wildlife, other green spaces and agricultural land. Therefore, I think it is absolutely fair to take a look at the decisions that have been made in the past and also pre-empt any irresponsible decisions that may be made in the future by making sure there is surety for developers, environmentalists and community groups alike that all planning will be done always keeping environmentally sensitive lands and agricultural land in mind.

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You asked earlier about what is irresponsible planning that needs to be addressed. An example is areas where there is low density, where it was done in a cheap manner, a hasty manner, to make as much money as possible. Again, I don't begrudge developers, but they're in the business of making money, just as a hotdog vendor sells hotdogs; they're there to earn a living off what they do. Therefore, in a community where there isn't the density to sustain a lot of the services that the municipal government has to pay for, it doesn't work. That needs to be addressed. We just need to review what has been done, what decisions have been made. I think an example of that would be in Richmond Hill, where I know there was a huge controversy earlier in the year. That decision was made on the basis of a contract which was not just, which was not fair to the people who live there, was not fair to the natural environment, and I think it would have been very fair if the government had gone ahead and worked on and tried to reverse the decisions that had been made.

The Chair: I'll move to the third party.

Ms Churley: Thank you very much, Mr Matlow. I agree with most of your premises and thank you for bringing them to our attention. I agree with you about the provincial policy statement needing to be completed first, because it's rather perverse and backwards to be passing this beforehand.

I want to ask you about something, and I don't know if you've thought about it at all, but it's an issue that came up quite a bit this morning, and that is the retroactivity of this bill and how the applications that are in transition are going to be handled. It's not covered by the bill but will be completed by regulation by the government. I don't know if you've thought about that piece, but if you have,

what are your thoughts on how that transition period for a retroactive bill should be dealt with?

Mr Matlow: Governments, including the previous government and this government, have enacted freezes, and I think it would be fair to freeze any further development while—let's put it this way: If I'm going to make an educated decision on any matter in my personal or professional life, it's important not to continue on a course if you are unsure it is the correct one. I think it would be responsible for the government to put a freeze on new permits and make sure we have something that's going to work for future generations of Ontarians and make sure it's going to work well and work right before any new development is allowed.

Ms Churley: But what about those already in process? Because the bill is retroactive.

Mr Matlow: Those as well.

The Chair: Time is up, Mr Matlow.

Mr Matlow: Thank you very much, Chair.

The Chair: Thank you for taking the time.

ONTARIO NATURE

The Chair: Now we'll call on Jim Faught, executive director of Ontario Nature. Welcome, Mr Faught. You have 15 minutes. If there's any time left at the end, there will be a chance for the parties to ask questions.

Mr Jim Faught: Thank you, Mr Chair and members of the committee. It's a pleasure to be here. I'm going to start off by telling you who we are, then talk a little bit about the bill and sum up with our recommendations.

Ontario Nature protects and restores nature through research, education and conservation action. Ontario Nature champions woodlands, wetlands and wildlife in a landscape approach, and we preserve essential habitat through our own system of 21 nature reserves covering 4,500 acres across all of Ontario.

We're a charitable organization representing 25,000 members, so I sit here at the table today representing my 25,000 members and 135 member groups across all of Ontario—north, south, east and west. We connect individuals and communities to nature in every way we can. We've been a key player in policy and legislation discussions that relate to protection and restoration of nature in Ontario for the past 73 years. We were established in 1931, with seven groups coming together to form the Federation of Ontario Naturalists. We were there 70 years ago when Ontario Nature's Sanctuaries report led to protected wilderness areas in Algonquin Park. Through our efforts 50 years ago, the Ontario Parks Act was proclaimed, and we're glad to hear that it's up for review. After two decades of effort by Ontario Nature, the province now has a strong wetland protection policy. We've been at the table with government through many land use planning exercises, most recently the Oak Ridges moraine advisory committee. I was a member of the central Ontario Smart Growth panel, chaired by Hazel McCallion, and of the Golden Horseshoe Greenbelt Task Force, chaired by Rob MacIsaac.

Ontario Nature provided a detailed submission to the Minister of Municipal Affairs and Housing on the provincial policy statement in 2001 during the five-year review, and more recently we applauded the introduction of Bill 26 in a news release when the bill was tabled for first reading on December 15, 2003. We indicated that the amendments are a positive first step in overhauling the planning process to better protect nature and create smart communities. At that time, we were particularly pleased to see the addition of the new amendment, one that had not been mentioned by Minister Gerretsen when he made the announcement about the upcoming bill on November 21 in Richmond Hill: the protection of the broader provincial interest by enabling the minister to advise the Ontario Municipal Board if a proposed official plan zoning bylaw or related amendments are matters of provincial interest. The decision respecting such matters would then be finally determined by cabinet.

Ontario Nature takes the position that restoring this provision of the Planning Act, one that was lost in an earlier amendment to the act, is most positive, as it allows the province to ensure that land use changes of overarching interest to the provincial government are in the hands of the province, with cabinet as the decision-making body. We applaud that.

While these provisions may not be exercised frequently by the cabinet, the ability to use them is there nonetheless. Municipalities and the OMB will be keenly aware of the importance of decision-making consistent with provincial policy, knowing that their decision-making power may be removed in some cases if and when the province is concerned that a matter of provincial interest may not be adequately addressed.

Ontario Nature supports the amendments to the number of days before an appeal can be filed at the Ontario Municipal Board from the decision or lack of decision by a municipal council or a land use planning matter. The additional time will give municipal staff, councils and community organizations more opportunity to review development proposals and supporting studies—for example, natural heritage, storm water management, hydrology and engineering studies—and possibly to reach agreements with developers so that OMB hearings can be avoided altogether, or at least to narrow the scope and time of those hearings.

Ontario Nature is especially pleased with the proposed amendment in subsection 4(7) of Bill 26 that prevents an appeal to the OMB of a proposed expansion to the boundary of an urban settlement area or to establish a new urban settlement area. We are pleased with the proposal that urban boundary expansions that are supported by municipal councils may be put forward. This provision should help secure urban sprawl by limiting urban boundary expansions, if any, to those initiated and supported by elected municipal councils, reflecting the interests of their communities.

Ontario Nature strongly supports the proposed amendments to subsections 3(5) and (6) of the Planning Act that require that planning authorities—municipal councils and

the OMB etc—must make decisions that “shall be consistent with” policy statements issued under subsection (1). This will mean that the provisions of the provincial policy statement will need to be adhered to and planning authorities must go beyond merely having regard for the PPS. Our major concern is that this section of Bill 26 should not be proclaimed until a stronger PPS more protective of nature, water sources and natural areas be approved by the government, consistent with the previous speaker.

We would have significant concerns if planning authorities were required to plan to be consistent with the current PPS since the current PPS has many policies that exacerbate urban sprawl and lead to the destruction of many natural areas in this province.

The success of Bill 26 and the Ontario Municipal Board reform hinges on a much stronger provincial policy statement than is now in place. The new PPS being officially in place prior to the proclamation of Bill 26 is an important point. We have recently provided the government with a number of recommendations on amendments to the provincial policy statement. Therefore, Ontario Nature is supportive of the passage and proclamation as soon as possible of all sections of Bill 26, except section 2 of the bill regarding amendments to subsections 3(5) and (6) of the Planning Act regarding “be consistent with.” We respectfully request that proclamation of Bill 26 be delayed until such time as a newer, greener, more environmentally protective PPS is approved. We have made related implementation recommendations to this bill in our EBR submission.

Ontario Nature views Bill 26 as an important first step in overhauling the planning process to better protect nature and create smarter communities in Ontario. We urge the government to implement these amendments to the Planning Act as part of a broad, comprehensive overhaul of the municipal land use planning process in Ontario. Fundamental changes will be needed to better balance the priorities of environmental protection, economic prosperity and human well-being. In order to better protect Ontario’s landscapes, woodlands, wetlands and wildlife from urban sprawl and other development, there is a need for sweeping amendment to the Planning Act, completion of the five-year review of the PPS and fundamental reform of the Ontario Municipal Board hearing process. We are pleased the government is moving ahead with these reforms together.

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Ontario Nature will continue to play a significant role in changes to Ontario’s municipal land use planning system through a comprehensive Planning Act amendment, through reforms to the OMB process and through completion of the five-year review of the PPS. These changes are necessary for environmental sustainability well into the future for this province.

To ensure the vitality and prosperity of the citizens of this province, Ontario requires a strong, healthy environment to provide positive environmental services such as clean air and clean water, which will result in thriving

communities. The passage of Bill 26, with our suggested amendments, will be a positive step in the process to achieve a healthy balance for nature for the citizens of Ontario.

The Chair: We have four minutes left. I'll go to Ms Churley from the third party.

Ms Churley: Thanks for your presentation. I'm pleased to see that you've raised a major concern about the timing of the final passing of the bill.

Do you have any idea—I meant to ask the minister this, and I think I did, but I'm still not clear—when the completion of the PPS is supposed to happen?

Mr Faught: We haven't heard yet. We're waiting, as you are.

Ms Churley: Right. Maybe we can get that answer, because I think that's critical.

The other thing I wanted to ask: You say that you have recently provided the government with a number of recommendations on amendments to the PPS. Could those be made available to those of us who aren't in government but who have a keen interest in this?

Mr Faught: Absolutely.

Ms Churley: That would be great. I'd really like to see them.

Mr Faught: Recommendations to PPS as well as OMB reform.

Ms Churley: Yes, I'd like to see those.

I wanted to ask you the same question I asked the previous deputant, and that is about the retroactivity of the bill and how that should be handled in terms of applications already on the table in a variety of stages. What would your view be on that? It's not going to be in the bill; they're going to do it by regulation, and we don't know what these regulations are going to look like.

Mr Faught: I think the signal has been there. The government has announced that they're going ahead with these suggested changes, and I think the retroactivity for those in transition, those in process, needs to be all-inclusive back to the retroactivity date, other than the one section regarding the PPS.

The Chair: Thank you, Ms Churley. I'll move on to the government side. Mrs Van Bommel?

Mrs Van Bommel: Thank you so much for your presentation. In terms of the PPS and where that work is, we are currently taking the consultation information that we have, and we will hopefully have something this fall that will give us the details around PPS.

In your presentation, I noticed that you have concerns about Bill 26 being passed with the term "be consistent with" before the PPS is ready. I noticed that you mentioned that there were certain issues, and I have to express a certain surprise, because I thought you would welcome "be consistent with" as preferable to "have regard to," but you mentioned there were issues within the PPS that concern you. Could you detail some of those for me?

Mr Faught: Sure. We're absolutely happy with "be consistent with." Don't get me wrong. It's a matter of the PPS not being strong enough for the protection of

significant woodlands and wetlands. At this point, for many of them a simple, one-page environmental checklist can be the matter of a write-off of those woodlands and wetlands by an OMB hearing.

We've reviewed, in our OMB review that we've done since 1996, 556 cases, and in 70% of those cases, green lost because there was simply not enough value put in those systems by the environmental checklists that are being made available to the members of the OMB.

So the PPS is weak with regard to this. If we pass this, we're passing something that entrenches the weakness. So we have to fix the PPS, and then we can do Bill 26.

The Chair: Thank you for taking the time to come up and give us information that you want us to take a look at, and for your concern.

URBAN LEAGUE OF LONDON

FEDERATION OF URBAN NEIGHBOURHOODS (ONTARIO)

The Chair: The next group is going to be through video conference. It's the Urban League of London and the Federation of Urban Neighbourhoods (Ontario). We have the television screen in front of us. These people are in London at the present time. Welcome to our public hearings on Bill 26, An Act to amend the Planning Act.

State your name for the record. You have 15 minutes. If there's time left for a question period from the three parties, we will take it. You can proceed.

Mr Sandy Levin: Thank you, Mr Chair. My name is Sandy Levin. I'm a past chair of the Urban League of London, and I served on London city council for six years. My colleague, Gloria McGinn-McTeer, who is president of the Federation of Urban Neighbourhoods and immediate past chair of the Urban League, sends her regrets due to work commitments.

FUN, the Federation of Urban Neighbourhoods, is a province-wide umbrella group representing over 75 community associations across the province. The Urban League of London is a member of FUN. The Urban League represents over 20 community associations across London and has been in existence for over 35 years.

Regarding the Ontario Municipal Board, FUN has provided a position paper entitled Fixing the OMB, by our policy adviser, Dr Barry Wellar of the University of Ottawa, to both the Ministry of Municipal Affairs and Housing and the Attorney General, calling for significant OMB reforms, which, if accepted, will ensure the board only hears matters involving the administration of the Planning Act and related legislation, and other Planning Act and related legislative matters only if the government has declared them to be of provincial interest and has specified the scope, nature and implications of the interest as it pertains to the Planning Act or related provincial legislation.

We also urge the government to allow the board to finish hearing any existing appeals but not to accept any more, pending reform.

We also deplore the inherent inequities built into the system whereby community associations cannot partake in the process to the same degree due to limitations of expertise, time and, most importantly, funds.

We note a significant increase in requests for costs on behalf of developers over the past two years. Five years ago, this was rare; now it is commonplace. Five years ago, costs, if awarded—which was rare—were negligible; now they are substantial. This is a further impediment and attack on citizen participation. This trend is tantamount to intimidation, similar to the American system of SLAPP suits. This trend is contrary to the purpose of the board.

Ultimately, reform should encompass a view to significantly reducing the board's powers, which over time have broadened beyond the original intent, and a return to a truly democratic appeal process without inherent bias built in, which now precludes all parties from fully engaging in the process.

Regarding the PPS, we strongly support the change that decisions “shall be consistent with” policy statements issued under the act. “Shall be consistent with” is itself a compromise from the days of the Commission on Planning and Development Reform in Ontario between “have regard to” and “shall comply with.” Frankly, “have regard to” has not worked.

However, we are concerned that the proposed PPS weakens protection for significant natural features. You will need to replace the wording “Natural heritage features and areas will be protected” from incompatible development because there is no development “compatible” with natural heritage features, including upland woodlots. Rather, the introductory statement should read: “Natural heritage features and areas, as well as water quality and quantity, will be protected.”

Specific sections of the PPS to refine include section 2.1.2.1. Say: “Development shall be directed away from natural heritage features and areas.” Section 2.1.2.2 also must be changed as it is even more lenient than the current PPS. For example, subsection (a) needs to add “vulnerable” as well as “endangered and threatened species” and include wording that would clearly state that municipalities shall protect locally significant wetlands.

While the PPS generally tries to strike a balance between competing interests and land uses, the province must unequivocally state that natural environment protection, particularly in urbanized areas of the province, is of provincial interest.

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On a personal note, when he was in opposition I met with the Premier and others at the Thames Valley District School Board's environmental education centre, and I was impressed by his commitment to the environment of Ontario.

We also look forward to policies to rein in urban sprawl and to provide support to public transit and to compact urban form and design. While it is a positive step to see a draft policy that says, in part, “direct new development to areas that will be served by transit,” the policy should even be stronger to say there will be no

development in areas not presently served by transit if it cannot be demonstrated that transit service will be funded within three years of the start of development, this being in the urban context of Ontario.

The PPS should require urban intensification prior to the expansion of urban boundaries. One way to do that would be to require municipalities of a certain size with transit systems that carry over a threshold amount of riders to demonstrate how each approved plan of subdivision or larger land division is consistent with the PPS. Additionally, to help support growth-related capital costs of transit, you must also amend the Development Charges Act to eliminate the 10% discount on growth-related capital costs. Finally, be sure to have follow-ups on how the policies have been implemented, because a policy is only as good as the faithfulness with which it is implemented.

On the Planning Act, to get to compact urban form, the act must contain a minimum of these three elements: prohibit downzoning on transit corridors; have clear targets for intensification and infill that are achieved before a city can start a greenfield development, even within its urban boundary; and a requirement for maximum parking standards, as is the case in Calgary, not just minimum standards. This would assist in promoting transit use in cities, as there is a connection between long-term commuter-type parking and transit use.

For official plans, the act must set out specifics and broaden the content of official plans. It should be a requirement to have a public participation process, not just one meeting every five years, to review the policies and, more significantly, each municipality must demonstrate at that time how it has met the objectives of its OP and the PPS. Changes to an OP should be minimal between review periods, yet be subject to many amendments almost immediately after passage. For example, in the first five years of its OP in London, over 200 changes to its 1996 official plan were made. What about limiting the number of OP amendments a municipality can agree to in a year?

The consultation paper also asked, does the act and regulations regarding complete applications already require adequate information? Frankly, we say no. Applications end up at the board within a 90-day period now and will even if a 180-day period is implemented, if municipalities allow the clock to start before getting sufficient information, as a developer can go to the board and ask the board to decide the information they have provided is sufficient. An appeal to the board of a decision of a council not to accept an application because it is incomplete should not be allowed. Alternatively, the regulations need to spell out in greater detail what constitutes a completed application.

I could comment on the transition provisions, if you wish, but I want to leave time for questions.

Lastly, there are two other legislative changes to be made. The work to date mentions waste management, but because increase in waste is an output of growth, the Development Charges Act should be changed to allow a

calculated charge for the growth-related portion of waste management systems. Right now, nothing is allowed to be charged under the DC act. Also, a recommendation to make the Conservation Authorities Act more powerful and put provincial representatives back on the conservation authority boards is needed. They can be a key to protecting the natural heritage of this province.

Thank you for the time today, Mr Chair. With the remaining time, I'm open to any questions of your committee.

The Chair: We have seven minutes. The government side will start with questions.

Mrs Van Bommel: Thank you very much for your presentation. I'm glad you were able to join us through teleconference. You spoke at the beginning of your presentation about the issue of citizens appearing before the OMB and the costs of doing that. Earlier today, we had a presentation in which they spoke of things such as intervener funding. How would you feel about that type of approach to helping citizens come before the OMB?

Mr Levin: The Urban League and FUN would support that as well.

The Chair: Mrs Munro from the official opposition party.

Mrs Munro: I have no questions at this time, thank you.

The Chair: Ms Horwath.

Ms Andrea Horwath (Hamilton East): Thank you for giving me the opportunity. I apologize that I arrived halfway through your presentation. I'm from the city of Hamilton, and you'll know that our neighbourhoods are very involved with the FUN organization, so it's good to see that you've come to make the presentation.

I just wanted to follow up on the question previously asked. The official position of your organization is that if there is funding available for advocates like yourselves to attend the OMB, that would be something you would be fully in support of?

Mr Levin: Very much so.

Ms Horwath: Do you have any perspective on what kind of funding might be required? For example, funding simply for legal representation, or are you thinking of funding for professionals who might be giving advice on the matter, as well?

Mr Levin: Legal fees or professional expertise would both be appreciated. I can tell you that in one OMB matter I was involved in here in the city of London, the neighbourhood association ended up spending \$80,000, both for legal fees and professional help. Fortunately, it was a neighbourhood that could raise that kind of money. Unfortunately, not every neighbourhood across the province is like that.

So intervener funding would be most important, as well as an elimination, frankly, of slapping neighbourhood associations with costs if their appeal is legitimate. Certainly, frivolous and vexatious appeals are of concern, but none of the ones that we're familiar with would qualify, from our perspective, as being frivolous and vexatious.

The Chair: Thank you very much, Mr Levin.

Mr Levin: I appreciate the time.

The Chair: Again, we apologize for not being able to go down to London, because there were only three requests to appear in front of the committee. It's a lot less expensive to have you do it through a teleconference or video conference.

Mr Levin: I support the technology.

HENRY MALEC

The Chair: The next person we have is Henry Malec. Would you come forward and take a seat there, please? You will have 15 minutes, of which you can take the whole 15 minutes or leave some time at the end for questions from either of the three parties.

Mr Henry Malec: Thank you for this opportunity. I just wanted to give my experience with the Planning Act and perhaps a little bit about the OMB, from my perspective. I'm not a lawyer or a planner, but I'll tell you my story. Take from it what you will.

Several years ago, I asked that the property I owned be included within the urban boundary of a small Muskoka town. The town is Port Carling; it's not any big secret. Port Carling has approximately 700 people in its permanent population. It expands during the summertime to the summer population, so there's quite a difference. But the core of the town is 700 people. I asked for my property to be included during a boundary review of Port Carling. I thought I had a good case. Unfortunately, the municipality turned it down. I appealed it to the OMB, and there was an OMB hearing.

At the OMB hearing, I relied a great deal on the provincial policy statements. From my simplistic point of view and my engineering background, I thought that's where it all starts, with what you want to achieve, and we'll go from there. I agreed at that time with the compact urban form—everything in a compact, accessible form. I thought the standard of compactness was if you could walk there—in other words, can you walk to the post office, can you walk to the arena, can you walk to the community centre, all those communal types of activities? A small town like that is almost a perfect microcosm of a larger city.

To that end, I timed the distance it would be to walk from the included land into the centre of town. I timed how long it would take to drive into the centre of town from the included land. Even in Port Carling, believe it or not, I found out how fast a person could row—a typical rower—because Port Carling has a river flowing through it. That sounds like a film. Anyway, you could row into downtown Port Carling. I researched what a typical rower would row and I even gave the timing of rowing to downtown Port Carling. All these environmentally sensitive compact parameters, and the OMB chairman just ignored them. He dismissed my appeal for other reasons, but essentially I think he left the core of my argument on the table, where I had underlined compact form and walking and that kind of thing.

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I just wanted to say that I think the gold standard of compactness is walkability. I think that has to be emphasized in your principles. You say, "How far can a person walk?" I've talked to renowned architects and they have different ideas, but probably the best one I heard was, "If you can see it, you can walk there." You can't always see something because there are other barriers, but some kind of emphasis on the walkability of it.

So I wanted to say that and, secondly, that the OMB hearing was a hideous experience. One of the most hideous of them was a judge. Here he was, judging me against the municipality, and in the next room was his picture on the wall in the service of the municipality. In other words, the OMB board member who adjudicated this was once a member of the township of Muskoka Lakes. I think that's hideous. That just violates all standards of justice. I thought he was biased and, in subsequent events, in my own mind, thought he was biased.

I don't know how OMB members are chosen to adjudicate a dispute, but if the member chose that venue, then I think they should not be on the board and, if he was told to adjudicate that, then the methodology of selecting the member to hear a dispute should be reviewed; one of those two, because that was a terrible experience.

I talk rather fast, don't I? That's really the core of what I wanted to tell you, so I'm not going to embellish it any more. If you want me to answer any questions—

The Chair: Yes, Mr Malec, we still have 10 minutes. I'm going to ask the official opposition if they have any questions.

Mrs Munro: I appreciate your personal experience because, if you've had the opportunity to hear many of the presenters, not many have been able to come forward with the kind of personal experience that you have. I wondered if you could offer some further advice in terms of this particular piece of legislation.

I certainly understand your notion of including walkability as a determinant in density. But one of the issues that earlier presenters have raised is the question of trying to balance what sometimes appear to be opposing influences of environment, economic development and social issues around planning. In your experience, you thought that you had a piece of property that would fit with that, but I wonder if you could give us any advice on the issue of those provincial policy statements and the way in which that balance can be struck.

Mr Malec: I looked at the draft policy, I read it over, looking for walkability or walking being emphasized. I don't think it's emphasized enough. I'll just put a very broad answer to that. I had to sort of dig through it and look under definitions and all that kind of thing to find out that walking is important, but it's only sort of one of many. I realize you can't always do that in a city like Toronto, for example. It's not as easy. But in Port Carling, with 700 people, it's easy to look at it. You say, "Well, if there are 700 people there, they should all be within the urban boundary and able to walk."

Instead, when things are developer-driven—Port Carling is all bent out of shape, the urban boundaries. There are places where it takes three quarters of an hour to walk in because people want to build a resort there or a golf course there. By the way, there's a major resort and a golf course located within the urban limits of Port Carling—and 700 people. So they're not following this at all. It's developer-driven. I don't know except that I would, to answer your question, try to find walkability in here, and I've had to work at it.

Mrs Munro: Yes, I appreciate that. I can also appreciate that in a lot of research done in terms of community viability, that's certainly one of the features. The issue is around density and things like that. So I certainly take your advice on the need to ensure that there's greater recognition of that particular component. Thank you.

Ms Horwath: I was interested in your experience as well, and I thank you for coming to share it with us. I'm wondering if you have any opinion as to whether you think the OMB should even exist. There are some people who believe the OMB should simply be abolished and it should be taken completely out of the process. Do you have any comments on that?

Mr Malec: No. I appreciate the fact that I—little old me—could challenge what I thought was not correct. So I appreciate that. At the OMB hearing, however, there was little old me and two lawyers on the other side—not one, but two: the township lawyer and the district of Muskoka, the regional, lawyer. So they were both there. They can swamp you with legalities and those kind of things. You're just a normal, logical person in the point you're making and, by the procedural ways, they can sort of deny it or whatever. It's very frustrating. I would love it if there were no lawyers involved; in other words, just the township planner saying his piece, and I said my piece, with no lawyers involved. That would be better.

But to answer your question, I appreciate the fact that there is an OMB. I just think it needs a bit of jiggling.

Ms Horwath: One of the other things that has come up in these discussions is the fact that the legislation may come into effect prior to the provincial policy statement being updated. Is that a concern of yours? I think when you look at some of the concerns you talked about, about walkability and those kinds of things, the provincial policy statement would theoretically put all that in place and put that together and make those references quite clear. There has been some concern that the legislation may come forward and be passed without having an updated provincial policy statement. Do you have any thoughts on that?

Mr Malec: I don't think I would like that; let me put it that way. My first impression—I'm not a lawyer and don't know how it all works, but I would think, if this is the core of it, as I said before, it should be incorporated into the Planning Act, very strongly. That would be my first impression.

The Chair: We'll move on to the government side.

1410

Mrs Van Bommel: Thank you for telling us about your personal experiences with the OMB. You men-

tioned earlier in your presentation your own experience with arguing the provincial policy statements. I got the impression from you that you didn't feel that the OMB heard that very well. Is there any way that we could ensure that the OMB better implements provincial policy statements in their decisions?

Mr Malec: The impression I got was, "So what?" When I presented my little policy statements at that time, it was, "Next," that kind of thing; whether it was simply the member himself or contempt for the provincial policy being too weak or something like that, I don't know. I don't know how to do that except to make them aware. I suppose that that's where the core of it all is. That's what we're trying to achieve in this province, what the policy says, so you listen and make note of it.

The Chair: Thank you, Mr Malec, for taking the time. We appreciate you very much.

Mr Malec: Thank you.

LONDON DEVELOPMENT INSTITUTE
LONDON HOME BUILDERS'
ASSOCIATION

The Chair: The next group is going to be the London Development Institute and London Home Builders' Association. It's going to be done by video conference again.

Welcome to the public hearing on Bill 26, An Act to amend the Planning Act. Would you state your name and position for recording purposes?

Mr Steve Janes: Thank you very much, Mr Chairman. My name is Steve Janes. I'm president of the London Development Institute, and I'm also speaking on behalf of the London Home Builders' Association. My background is in civil engineering and in regional planning.

I have some comments to make. I understand that the committee heard from Peter Saturno earlier on today and that during Mr Saturno's presentation you received copies of the reports that were produced by the Ontario Home Builders' Association.

My presentation will be quite brief. I just simply want to highlight some points. We have had input, both organizations, on the preparation of these three discussion papers. There's a third paper dealing with housing issues which is not before us today, but the three papers that are before you, we have had input into them, and we fully support the presentation positions.

I simply want to raise a couple of points in the paper Planning Reform: Provincial Policy Statement: Draft Policies. On page 3 there is a recommendation. I make the comment that we here in southwestern Ontario, particularly in the larger city, London, and in the smaller communities, are concerned that the policies that are appropriate for the GTA may not be appropriate for rural areas, smaller urban areas, and certainly not for cottage country or for northern Ontario. We think that the policy suggestion raised in the OHBA brief on page 3 warrants your serious consideration. I'll read it for the committee's

benefit. "We recommend that the provincial policy statements be separated so as to address growth within the GTA and the larger cities and to address the development of the rural communities and the small towns of Ontario, yet maintaining their character. Perhaps a second set of provincial policy statements should be written to address growth within the smaller communities."

The review that we've undertaken and the discussions we've had have raised topics such as the town of Strathroy, the town of St Mary's, the smaller cities like St Thomas or Woodstock or Stratford, and the problems that they face are not the same problems you face in the GTA. We think special consideration should be given to how you will deal with their problems.

The second point that occurs on page 4 of the same report—I want to bring the city of London into this one. We have a major concern with the proposed shift in interpretation of the provincial policy from "shall have regard to" to "shall be consistent with." We strongly urge that the current wording of the Planning Act be retained to reflect that planning authorities shall have regard for provincial policy statements.

Most of you, I'm sure, have been in London or passed London. You will know that on the south side of London we have Highways 401 and 402. They are, for the most part, for the passerby, in rural countryside, but they are within the urban limits of the city of London. The city of London, with the support of the provincial government and the adjacent municipalities, has linked the water systems from Lake Erie to Lake Huron and is, as we talk today, in the process of initiating what we term the southeast reservoir and pumping station, which would be located in the southeasterly area that I'm referring to, along the 401. In addition to that, the city has embarked on long-range planning for a sewage treatment plant on the Dingman, which is south and west of Lambeth, just off 402 and 401.

The point I'm raising with respect to this policy shift is that the lands that I'm referring to are within the urban growth boundary limit of the city of London. To follow the current proposals for the provincial policy statement would cause the city to have to re-examine its official plan, change the community planning approach and alter its master plans for servicing, and this area is urbanizing. We have storm water management planning policies being developed for the area. It would be an extraordinarily difficult situation for the city of London to not proceed with the development of the 401-402 corridor.

We feel very strongly about that and feel that this particular interpretation should be flexible to allow for the input from the local planning authority, from other agencies that have been involved, as opposed to "being consistent with."

The last point I have is dealing with the Ontario Municipal Board reform, and that's in discussion paper 3. We fully support two points, one being the five-year minimum term. My experience—and I've appeared before the board on many, many occasions—is that the

board members have served this province well. I can't recall of a board member whom I have questioned qualifications for, but I do believe that it's necessary to maintain continuity, and certainly a longer term in the office would be appropriate. We also feel very strongly that mediation ought to be advanced and seriously developed as part of the board's procedures. I am currently involved in two major mediation matters that are before the Ontario Municipal Board. The municipal board has indicated the wish to proceed in this direction and we in the development industry are supporting that. We're quite prepared to sit down and work along with our partners—the city of London—to resolve the issues.

Mr Chairman, that's the end of my submission. I wanted to try and make it very brief. In closing, thanks again. We do support the positions that have been advanced in these documents prepared by the OHBA. I think you're on the right course. I'm delighted that the province has taken this initiative. It's overdue. Keep on with the good work. Thank you.

The Chair: Thank you, Mr Janes. We have nine minutes left, and we are going to proceed with questions from the NDP.

Ms Horwath: Good afternoon, Mr Janes. I'm wondering if you have any comments on the perception that has been raised several times about the OMB, as it sits now, favouring the development industry when it comes to its decisions. There's a sense from many presenters, mostly people from community neighbourhoods, environmentalists, those kinds of people, saying that the OMB is problematic because it favours the development industry. Has that been your experience coming from the development industry? Do you feel that there is any favouritism being shown to people like yourself and those you advocate for?

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Mr Janes: My experience has not been that the board has favoured the industry particularly. I think the matters that cause the concerns the public have been raising have been situations where there has been a clear policy enunciated by the council in the official plan or in the zoning bylaw and, for whatever reason, there is a position being initiated—possibly by council, possibly by public input—to not make a decision or to defer to a later date or to make a decision that is not consistent with the written word.

From the industry standpoint, our concern is that you need to have some stability in the documentation and its interpretation. I've found that the board members at the OMB have been very consistent in their dealings with the interpretation of the official plan, zoning bylaws and any other environmental policy position. So I don't think this is an issue. It may be an issue of frustration that public groups don't necessarily see their way being adopted or enacted by a board decision.

Ms Horwath: Wouldn't you say, though, that clearing up the language and having it more succinct in terms of having the wording that is speaking to the issue you raised around having "regard for," as opposed to being

"consistent with"—it seems to me the wording "consistent with" is a lot more clear and would probably clarify the concerns that have been raised by those very people. It seems to me that that's a bit of the crux of the issue in regard to whether things are interpreted one way or another. "Consistent with" is a lot more clear, as opposed to "regard for," which is a bit fuzzy and not quite black and white, as I think you said yourself.

Mr Janes: There is a considerable amount of attention spent discussing this in the documents we have. But the planning authorities in a particular area—a municipality or county—have the ability to interpret. If you have provincial planning policies that cannot be interpreted and must be followed to the letter, then what's the role of the planning authority? Taking the example I provided you with of the 401-402 corridor, we would have a major problem in London. Our municipal council and the planning committee have all made decisions based upon their interpretation of the provincial planning policies that have led to the creation of the infrastructure I spoke of. To have that reversed by "be consistent with" would, I think, cause untold discomfort, cost and all the rest to the city.

The Chair: We'll move to the government side.

Ms Matthews: Hello. I wish we were in London, but it's nice to have you with us by video conference.

I want to pick up on a comment you made, that there should be a separate PPS for communities that are not rapidly growing. I wonder if you could talk about that a little bit and maybe explain how that would make a difference for a community like London.

Mr Janes: Thank you very much. The weather is excellent down here. We miss you. We wish you were here.

Ms Matthews: Thank you very much.

Mr Janes: In London, as you know, we have development across the north of the city that is literally reaching out to the limits of the city. The example I gave was the southern boundary, where there is considerable expansion potential, in an urbanization sense, all the way down to the Elgin county boundary. Our concern is that forcing a resolution—I'll use my words for the moment as opposed to the planning policy words—of the intensification and redevelopment of lands that might be deemed to be available for urbanization takes time. In fact, many of those lands may not be developable at all. In London we're talking about railway corridor lands, and in St Thomas we're talking about railway corridor lands, all of which require extensive remediation to clear the lands so you can develop and occupy them. If we were withheld from developing in the remaining areas already identified by the city for urban growth potential and compelled to satisfy provincial planning policy statements that intensification must be satisfied before we can proceed, we would have a major problem in London.

As you know, the corridor lands we have—we simply don't have the available land in the centre of the city for intensification, and it may not be available, either because it isn't for sale or it has environmental problems.

The Chair: I'll move on to the official opposition.

Mr Yakabuski: I believe your counterpart from the Ontario Home Builders' Association addressed how the retroactive provisions of this amendment would affect ongoing or previously approved or changes made by municipalities or permits granted etc. I'm not sure if you talked about it in your submission; I may have missed it. What is your position on the retroactive provisions of this bill, going back to, I think December 13, 2003? The bill is being deemed as enacted on December 13, 2003.

Mr Janes: I'm not sure I get your question.

Mr Yakabuski: Anything that has already been determined by municipalities, or they've granted permits or whatever based on the legislation as it existed, or exists—if this bill is passed, it will be deemed to have come into effect on December 13, 2003, which would have a retroactive effect on anything that is already done.

One of the concerns he talked about was municipalities actually being held almost like they're in limbo at this point. They don't want to proceed with certain things because they're concerned about the retroactive provisions of this bill.

Mr Janes: I have a major problem with that, going back to the specific example I was providing the committee with. We have the Dingman watershed running along the 401 corridor. The city is in the process of what we call a subwatershed study to determine how the watershed management will be developed within the city. All of this is in front of us. The studies which have been undertaken close to that date have not yet been adopted by council. We would have to reverse all the public review and go back in time. I think it would cause not only a major delay in terms of the city's implementation of capital works but of any industry responses in terms of development of the lands made possible by the new services.

Mr Yakabuski: I have one other question that I'd like to get your input on. We've had submissions from other parties here saying, for example, that they should have intervenor status at these hearings and also that their legal costs should be funded. I wonder how you feel about that. Would that simply protract these exercises more, or do you think that's a reasonable position on their part? That's community groups, environmentalists, etc.

Mr Janes: I think that's a difficult question to answer. There have been many situations where the intervention, the appeal, is of a frivolous nature. We think the board ought to have the ability to screen that to determine whether there is merit. If there is merit, quite frankly, I don't think we would be averse to there being some way to compensate the parties who make an appeal. This already is possible through certain environmental jurisdictions. I think that might not be a bad idea.

The Chair: Thank you once again for having this done through a video conference. We would have loved to be in London, but it would have been very costly to move 18 people for three appearances.

Mr Janes: Deb Matthews, thank you.

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PEMBINA INSTITUTE

The Chair: The next one we have is Mark Winfield, director of environmental governance, Pembina Institute.

Dr Mark Winfield: Thank you, Mr Chairman. My name is Mark Winfield. I'm the director of the environmental governance program with the Pembina Institute, which is a national, independent, not-for-profit environmental and energy policy research and education organization. It was founded in 1984, and we now have offices in Toronto; Ottawa; Calgary; Edmonton; Drayton Valley, Alberta, and Vancouver.

The institute has taken a strong interest in issues related to the environmental, economic and social sustainability of urban communities in Ontario over the past two years and has published a number of major reports on these, which are available on our Web site.

The institute welcomes the introduction of Bill 26 as an important step toward the reform of the land use planning process to curb urban sprawl, promote more sustainable urban communities and strengthen local democracy. The institute's specific comments on the bill are as follows.

With respect to section 2, the consistency with provincial policy of planning decisions, we are strongly encouraged by this provision, which would provide that advice and planning decisions by municipal councils, provincial agencies and the Ontario Municipal Board be consistent with policy statements issued under the Planning Act by the Minister of Municipal Affairs. In our view, the adoption of these amendments is essential to the provincial government's ability to provide policy direction to planning authorities needed to curb urban sprawl and promote more sustainable development patterns. At the same time, the institute emphasizes that it is essential that the revised provincial policy statement now being developed by the Minister of Municipal Affairs be in place before the proclamation in force of this section of Bill 26. Unfortunately, if the existing PPS remains in place when Bill 26 is proclaimed, it would have the perverse effect of requiring that planning authorities ensure that their planning decisions be consistent with policies that are often too vague to provide meaningful policy direction or that in some cases have actually been major factors in the promotion of urban sprawl over the past seven years. We're recommending that the bill be amended such that section 2 comes into force on a date to be proclaimed by the Lieutenant Governor in Council.

With respect to sections 3 and 4, we note that Bill 26 would make a number of modifications to the OMB appeal process, increasing the time period for making decisions before appeals can be made to the board. The right of appeal to the board with respect to official plan amendments and zoning bylaws would be eliminated if the amendment relates to the alteration of the boundary

of an urban settlement area or the creation of such an area.

These provisions, in our view, are a good first step toward the reform of the OMB appeal process, providing planning authorities with a greater period of time to consider decisions before proponents can initiate appeals to the board and eliminating the right of appeal in situations where municipalities might be compelled to expand urban settlement areas against their wishes. In addition, in our view, appeals of official plan amendments should not be permitted until final decisions on these matters have been made by the councils involved. This would have the effect of reinforcing the central role of the official plan in the planning process.

Another aspect of the OMB appeal issue that needs to be addressed is the question of the triggers for the time frames for the appeal process. In many cases, proponents have provided only minimal information to municipal councils in support of applications, thereby triggering the time frames for appeal, and then have introduced additional information at the OMB appeal stage. As noted in the government's discussion paper on planning reform, such an approach does not give municipalities an opportunity to obtain information that may be needed to properly assess applications in terms of such things as traffic, hydrogeology and natural heritage impact before an appeal to the OMB can be initiated.

To address this problem, we're recommending that Bill 26 amend the Planning Act to provide for definition of a "complete application" for planning approvals and that the time frames for automatic appeals to the OMB only be triggered once an application is deemed to be complete. We're recommending specifically that a complete application would include the information prescribed in regulation, as is the case now, but also such additional information as a municipality might lay out in its official plan or a bylaw with respect to certain types of applications; any information necessary to meet the requirements of the provincial policy statement; and then any additional information that the municipality might reasonably deem necessary to assess the application.

Finally, on the issue of transitional issues, our position, given that the bill was introduced in December and that the government was quite clear on its direction at that time, is that, except in situations where final approvals have come into place in the intervening period, approvals that are in process should be dealt with on the basis of the rules as established by Bill 26 if it's enacted.

I'd be happy to take any questions.

The Chair: Thank you. We have nearly 10 minutes left, and it is up to the government side now. Any questions?

Mrs Van Bommel: Thank you for your presentation here today. I'm particularly interested in your recommendation around the definition of "complete application" standards that are set out. What additional standards would you foresee a municipality being able to add to that list that would define a complete application?

Dr Winfield: At the moment, the definition is through regulation. If you look at the regulation, essentially

what's there is what you might describe as the tombstone information on an application. It's literally who's making the application, what's their address and what's the wording, for example, of an amendment to the official plan that they're asking for. That's all there is. That then triggers the timelines for automatic rights of appeal to the OMB. What we're saying is that that needs to be broadened out, that the municipality needs to be given a bit more room basically to be able to go back to the proponent and say, "Look, we need some additional information here to be able to make some sort of meaningful assessment of what you're proposing."

In some cases, there are specific things that are required in relation to the provincial policy statement around wetlands, for example, or woodlands, where certain types of studies need to have been completed before decisions could reasonably be made. There's a possibility you might just write into the official plan rules that say that if somebody applies for a certain type of thing, they would need to provide this additional information.

We also thought that it would be appropriate to have a general provision that can ask for other information they deem necessary to assess the application. We've suggested putting the word "reasonable" in there so there's a reasonableness test. It means they can't go on a fishing expedition or they can't simply delay the application by asking for endless amounts of information but, at the same time, it gives some opportunity so that the municipality has some chance to make sure that it has a reasonably complete file in front of it when council tries to consider the application. I think what we need to try to put an end to is this practice of skeleton applications going in, the timeline running out because the municipality just hasn't had time to assess or doesn't have the information, the proponent goes to the OMB and then provides a whole mass of additional information that council never had the benefit of seeing. I think that just doesn't encourage good decision-making at the municipal level, and therefore we think this would be a good way of trying to get at that problem.

Mrs Van Bommel: Do you think that there should be a limit to what a municipality can ask for in terms of complete application, so that you would have some consistency across the province in terms of what anyone coming forward with an application would be expected to provide, or would you see that some municipalities might be more friendly to applications than others?

Dr Winfield: I think one needs to have a combination of specific items that would reasonably be required, be they what's in regulation from the province or things that relate to the PPS. But I think we also need to leave municipalities with a little bit of room in terms of asking for extra information, because every application is going to be different. It's going to be impossible to anticipate, before the application is made, what sorts of information you might need in relation to it. We're suggesting then that they be limited by a reasonableness test. It can't be anything; it can't be open-ended. Indeed, one might

envision a process through which you might even have a very short appeal process to the OMB. If a proponent says, "This is an unreasonable request from the municipality," it's conceivable you could have the OMB do a summary hearing just very quickly and say, "Yes, this is off the scale," or "No, this is quite reasonable." Given the type of application this is, it's quite reasonable for the municipality to ask for information on traffic impacts, groundwater protection or whatever it might be.

Mrs Munro: I want to ask you a couple of questions with regard to the recommendation that you have as number five on page 3. There you suggest that the minister be required to provide an explanation of how the provincial interest would be adversely affected. It's certainly something that I also thought was worthy of further work. I wondered if you would also support the notion of needing a definition of what is the provincial interest.

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Dr Winfield: I think that would not be unhelpful. I think, though, again, one is faced with this problem that you can't at this stage anticipate all circumstances. And so one may want to leave a certain amount of openness there and, if one were wording it, you might provide some examples and then perhaps a general public interest clause as well that says other things that seem to be in the public interest. I think you've then bounded it exactly by requiring that there be some explanation as to why this is seen to be a provincial interest or in the public interest. I think that would put some sort of a boundary around it so it's not completely arbitrary. There has to be some rationale presented by the minister for why he or she is doing something.

Mrs Munro: Yes, and in keeping with that, I wondered too in terms of what kind of process you would see as being appropriate, because obviously he has to have a forum for providing this explanation. I guess two ideas had crossed my mind. Would it come, in your view, to be appropriate as a hearing kind of exercise? Is this something that you put on-line? What ideas have you on that?

Dr Winfield: I think it clearly needs to be a formal statement from the minister. It can't be a press release. It needs to be something more than that.

I think the best way to approach it, and because these things can move quickly, would probably be to link it back to the Environmental Bill of Rights and actually declare the issuance of such a declaration, which we technically should classify as an instrument under the EBR. So you would then actually have to post it on-line and give people an opportunity to comment on it.

There are provisions in the Environmental Bill of Rights where, if it's an absolute emergency, it's still posted and with a shorter time period. But I think that's probably the most efficient way of getting at it. Then you would conceivably still have an OMB hearing at which the evidence could be canvassed. What it's saying, though, is that at the end of the day, it will be the cabinet

that makes the decision rather than the OMB, or at least it may decide to substitute its own decision.

At the end of the day, I think we can live with that in the sense that I suspect it would be rare when that would happen, and it does provide for political accountability. It means that the cabinet has to go on the record very clearly as to, "Here's where we've come down on this," and that provides a very clear line of accountability.

Mrs Munro: Thank you.

Ms Churley: That seems to make sense. Thank you for your clarity once again. It's always very helpful. I know you do good work and get to the nub of the matter. You're saying what we're saying, that we support the general direction of this bill.

I made a joke this morning that it's kind of like fashion. Fashion makes a comeback every now and then, and we're having the concepts from the NDP's early 1990s Green Planning Act coming back to us today. There's quite a bit of that in this, especially the "be consistent with" as opposed to "have regard for," that is really important.

Having said that, I wanted to ask you—and I do support your recommendations for amendments, and we'll be putting those forward. All of the things that have been happening lately around the approval of the big pipe, the homes built on the Oak Ridges moraine, more factory farms, all of these other arms and pieces of legislation through other ministries that are having—for instance, the Ministry of Agriculture recently appealed a decision by municipalities to stop a big pig farm, on the basis, they said, that it went against their provincial policy to disallow this pig farm from being built there. So that seems to contradict what we're trying to say in this bill.

I'm just wondering what your opinion is in terms of all of these pieces coming together once the new planning policy is in place and this bill is enacted. Do you think that'll make a difference in terms of these kinds of things happening within different ministries?

Dr Winfield: I think it will be helpful in the sense that the "be consistent with" language applies to provincial agencies as well as—

Ms Churley: And ministries?

Dr Winfield: And ministries and agencies. In fact, it probably has the effect of, at least for land use planning purposes, really sort of reinforcing the provincial policy statement as the central node, the place where the provincial statement is, if you like, definitive. I think that would probably be helpful in terms of the air traffic control problem.

There are other things, though, that I think the government will need to deal with. One of the problems that does exist now is that there are, under the Planning Act, more broadly, some limitations on the ability of ministries like environment and natural resources to initiate OMB appeals as well. I think there are places where in fact you may want to open the door to that. The obvious one is with the Ministry of the Environment and source water protection. I think you very clearly want a

circumstance where the ministry is going to be able to appeal planning decisions to the OMB if it sees them as being inconsistent with source water protection plans.

Ms Churley: Time up?

The Chair: Thank you, Ms Munro. Thank you, Mr Winfield, for taking the time and telling us about your concerns.

The next group—

Ms Churley: For the record, you thanked Ms Munro, not Ms Churley.

The Chair: I'm sorry.

Ms Churley: That's OK. That's just for the record.

The Chair: Well done.

OTTAWA-CARLETON HOME BUILDERS' ASSOCIATION

The Chair: The next group is the Ottawa-Carleton Home Builders' Association. It's going to be done by video conference. Distance is not an impediment any more; it brings us closer in a very short while. We have at the other end Mr John Herbert. You have 15 minutes to make your presentation. If you take the whole 15 minutes, then there will be no time left for question period, so it is up to you to decide. You can proceed.

Mr John Herbert: Thank you, Mr Chairman. First of all, I wish I had one of these television screens in my home.

I'd like to thank you for taking the time to listen to some of our concerns and comments today. I'd like to just go back a little bit and talk about the process. We think one of the primary weaknesses has been the lack of any problem identification or problem definition in the documents that have been provided by the ministry. There has been no discussion about the problems or issues that have been identified. As I'm sure you all know, our members and their various consultants are one of the primary users of the planning system at all levels. Although there are many changes that we would like to see, we're not aware of any problems that justify the degree or type of change being proposed.

The discussion papers only offered some vague statements, such as, "The Ontario government recognizes that our current planning system needs to be improved," or "Over the past years, there has been a growing perception that the Ontario land use planning system has not been working as effectively as it should." We would certainly like to know a little more about who it is that has this perception because none of the main users that we've spoken to are aware of it.

We believe it's important for all stakeholders to understand why the government believes the planning system needs to be changed so that all parties involved can agree on effective solutions. Only after having a complete debate on the nature of the problems that may or may not exist can the general public, industry and government work together to formulate appropriate solutions. The way things now stand, we're being presented with a wide range of changes under vague statements such as "build-

ing strong communities." Government and industry have been working together for decades to achieve this very objective, and we appear to have met with significant success. Certainly, any system can be improved, especially when dealing with something as dynamic as urban growth; however, the extensive changes being proposed imply serious problems where none are currently apparent. All of this naturally begs the question as to why it's happening and whether the province is in the process of throwing the baby out with the bathwater.

We would like to propose that the province suspend the current planning reform process until it can formulate a problem description and facilitate a comprehensive discussion and consensus-building exercise before proceeding to identify potential changes to the policy statement, the Planning Act or the Ontario Municipal Board.

Obviously, we don't have time to go into any real detail here today, but I've provided a more comprehensive paper to the ministry as well as to your committee that does provide more information. But generally speaking, we believe that if the changes being proposed are adopted, they will reduce the quality of planning decisions in Ontario, increase pollution and housing costs, undermine the primary economic engine in our economy and reduce the quality of life across the province. I'd like to just briefly elaborate on each of those statements.

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We believe the quality of planning decisions will be reduced because the changes will transfer substantial authority from professionally trained land use and planning experts to political decision-making bodies at the municipal and provincial levels.

We know that pollution will grow as a result of increases in traffic congestion resulting from smart growth policies which will be reinforced by the proposed planning reforms.

Disproportionate amounts of transportation funds will be spent on light rail experiments that will not reduce automobile use but will reduce implementation of effective solutions such as busing and new road construction.

The combined effect of these factors will be increased traffic congestion and more pollution. Statistical data from the few American cities that have experimented with this form of growth confirm these causes and effects.

If municipal government is granted the right to unilaterally restrict urban boundary expansions, it will create a supply-demand imbalance that will increase the cost of serviced land to unprecedented levels and put home ownership beyond the reach of most young families.

The city of Ottawa adopted this approach in its new official plan a little over a year ago. The price of land within the urban boundary has since increased by over 40%.

It's also of concern for us to note that since 1997 housing prices in Ottawa have increased 43%, which is more than any other city in Canada.

During 2003, residential construction contributed 5.4% to the total provincial GDP, the highest of any sector in the province. We believe that this will decline rapidly if the proposed changes are implemented. Our economy and quality of life will slip as homes are no longer affordable and sales rapidly decline. Thousands of related jobs will be lost. Provincial and municipal revenues will decline. Starter homes for young couples will become condominiums instead of townhomes.

That concludes our brief presentation for today. I'd be pleased to try to answer any questions that committee members might have.

The Chair: Thank you, Mr Herbert. We have eight minutes left. It is up to the official opposition party to start with questions.

Mrs Munro: Thank you very much for being able to join us here this afternoon, if only through video.

I understand the point that you have made about concern over the government making a case for this issue, but there are a couple of areas with regard to this specific legislation which is before us that I wondered if you would care to comment on.

We've certainly heard some recurring themes. You mentioned the importance in terms of the economic value of your industry and, frankly, how it contributes to the lifestyle of many thousands of people. We also are aware that there is an undertaking by the government at this point to look at the review of the provincial policy statements.

I wondered if you'd care to talk for a moment about their important role in the planning process and in the process that we're looking at specifically in this piece of legislation, and what that possible outcome is for an industry such as yours.

Mr Herbert: With regard to the provincial policy statement, I think that one of the main concerns for us revolves around the issue of the difference between "having regard to" and "being consistent with." We believe that the notion of it "being consistent with" will reduce any OMB or other planning authority's flexibility to recognize the diversity that exists in this province and to make the best planning decisions possible under those circumstances. We believe that "being consistent with" is trying to put a square peg in a round hole, so to speak, in that it just does not provide the flexibility which "having regard to" does.

So, with respect to those sorts of comments, I think the impact of that will be to slow approvals even further, which adds cost to our product, which adds expense to homes and financial burdens on individuals. It is one of small matters that will cumulatively affect the ability of people to purchase new homes.

Mrs Munro: Someone earlier in the day suggested that because of the diversity within our communities across the province there should be differences in the policy statements that would be geographically determined. Do you think this would help in terms of the kinds of issues we're dealing with regarding policy statements? In other words, we're going to have not one-size-

fits-all but one for small communities, one for larger communities etc.

Mr Herbert: I think that would definitely be a step in the right direction. You could go two ways. You could either take that approach or provide the flexibility within the system for each of those areas to be recognized individually and their idiosyncrasies dealt with. The notion of trying to establish a hierarchy of factors for various municipalities, whether they be small rural or large metropolitan, is certainly better than the one-size-fits-all approach that appears to be being considered right now.

The Chair: We'll move to Ms Horwath from the third party.

Ms Horwath: I only have one question, and that is, I understand your perspective in terms of, from what you've said, not thinking there is actually a problem and therefore not seeing why this needs to come forward at this point. I wanted to ask you the specific question about the retroactivity being written into the bill. There are others who have commented on that. I believe it's retroactive until December 2003. I didn't hear you mention anything about that. I wonder if you could share with us any comments you might have about the retroactivity of the bill.

Mr Herbert: We believe that would be a serious mistake in that it would result in tremendous cost increases to proponents who have dealt in good faith with the existing processes. We believe the government would be making a very big mistake in doing such unilaterally and that it would result in dramatic cost increases, certainly around Ottawa, for housing and for consumers. We are opposed to any retroactivity.

The Chair: Thank you, Ms Horwath. Ms Van Bommel.

Mrs Van Bommel: In your opening comments, you say that you feel there is a wide range of changes that have not been identified as needed, yet from the government we have heard a great deal of concern about planning issues. Are you suggesting that government should continue with the status quo? How would you suggest we deal with the loss of primary agricultural land, gridlock and issues such as those?

Mr Herbert: A good question. I guess what I would suggest is that we consider more of a public-private partnership in dealing with important issues such as these. It's our perception that the province is responding to pressure from municipal politicians. We don't believe that our industry has been involved in any meaningful way, shape or form through this process, and we think that more effective solutions for all could be achieved if industry were consulted more appropriately. So far, this appears to have been a government-driven exercise, municipal and provincial, and the private sector really has not had any significant input; there has not been any consultation, really, whatsoever.

Mrs Van Bommel: Could you give me your thoughts on issues such as intensification? You talk about the cost of housing increasing. What do you feel would be the impact of intensification on that cost?

Mr Herbert: We believe it's going to have very significant cost implications for housing, at least in Ottawa. Again, it depends on the municipalities across the province. There are some municipalities that have vast amounts of land within their existing urban boundaries so the impact on them will not be significant. In Ottawa, we have very little land within our existing urban boundaries, so the impact on us will be great.

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The effects of intensification are fairly well known because the cities in the United States that have undertaken this form of growth have been studied now for about 15 years. We know that it's going to increase housing prices dramatically. We know that it will result in increased traffic congestion and generally a lower quality of life for residents.

This is a difficult issue that I wish we had more time to discuss so that I could elaborate on some of the details that comprise this difficult equation.

The Chair: Thank you, Mr Herbert. Our time is up. As you can see, with the new technology, distance is not a barrier, even though you are 450 kilometres from here. It's nice to voice your opinion and your concern on this issue. Thank you.

The next one we have is another video conference, Alayne McGregor. Would Ms McGregor be in Ottawa for the video conference?

Mr Herbert: There's nobody at this table, Mr Chairman.

The Chair: Very good, thank you. We have another one from the Green Party, Mr Raphaël Thierrén.

Mr Herbert: Mr Chairman, I do have Alayne McGregor here.

ALAYNE MCGREGOR

The Chair: Good afternoon, Ms McGregor, and welcome to our public hearing on Bill 26, An Act to amend the Planning Act. You have 15 minutes. You can take the whole 15 minutes or leave some time at the end for questions from the three parties.

Ms Alayne McGregor: Thank you very much, sir. I'm speaking today as a community activist. I've been involved with commenting on a number of different official plans including, for example, the very latest city of Ottawa official plan and a number of the previous city of Ottawa plans. From those, and having talked to similar activists and community persons, we were deeply concerned at times that the Ontario Municipal Board wasn't reflecting the interests or needs of the community. Therefore, when I saw this hearing on Bill 26, I reviewed the contents of Bill 26 and I was quite favourably impressed. So I wanted to come today primarily to support the provisions in this bill, with the hope, though, that there will be further work, which I understand is happening, on the role of the Ontario Municipal Board.

I think it's important that we have a review board, if only to ensure that there is an independent review, that a city's official plan is internally consistent and that it's

consistent with provincial policy, both the environmental law and planning law. Therefore it is important to have this. However, I think this is a good start.

I sent you a brief about half an hour ago. I don't know whether you actually received it but it should be in the e-mail. I'm going from the précis that was at the bottom of the description of the bill rather than the bill itself because that was easier to describe. In terms of changing to "consistent with" rather than "have regard to," I think that's an excellent idea because it's important that we have an overall planning vision for the province, and the current wording, "have regard to," is simply far too vague. However, it's not clear here what these "statements" from the minister include. It is primarily interpretations of the Planning Act, overall government policy, cabinet decisions or ad hoc statements. I hope this means that such decisions, both by the OMB and by city council, would be in view of preserving the environment, reducing sprawl and avoiding the loss of farmland and aggregate resources, all policy directions that have been supported in provincial policies.

Further, I support increasing the time period for making decisions before appeals. I support removing the deadline of 65 days for the public meetings. I think both of those allow more time for getting a rapprochement between city staff and developers or other people who need to work with this. I think it's important that we don't make appealing to the OMB a normal practice. We should give enough time so that it's not required to have appeals to the OMB as a normal practice.

I wanted to strongly support eliminating the right to appeal to the OMB if the amendment relates to the alteration of the urban boundary, because I think that in particular is a decision that's very clear-cut. It's a decision by city council and by the community that should not be overridden by an unelected body. Therefore, in particular, I am very strongly in support of this particular provision. I do hope it goes through.

I think Bill 26 is an excellent first step. I hope it's followed by a further review of the role of the Ontario Municipal Board, simply to ensure that we address community concerns that the OMB is difficult to access by the community and requires excessive amounts of money and time for ordinary people to make an appeal. Thank you very much.

The Chair: Thank you very much. We have at the present time nine minutes left, which is going to be divided among the three parties, three minutes each.

Ms Horwath: I was really interested to hear your comments. We too are very supportive of the direction the government is taking, although we will likely be submitting some amendments. This is very reflective of some of the legislation that we brought forward in the early 1990s, so we're glad to see some of these things coming back to light.

I was going to ask you particularly around your concern about people in the community having an opportunity to have representation at OMB hearings. Although that's something you've touched on, would you be interested in expanding on that at all? Do you have any

suggestions or ideas on how to ensure that regular people are able to bring arguments to the OMB that have force against lawyers, planners and professionals brought by the development industry? Do you have any ideas around that?

Ms McGregor: I think there are two issues. The first issue is the timing of hearings. Having hearings during regular working hours makes it very difficult for most people to attend. Possibly the ability to have some hearings in the evenings would help a great deal. The other possibility is to look at, if not subsidization, at least a lower requirement for legal representation. I checked the OMB FAQ and it does say that a lawyer is not required, but it also says a lawyer is strongly recommended. If you have to have a lawyer, that makes it really difficult. People can spend years paying off the legal fees from an appeal. I don't think anyone makes an appeal lightly, but I also think that people who make appeals should have the ability not to require lawyers for issues that are essentially of policy rather than of legal points.

Mrs Van Bommel: Thank you for your participation in this. I certainly appreciate your support of this bill. I had wanted to ask you to expand on some of your experiences with the OMB but I think the answers you have given to Ms Horwath certainly answer those for me.

The Chair: Thank you, Ms Van Bommel. Ms Munro from the official party.

Mrs Munro: Thank you for joining us here today. I wondered if you could comment. As a community activist, do you have any comments about the role of the minister with regard to determining a provincial interest? You may have noted in the bill that the minister can declare a provincial interest and then become a part of the process and in fact the decisions then could be made through the cabinet. So I just wondered if you had looked at that part of the bill, if you had any comments to make about that.

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Ms McGregor: In my brief I had indicated that I was not quite sure what some of those provisions could mean or may not mean and whether this was, for example, a cabinet decision or a ministerial decision. That is an area where I think it would be useful to clarify what exactly is meant in this context. If this is in the context of the Planning Act, the environment act, stuff like that, it's quite clear where the minister specifies what clause they're talking about. If it's more general than that, I think it could use some specificity there.

Mrs Munro: If I might, I would just respond to that. We don't have anything in the piece of legislation before us that either defines what his provincial interest might be when he declares, or that he has to provide any kinds of reasons for a decision that is made by cabinet.

Ms McGregor: That certainly might be useful to add.

The Chair: Thank you very much, Ms McGregor. If there are no more questions, I have to make a correction. I just said Mrs Munro from the official party; it's from the official opposition party.

Thank you once again for taking the time.

L'ASSOCIATION DU
PARTI VERT D'OTTAWA-VANIER
OTTAWA-VANIER
GREEN PARTY ASSOCIATION

The Chair: The next group is the Green Party of Ontario for Ottawa-Vanier. Le prochain groupe est M. Raphaël Thierrin, président de l'association verte de l'Ontario, comté d'Ottawa-Vanier.

Est-ce que M. Thierrin est à Ottawa en ce moment pour la conférence vidéo? Le voilà. J'aimerais peut-être apporter une correction : est-ce que c'est Therrien or Thierrin?

M. Raphaël Thierrin: C'est Thierrin, monsieur Lalonde.

Le Président: Merci. Vous avez le choix de faire la présentation en français ou en anglais. Les questions seront dans la langue du choix des députés qui sont ici. Vous pouvez procéder. Vous avez 15 minutes. Si vous ne prenez pas les 15 minutes, il va vous rester du temps pour la période des questions.

M. Thierrin: Alors, je me présente. Je suis Raphaël Thierrin. Je suis président de l'Association du Parti vert d'Ottawa-Vanier. Comme vous le savez, le parti vert a eu pas mal de votes dans les années précédentes, donc nous représentons un certain bloc d'électeurs en Ontario. Mais ma présentation sera du côté de l'association du comté d'Ottawa-Vanier.

Je ne sais pas si vous avez reçu les notes que j'avais envoyées par courriel à votre comité.

The Chair: Oui, on vient juste de les recevoir.

M. Thierrin: Très bien. Alors, si on va au bas de la page 1 : nous apprécions vraiment les efforts du nouveau gouvernement pour faire une révision en profondeur de l'aménagement urbain et autre ici dans notre belle province de l'Ontario, avec les outils, les politiques d'aménagement du territoire et des révisions à la façon dont la Commission des affaires municipales serait formée dans le futur et, en particulier, le projet de loi 26, dont nous parlons aujourd'hui.

En passant à la page 2, qui énumère les principes des Partis verts : évidemment nous aurons le respect et la protection de l'environnement. On met aussi que le centre de décision soit approprié à la décision. C'est-à-dire, si une décision est pour un niveau communautaire, la communauté doit avoir une prise de décision et que ce ne soit pas d'autres acteurs qui font toute la décision. Aussi nous voulons, pour l'aménagement et pour d'autres politiques, qu'il y ait des décisions durables; qu'il ne faut pas revisiter les mêmes choses et trop de fois.

Alors, par rapport au projet de loi 26 et les autres composantes de la restructuration de l'aménagement qui est faite par le gouvernement actuel, le positif, c'est que l'ébauche de la politique que j'ai vue sur le Site Internet des Affaires municipales et du Logement répond à nos attentes dans le sens que ça irait vers une densification de l'espace urbain plus une meilleure protection des espaces verts et des espaces ruraux et fermiers dans les alentours

des villes, ainsi que beaucoup d'autres choses qui sont dans cette politique.

Aussi positif est que le projet de loi 26 projette une période de transition. Comme ça, même si les autres éléments de la politique ne sont pas en place, si le projet de loi 26 est approuvé et est en force, il y a une période de transition qui permet que certains écarts ne soient pas permis dans certaines choses.

Maintenant, le problème qu'on voit est, est-ce qu'il n'y a pas une possibilité de va-et-vient s'il n'y a pas, en même temps que ce projet de loi avance, une réforme démocratique qui se passerait? Si je dis ça, c'est parce que la dernière politique municipale a été passée en 1996, et on sait très bien ce qui s'est passé en 1995 : l'avènement du gouvernement majoritaire conservateur. Maintenant on se retrouve avec un gouvernement libéral, qui met un peu mélo-mélo sur les affaires environnementales et d'autres choses. Donc, c'est très bien. Il va peut-être freiner certaines des exigences du secteur privé. Mais s'il n'y a pas une réforme démocratique en même temps, qu'est-ce qui se passe? Il va y avoir une autre élection dans quatre ans et on va se retrouver avec un autre gouvernement majoritaire. On passe de l'un à l'autre puis quatre ans plus tard on passe à une autre politique et ainsi de suite.

Quand on a un projet comme le projet de loi 26, c'est bien dans le sens qu'il y a la conformité à la politique au lieu que, les décideurs doivent avoir regard sur la politique; il y a de la conformité et on pense que c'est une bonne chose. Mais si on a un va-et-vient continu sur la définition de la politique provinciale, d'après les changements électoraux aléatoires, on s'en va dans un va-et-vient qui n'est pas durable. Alors, ça c'est une chose.

L'autre chose : la conformité à la politique est bien d'une certaine façon, mais est-ce qu'il n'y a pas d'autres façons d'insérer dans les décisions d'aménagement des valeurs environnementales et sociales plus approfondies que celles qu'avait essayées l'ancien gouvernement?

Le deuxième principe : à qui revient les décisions? Ce qui est bien, ce qui contribue au positif dans le projet actuel, c'est que si la politique est approuvée telle qu'elle est sur le Site Internet, c'est bien, parce que les besoins sociaux, économiques et environnementaux, nous pensons, seront protégés à long terme.

Mais les questions : si la façon de procéder ne va pas être un peu du « top down », c'est-à-dire que ça va créer toute une couche de technocrates à Queen's Park, les gens vont dire, « OK, c'est Queen's Park qui décide », et puis ça dévalorise peut-être la prise de conscience des communautés à agir dans la planification urbaine. Parce qu'il faut absolument que les gens se sentent compris, que les gens se sentent écoutés, non seulement aux temps des élections mais aussi pendant que se préparent les projets urbains qui sont proposés soit par la municipalité, soit par le secteur public.

Alors, y a-t-il d'autres façons d'assurer une certaine conformité à la politique provinciale comme, par exemple, avec des études d'ensemble, qu'il y a des

études qui sensibilisent la population à certaines issues et que ça se règle en conformité avec ces études? Aussi, comment est-ce qu'on peut insérer un développement communautaire un peu plus fort dans le projet de loi actuel?

Des solutions durables : ce qu'on veut, c'est qu'il y ait des décisions qui durent, mais aussi que le public se sente impliqué et qu'il comprenne les enjeux provinciaux. Je suppose que, par exemple, quand le projet de loi dit que la province pourrait intervenir avec une période de 30 jours avant la tenue d'une d'audience de la Commission des affaires municipales, on pense que c'est un mécanisme qui permettrait peut-être une sensibilisation du public en et autant que les communautés aient accès au comité des affaires publiques, ce qui n'est pas vraiment le cas en ce moment.

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Quand je parle des communautés, ce ne sont pas seulement des échevins municipaux mais aussi des groupes communautaires et autres. Donc, ce qu'on ne voudrait pas qui arrive est que le public déchante, parce que ça crée un effet « top-down », que la province insiste sur certaines choses et qu'elle impose son pouvoir. C'est une bonne chose si les choses vont d'une manière meilleure pour l'environnement, mais si ça déchante des gens, à la longue ça ne reste pas durable. Peut-être que pendant cinq, six ans ça marche, et puis après les gens élisent un nouveau gouvernement ou bien les gens décident qu'ils en ont marre des technocrates de Queen's Park etc et cela crée un remous. Donc, il faut connaître des solutions probantes, en tant aussi qu'elles ne sont pas renversées parce que le gouvernement change de cap au temps des élections.

Alors, on reconnaît que l'aménagement à l'échelle de l'Ontario est très complexe mais qu'il y a le besoin de respecter les divers besoins locaux tout en inspirant—au lieu d'imposer des décisions durables, de les inspirer, et donc d'impliquer le sens communautaire, et qui est probablement un meilleur accès par les communautés à la Commission des affaires municipales; mais enfin, qu'il y ait aussi une certaine réforme démocratique, comme la représentation proportionnelle, qui verrait qu'il n'y a pas ces grandes majorités de gouvernement, d'élection en élection, qui créent un effet de bascule pour les politiques que le gouvernement voudrait mettre en place.

I'm ready for your questions, if you have any.

Le Président: Merci. Maintenant ça va être au tour du côté du gouvernement. Are there any questions from the government side? You could proceed with your question in English.

Do you understand English, monsieur Thierrin? Est-ce que vous—

M. Thierrin: Oui. Yes. Je comprends l'anglais.

Mrs Van Bommel: OK. Otherwise, I could also ask it in Dutch if that helps at all.

Mr Thierrin: It's not one of the official languages, but I could try.

Mrs Van Bommel: No. I understand that. Maybe it should, but it isn't at this time.

You mentioned that you want more environmental protection within this act. Can you tell me what kinds of protections you're looking for within, I assume, the provincial policy statement?

Mr Thierrin: I think one of the things I like in the statement is urban densification. Basically, "urban densification" means creating more infill, or possibilities to put more people within areas that are already zoned residential, to prevent cities encroaching on other areas, into either green spaces or farmland spaces, ensuring that there are appropriate funding mechanisms to develop public transit, but also pedestrian paths and so on—in a city like Ottawa, probably pedestrian bridges across the Rideau Canal would be extremely useful—to ensure that there is more than just the environment, because housing is important. We saw in the last federal election that housing seems to be a major issue here in Ottawa. Basically it's providing incentives for either the private or public sector to develop more housing for families who need it and it's ensuring that the waterways are protected, making sure the riparian habitats stay near the rivers. Those are the types of things we're looking for.

M^{me} Van Bommel: Merci.

The Chair: Merci, madame Van Bommel. I'll move on to the official opposition side.

Mrs Munro: Thank you very much for being here with us today via video.

You talked about intensification, and we've heard from other presenters today about that being one of the most fiercely opposed changes in community development, that people are very unwilling to see their neighbourhoods come under any proposals for intensification. I just wondered, because you also mentioned a fear of top-down decision-making, whether that's the reason there's that kind of resistance. Have you in your work identified some of the reasons for this reluctance, and how do you respond to those who resist those notions of further development through intensification?

Mr Thierrin: I took a master's in environmental design from the University of Calgary a number of years ago. From what I saw there of architects and planners working together to create models for densification, part of the issue is that we don't have publicly visible models for how it would work. When people hear the word "densification," they think of overcrowding, they think of maybe Tokyo. There are images conjured that are not the reality of what densification could be like. In some cities there is urban infill that takes place, and it seems to create very appropriate houses that are just the right size for what people need. There are ways to do densification that don't result in huge skyscrapers with almost no land around them. There are ways to have maybe something like 10- or 12-storey densification where people are not living on top of one another but that follow the shape of the land. What I'm saying is that an awareness campaign is needed around that whole issue.

For example, at Carleton in Ottawa there is an architecture school. Maybe invite people to present what the community would look like. In Montana they do those

types of things. They do visioning. They say, "What would the community look like if we took away the cars and had more houses? What would happen if we had better access by bypass to the local store?" So, instead of going around in circles in your neighbourhood to go to the local Loeb or Loblaws, you actually could walk for five minutes or take a bike for five minutes to get to the store. It's kind of an education process. That's where I see that. If you want to have some type of top-down process by the province, that's fine, as long as there is inspiration to the communities to go a little bit beyond the boundaries we're setting for ourselves.

I think we're almost in a self-censoring society in the sense that on intensification we can only think, "Oh, the model of overcrowding. That means I'm congested against people. I've paid for my house. I don't want other people imposing on my space." That's a totally normal type of situation. Why not invite the population to see that there are some models available? Co-operative housing certainly has produced a number of good models of different types in different cities across Canada, and there are ways to integrate the landscape and housing in such a way that they provide the quality of life we all want. Quality of life is not necessarily a big house with almost no land around it. It could be a smaller house but a better community, a better sense of belonging to the community where your neighbours live. I think education and awareness-raising are some of the ways of conjuring that. That could be added to the bill by financial incentives or other planning devices.

Le Président: Merci, madame Munro. Madame Horwath du troisième parti.

Ms Horwath: I was interested in exactly the comments you've just been sharing with us. When you used the words "community development approach," it perked up my interest. I used to do community development work. In fact, in the city of Hamilton, one part of which I represent, we did undertake a number of different public dialogue exercises in dealing with our downtown and our new plan for the downtown. So we did have architects in our community who undertook various charettes, and we had a number of community meetings. But I was interested in the last few words you spoke. How do we make that happen? How do we find ways that official plans are developed with community dialogue and with community participation as opposed to simply a bunch of planners sitting in a room? Could you expand on that a little bit more?

Mr Thierrin: I think there is already a lot of consultation taking place. But I think some of the consultation that takes place seems to be presenting a model by experts. If more of the charrette idea you're talking about could take place—when you have an expert presenting a model, even if it's a beautiful model and it's well planned and so on, that's great, but basically people are saying, "This is still an expert presenting that to us." If it could start a lot earlier—for example, it could take place within the school system as well. Teachers are always looking for projects. Why not involve the com-

munity at that level as well? These are the kids who are going to grow up and own houses or have apartments.

There is still the issue of “it’s still the planner’s idea.” I guess the difficulty is that these processes can be very time-consuming, and therefore it’s the people who have the time to do it—it’s certainly not the people who have three jobs at McDonald’s or Wal-Mart who are able to participate in those processes—so how to make the process available to people who have to hold three jobs to make a living and not just the people who are already well-educated and already know how to best present their ideas on things like that. I think maybe part of the educational system could be used for that or, in the summer, there are lots of people playing in parks and so on. Why not have that process in the time of play, instead of having those processes as evening meetings, often during the winter?

Ms Horwath: Good ideas. Thank you.

Mr Thierrin: Those would be some ideas. Bring the consultation to people, as opposed to having people go to the consultations.

Le Président: M. Thierrin, le comité des affaires gouvernementales vous remercie d’avoir pris quelque temps de votre horaire pour adresser vos commentaires ainsi que vos inquiétudes. Merci encore.

M. Thierrin: Merci beaucoup, M. Lalonde.

The Chair: We have time for a little break, a 10-minute break instead of 15 minutes. Can we do it in 10? Thank you.

The committee recessed from 1532 to 1542.

SUSAN SMITH

The Chair: The next presenter is Susan Smith. You have 15 minutes. If there’s any time left at the end of your presentation, members of the committee could ask you some questions. You may proceed now.

M^{me} Susan Smith: Merci, monsieur le Président. Veuillez m’arrêter après neuf minutes afin que je puisse répondre aux questions, s’il vous plaît.

The Chair: Voulez-vous le faire en français?

M^{me} Smith: Non, je vais la présenter en anglais.

My name is Susan Smith. I’m from London, Ontario. I have presented to previous committees regarding the Planning Act. In 1996, I believe it was the standing committee on resource development, but today it’s general government.

I believe that what’s presented now is part of a process, and it has the potential to be an improvement. My greatest concern is in the area of the provincial policy statements. I read the background document that was provided with the example of the bill. My understanding is that, of course, there are several ministries with several provincial policy statements.

I think the best possible planning has been somewhat bedevilled in the province of Ontario over time because sometimes these policies are internally contradictory with each other. As an example, when I hear a planner I’m fond of, just grinning, say, “I can’t explain it. Aggregate

trumps all,” I see that as something which misses the biggest part of the picture. I will only underscore and say that I support previous presenters today who have certainly underlined that source water protection is a primary need and concern. I have always looked at the aggregate resource policy as something that is not enabling the full, best possible potential for the province when it trumps everything.

Earlier this morning, Mr Petersen made a presentation where he referred, in agricultural policy, to the protection of classes 1, 2 and 3 of agricultural land as well as specialty crop areas. For the record, I would like to say that because specialty crop areas can sometimes be a subsequent and interim land use—a post-rehabilitation land use or part of a rehabilitation land use—I would like to see classes 1, 2 and 3 agricultural land come ahead of specialty crop areas, even though there may be an economic tension between the two in the longer term. Because what you are doing is planning, I would like to see the classes of agricultural land preserved and greatly protected.

To give a micro-example of planning, I want to mention 921 Logan Avenue in Toronto. I’m not from Toronto, but 921 Logan Avenue is a little, tiny piece of greenfield that I believe should never be paved over. Currently there’s an application for 14 parking spaces on it. I have documentation showing that there are about 709 parking areas available in that part, abutting either side of Danforth. That greenfield, I believe, unless there’s some nefarious plot afoot, needs to be absolutely preserved as greenfield for access to the subway line, which I believe is the most important part of infrastructure of the whole GTA, as London doesn’t have it. We’re built on top of underground water flow. We’ll never have a subway. It’s so significant that I believe it’s in the provincial interest, separately, to protect that. To that end, the Toronto Parking Authority should not be able to have a direct entrée to the OMB. So I’ll leave that as a side issue.

Again, on the provincial policy statements, I actually support the Association of Municipalities of Ontario’s position that it should read “shall conform to.” “Have regard to” was not a great thing, and I’m sorry that we’ve had years of development in the province that has had that as the standard.

Additionally, as the government moves to have once-every-four-year elections, now enshrined in legislation, my suggestion is that the Ontario Municipal Board appointees have their appointments reviewed in a staggered way so that there is carry-over from government to government of people who are working with whatever the current iteration of a government’s policy in planning law is and that, as other people have suggested, there be a constant academic training, upgrading, renewal in service and examination and review of the decisions of people who are appointed to that position. I do not oppose retention of the Ontario Municipal Board.

I do support what’s in the bill in terms of having it—and this, I believe, is publicly and widely understood—date as at December 15, 2003. I agree with that. I think that’s a great way to run a transition, again underscoring

the importance of having the provincial policy statements come first.

From London, I have a concern when the first line in the policy reads, "By the year 2030, there will be four million more people in Ontario." Well, we've had the greenbelt legislation and the Oak Ridges moraine protection legislation. London doesn't have that quite yet. We don't have something like that which protects the agricultural land that still surrounds the city of London, for reasons enumerated by almost every other presenter who's preceded me here today: the people from the school boards, the points made about protecting transit corridors, not permitting down-zoning, people who want more pedestrian-supportive land use, like we have the potential for in a heritage conservation residential district, Old East Village in Ms Matthews's riding, if that goes ahead. I believe all of those things are really important to protecting the built form we have and keeping it livable, and certainly retaining everything that we have that's a nice scale, a workable scale, a supportive scale.

With respect to greenfield, I would like to see the Development Charges Act, in concert with the changes that you make with the Planning Act, updated more than once every five years. We have a serious challenge right now in the city of London, and I'll be leaving you documentation about a report that's probably before the city council tonight, in terms of consideration. We don't want an exposure of more than the municipality can financially manage on the development charges and how that unfolds—and you can appreciate, with pipelines coming from the Great Lakes. I see tremendous pressures for London to grow dramatically, and it would personally disappoint me if the current aggregate policy trumped all, if we only built roads. I feel that would not be using all the tools that are available, as the provincial planners this morning referred to, to do 21st- and 22nd-century planning so we have livable cities the way they have in other parts of the planet.

So again, development charges should be reviewed. If you can make this a part of what you discussed, either in the super-cabinet of nine ministers who are going to integrate these policies—I would love to see them codified. I would love to see source protection for water at the very top of the list.

To address another issue, unorganized territories in the north—your finance committee of the Legislature's meeting up there this week. Last week or the week before, when Bill 100 was discussed, when you debated it clause-by-clause, there were a couple of issues raised about representation of people in sparse populations not having proper representation because technically they live in what are called unorganized territories. Under the rubric of the Planning Act, I believe that you have an opportunity to create a tool that leaves no lands left in a limbo of technical disorganization.

Am I pretty close to my nine minutes?

1550

The Chair: You have approximately six minutes left, and I'm going to go to the official opposition party. Mr Yakabuski, do you have any questions?

Mr Yakabuski: Well, I have to be honest: I wasn't here for all of the presentation, but I take it for the most part you're supporting the legislation, the proposed amendments to the Planning Act?

Ms Smith: With the one very significant qualifier that I would like to see the provincial policy statements improved in the direction that I've suggested. As I had to refer to the legislation that was introduced in December 1995 by the Conservative government, I felt that was such a dramatic step backwards for so many reasons, followed by Bill 110 and the freeze on development charges and a great number of things that happened. This, I feel, is not a step backwards, but I feel that the most significant piece in the whole picture is having provincial policy statements that work and that require actual conforming to them.

Mr Yakabuski: You're here, Susan, on your own?

Ms Smith: Yes, I'm here as an individual.

Mr Yakabuski: What is your comment on some of the positions of many of the home builders' associations that this legislation, even in its proposed form, with the passing of the greenbelt legislation, has already significantly increased the cost of lots to the tune of 30% in the GTA? Is that what we need to be doing? If that's one of the effects of that, we're going to see the cost of homes go up, the ability of people to own a home go down. Is that a reasonable trade-off, in your opinion?

Ms Smith: I don't accept their data. They weren't actually able to really produce data. They were asked that by members of the committee already today and they didn't produce data to substantiate that claim. Just sitting back in the peanut galley here, it seemed not an accurate claim. So it's really difficult for me to respond otherwise.

Mr Yakabuski: Do you think they might accept the claims of all of the other submitters are accurate as well? I mean, there are differences of opinion, obviously.

Ms Smith: Yes. And sir, you asked for my opinion; that's all I did.

Mr Yakabuski: So we'll just take it on balance that their figures are accurate for the time being. If that is the effect, is that a reasonable trade-off?

Ms Smith: If that were to be the effect, then the task that's before this committee is even more important because, if the cost of housing is to increase by the exponential amounts they are making claims about, then the requirement to be providing an opportunity to claim waste management plans on a development charge—for goodness' sake, in London we don't even have an industrial development charge for land use. The importance to the average citizen of reducing costs on everything else to make transit more efficient, to make it more affordable, to make every aspect about living—and my bias is cities; I live in a city—makes the task before this committee even more important, who you pick for the OMB even more important, in terms of the quality of the decisions that will be rendered.

Mr Yakabuski: Do you believe that the OMB is tilted in favour of developers?

Ms Smith: I honestly don't have an opinion about that. I don't know enough about it.

Mr Yakabuski: Thank you very much. I appreciate you coming.

Ms Horwath: I was interested in your comments about the updating of development charges more often than every five years. First of all, do you have a recommendation on what the time frame should be that would be more appropriate and also whether there are specific things that are missing from the ability to levy development charges against them currently that need to be included?

Ms Smith: I haven't looked at it for a really long time, actually, but there are certainly capital costs that need to be included, and waste management was one. Just to give an example, when I look at greenfield development, I think of corridors, utility corridors, and more than 5% open space, for heaven's sake. The 5% open space is a real inarticulation in the Planning Act; for instance, reference to transportation corridors, waste management corridors, what might be potentially other utilities in the future that people may need access to; why greenfield wouldn't have land set aside, because it's greenfield, without mature deciduous cover, creating space for composters, for a level of waste management that doesn't involve picking up somebody's kitchen waste with a fossil fuel-powered vehicle that has to run on aggregate-using city streets. There have to be other ways to do this.

To include that in the development charge as well—the document that backs this up is for a 26-year time frame. I'm not convinced that revisiting the development charge only five times within that time frame is adequate, given that the suggested population growth is four million people. I'm actually prepared to suggest a three-year review of the development charge, because the way growth has been taking place, it's at least a valuable exercise to help municipalities that have officers elected once every three years to really get themselves up to speed on what the real operating costs to the community are and the impact of all decisions. It comes right back to the balance sheet every time.

The Chair: Our time is up, but you have shown that you have a keen interest in the future of our environment. Thank you very much.

DUFFERIN AGGREGATES ST LAWRENCE CEMENT

The Chair: The next presenter will be Dufferin Aggregates and St Lawrence Cement: Bill Galloway, general manager. On behalf of the standing committee on general government, I would like to welcome you to our public hearing on Bill 26, An Act to amend the Planning Act. You have 15 minutes. You can take the whole 15 minutes or leave some time for questions at the end.

Mr Bill Galloway: Thank you, Mr Chairman, and members of the committee. You are correct: I am here today representing Dufferin Aggregates and St Lawrence

Cement, but just so you are all aware, I carry two other hats. One is chairman of the Ontario Aggregate Resources Corp and the other is that I am a member and past chairman of the Ontario aggregates association. But I am here speaking on behalf of the company.

Dufferin Aggregates produces roughly 75% of the stone that goes into the GTA, and we operate quite a broad spectrum of pits and quarries, from Mosport in the east, north to Carden, down into the Hamilton area and west as far as Kitchener-Waterloo. We employ over 400 people, and there are 1,300 people employed by St Lawrence Cement. Our Milton quarry and the Acton quarry just north of Milton are our two largest assets. Milton is certainly the largest quarry. It has been there since 1964 in the town of Milton and actually straddles the border between Milton and the town of Halton Hills.

It's clear from our submission that aggregates are an essential part of our growth. We know we depend on them not only for our own well-being but also our economic growth. When you look at what we've been blessed with in the world, most of what we are as humans—not only do we depend on our environment but we also depend on our earth to grow our sustenance and also to mine a lot of the products we use in our everyday life. So aggregate is a key component.

With regard to the map—I'll skip the detail of the map—it does give you an indication of our overall business within Ontario.

We've been fortunate to be able to speak to various standing committees, most recently the greenbelt. We have made a statement on page 1 that deals with our rehabilitation plans. We are recognized as a provincial leader and in some cases a North American leader in rehab. We see certainly that we are an interim use and, as such, today in parts of our quarry we have 155 bird species; 40 of them are actually breeding in place. We have over 20 different dragonflies and various butterflies in our quarry and as many as seven different frogs. So we believe we're an interim use because we practise progressive rehabilitation.

1600

With regard to aggregates and the provincial use, we don't see ourselves, as an industry or as a company, trumping the needs of the other planning elements and the other provincial policy statements. We do believe that a close-to-market supply is very important; it's important to our economy, it's important to our growth.

As early as 1978, the government recognized that there was a need for a sound policy statement. Right now, as you know, the PPS talks about, "As much of the mineral aggregate resource as is realistically possible will be made available to supply mineral resource needs, as close to markets as possible."

What we're talking about there is, let's ensure that we do the whole job and recognize, as we will see later on, that one of the reasons you want to be close to the supply is, yes, a cost issue, but it's also an environmental issue with regard to greenhouse gases and fossil fuel consumption.

The state of where we are today is that locally produced resources are sold at the rate of 3 to 1 over what has actually come on to the market as new licences. For crushed stone, which is produced at Milton and Acton, there hasn't been a new licence granted since 1978, and those are the high specification materials that MTO needs and they're also the key materials needed for the major marquee projects that you see in cities like downtown Toronto with the SkyDomes and the high-rise condos and that type of material.

That's certainly an issue, because we've had Minister Caplan talk about an infrastructure deficit. Well, there is a deficit in aggregate today, and those numbers can be supported by Clayton Research and by MHBC Planning, and those documents are in the hands of the ministry now.

Our current situation is really not sustainable. Pushing the aggregate industry further afield from the GTA isn't sustainable either, because every time you move a kilometre away from our key market, the 2.25 million-plus tonnes of greenhouse gases and the 820 million litres over the next 10 years—those are actual facts and not fabrications—it is the equivalent of adding 50,000 cars to the road every year.

Today we've got a shortage of transportation in trucks, and one of the key components is the number of trucks that actually take the haul from the various points in the province to the GTA. Most of the transportation costs will be the equivalent of \$4 billion over the next 10 years, and the public sector actually uses about 50% of the aggregate, whether it be municipally or provincially, for MTO work. So our concern is that we look at it from the totality of the environmental picture and that if you're further out you have more trucks going past more people and creating other environmental concerns.

In a coordination of the Planning Act amendments, on page 8 the message here is that we support the proper implementation of provincial aggregate policy and the provincial policy statement as it is. We also support the greenbelt initiative that has been well outlined and we feel it would be a benefit not only to the industry but to the province as a whole.

What we are hoping for is that we provide clear direction so that both the provincial policy statement, the greenbelt plan and the growth management plan in terms of their goals and objectives are very clear so that, as they go forward, it provides clarity downstream to the municipalities that will end up implementing these Planning Act amendments. It's really the intent and making sure that the intent of the government ends up being implemented effectively by the municipalities. If it isn't implemented properly, then your intent may not actually reach reality.

As I said, we do believe in the "shall be consistent with" section 2 statement, and we endorse the province policy statement. By no means does the current provincial policy statement or any draft of any legislation I have seen provide aggregates with a trump over environment. We wouldn't want that. What we want is just to

make sure that, on balance, each of the provincial policy statements are read in their entirety and are consistent with the direction that the government wants to go. You will not find an aggregate professional in this province who says that we want to trump any of the other provincial policy statements.

What we are concerned about is the clarity of the rules so that the team that's implementing this knows exactly what the intent is and they do implement it. I've been challenged by one of the municipalities in Halton that we work in. We have a very strong relationship and they asked me why I challenged their official plan. I said to them, "It's a process. What I want is clarity in the rules, and right now, I believe you're interpreting the rules differently than the intent of the legislation that's being brought forward. So I'm challenging it just so that we have the time to make sure that we understand how we're implementing this. We're going to end up implementing this together." That clarity is something that we want to make sure happens through the implementation process.

We're not in favour, either, of changing the OMB. We have been involved in various OMB issues as an industry. We don't feel that they're biased in direction. We feel it's a body that has been provided with clear expertise that works on behalf of the province to make sure the general policy guidelines are implemented appropriately. We don't buy into the increased cost and delay arguments or uncertainty or the politicization of it or any of those issues that have been brought forward.

We do believe that, as you move forward with a new piece of legislation, you move forward from day one and not retroactively, so the transition rules need to be clear.

I've talked about clarity in implementation, and that's where the monitoring comes in. There has to be some feedback mechanism to the province so it has a good understanding that the intent of the legislation is actually being implemented in the field. We want to make sure that we monitor and we want to be able to track success.

The end game for the aggregate industry and St Lawrence and Dufferin is that we want to make sure that, as a company and as a province, we positively plan for aggregates. We know and have participated in the NEC, the ORM, the greenbelt. We know what restrictions apply there. Now, with the Municipal Act, we want to make sure that the consistency of the statements that have been made in those other pieces of legislation are carried through effectively into the Planning Act.

We certainly have economic restrictions as time has gone on. It's always tough to buy what you want to buy and locate where you want to locate. We tend to locate where God put the aggregate, and we have to make sure that our planning statements are consistent with that and protecting resources, but not always at the expense of other issues within the provincial policy statement.

It's planning now. My last message would be number six, which is, let's continue to plan positively for aggregates. The OMB does provide a critical role in providing appeal and arbitration for both sides of any argument, and eventually those specialists should come up

with the right answer in the interest of the people of Ontario.

Specific reform recommendations have got to be evaluated for their effectiveness in contributing to the protection of provincial interests, and part of that is making sure that aggregate is available and close to market supply. I believe through the legislation—both the greenbelt and the growth management plan—aggregate has been recognized as an important resource but, again, I would stress that we do not believe it trumps all other issues.

1610

There are three maps enclosed. The first just shows you various rehabilitation sites across the province that support the interim use argument. The second deals with the various—these are real pictures from my real quarry. These species do exist, along with 300 other plant life species. The last map is a man-made wetland that has these species in it and also has the 300 or so plant life.

I think I left it us short for not too many questions. My apologies.

The Chair: We have time for one question, and I'm going to ask the third party.

Ms Horwath: My question is just around the idea of the cabinet being able to intervene and overrule an OMB decision if they deem it to be in the provincial interest. Could you comment on that?

Mr Galloway: We don't support that because it basically means that for us as a company—and I suspect my colleagues in the industry would agree—the policy is in flux. I think the OMB has the experts there to be able to implement policy. As you know, there are examples where both the public and the proponent have the ability to appeal an NEC joint board ruling to cabinet. That, as you know, does not have a timeline. There is a process but there's no—it could be hung up forever.

We really support the OMB. I've been fortunate not to be at too many of those.

The Chair: Thank you very much. Our time is up.

Mr Galloway: Thank you very much.

The Chair: We appreciate the time you have taken to come down and voice your concerns and your comments. Thanks again.

CONSERVATION COUNCIL OF ONTARIO SMART GROWTH NETWORK

The Chair: The next presenter would be Chris Winter. He is the co-chair of the Smart Growth Network. Thank you for coming down and, on behalf of the committee, welcome to the public hearings. You have 15 minutes. You can take the whole 15 minutes or leave some time for a question period at the end.

Mr Chris Winter: I always hope to leave some time and then it always works out the other way, but I will endeavour to be brief and to the point.

I'm actually here representing the Conservation Council of Ontario, for whom I work as the executive

director, and also to a degree the Smart Growth Network, for whom I am the co-chair. Both of these organizations give me an opportunity to get a very broad spectrum of views and input, much like a public consultation in my own right, on these issues, and planning reform in particular in this case. What I have been able to do is focus on some of the key points, and on one of the key points that I think is going to be problematic in the whole planning reform process, and put forward some suggestions and recommendations.

Bill 26, and planning reform as a whole, has a goal of strengthening communities and creating compact, liveable communities. That's very consistent with the goals of the Smart Growth Network: to curb urban sprawl and then to create healthy, liveable cities. The third goal we have is to support effective citizen involvement in the planning process. So we're very much encouraged by the general direction Bill 26 and the whole planning reform package is taking.

I also want to commend at this point some of the work that's been done by other organizations within the Smart Growth Network: Ontario Nature and, particularly, the work done by Mark Winfield and the Pembina Institute. They have done a very rigorous analysis, and that has allowed me to focus on one or two points and say, "Hey, here's where we need to do some work."

The concern I have is what the impact is going to be at the community level. We have a lot of tools in place here to curb urban sprawl, to reshape urban development, to focus it in on existing communities and create compact, intensified community development. What we don't have, what I haven't seen in this package, are the tools to make that community intensification work for the people in the community. There are provincial tools, there are municipal tools, but there is nothing, really, in the package that is focused on community design and enhancement. In fact, in the provincial planning statement you get a little bit of overlap and flip-flopping between the terms "community" and "municipality;" they're used interchangeably. I think we need to tighten up the understanding that there is a level of planning beneath municipalities, which is the neighbourhood design, the healthy, livable community within municipalities, and we don't have the tools to promote that.

There are two arguments I've heard, two complaints about intensification: One comes from the developers saying, "We want guarantees that our intensification projects are going to go through unfettered," and the other comes from the residents saying, "We don't want intensification forced on us. We want to have a say in what our community is going to look like." Unless we resolve this conflict, I think we're going to have a lot more battles at city council and a lot more battles at the OMB.

Looking at the past, there are a number of tools for community design and, in particular, looking at the Planning Act, there is the whole part IV on community improvement planning. There's nothing in Bill 26 addressing this or aimed at improving that section and

integrating it in with the current push for urban intensification, so we need to address that.

There are tools for community planning. What we need to do is update those tools to make them consistent with some of the new principles that have come forward, even in last five years, through the Smart Growth movement, which is a North American movement to create compact, livable cities.

It's very difficult to suggest a simple clause for Bill 26 that we can insert. What we really need to do is look at what are the key messages that we send and how do we support those messages with detailed policies, guidelines, support programs and case studies, the tools that are really going to help turn around the whole face of urban development in Ontario and to make this compact, intensive development truly livable and a win-win scenario for those living in the communities where the intensification is happening.

My recommendations here are: Within Bill 26, I recommended that you include a definition of "community improvement" that allows the scoping of community improvement plans to include areas of compact development and intensification. In there, I mean both the greenfield development, so that we can do an intensive planning process for new greenfield development, as well as for the redevelopment of existing areas where we expect growth to occur.

The second recommendation is in the provincial policy statement. We recommend that a new section, 1.7, should be included in the provincial policy statement to provide direction on the requirements of community planning. I have a draft definition and section that I've included for you.

The third is a stakeholder process. With these kinds of triggers in place, what we need is a stakeholder process, much like the Greenbelt Task Force, where you're bringing the key stakeholders from the development community, the municipalities, the neighbourhood associations, environment and housing groups together to really hash out what this new design process would look like and how we make it work.

The fourth element is to look at model plans. We do have this window of opportunity in the next couple of years, as the whole changes in the Planning Act and process kind of filter down, to do a couple of very good models. I recommend here the Seaton lands in Pickering which, as you know, have already been quite well studied, but it should be an example of smart growth when we develop that new area. Also, I've been following with interest a series of articles in the local paper on area C in Cobourg as a new greenfield area and what that could look like if it was designed for the community as opposed to just a traditional urban-suburban residential development. So those are the four main areas.

1620

I have included a recommendation that could be put into the definition of "community improvement project area," which would mean an area either developed or to be developed, the community improvement of which in

the opinion of the council is desirable because of—and this is the new wording—"the potential for improving community services and values through community design and compact urban form," and then back to the original definition of age, dilapidation etc. This would expand the scope of community improvement plans to allow it to do some of this new visioning, as well as just the old model of the plans where they were dealing with rundown areas, particularly in downtown urban cores. So you have to provide these new tools to municipalities and communities to be able to engage in this process of rethinking urban development in Ontario.

The section on the policy statement includes in there some of the requirements or the visioning of what a healthy, mixed-use, compact, pedestrian-friendly community is. It just lays out essentially the points that need to be included in this community plan without specifying exactly what they are, but it means that it has to address ease of access to local health services; ease of access to local retail services; ease of access to local education services; ease of access to recreation and cultural activities; local transportation options in the community; pedestrian-oriented community centres; a mix of housing, green space, retail and employment opportunities; and an appropriate mix of housing types. So it lays out what the elements of a healthy community are. It allows you, then, to plan for those elements in a community, which is a sub of a municipality, and then use this plan to drive the development process. When developers are coming in and saying, "We want to intensify, we want to develop this lot," the municipality or the community is then able to take this plan and say, "How are you going to contribute, either through development charges or actual physical contribution, to us achieving this plan?"

Bringing it back to Bill 26 and section 4 of the Planning Act, putting it into that section in the community improvement plans allows the ministry to identify and earmark funds for community enhancement through these plans. It then allows us to operationalize some of these plans a lot easier than if it were just a stand-alone municipal plan.

I'll leave it at that. Clearly, there is a strong need in this planning reform to address community design and enhancement. If we don't do it, then I think we're in deep trouble, with lots of hearings, lots of local complaints, petitions, OMB hearings, everyone being up in arms and fighting about the intensification that is bound to happen in their neighbourhoods. We need to do something very soon to turn what could be a potentially contentious scenario into a win-win scenario. Thank you.

The Chair: We have four minutes left. We could have two minutes for two parties. It's up to the government side.

Mrs Van Bommel: Thank you for your presentation. I'm certainly intrigued by the concept of community design and improvement. Are there any jurisdictions that are currently doing this type of thing, be it in other provinces or other countries, that we could use as a model, take best practices from, so we avoid reinventing the wheel?

Mr Winter: I've been doing a bit of Web search, as we all do when these questions come up. I found a couple of Web sites, in the UK primarily, where resources are there. Community planning means a whole lot of different things to different people. It's everything from planning for social services to actually planning the physical layout of the community. There's a tremendous amount of resources available worldwide. I'd probably say the best examples of this are in the UK, but I think we would also be able to find examples throughout North America of case studies where this is being done. In Ontario, we don't really have too many case studies, which is a shame. Cornell is typically referred to as one of the best examples, and it is better; it is not the best. I think we would be able to find some good case studies and build on those.

The Chair: Now I'm going to go to the official opposition side.

Mrs Munro: Thank you very much for coming here today. I realize you've used your time in talking about a very specific part of what you consider to be appropriate to add to this bill. Actually, the previous question was also my question in terms of places where there are those good examples. One question that relates to that, and then I'll get to a second one, is, in the work you've done, have you seen where social services have also been included in looking at this kind of community design?

Mr Winter: Absolutely. Most of what I've seen is theoretical and not on the ground. In part, that's due to my limited budget and travel expenses, so I can't get to many of these places, and across the States where they've attempted this. One of the things about doing this compact and mixed-use design built around the nodes or village centres within an urban area is that you're able to look at social services and health care services and plan the kind of primary service, the first contact service, so that it's within your community, within walking distance, in an affordable, accessible manner.

To use health care as an example, we're not designing hospitals, we're designing clinics. We're designing the local units where people can go to a family doctor and making sure that there is that ease of access within the community. That should reduce wait times. It should reduce costs. It's the same with social services. It's to ensure that the key social services, be it daycare or food support for the elderly, are all available within that local community, and identifying where the gaps are in our planning and saying, "This is where we need to put the emphasis."

Mrs Munro: My final question then: With regard to the provincial policy statements, obviously it would seem to me that to take on this as part of the inclusion in Bill 26, you would also be looking at significant changes to provincial policy statements. Is that a fair comment?

Mr Winter: Yes, and that's part of the submission we made on the provincial policy statement, which is to include a section in there on community design and enhancement of community planning that would outline the key criteria for a healthy community. So take that one

step further. The legislation is the trigger, the policy statement fleshes it out, and then the next step is to bring all the stakeholders together and actually work through the design, the guidelines, to assist communities in undertaking this planning process.

It is new, what we're doing. It has not been done in Ontario. We are able to find precedents and examples within the smart growth movement across North America, but it's also borrowing a lot from some of the traditional planning ideas of Europe, creating those compact villages or towns that will last for centuries and be vibrant community centres for centuries.

The Chair: Thank you very much, Mr Winter. We appreciate your presentation.

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ONTARIO CATHOLIC SCHOOL TRUSTEES' ASSOCIATION

The Chair: The next group is the Ontario Catholic School Trustees' Association, Mr Ken Adamson, director, and Peter Lauwers, solicitor. You have 15 minutes. You can take the whole 15 minutes or leave some time at the end for questions. You can proceed.

Mr Ken Adamson: Good afternoon. I'm Ken Adamson, member of the association's board of directors. I'm a trustee for the Dufferin-Peel Catholic District School Board. With me is Peter Lauwers, our association's solicitor.

The Ontario Catholic School Trustees' Association appreciates the opportunity to address the standing committee regarding Bill 26, the strong communities act.

You have before you our written submission. You will note that this brief has been jointly written by the four trustees' associations that represent all the publicly funded schools in Ontario. Our unanimity speaks to the importance of these issues to all Ontario school boards and to our strong resolve to help bring about changes we seek.

Our colleagues from the French public and French Catholic trustees' associations were not able to be with us today.

We would like to mention the presence of Tom Pechkovsky and Joel Sloggett of the Ontario Association of School Business Officials and acknowledge the support of that association in our submission.

Bill 26 is an important part of the planning reform within the context of the government's current larger initiative in this area. The proposed changes to Bill 26 that we recommend are meant to be effective in themselves and also to enable and guide appropriate changes to the provincial policy statement. To provide the full context, our submission includes comments on proposed reforms to the provincial policy statement and to the Ontario Municipal Board.

In our submission today, OCSTA will focus on the first five recommendations in our brief. Because school boards are major players in the planning process, the provincial trustees' associations have had a long and

abiding concern about planning law. We applaud the government's goal in building strong communities where all Ontarians can thrive. We therefore focus on the importance of schools in building strong communities.

OCSTA and our partner associations believe that schools are an integral and important part of any strong community. They are the places where young people gather to learn and to absorb the values of the broader community. Schools are places of community activity. They provide valuable green space, particularly in urban areas. As well as providing recreational facilities for community use, schools are significant users of land and are essential to planned communities.

The importance of schools to communities has been recognized by the Ontario government and particularly by the Premier and the Minister of Education. The siting of schools is critical to the long-term success of schools and their local communities. The goal of school boards is to build right-sized school buildings on right-sized sites in the right location in relation to student population.

In recent years, school boards have increased in size and sophistication. Many, particularly larger boards, have dedicated substantial resources to land use planning. They have departments dedicated to school planning and employ professional planners who work closely with the Planning Act and various public bodies. School boards also have ready access to land use planners and demographers in the private sector. Yet, despite their considerable expertise, school boards are too often the forgotten siblings in the municipal planning and zoning process. The existing provisions of the Planning Act do not sufficiently recognize the importance of schools in planning. Municipalities have often disregarded the needs of school boards, and the Ontario Municipal Board has on some occasions failed to defend the interests of education.

We would like to state clearly and emphatically that this is the time for the province of Ontario and municipalities to recognize and respect the valuable expertise that school boards bring to the table in planning strong communities. In general terms, it is our belief that neither the Planning Act nor the provincial policy statement in its current or proposed draft give due respect to the role of schools in building strong communities and to the role of school boards in planning and operating schools. The recommendations we make are aimed at a reasonable rebalancing of responsibilities among the public bodies involved in the land use planning process.

In the section of our brief on page 7, we comment both on the current Planning Act and on the proposed amendments to be made by Bill 26. The associations are generally in support of Bill 26 proposals. We support particularly the increase in the time period available for making decisions before appeals may be made to the Ontario Municipal Board in respect of official plan amendments, zoning bylaws and subdivision approvals. The additional time will provide for more orderly municipal decision-making and consideration of the concerns raised by commenting agencies such as school boards.

The tendency of municipalities not to release planning reports until the day before the public meeting required under the Planning Act creates difficulties for school boards. This tendency may be a symptom of timelines under the Planning Act that are now too short. This puts real pressure on commenting agencies like school boards, which must attend the public meeting and express their views in order to retain appeal rights.

Just as it is not appropriate for municipalities to be squeezed by unreasonable time constraints, it is also not appropriate for commenting agencies such as school boards to be squeezed by untimely reports from municipalities. The associations recommend that an obligation be inserted into the Planning Act requiring municipalities to make the report of planning staff regarding planning-related decisions available on the date that notice of the public meeting is provided. This will generally provide commenting agencies such as school boards with 21 days' notice of the position to be taken by the municipal planning staff. If it is felt that this additional obligation reduces the time for municipal review too much, then the associations would support the addition of 20 days to the time limits proposed by Bill 26 to accommodate this new obligation on municipal planning staff.

The associations also support the proposed change in language that would require the planning decisions to be consistent with the provincial policy statement. There is, however, a small word of caution. As a statement of policy, the provincial policy statement is not as definite and clear as a piece of legislation. Some interpretations are therefore required and there will be honest differences of opinion. The associations are confident that these conflicts of opinion can be resolved by the Ontario Municipal Board on appeals where there is local disagreement.

The associations propose a number of amendments to the Planning Act to address our concern that the role of school boards is not well defined or respected by the act. These amendments are important not only for the Planning Act itself but also for the provincial policy statement which depends on definitions in the act. School boards are lumped into the definition of "local board" that combines them with a number of other entities with more limited responsibilities and therefore tends to downplay the school boards' role. The associations propose that the term "school board" be added specifically to the definition of "public body." This change should be made in sections of the Planning Act that refer to "local board," particularly in subsections 3(5) and (6) and proposed in the amendment by Bill 26. The specific reference to school boards will be of assistance in ensuring that they are recognized as public bodies with weight and significance in addressing matters of provincial interest under section 2 and in making planning control decisions under section 3 of the Planning Act.

Section 41 of the Planning Act deals with site plan control. The experience of school boards has been that many municipalities routinely ask for more than they are entitled to under section 41 in exchange for site plan

approval. Since school boards often find themselves in tight timelines, they are sometimes forced to submit to municipal demands that are in fact illegal, time consuming and costly. While an appeal to the Ontario Municipal Board is theoretically possible under section 41, the delay that such an appeal would bring about often makes this remedy useless. The associations recommend that a right to appeal and build be added to the Planning Act, with the requirement that the municipality reimburse the school boards for requirements imposed which the OMB determines ought not to have been imposed under section 41.

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The intention here is to give the school board the ability to protest municipal requirements without holding up the process of the site plan agreement. The existence of this provision would discourage municipalities from asking for more than they're entitled to under the Planning Act. The result of this is only fair.

Boards now plan and build schools for long-term sustainable enrolment. This means, however, that a school will not be able to accommodate all of the students during peak enrolment periods, often in the early years of an area. The Ministry of Education recommends that portables be used to accommodate students during a peak period. As the enrolment settles down to a long-term sustainable level, portables can then be withdrawn. Over the life cycle of a school it can be expected, though, that there will be times when portables will be needed and times when they will not.

Traditionally, local residents dislike portables. Parents understandably want to have their children attend school in permanent facilities that they see as superior to portables. Others in the community often see them as an eyesore. Local politicians on municipal councils are often resistant to the placement of portables on local school sites because of community pressure.

In recent times, municipalities have made it more and more difficult for school boards to place portables. They have insisted on site plan agreements and site plan approval to locate portables. The delay in obtaining site plan approval and building permits can cause real hardship in the local school community and neighbouring schools and can impose additional transportation and other costs on school boards. It can encourage boards to leave empty portables on site to avoid predicted future problems in placing them there again.

The Ontario Catholic School Trustees' Association and our partner associations recognize the concern that municipalities have in the placement of portables as an appropriate issue to be considered in the process of site plan approval. In that exercise, we recommend that an area of the school property be identified as eligible for portable placement without further municipal approval.

OCSTA would like to conclude our presentation at this point. We thank you for the opportunity to address you in this regard. We invite your questions.

The Chair: Thank you, Mr Adamson. We only have time for one question. It's the official opposition party's turn to ask that question.

Mrs Munro: Thank you very much for your presentation here. I have to express sympathy for the kinds of issues that you've raised in this presentation.

I can remember quite clearly a situation that I'm sure would fit into the kind of examples you've provided us with, where the municipality held up the approvals for the washrooms for the portables. The portables had come; the school couldn't use them because there were too many of them. They required washroom facilities, and the approval for the washrooms hadn't come. All of the students, then, had to be accommodated for a period of time within the building and weren't able to use the portables that were sitting there on the school property.

So rather than a question, I would certainly want to place on the record an understanding of some of the issues you've brought forward here today. I would certainly hope that the government will take time to consider the kinds of issues you've raised, because it would seem to me that they are things which are really important for you to be able to do in a timely way and without the kind of bureaucratic restrictions you've encountered.

The Chair: Our time is up. We really appreciate the report you have submitted to us. You can rest assured that the staff will be looking through it.

ONTARIO PUBLIC SCHOOL BOARDS' ASSOCIATION

The Chair: The next group is the Ontario Public School Boards' Association. On behalf of the committee, welcome to the public hearings on Bill 26, An Act to amend the Planning Act. You have 15 minutes, of which you can take the whole 15 minutes or, if you wish to leave some time for question period. Every time you address the members, if you could state your name, please. You can proceed.

Mr Rick Johnson: Good afternoon. I'm Rick Johnson, trustee from the Trillium Lakelands District School Board and president of the Ontario Public School Boards' Association. With me is York Region District School Board superintendent Dr Ralph Benson, our association's technical adviser regarding Bill 26.

I am very pleased to be presenting today with and in support of my colleagues from the Catholic trustees' association. The role of school boards in the municipal planning process is of great importance to all in education and to the citizens of Ontario.

OPSBA has prepared our written submission in collaboration with the three other provincial trustee associations. I would refer you to the brief handed out by the Ontario Catholic School Trustees' Association. In our presentation today, OPSBA will focus on the recommendations, beginning with recommendation number six, subdivision control.

Fundamentally, in relation to developments, school boards see themselves as providers of a form of infrastructure. There is no significant difference in terms of the timing of development between the provision of

water services, roads and the provision of educational services.

School boards have a statutory obligation to provide education to students. If housing is built before schools are available, the burden of transportation must be borne by the school boards. The cost of temporary accommodation and transportation is, over a relatively short period of time, equivalent to the cost of new school buildings.

Even though the current funding model provides pupil accommodation grants for new school construction and the Education Act allows eligible school boards to levy education development charges to pay for school sites, there is often some delay in the acquisition of school sites and the provision of schools. We propose language for the act to address the staging of residential development to help ensure that schools are available for students in new housing developments and that an undue burden is not cast on school boards.

Reservation of school sites: In the past, school boards and developers entered into option agreements under which the obligation to buy a school site designated in a plan of subdivision lasted for a few years. More recently, with the strong market activity in housing, developers have been anxious to complete a plan of subdivision and move on and are not as receptive to the concept of option agreements as they have been in the past.

The experience of school boards is that it takes a reasonable time to determine whether a school site is needed in a particular area. During that time, development and subsequent student yield from new development can be monitored. Generally speaking, it can take up to five years from the date of registration of that phase of the subdivision containing the school site to determine the need for an elementary school site and up to 10 years to determine the need for a secondary school site. It would be better for the orderly planning of the community if option periods were standardized. The associations propose an additional school site reservation period of five years, with a subsequent reservation period of five years, renewable at the instance of the school board.

Parkland dedication: Parkland dedication is addressed in section 42 and again in section 51.1 of the Planning Act. Traditionally, these sections have been interpreted by approval authorities in such a way that school boards were not obliged to provide either land or cash in lieu of land for parkland purposes. However, recently there have been some indications that municipalities might be changing their practices. The associations recommend that school boards be exempt from the requirement to contribute land for park purposes or to contribute cash in lieu for park purposes.

Proposed provincial policy statement: The comments on the proposed provincial policy statement set out in the third section of our brief are, strictly speaking, not directly relevant to the standing committee's consideration of Bill 26. Because Bill 26 is intended to operate in a context that includes the provincial policy statement, however, we thought it would be helpful for the standing

committee to understand how the changes we propose in the Planning Act to be incorporated in Bill 26 would be reflected in the provincial policy statement.

Like the current Planning Act, the proposed revisions to the provincial policy statement fail to acknowledge the role of school boards. Although public service facilities are given a higher profile, school boards are not mentioned as decision-makers with influence on the planning process. There is, for example, no specific direction to coordinate official plans and the long-term accommodation plans of school boards as required under the Education Act. Since both of these plans operate within a similar long-term time frame, it makes sense they should be linked.

The experience of the associations has also been that municipalities will not always utilize opportunities to coordinate public land uses such as the location of schools beside parks that allows for a minimum use of land and a maximum use of public facilities. We propose some language on this issue.

While it is clear that municipalities have important responsibilities under the Planning Act, it is equally clear that school boards and other public bodies have different and important roles to play in making decisions that impact on land use in a municipality. This must be recognized. In our brief we propose changes to the draft provincial policy statement that build on the changes we are proposing to the Planning Act.

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Ontario Municipal Board reform: The fourth section of the brief, dealing with the Ontario Municipal Board, is not, strictly speaking, relevant to this committee's consideration of Bill 26. At the same time, however, the actions of the Ontario Municipal Board form part of the context within which Bill 26 is intended to operate. OPSBA and our partner associations are generally in support of the roles and responsibilities of the Ontario Municipal Board. Notwithstanding our concerns about some OMB decisions, we would not want to see the elimination of a right to appeal planning decisions from municipal councils to the Ontario Municipal Board. A form of appellate body is necessary to ensure that parties coming before municipalities with development proposals have a venue to seek redress if proper planning principles have not been observed by the municipality or if they have been unfairly treated.

It must be recognized that a vast number of planning decisions are made every day by municipalities across Ontario, only some of which are appealed to the Ontario Municipal Board. Appeals, in short, are the exception and not the rule. It is from this perspective that the frustrations of municipal councils about the OMB must be assessed.

The associations believe that an appropriate appeal body is the Ontario Municipal Board. The OMB has developed over many years a measure of expertise that could not be matched by a court. OMB proceedings are quicker and relatively less formal than court proceedings. They are also more open to members of the community

and are certainly more accessible. The associations believe that the Ontario Municipal Board should continue to have the same remedial jurisdiction that it has at the present time.

In conclusion, OPSBA is grateful for the opportunity to provide our submission to the standing committee on Bill 26. We applaud the government's goal of building strong communities where all Ontarians can thrive. We believe that achieving this goal will require the full engagement of the school boards of Ontario. Schools are an integral and important part of any strong community. It is our associations' belief, based on the experience of our member boards, that there is often an unnecessary degree of friction between the municipalities and school boards on land use planning issues. Recognition by the province of Ontario and by municipalities of the considerable and valuable expertise that school boards bring to the table in planning strong communities would better serve the public interest.

OPSBA and our partner associations believe strongly that it is time to rethink in planning terms the relationship between the provincial government and school boards and between school boards and local municipalities in land use planning for schools. The recommendations we have put forward for changes in the Planning Act and in Bill 26 are aimed at a reasonable rebalancing of responsibilities among public bodies involved in the land use planning process. The associations are proposing modest and balanced amendments that continue to recognize the necessary pre-eminent roles of municipalities. The task of planning reform that the Ontario government has undertaken is an important opportunity to recognize and give more prominence to the importance of schools in building strong communities and the role of school boards in planning for and operating schools.

OPSBA appreciates the opportunity to address you in regard to changes to Bill 26, and I invite your questions.

The Chair: We have approximately six minutes left. I'd like to give a chance to the three parties, if we could keep our questions short.

Ms Horwath: I'll be very brief. It's interesting: Your brief really does speak to a number of issues that are happening in my municipality, which is Hamilton. The school board wants to build a school in a park and the municipality doesn't want that. We have greenfield development where there are huge housing pressures and schools are not being built and parents are getting really angry.

The other one that interests me is where schools are closing. I'm wondering if you can comment on whether you think there's anything that needs to be done on the other side of the scale where schools are closing. We have joint facilities currently with schools that are closing, and then the municipality is stuck with having to deal with the division of things like boilers. It's quite a bizarre situation, so I'm wondering if you could comment on whether you think there is any obligation on the other end of the scale, whether it's through the Education Act in terms of dissolution of property or any comments on that.

Dr Ralph Benson: Ralph Benson, superintendent of corporate planning, York Region District School Board. The issues of closure are very significant. There are a number of areas in the Education Act and also in the regulations under the act which address school closures. So I think it's outside the jurisdiction of this brief, but there certainly is a need to develop the appropriate agreements between the municipality and the school board, not only the development agreements but the operating agreements, and also how the partnership would be dissolved. Those need to be addressed, and you have to do it at the front end before entering into multi-use agreements. We're very conscious of and supportive of multi-use, but it's responsible to address the dissolution as well in those agreements.

Mrs Van Bommel: Thank you for your presentation. In your brief, you mentioned that municipalities often will ask for things that they're not necessarily entitled to when it comes to the planning and applications for school sitings. Could you tell me what kinds of things they would be asking, and would you even want to speculate as to why they would do that?

Dr Benson: I will try to answer that. We should always say that the things we're stating here do not happen with all municipalities, but typically municipalities will ask for school bus lay-by lanes, sidewalks and traffic lights. School boards consider these to be municipal responsibilities and, very often, when development occurs, these are obligations that are placed on the developer.

In the case of school boards, there is no resource base. School boards are provided with the money to acquire the land through education and development charges and to build the school facilities themselves through the Ministry of Education, and there are no resources available to do work on municipal lands. So these are among the issues that have faced a number of school boards in recent years.

Mrs Munro: As I mentioned to the previous presenters, obviously I found these issues to be quite interesting, and certainly this seems like an appropriate opportunity to bring them forward. I wondered if you'd had conversations with your municipal partners on the submission that you have provided us with. Do you have any sense of their willingness to see this as something they would support in terms of—you know, you've made these recommendations, and looking at the inclusion, wider perspectives in the policy statements and so on and so forth. I was just wondering if you've had a sense of ultimate interest in co-operation from your municipal partners.

Mr Johnson: Just a brief comment: I know that every board maintains a different level of co-operation with their municipalities, and so much of it depends upon personalities and past history. I know it's something that all boards continuously work at, but—possibly, some further comment?

Dr Benson: Yes, I think that for the most part the municipalities would be supportive. There are areas,

however—and what's very important is that municipalities and school boards are in a superordinate/subordinate relationship. All the authority rests with the municipality and very often there is a conflict of interest between the municipality and the school board. I'll give you an example.

If there are two parcels of land available, one a very desirable one, a municipality may need the block for a park, and the school board will want the same block of land for a school site. At that point, there are different interests, competing interests, and the municipality is in a superordinate position and will reflect its own needs. So that's one of the main arguments where we believe there is a need to enhance the role of the school board in the planning process so that the needs of the community and the students can be met.

Again, where there is a conflict, we believe it's imperative to have an opportunity to appeal to the Ontario Municipal Board. In many cases, that's the only way it

can be resolved. So the two key points in this brief really are to enhance the power of school boards, effectively, which we don't see as being at the expense of municipalities—we see it working hand in hand with municipalities—and to maintain an appeal process throughout.

The Chair: Thank you very much, both of you, Mr Johnson and Mr Benson. You have submitted a combined report which, to me, is a very important document. We appreciate your concern. Thank you again.

I just want to remind the committee members that the amendments to Bill 26 shall be received by the clerk of the committee by 4 o'clock on September 27, 2004. The committee must meet for the purpose of clause-by-clause consideration of Bill 26 on Wednesday, September 29, and probably Thursday, September 30, 2004, if need be, here in Toronto. It's going to take place in committee room 1.

I adjourn the meeting.

The committee adjourned at 1701.

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