

January 21, 2025

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– and to –

Delivered Via Email: mike@polocorpinc.com

Mike Puopolo
Co-Chief Executive Officer
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Dear Joseph and Mike:

**Re: Requirements for Planning Applications within Waterloo Region
51 Hawkesville Road, St. Jacobs**

I am writing to summarize my opinion regarding the status of your planning applications with the Township of Woolwich, now that the Regional Municipality of Waterloo no longer has statutory planning authority. To briefly summarize the somewhat complicated recent history of this transition:

- The provisions that led to the removal of planning authority from the Region of Waterloo were originally set out in Bill 23 (the *More Homes Built Faster Act, 2022*). Bill 23 received Royal Assent on November 28, 2022.
- The above provisions were modified by Bill 185 (the *Cutting Red Tape to Build More Homes Act, 2024*). The modifications included the transition provisions that are now section 70.13 of the *Planning Act*. Bill 185 received Royal Assent on June 6, 2024.
- Bill 185 provided that the Regions of Peel, Halton and York would become upper-tier municipalities without planning responsibilities on July 1, 2024. Bill 185 further provided that four other specified upper-tier municipalities, including the Region of Waterloo, would become upper-tier municipalities without planning responsibilities on dates to be named by proclamation of the Lieutenant Governor.
- The Region of Waterloo's planning authority was removed as of January 1, 2025 and assigned to the seven lower-tier municipalities in Waterloo Region, including the Township of Woolwich.

The key transition provision that is relevant to your St. Jacobs property in Woolwich is the following (emphasis added):

Conflict

70.13 (7) In the event of a conflict, the portions of an official plan of an upper-tier municipality without planning responsibilities that are deemed under subsection (2) to constitute an official plan of the lower-tier municipality and an official plan or an amendment to an official plan that the lower-tier municipality is deemed to have adopted under subsection (3) **prevail over an official plan of a lower-tier municipality that existed before the effective date.**

The impact of the above transition provision is significant.

First, the official plan of Waterloo Region has now become the official plan of each lower-tier municipality within the Region, including Woolwich. In the event of a conflict, the former Waterloo Region upper-tier provisions prevail.

Second, as a result of the foregoing, it is no longer necessary to amend a lower-tier official plan to address any inconsistencies between it and the former upper-tier provisions. To use an example, if the Region of Waterloo's Official Plan had been amended to permit residential development on a property but the lower-plan had not yet been amended to conform to those provisions, it would no longer be necessary to amend the lower-tier official plan. The amendment is statutorily enacted through the above provision.

To confirm, through the operation of what is now s. 70.13(7) of the *Planning Act*, an existing upper-tier permission for residential development on a property has become part of the lower-tier plan, and by virtue of the conflict provision would prevail over the (as yet unamended) provisions of the lower-tier plan if they do not yet permit residential development. No further application should be required.

I understand that notwithstanding the above clear state of the law, Woolwich is asking that you apply for a "housekeeping" amendment to the Official Plan as now consolidated. While this is not strictly necessary, it may assist the Township with interpretation issues moving forward. I have some concerns about undertaking a process for which there is only one permissible outcome, but which could still generate appeals. In fairness, I would suggest that if the Township requires you to assume this cost and risk, that it undertake the OPA as a Township-initiated application, or waive its application fee for your private application.

I trust that this is satisfactory for your present purposes, but please let me know if you require any further comment at this time.

Yours truly,

MILLER THOMSON LLP

Per:



Steven J. O'Melia
SJO/dms

c. Matthew Warzecha (via email: mwarzecha@gmail.com)

