

Attachment A:

Excerpt from the Decision of the Mining and Lands Commissioner in Chalmers v. Grand River Conservation Authority, April 25, 1997

Summary and Applicable Quote:

Mr. Chalmers appealed a decision by the Grand River Conservation Authority to refuse a request to place 2000 cubic metres of fill in the floodplain to create two lots. (By comparison, the proposed development of Kanata West involves the placement of one hundred times this quantity of fill – about 200,000 cubic metres – to create between 500 and 1000 building lots.)

The Mining and Lands Commissioner rejected this appeal. In his decision, he identified concern about the precedent that this would set, as outlined in the quote below:

The tribunal finds that granting permission in this case would constitute a precedent for new residential development of other portions of the flood plain in one zone concept areas, involving considerable placing of fill which has measured impacts upstream. It is found that those residing, visiting or providing services to the new residences would unnecessarily be placed at risk. Moreover, it would provide precedent for granting of permission in other cases without the necessary calculations being performed on a reach or subcatchment basis, thereby putting unknown others at risk from increases in flood elevations upstream or increases in flood velocities downstream. If allowed, the Chalmers proposal would amount to a rewriting of the Provincial Policy in respect of new development in the floodplain for areas within a one zone concept area, being a precedent of such an order of magnitude that it cannot be allowed. The tribunal finds that it will adopt the words of Mr. Lorient, whose expert evidence matters of watershed management bears considerable weight, in finding that the proposed filling and construction poses a dangerous precedent, both in terms of the Chalmers land itself and on the ability of this and other conservation authorities to manage watersheds within their jurisdictions.

1997 Provincial Policy Statement on Natural Hazards

5.0 Natural Hazards Policies, Section 3.1 of the Provincial Policy Statements

3.1 Natural Hazards

- 3.1.1 Development will generally be directed to areas outside of:
- hazardous lands* adjacent to the shorelines of the *Great Lakes - St. Lawrence River System* and *large inland lakes* which are impacted by *flooding, erosion, and/or dynamic beach hazards*;
 - hazardous lands* adjacent to *river and stream systems* which are impacted by *flooding and/or erosion hazards*; and
 - hazardous sites*.
- 3.1.2 *Development and site alteration* will not be permitted within:
- defined portions of the dynamic beach*;
 - defined portions of the one hundred year flood level along connecting channels* (the St. Mary's, St. Clair, Detroit, Niagara and St. Lawrence Rivers); and
 - a floodway* (except in those exceptional situations where a Special Policy Area has been approved).
- 3.1.3 Except as provided in policy 3.1.2, *development and site alteration* may be permitted in *hazardous lands* and *hazardous sites*, provided that all of the following can be achieved:
- the hazards can be safely addressed, and the *development and site alteration* is carried out in accordance with *established standards and procedures*;
 - new hazards are not created and existing hazards are not aggravated;
 - no adverse environmental impacts will result;
 - vehicles and people have a way of safely entering and exiting the area during times of flooding, erosion and other emergencies; and
 - the *development* does not include *institutional uses* or *essential emergency services* or the disposal, manufacture, treatment or storage of *hazardous substances*.

Table 2, Exhibit 11, provided by Proponents,
Water Level Changes and Percentage peak flow changes calculated
by the Coalition

Attachment C:

Carp River 100-Year Water Level and Flow: Comparison Between Existing Condition and All OP developments with
CH2M Hill proposed Channel

Location	Description	Existing Condition		All OP developments with CH2M Hill proposed channel		Change between Existing Condition and all OP developments with CH2M Hill proposed Channel	
		Peak Water Level (metres)	Peak Flow (cubic metres per second)	Peak Water Level (metres)	Peak Flow (cubic metres per second)	Peak Water Level Change (cm)	Peak Flow Change (percent)
Glen Cairn Pond	downstream of outlet	98.84	12.52	94.75	12.46	-409	0
Hazeldean Road	upstream	94.79	15.16	94.67	19.21	-12	27
	downstream	94.48	15.16	94.64	19.19	16	27
Maple Grove Road	upstream	94.4	16.17	94.58	22.86	18	41
	downstream	94.4	16.17	94.57	22.9	17	42
Palladium Drive	upstream	94.33	32.75	94.48	42.45	15	30
	downstream	94.3	32.74	94.4	42.37	10	29
Highway 417 Bridge	upstream	94.06	33.04	94.04	41.54	-2	26
	downstream	93.98	33.05	94.01	41.54	3	26
Future Transitway	upstream	93.96	33.69	93.97	43.1	1	28
	downstream	93.96	33.69	93.95	43.09	-1	28
Future Campeau Drive Crossing	upstream	93.83	41.39	93.87	53.64	4	30
	downstream	93.83	41.39	93.79	53.54	-4	29
Richardson Side Road	upstream	93.43	36.29	93.54	44.04	11	21
	downstream	93.43	36.29	93.45	44.04	2	21
Huntmar	upstream	93.34	48.12	93.38	50.42	4	5
	downstream	92.96	48.11	92.98	50.41	2	5

Attachment D
Photo of Sewer Pipes at the Sensplex



Coalition Handout: Status of the Carp River as a Drain

April 20, 2006

Selected References to the Carp River Drain in the "Carp Review" (courtesy of the Huntley Historical Society)

July 23, 1908 "Local News"

A special meeting of March township council was held last Thursday to receive the engineer's report on the Carp river dredging scheme. The engineer, Mr. J.H. Moore estimates the total cost of the scheme at \$29,000. Large attendance, petitioners given a chance to withdraw. There was not a dissenting vote against the scheme and the municipality will go ahead with the work according to law.

December 3, 1908 "Local News"

The appeal of the townships of Huntley and Goulbourn against the Carp River Improvement Scheme comes up for hearing before the official referee on January 5, 1909.

January 14, 1909 (front page headline) Appeal Dismissed

Referee Gives His Decision Against Huntley Township on Carp River Goulbourn's Assessment Removed.

April 21, 1910 Huntley Council Minutes Session 386

Moved by Robt. Cox, sec by Dr. Lynchke, that by-law No. 333 being Carp River Drainage By-Law be introduced and given its first and second reading. Carried.

September 1, 1910 "Local News"

The Carp River Improvement By-Law being passed by Huntley council last Wednesday, all parties wishing to pay their assessment in one payment and save the interest for 20 years Saturday is the last day.

Profile Drawing of the Carp River Drain (preserved at the Huntley Historical Society)

Engineer: J.H. Moore of Smiths Falls Ontario

Drawing Date: June 19, 1908

Witness: A. Victor Chase

Petition of Thomas Richardson and others. The drawing also bears the signature of the Reeve of March Township. The Drain's upper limit began at the present location of Maple Grove Road (boundary of Goulbourn and March Townships).

Decision of Ontario Drainage Referee George F. Henderson for the Hearings on the Carp River Municipal Drain dated January 5-7, 1909:

The Township of March initiated proceedings for the purpose of draining certain lots. The Drainage Engineer made a report under the Drainage Act assessing the Townships of Huntley and Goulbourn for a portion of the costs of the drainage scheme. Both townships appealed to the Drainage Referee. The Drainage Referee accepted the drainage scheme put forward by the Drainage Engineer, including the justification for extending drainage improvement works on the Carp River to a point below the Village of Carp. The Referee did agree that Goulbourn's costs should be reduced; however the appeal by the Township of Huntley was dismissed.

Ontario Court of Appeal Decision [1909] O.J. No. 470 Also reported at: 14 O.W.R. 1033 1 O.W.N. 190

Moss C.J.O., Osler, Garrow, MacLaren and Meredith J.A. November 22, 1909

The Township of Huntley unsuccessfully appealed the January 1909 Drainage Referee decision. The Court found that agricultural drainage in higher lying lands was aggravating flooding conditions along the Carp River, and that the upstream landowners contributing to the downstream drainage problems must also contribute to the remediation of the problems downstream. This decision also affirmed the recommendations of the Drainage Engineer whereby drainage improvements along the Carp River would have to be carried out to a point downstream of the Village of Carp identified as a "sufficient outlet" for water to be safely discharged without doing injury to lands and roads.

Attachment F:

Excerpt from OMB Decision # 2092, August 11, 2005, City of Ottawa v. Brookfield, Del, Loblaw, Westpark and Minto

Summary and Applicable Quote:

This decision was in response to a number of appeals following requests for amendments to the Official Plan for the former Regional Municipality of Ottawa Carleton and the former Township of Goulbourn. The requested amendments being appealed involved re-designating land from Agricultural Resource Area, Marginal Resource and General Rural Area to General Urban Area, Residential and General Commercial.

The appeals were launched by a number of different corporations, including Brookfield Homes (Ontario) Limited, Del Corporation and Westpark Estates Limited Partnership.

On page 20 of this decision, Mr. Riddell's expert testimony is summarized as follows:

1. *Stormwater management servicing can be provided for the Del/Brookfield lands and the surrounding vacant lands to the standards of the City of Ottawa and that storm water management facilities can provide water quality and quantity control to meet all regulatory objectives.*
2. *The proposed development will not have an adverse impact on the Monahan Drain Constructed Wetlands.*
3. *The proposed storm water management facilities can provide enhanced water quality and peak flow control over existing conditions, and can enhance base flow conditions to the receiving streams name the Carp River*

It was his evidence that if the lands were brought into the City of Ottawa urban boundary that a review of the Carp River Subwatershed study would be required as well as amendments to the Flewellyn and Monahan Municipal drain reports. (emphasis added)

Attachment G:

**Regional Council, May 10, 2000, Planning and Environment Committee,
Minutes of 25 April 2000**

Summary and Excerpt:

The Committee was discussing a number of OMB appeals including one related to development in the Jock River Flood Plain. Councillor Stewart stated that, to her knowledge, the Conservation Authority Board was not in agreement with building on lots of record in the flood plain. She also stated that the extent of new building that could occur was also very important as there is a cumulative effect.

When fill is added and construction takes place, the waterway is altered and it can have a profound effect downstream. She said where you once did not have a problem and people were able to build very safely away from flood water, a new subdivision in the flood plain upstream will displace the storage capacity for the flood water and will cause the formerly safe area to flood.

Danny Page, Planner, Township of Goulbourn, advised there are approximately 12 lots of record. He said more importantly, the subject area is in the upper reaches of the tributaries, that tend to coincide with the flood fringe. These are the areas that are least susceptible to flooding and might only see flooding once every one hundred years. Mr. Page explained the actual portion of the flood plain along the Jock River would be zoned Environmental Protection Area. Mr. Page also pointed out that Conservation Authority approval would still be required to secure a building permit within these areas. Councillor Stewart stated she was somewhat assured by this information, however, she noted in the last 30 years, we have learned "it is far more cost effective to keep people away from water, than to keep water away from people". She said as well the beginnings of climate change within our watersheds were starting to be seen and although, this may sound safe she did not want to make any big decisions on the eve of what may be some serious change in water quantity levels in this Region.

The Coalition advises:

The evidence suggests that By-laws have been passed, and that the Engineering Drawings show the configuration of the Drain adopted in the By-laws. As far as the impacted landowners are concerned, it is not their responsibility, but that of the City, to keep track of its legal records and reports. Therefore, the onus is on the City to either locate the Report to establish the original record of landowners in the area requiring drainage to determine if they are in support of the proposed alterations to the Municipal Drain, or the records showing that the Drain was abandoned through a By-law.

Selected Sections of the Drainage Act:

The Drainage Act points to the need to respect the Riparian Rights of downstream landowners.

Maintenance of drainage works and cost

74. Any drainage works constructed under a by-law passed under this Act or any predecessor of this Act, relating to the construction or improvement of a drainage works by local assessment, shall be maintained and repaired by each local municipality through which it passes, to the extent that such drainage works lies within the limits of such municipality, at the expense of all the upstream lands and roads in any way assessed for the construction or improvement of the drainage works and in the proportion determined by the then current by-law pertaining thereto until, in the case of each municipality, such provision for maintenance or repair is varied or otherwise determined by an engineer in a report or on appeal therefrom. R.S.O. 1990, c. D.17, s. 74.

Improving, upon examination and report of engineer

78. (1) Where, for the better use, maintenance or repair of any drainage works constructed under a by-law passed under this Act or any predecessor of this Act, or of lands or roads, it is considered expedient to change the course of the drainage works, or to make a new outlet for the whole or any part of the drainage works, or to construct a tile drain under the bed of the whole or any part of the drainage works as ancillary thereto, or to construct, reconstruct or extend embankments, walls, dykes, dams, reservoirs, bridges, pumping stations and other protective works as ancillary to the drainage works, or to otherwise improve, extend to an outlet or alter the drainage works or to cover the whole or any part of it, or to consolidate two or more drainage works, the council of any municipality whose duty it is to maintain and repair the drainage works or any part thereof may, without the petition required in section 4 but on the report of an engineer appointed by it, undertake and complete the drainage works as set forth in such report. R.S.O. 1990, c. D.17, s. 78 (1).

Abandonment (summary)

84 (1)-(6) Abandonment of all or part of drainage works.. Abandonment can come about either at the request of 3/4 of the owners assessed owning 3/4 of the land, or at the initiative of Council. In either case, all benefiting owners need to be notified. If there are no objections (appeal procedures for drain construction also hold for abandonment), "the council may by by-law abandon the drainage works, and thereafter the municipality has no further obligation with respect to the drainage works."