

**THE CORPORATION OF THE TOWN OF WHITBY**

**BY-LAW NO. 5846-06**

**BEING A BY-LAW TO DESIGNATE THE TOWN OF WHITBY AS A SITE PLAN CONTROL AREA AND TO DELEGATE TO THE DIRECTOR OF PLANNING THE APPROVAL OF PLANS AND DRAWINGS IN CERTAIN AREAS OF SITE PLAN CONTROL**

WHEREAS, Section 41 of the Planning Act, R.S.O. 1990, c. P.13, as amended, permits the council of a municipality to designate the whole or any part of the municipality as a site plan control area;

AND WHEREAS, Section 41 of the Planning Act, R.S.O. 1990, c. P.13, as amended, permits the council of a municipality, by by-law, to delegate to either a committee of the council or to an appointed officer of the municipality identified in the by-law either by name or position occupied, any of the council's powers or authority under the said section, except the authority to define any class or classes of development as mentioned in Clause 41(13)(a) of the Planning Act;

AND WHEREAS, the Council of the Corporation of the Town of Whitby considers it desirable to pass such a by-law;

NOW THEREFORE, the Council of the Corporation of the Town of Whitby enacts as follows:

**DEFINITIONS**

1. In this by-law,
  - (a) "development" means the construction, erection or placing of one or more buildings or structures on land or the making of an addition or alteration to a building or

structure that has the effect of substantially increasing the size or usability thereof, or the laying out and establishment of a commercial parking lot or of sites for the location of three or more trailers as defined in Clause 21O(101)(a) of the Municipal Act, R.S.O. 1990, c. M.45, as amended, or of sites for the location of three or more mobile homes as defined in Subsection 46(1) of the Planning Act, R.S.O. 1990, c. P.13, as amended; and,

Notwithstanding, within the Oak Ridges Moraine, as established by the Province of Ontario Regulation 01/02, in addition, “development” shall also include the creation of a new lot, a change in land use, or the construction of buildings and structures, any of which require approval under the Planning Act, the Environmental Assessment Act, or the Drainage Act, but does not include:

- i) the construction of facilities for transportation, infrastructure and utilities uses, by a public body, as described in Section 11.11.9 of the Town of Whitby Official Plan; or
  - ii) for greater certainty:
    - a) the reconstruction, repair or maintenance of a drain approved under the Drainage Act and in existence on November 15, 2001, or
    - b) the carrying out of agricultural practices on land that was being used for agricultural uses on November 15, 2001;
- (b) “Site Alteration” within the Oak Ridges Moraine means activities such as filling, grading and excavation that would change the landform and natural vegetative characteristics of land, but does not include,

(a) the construction of facilities for transportation, infrastructure and utilities uses, as described in section 41, by a public body, or

(b) for greater certainty,

(i) the reconstruction, repair or maintenance of a drain approved under the Drainage Act and in existence on November 15, 2001, or

(ii) the carrying out of agricultural practices on land that was being used for agricultural uses on November 15, 2001;

(c) "Town" means the Corporation of the Town of Whitby.

#### SITE PLAN CONTROL AREA

2. All land located within the corporate limits of the Town is hereby designated as a site plan control area.

#### GENERAL

3.(1) No person shall undertake any development in the site plan control area designated by this by-law unless the Council of the Town or, where a referral has been made under Subsection 41(12) of the Planning Act, R.S.O. 1990, c. P.13, as amended, the Ontario Municipal Board has approved,

(a) plans showing the location of all buildings and structures to be erected and showing the location of all facilities and works to be provided in conjunction therewith including those facilities and works referred to in Subsection 3(2) of this by-law; and,

- (b) drawings showing plans, elevations and cross section views for each building to be erected which are sufficient to display,
  - (i) the massing and conceptual design of the proposed building;
  - (ii) the relationship of the proposed building to adjacent buildings, streets, and exterior areas to which members of the public have access; and,
  - (iii) the provision of interior walkways, stairs and escalators to which members of the public have access from streets, open spaces, interior walkways and adjacent buildings.

3.(2) As a condition of approval of the plans and drawings referred to in Subsection 3(1) of this By-law, the Town may require the owner of lands being developed to,

- (a) provide to the satisfaction of and at no expense to the Town any or all of the following:
  - (i) widenings of highways that abut on the land;
  - (ii) subject to the Public Transportation and Highway Improvement Act, R.S.O. 1990, c. P.50, as amended, facilities to provide access to and from the lands such as access ramps, curbing and traffic direction signs;
  - (iii) off-street vehicular loading and parking facilities, either covered or uncovered, access driveways, including driveways for emergency vehicles, and the surfacing of such areas and driveways;

- (iv) walkways and walkway ramps, including the surfacing thereof, and all other means of pedestrian access;
  - (v) facilities for the lighting, including floodlighting, of the land or of any buildings or structures thereon;
  - (vi) walls, fences, hedges, trees, shrubs or other ground cover or facilities for the landscaping of the land or the protection of adjoining land;
  - (vii) vaults, central storage and collection areas and other facilities and enclosures for the storage of garbage and other waste material;
  - (viii) easements conveyed to the Town for the construction, maintenance, or improvement of water courses, ditches, land drainage works and sanitary sewerage facilities and other public utilities on the land; and,
  - (ix) grading or alteration in elevation or contour of the land and provisions for the disposal of storm, surface and waste water from the land and from any buildings or structures thereon;
  - (x) reports and/or studies demonstrating conformity with the policies of the Town's Official Plan and requirements of the Town's Zoning Bylaw, as amended.
- (b) maintain to the satisfaction of the Town and at the sole risk and expense of the owner any or all of the facilities or works mentioned in paragraphs (ii) to (viii), inclusive, of Clause 3(2)(a) of this by-law including the removal of snow and ice from access ramps driveways, parking and loading areas and walkways; and,

- (c) enter into one or more agreements with the Town dealing with and ensuring the provisions of the facilities, works or matters to be provided in accordance with Clause 3(2)(a) of this by-law and the maintenance thereof as mentioned in Clause 3(2)(b) of this by-law and the provision and approval of the plans and drawings referred to in Subsection 3(1) of this by-law.

#### EXCEPTIONS

4. (1) The following class or classes of development may be undertaken without the approval of plans and drawings otherwise required under Subsection 3(1) of this by-law:
- (a) single family, semi-detached, duplex or link residential development, including any accessory buildings related thereto unless,
    - i) the structure is designated under the Ontario Heritage Act;
    - ii) the land is located within an Environmentally Sensitive Area or Hazard Land designation as shown on Schedules "A" and "C" to the Whitby Official Plan; or
    - iii) the land is located within the dotted area as shown on Schedule "A-1" attached hereto and forming part of this By-law.
  - (b) street townhouse development within a registered plan of subdivision, including any accessory buildings related thereto; unless,
    - i) the land is located within an "Environmentally Sensitive Area" or

“Hazard Land” designation as shown on Schedules “A” and “C” the Whitby Official Plan; or

- ii) the land is located within the dotted area as shown on Schedule “A-1” attached hereto and forming part of this By-law; and
- (c) development of farm buildings or structures, unless,
  - i) the land is located within the dotted area as shown on Schedule “A-1” attached hereto and forming part of this By-law.

4. (2) Despite the provisions of Subsection 3(1) of this by-law relating to the approval of a class or classes of development within the site plan control area by the Council of the Town, the Director of Planning, or his or her designate, is authorized to approve the development of residential sales offices and model homes within draft approved or registered plans of subdivision or condominium in the site plan control area.

#### LANDFORM CONSERVATION AREAS

5. (1) In the Town, and within the Oak Ridges Moraine, as established by the Province by Ontario regulation 01/02, any proposed development located within a Landform Conservation Area (Category 1) as indicated by single diagonal cross-hatching on Schedule ‘A-2’, attached hereto and forming part of this By-law, the following provisions shall apply with respect to an application for development or site alteration:
- (a) the net developable area of the site that is disturbed shall not exceed 25 per cent of the total site area; and
  - (b) the net developable area of the site that has impervious surfaces shall not exceed 15

per cent of the total site area.

5. (2) In the Town, and within the Oak Ridges Moraine, as established by the Province by Ontario Regulation 01/02, any proposed development located within a Landform Conservation Area (Category 2) as indicated by double cross-hatching on Schedule 'A-2', attached hereto and forming part of this By-law, the following provisions shall apply with respect to an application for development or site alteration:
- (a) the net developable area of the site that is disturbed shall not exceed 50 per cent of the total site area; and
  - (b) the net developable area of the site that has impervious surfaces shall not exceed 20 per cent of the total site area.

#### ENFORCEMENT

- 6.(1) In default of maintenance by the owner to the satisfaction of the Town of any or all of the facilities or works referred in Clause 3(2)(b) of this by-law, such maintenance shall be done by the Town at the owner's expense and at the sole risk of the owner.
- 6.(2) In default of the provision of any or all of the facilities, works or matters referred to in Clause 3(2)(a) of this by-law or the provision and approval of the plans and drawings referred to in Subsection 3(1) of this by-law, and the maintenance thereof, to the satisfaction of the Town, the provision or maintenance, or both, of such facilities, works or matters shall be carried out by the Town at the owner's expense and at the sole risk of the owner.
- 6.(3) Any expense incurred by the Town under Subsections 5(1) or 5(2) of this by-law may be recovered by action, or the same may be recovered in like manner as a municipal tax or the Town may provide that the expense incurred by it with interest shall be payable by the owner in annual instalments not exceeding ten years and may, without obtaining the assent of the electors, borrow money to cover such expense by the issue of debentures of the Corporation payable in not more than ten years.

SHORT TITLE

7. This by-law may be referred to as the Site Plan Control By-law.

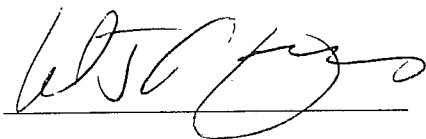
REPEAL OF EXISTING BY-LAW

8. By-law No. 3829-96 is repealed.

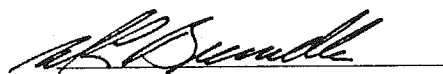
EFFECTIVE DATE

9. This by-law shall come into force and take effect upon the final passing thereof.

BY-LAW READ A FIRST, SECOND AND THIRD TIME AND FINALLY PASSED THIS  
25TH DAY OF SEPTEMBER, A.D., 2006.



Paul Jones, Clerk



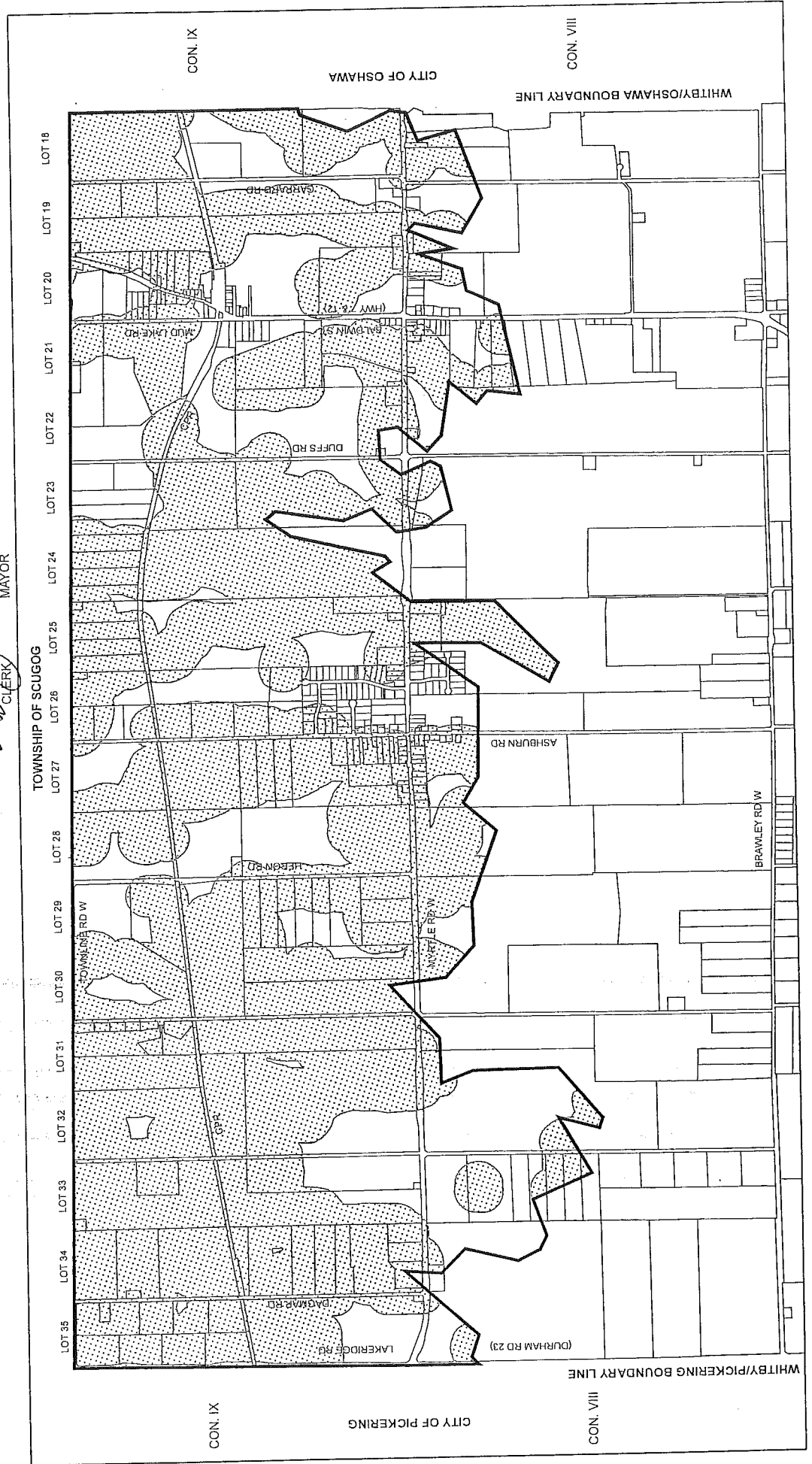
Marcel L. Brunelle, Mayor

**SCHEDULE A-1**  
**TO BY-LAW NO. 5846-06**

This is Schedule A-1 to By-Law No. 5846-06 passed by the

Council of the Town of Whitby this 25<sup>th</sup> day of Sept., A.D. 2006.

*W. G. G. G.*  
 CLERK  
*M. D. D.*  
 MAYOR



# SCHEDULE A-2 TO BY-LAW NO. 5846-04

This is Schedule A-2 to By-Law No. ~~5846-06~~ passed by the

Council of the Town of Whitby this 25<sup>th</sup> day of Sept., A.D., 2006.

*[Signature]*  
CLERK

*[Signature]*  
MAYOR

