

ISSUE DATE:

April 30, 2007

DECISION/ORDER NO:

1202



Ontario

Ontario Municipal Board

Commission des affaires municipales de l'Ontario

PL031256

07-207

Hamilton General Homes (1971) Ltd. and Ministry of Municipal Affairs have appealed to the Ontario Municipal Board under subsection 17(24) of the *Planning Act*, R.S.O. 1990, c. P. 13, as amended, from a decision of the City of Hamilton to approve Proposed Amendment No. 14 to the Official Plan for the former Region of Hamilton-Wentworth to redesignate lands bounded by Fruitland Road, Highway No. 8, western limits of Winona and Barton Street and lands bounded by the eastern limits of Winona, Highway No. 8, railway, South Service Road and the City limits. O.M.B. File No. O030406

Hamilton General Homes (1971) Ltd. and Ministry of Municipal Affairs have appealed to the Ontario Municipal Board under subsection 17(24) of the *Planning Act*, R.S.O. 1990, c. P. 13, as amended, from a decision of the City of Hamilton to approve Proposed Amendment No. 99 to the Official Plan for the former City of Stoney Creek to redesignate lands bounded by Fruitland Road, Highway No. 8, western limits of Winona and Barton Street and lands bounded by the eastern limits of Winona, Highway No. 8, railway, South Service Road and the City limits. O.M.B. File No. O030407

APPEARANCES:

Parties

The City of Hamilton

The Ministry of Municipal
Affairs and Housing

Niagara Escarpment Commission

Hamilton General Homes (1971) Ltd.

1478742 Ontario Inc.

Future Homes Construction Limited

511437 Ontario Limited

549367 Ontario Limited

"T" Farms & Homes Ltd.

The Estate of Gaetano Marini and

1312733 Ontario Inc.

The Flying J. Canada Inc.

John Paolini, Gino DalBello,
Olindo DalBello, Luigi DeTina,
Peter Djeneralovic, Gary Swick,
Quinto Simone

Counsel

Art Zuidema

Ken Hare

E. Kerr

Russell D. Cheeseman

Russell D. Cheeseman

Jack S. Restivo

James W. Harbell

Manfred Rudolph

DECISION OF THE BOARD DELIVERED BY R. A. BECCAREA AND ORDER OF THE BOARD

This decision arises out of a prehearing conference the Board held on November 22, 2005. At that time, a partial settlement of the MMAH appeals to ROPA No. 14 and OPA 99 was reached, but the details of the proposed amendments to accommodate it were not finalized.

The discussions respecting the wording of a revised policy have taken this time to finalize.

On November 22, 2005, the Board heard the necessary evidence to endorse the settlement between the City and the MMAH. The revised wording accommodates this settlement.

The Board heard from Louis Bitonti, a planner with MMAH respecting the proposed settlement that was reached with the City and MMAH. Mr. Bitonti, in providing his opinion was careful to indicate that his opinion excluded its application to the lands that would be the subject matter of the hearing of the Board that the Board has ordered during this prehearing conference as set out in the Board's Decision/Order No. 2634 issued on September 19th, 2006 in this matter.

Mr. Bitonti advised that prior to the adoption of ROPA 14 and OPA 99, the subject lands were designated "Prime Agricultural Lands" and "Specialty Crop Area" in the Official Plan for the former Region of Hamilton-Wentworth, and "Agricultural" in the Official Plan for the former City of Stoney Creek. The Provincial Policy Statement, 1997 (PPS) requires that prime agricultural areas be protected for agriculture. An area may only be excluded from prime agricultural areas for the expansion of an urban area, in accordance with Policy 1.1.1 (c). He advised that MMAH appealed the decision of the City of Hamilton to adopt ROPA 14 and OPA 99 on November 26, 2003.

Through the development of the Greenbelt Plan which started with the adoption of Bill 27 on December 16, 2003, the Province undertook a Land Evaluation and Area Review ("LEAR") to ascertain which lands constituted prime agricultural areas. As a result of this exercise the Greenbelt Plan identified certain portions of the subject SCUBE lands as Specialty Crop Areas. The settlement reached between the City and MMAH reinforces the designations for these Specialty Crop Areas contained within the Greenbelt for agriculture by maintaining the current official plan designations, while

permitting other portions of the subject lands outside the Greenbelt to be designated for urban uses as set out in the modified OPA's brought forward by the City.

The Board heard from Joanne Hickey-Evans, a planner with the City who advised that the portions of the subject lands to be urbanized are fully serviced, that there is a need for additional land supply to accommodate population growth projected for the City, and that the lands are appropriate for development. She was also careful in advising the Board that her opinion was not intended to cover the lands that are to be the subject of the hearing of this Board.

The Board finds on the basis of the uncontradicted evidence of both Mr. Louis Bitonti and Ms Joanne Hickey-Evans that the revised policy as reflected in Attachment "1" to this decision constitutes good land use planning and ought to be approved.

Subject to the Decision/Order No. 2634 dated September 19th, 2006, the Board allows the appeals in part and Orders that

1. Official Plan No. 14 to the former Regional Municipality of Hamilton-Wentworth Official Plan; and,
2. Official Plan No. 99 to the former City of Stoney Creek Official Plan are modified in the manner set out in Attachment "1", and as so modified are approved.

The Board so Orders.

"R. A. Beccarea"

R. A. BECCAREA
MEMBER

Attachment 1

Amendments

to the

Official Plan of the Former Region of Hamilton-Wentworth Official Plan and
City of Stoney Creek Official Plan

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THE ONTARIO
MUNICIPAL BOARD

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This Amendment has been revised from the original by OMB Decision No.

The following text together with:

- Schedule "A" - Map No. 1, Regional Development Pattern, former Regional Municipality of Hamilton-Wentworth Official Plan;
- Schedule "B" - Map No. 2, Agricultural Lands & Niagara Escarpment Plan Area, former Regional Municipality of Hamilton-Wentworth Official Plan;
- Schedule "C" - Schedule "A" - General Land Use Plan, the former City of Stoney Creek Official Plan
- Schedule "D" - Schedule "C", Staging of Development, the former City of Stoney Creek Official Plan.

attached hereto, constitutes:

1. Official Plan Amendment No.14 to the former Regional Municipality of Hamilton-Wentworth Official Plan; and,
2. Official Plan Amendment No. 99 to the former City of Stoney Creek Official Plan.

Purpose:

The purpose of the Amendments is to provide for an Urban Boundary Expansion, in an area of the former Lower Stoney Creek, which will be planned through the requirements to complete a Secondary Plan for the entire area.

Location:

The lands affected by the Amendment to the former Region of Hamilton-Wentworth Official Plan are located on lands bounded by:

1. Fruitland Road (actual Fruitland Road By-pass), Barton Street, Midway between Jones and Glover Roads, and Highway No. 8, and,
2. South east corner of Barton Street and Glover Road, municipally known as No. 288 Glover Road; and,

3. East side of McNeilly Road, Barton Street, western limits of Winona and Highway No. 8; and,
4. The eastern limits of Winona, Barton Street, properties just west of Fifty Road, and Highway No. 8,
5. East of Fifty Road, South Service Road of the QEW, the City limits, and the CNR Railway tracks.

The lands affected by the Amendment to the former City of Stoney Creek Official Plan are located on lands bounded by:

1. Fruitland Road, Barton Street, Midway between Jones and Glover Roads, and Highway No. 8, and,
2. South east corner of Barton Street and Glover Road, municipally known as No. 288 Glover Road; and,
3. East side of McNelly Road, Barton Street, western limits of Winona and Highway No. 8; and,
4. The eastern limits of Winona, Barton Street, properties just west of Fifty Road, and Highway No. 8,
5. East of Winona Road, South Service Road of the QEW, City limits, CNR Railway tracks.

Basis:

The intent of the Amendment is to expand the Urban Boundary to accommodate additional population growth projected for the City of Hamilton.

The basis for permitting the proposal is as follows:

- It supports Smart Growth objectives as the lands are fully serviced and currently not being optimized.
 - It has regard to the Provincial Policy Statement as no other reasonable alternatives are available that avoid Prime Agricultural lands. Further, the study area is fully serviced but not being utilized efficiently.
 - The re-designation of the subject lands to Urban maintains the City of Hamilton strategic commitment through the Mission, Vision, Values and Goals and maintains the directions of Vision 2020. By considering the appropriate locations for Urban Boundary expansion, optimizing the use of existing services and understanding the net financial benefit to the City, the study area is an appropriate location for the City to direct growth.
 - It complies with the former Region of Hamilton-Wentworth Official Plan policies, including the re-designation of agricultural lands and a positive net fiscal benefit to the City of Hamilton.
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- Through the implementation of Secondary Planning through an Amendment to the former City of Stoney Creek Official Plan, the proposed expansion area can implement the policies of Urban growth within the study area.

Actual Changes:

1. That the Region of Hamilton Wentworth Official Plan be amended as follows:
 - 1.1 That Map No. 1, Regional Development Pattern, of the Official Plan be revised by re-designating the subject lands from "Rural Area" to "Urban", as shown on the attached Schedule "A" of this Amendment.
 - 1.2 That Map No. 2, Agricultural Lands & Niagara Escarpment Plan Area, of the Official be revised by removing the subject lands from the "Prime Agricultural Lands" and "Specialty Crop Area" designations, as shown on the attached Schedule "B" of this Amendment.
2. That the Official Plan of the former City of Stoney Creek be amended as follows:
 - 2.1 That Schedule "A", General Land Use Plan of the Stoney Creek Official Plan be amended by:
 - a) adding to the "Urban Policy Area" the lands described in 2.1 b) below.
 - b) designating the subject lands as "Special Policy Area F".
 1. Fruitland Road, Barton Street, Midway between Jones and Glover Roads, and Highway No. 8, and,
 2. South east corner of Barton Street and Glover Road, municipally known as No. 288 Glover Road; and,
 3. East side of McNeilly Road, Barton Street, western limits of Winona and Highway No. 8; and,
 4. The eastern limits of Winona, Barton Street, properties just west of Flly Road, and Highway No. 8;
 5. East of Winona Road, South Service Road of the QEW, City limits, CNR Railway
 - as shown on the attached Schedule "C" of this Amendment.
 - 2.2 That Schedule "C", Staging of Development of the Stoney Creek Official Plan be amended by re-designating the subject lands to "Stage One", as shown on the attached Schedule "D" of this Amendment.

- 2.3 That Section A.12 – Special Policy Areas be amended by adding the following new Policy as A.12.6:

"SPECIAL POLICY AREA "F"

Special Policy Area "F", as identified on Schedule "A", is intended to provide for comprehensive planning for the entire Special Policy Area. No development shall proceed within Special Policy Area "F" until the following studies have been completed for all of the lands identified within Special Policy Area "F" to satisfaction of the City of Hamilton.

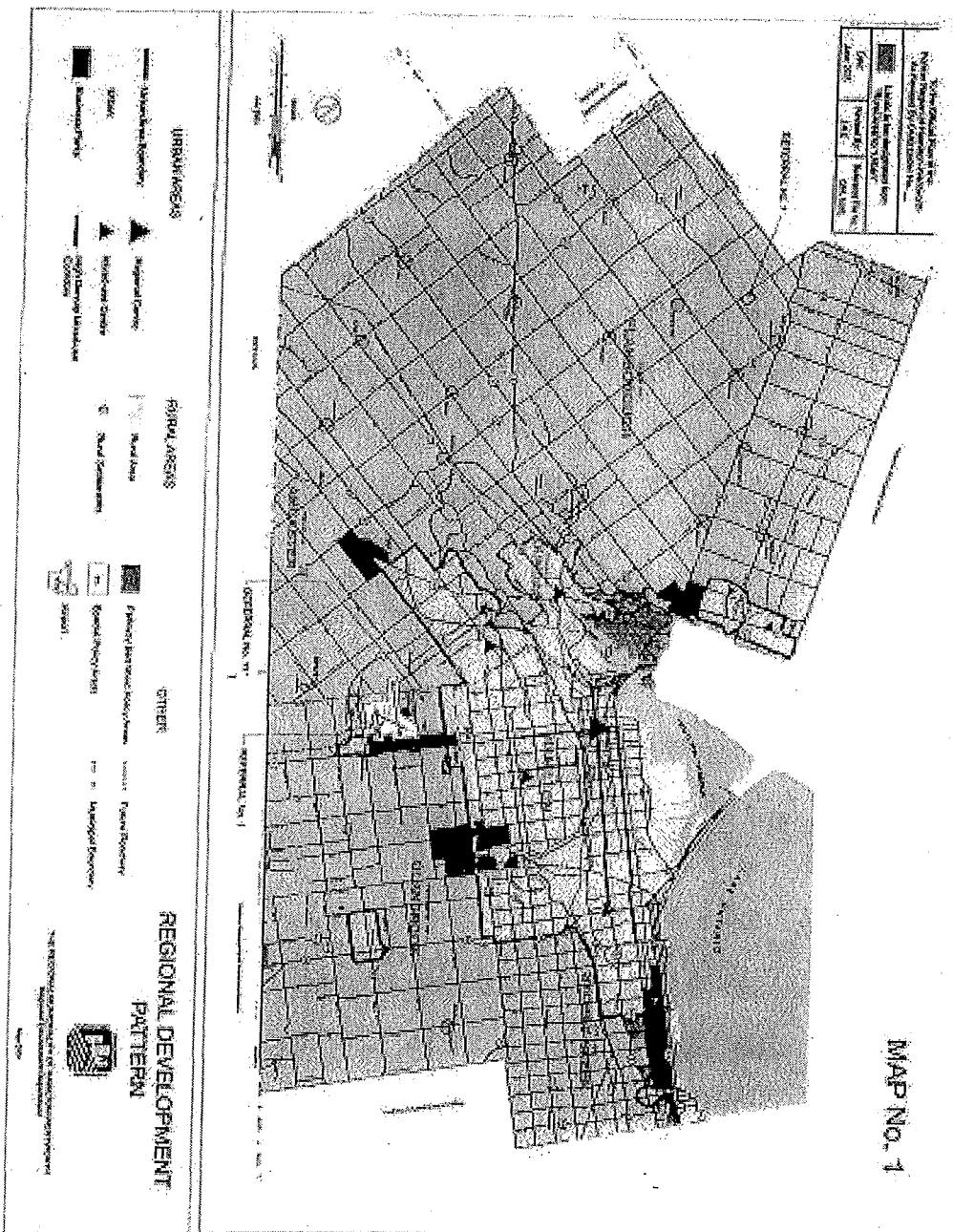
- a) Prior to the development of the lands between Barton Street and the CNR tracks east of Winona Road and west of Fifty Road identified as Parcel A on Schedule A, and the area between Winona Road and the Hamilton Municipal boundary north of the CNR tracks and south of the QEW identified as Parcel B on Schedule A, the following policies shall satisfied:
- i) the City shall prepare a general land use concept for all the lands identified in Special Policy Area "F" on the basis of:
 - 1. housing density, type and mix;
 - 2. projected population;
 - 3. school requirements;
 - 4. commercial lands ; and,
 - 5. employment lands.
 - ii) As part of the City's commercial and employment land needs analysis in clause i), the City shall evaluate the appropriateness of commercial development on the lands identified as Parcel B on Schedule "A";
 - iii) The City shall undertake a transportation analysis based on the land uses in clause i);
 - iv) The land owners shall undertake to the satisfaction of the City, a water, wastewater and storm water analyses for the storm drainage areas in which Parcels A and B are located to support the land uses determined in i) above; and,
 - v) The cost of the studies:
 - 1. identified in clause i) 5) and ii) above shall be paid for by the land owners located within in Parcel B; and,
 - 2. identified in clause iv) above shall be at the complete cost of the landowners located within in Parcels A and B.

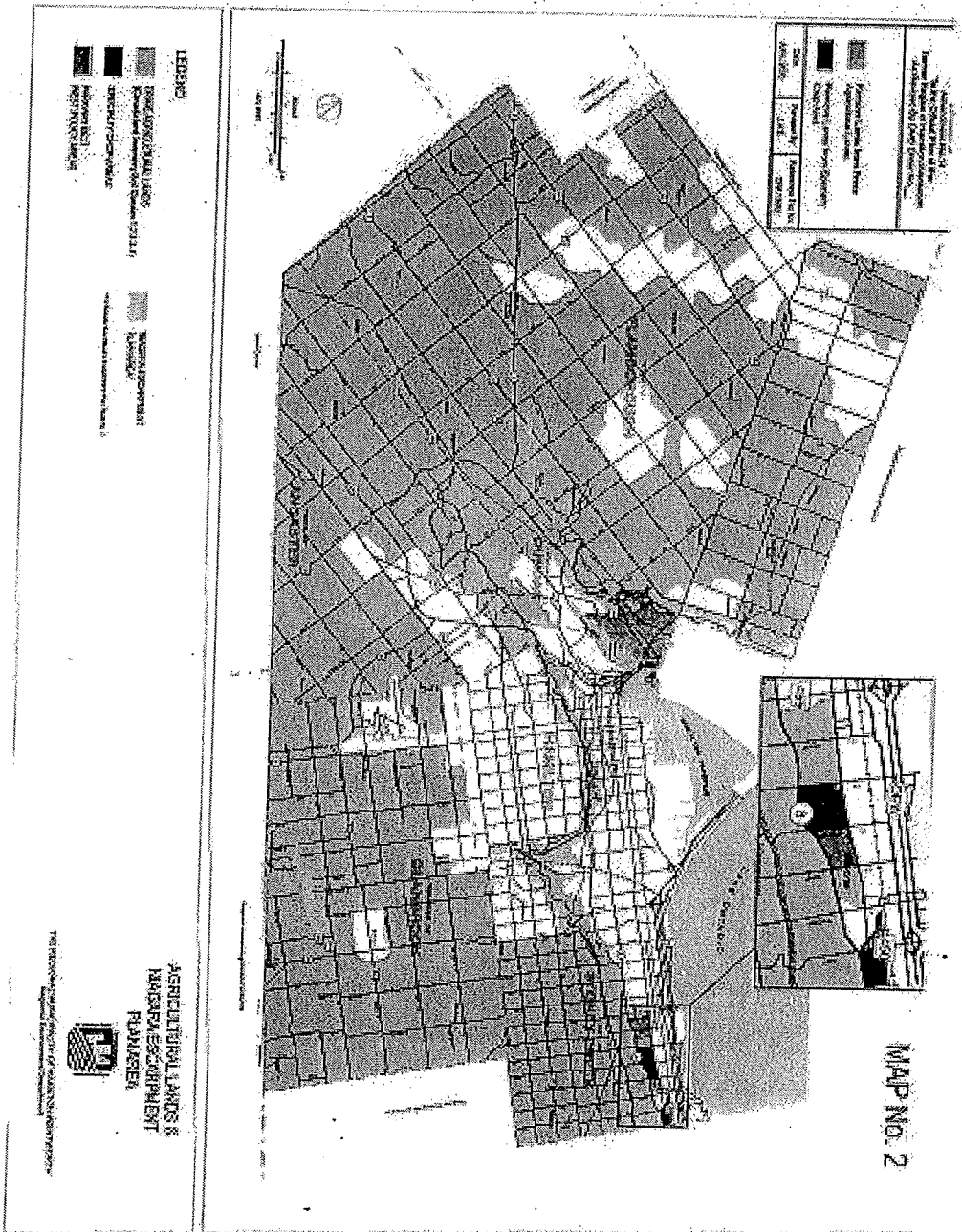
- b) Following the completion of the requirements identified in a) above, an integrated Secondary Planning Process under the Planning Act and the Municipal Engineering Association's Class Environmental Assessment process shall be completed for the remaining lands within Special Policy Area F:

Implementation:

OMB Order No. xxx will give effect to this Amendment. In addition, Section D, of the former Region of Hamilton-Wentworth Official Plan, and Section F, of the former City of Stoney Creek Official Plan will give effect to this Amendment.

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MAP No. 2

LEGEND

AGRICULTURAL LANDS
 ROAD
 WATER BODIES
 UNDEVELOPED LAND

AGRICULTURAL LANDS
 ROAD
 WATER BODIES
 UNDEVELOPED LAND

MISSISSIPPI DEPARTMENT OF AGRICULTURE
 MISSISSIPPI AGRICULTURAL LANDS
 REVENUE DEPARTMENT

