

Jul. 22, 2010



Ontario

By-law No. 10-322

Ontario Municipal Board  
Commission des affaires municipales de l'Ontario

PL090520

PL091188

PL100232

Upper Centennial Developments Ltd. has appealed to the Ontario Municipal Board under subsection 22(7) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended, from Council's refusal or neglect to enact a proposed amendment to the Official Plan for the City of Hamilton to redesignate lands known legally as Part of Lots 25 and 26, Concession 7 (formerly in the Township of Saltfleet) from Low Density Residential; Medium Density Residential and Institutional to General Commercial in order to permit various commercial/retail and residential uses

Municipal File No. OPA-06-26

OMB Case No. PL090520

OMB File No. PL090520

Upper Centennial Developments Ltd. has appealed to the Ontario Municipal Board under subsection 34(11) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended, from Council's refusal or neglect to enact a proposed amendment to Zoning By-law 3692-92, as amended of the City of Hamilton to rezone lands known legally as Part of Lots 25 and 26, Concession 7 (formerly in the Township of Saltfleet) from "ND - Neighbourhood Development Zone" to "SC2 - Community Shopping Centre" in order to permit a variety of commercial uses on the proposed commercial block

OMB Case No. PL090520

OMB File No. PL090511

Parkside Developments (Albion) Limited and Landmart Realty Corp. have appealed to the Ontario Municipal Board under subsection 34(11) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended, from Council's refusal or neglect to enact a proposed amendment to Zoning By-law 3692-92 of the City of Hamilton to rezone lands respecting Lots 25 and 26, Concession 7 from Neighbourhood Development "ND" zone to Single Residential "R4" modified, Multiple Residential "RM2" and "RM3" modified, and Open Space "O2" zone, in order to implement the proposed draft plan of subdivision

OMB Case No. PL091188

OMB File No. PL091188

Parkside Developments (Albion) Limited and Landmart Realty Corp. have appealed to the Ontario Municipal Board under subsection 51(34) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended, from the failure of the City of Hamilton to make a decision respecting a proposed plan of subdivision on lands composed of Lots 25 and 26, Concession 7, in the City of Hamilton

Approval Authority File No. 25T-200808

OMB Case No. PL091188

OMB File No. PL091198

Paletta International (2000) Inc. has appealed to the Ontario Municipal Board under subsection 22(7) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended, from Council's refusal or neglect to enact a proposed amendment to the Official Plan for the City of Hamilton to redesignate lands composed of Part of Lots 25 & 26, Concession 7 (Stoney Creek) from Low Density Residential; Medium Density Residential; Open Space - Community Park; Elementary School to permit the

proposed development composed of low, medium and medium-high density residential uses, a park, school and stormwater detention pond  
Approval Authority File No. OPA 09-008  
OMB Case No. PL100232  
OMB File No. PL100232

Paletta International (2000) Inc. has appealed to the Ontario Municipal Board under subsection 34(11) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended, from Council's refusal or neglect to enact a proposed amendment to Zoning By-law 90-145-Z of the City of Hamilton to rezone lands composed of Part of Lots 25 & 26, Concession 7 (Stoney Creek) from Neighbourhood Development "ND" Zone to R3, R4, R5X, RM2, RM4, OS, P, IS to permit the proposed development of low, medium and medium-high density residential uses, a park, school and stormwater detention pond  
Approval Authority File No. ZAC 09-031  
OMB Case No. PL100232  
OMB File No. PL100233

Paletta International (2000) Inc. has appealed to the Ontario Municipal Board under subsection 51(34) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended, from the failure of the City of Hamilton to make a decision respecting a proposed plan of subdivision on lands composed of Part of Lots 25 & 26, Concession 7 (Stoney Creek) in the City of Hamilton  
Approval Authority File No. 25T-200908  
OMB Case No. PL100232  
OMB File No. PL100504

## APPEARANCES:

### Parties

City of Hamilton

Upper Centennial Developments Ltd.

Paletta International (2000) Inc.

Parkside Developments (Albion) Limited and  
Landmart Realty Corp.

### Counsel

M. Kovacevic

S. A. Zakem and  
P. J. Harrington

M. Noskiewicz and  
J. Drake

R. D. Cheeseman

### OFFICE OF THE CITY CLERK

JUL 26 2010

REC'D BY A. Smith DATE \_\_\_\_\_

REF'D TO T. W. C. DATE \_\_\_\_\_

REF'D TO P. M. M. DATE \_\_\_\_\_

REF'D TO M. K. DATE \_\_\_\_\_

L. K.  
M. S.

ACTION: \_\_\_\_\_

**DECISION DELIVERED BY SUSAN de AVELLAR SCHILLER AND PARTIAL ORDER OF THE BOARD**

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Prior to the start of the hearing, 660439 Ontario Inc., doing business as M & M Tables and represented by Counsel W. Thatcher at pre-hearings in these matters, advised the Board that all issues of concern to 660439 Ontario Inc. had now been resolved and 660439 Ontario Inc. sought leave of the Board to withdraw as a Party to these proceedings. The Board was advised by Counsel Thatcher that the request to withdraw came to the Board on consent of all other Parties. The Board was satisfied that the written request to withdraw was appropriate and sufficient and did not require 660439 Ontario Inc. to attend further at these proceedings.

Three cases, representing three adjacent development proposals, form these proceedings. The proponents are Upper Centennial Developments Ltd. [UCD], Paletta International (2000) Inc. [Paletta], and Parkside Developments (Albion) Limited and Landmart Realty Corp. [Parkside/Landmart]. Although these three cases have been consolidated, discussions between the Parties and the City of Hamilton have moved at different paces for each case. All but one issue between UCD and the City of Hamilton have now been settled. This Decision deals with the UCD matters.

The Board heard from one expert witness: Mr. Peter De Iulio, a full member of the Canadian Institute of Planners and a Registered Professional Planner in Ontario. No other witnesses were called and no Participant addressed the Board in these UCD matters.

UCD wishes to develop commercial uses on a site within the East Felker Neighbourhood. The site is in the former Township of Saltfleet, in the former City of Stoney Creek, and now in the City of Hamilton. UCD has applied for amendments to the former City of Stoney Creek Official Plan and Zoning By-law. The lands are within the West Mountain Secondary Plan Area, known as Heritage Green. The East Felker Neighbourhood is a block generally bounded by Mud Street West on the north, Upper Centennial Parkway on the east, Highland Road West on the south and First Road West on the west.

The UCD lands are located in the centre of the east side of the block along Upper Centennial Parkway and roughly equidistant from Mud Street to the north and Highland Road to the south. Abutting the UCD lands to the west, and taking up most of the centre of the block, is the plan of subdivision proposed by Paletta. North of both UCD and Paletta are the lands in the plan of subdivision proposed by Parkside/Landmart. The Parkside/Landmart lands go along Mud Street with some internal gaps, roughly equidistant from Upper Centennial Parkway on the east and First Road West on the West.

North of Mud Street is a landfill. Existing commercial is located south of the UCD lands. An existing neighbourhood park and a secondary school are located within the block, surrounded on three sides by the proposed Paletta subdivision with Highland Road to the south. Existing residential uses are along both sides of Highland Road and both sides of First Street West.

The UCD lands are within a settlement area, as defined by the Provincial Policy Statement. The UCD commercial development implements policy 1.1.3 for settlement areas by providing a balance in land uses when considered in the context of the nearby existing and proposed residential uses. The UCD proposal also implements policy 1.3 by contributing to an appropriate mix of employment and a diversified economic base.

The former City of Stoney Creek Official Plan requires market demand and impact analysis for such commercial proposals. UCD filed this market impact analysis, which was peer reviewed by the City of Hamilton. Based on the results, the proposal was revised and that revision was again peer reviewed. In early 2010, UCD submitted an update of the market impact analysis study, which was peer reviewed by the City of Hamilton. The proposal was supported by the market impact analysis update and the peer review. UCD has agreed to the City of Hamilton's request for certain minor changes to the requested Zoning By-law and Official Plan amendments. The Board heard no evidence in opposition to these two planning instruments.

The UCD lands are within a Designated Greenfield Area of the Growth Plan for the Greater Golden Horseshoe. Section 2.2.7.1 of the Growth Plan sets out the requirements for new development within a Designated Greenfield Area. The UCD

proposal conforms to this section by contributing to a complete community and being planned in the context of the mix of land uses within the overall block.

This section of the Growth Plan also calls for street configurations that support walking, cycling and the integration of transit services. In order to achieve this, a Holding provision has been added to the proposed Zoning By-law amendment for UCD. Isaac Brock Drive is an east-west street that currently ends at the west side of First Street West. The City of Hamilton wishes to see an easterly extension of Isaac Brock Drive through the Paletta lands to connect with the UCD lands and continue east to Upper Centennial Parkway. The Paletta section of the proposed Isaac Brock extension will be secured in the planning instruments for the proposed Paletta plan of subdivision. The extension will be wide enough to accommodate generous walking sidewalks, bicycle lanes and transit, in keeping with the requirements of the Growth Plan.

The UCD lands are within the Urban Area designation of the Hamilton-Wentworth Official Plan. The proposal contributes to the provision of a wide range of urban uses and will be on full municipal services, as required by the Hamilton-Wentworth Official Plan.

One section of the Zoning By-law amendment before the Board deals with the landscaped strip to be provided and maintained along the westerly lot line of the UCD property. The proposed Zoning By-law amendment specifies a landscaped strip that is 15m wide. UCD takes the position that the strip should be narrower. UCD and the City of Hamilton are in ongoing discussions regarding details of the site plan for this proposed development which may result in a resolution of this remaining matter. The site plan is not before the Board. The City and UCD have both asked the Board to hold this one section of the Zoning By-law amendment in abeyance and still under appeal at this time, subject to a status report on discussions to be filed in about four months' time.

Having regard to section 2 of the *Planning Act*, the Board finds that the proposed Official Plan and Zoning By-law amendments for the UCD commercial development implement matters of provincial interest, particularly for the orderly development of communities, the adequate provision of employment opportunities, the appropriate

location of growth and development, and the promotion of development that supports public transit.

Having regard to section 3(5) of the *Planning Act*, the Board finds that the proposed Official Plan and Zoning By-law amendments are consistent with the Provincial Policy Statement and conform to the Growth Plan for the Greater Golden Horseshoe. The Board further finds that these two amendments conform to the Hamilton-Wentworth Official Plan and are consistent with the policy regime of the former City of Stoney Creek Official Plan. With the proposed amendment to the former City of Stoney Creek Official Plan, the Board finds that the proposed Zoning By-law amendment, with the exception of the reference to the 15m landscaped strip, conforms to the former City of Stoney Creek Official Plan. Finally, the Board finds that these proposed amendments are reasonable, appropriate and represent the principles of good community planning.

The appeal is allowed in part. The amendment to the former City of Stoney Creek Official Plan, found at Attachment 1 to this Decision, is approved. Zoning By-law No. 3692-92 (Stoney Creek) is amended in accordance with Attachment 2 to this Decision, with the exception of subparagraph (j)(2) which remains under appeal.

Counsel for UCD and Counsel for the City of Hamilton are to file with the Board a written status report on the progress of discussions relating to subparagraph (j)(2) of the Zoning By-law amendment, dealing with the width of the landscape strip along the western edge of the UCD lands. This status report is to be filed with the Board not later than 120 days from the date of this Decision.

If difficulties arise, the Board may be spoken.

This member remains seized of this matter.

So Orders the Board.

"Susan de Avellar Schiller"

SUSAN de AVELLAR SCHILLER  
MEMBER

## **ATTACHMENT 1**

Appendix "B" (Page 1 of 5)

### **Schedule "1"**

**Amendment No.**

**to the**

### **Official Plan for the former City of Stoney Creek**

The following text, together with Schedule "A", General Land Use Plan, and Schedule "A3", Secondary Plan West Mountain Planning District, of the Official Plan of the former City of Stoney Creek, attached hereto, constitute Official Plan Amendment No. 288.

#### **Purpose:**

The purpose of this Amendment is to redesignate the subject lands to permit the development of the lands for commercial shopping centre uses. This development would act as a major gateway feature to the Felker Neighbourhood allowing for vehicular movement and pedestrian connectivity as it is located along an identified high order transportation and transit corridor.

#### **Location:**

The lands affected by this Amendment include lands located on the west side of Upper Centennial Parkway and east of First Road West between Highland Road West and Mud Street West in Upper Stoney Creek, and known municipally as 165 Upper Centennial Parkway in the Felker Neighbourhood.

#### **Basis:**

The intent of the Amendment is to permit the development of a unified commercial shopping area. The basis for the redesignation is as follows:

- The proposed development is consistent with the Provincial Policy Statement and the Places to Grow Plan;
- The proposal will have no negative impact on the planned function of other commercial developments in the area;
- The proposal is strategically located along a major transportation corridor and identified as a potential rapid transit line in the Urban Hamilton Official Plan;
- The proposed development conforms with the Hamilton-Wentworth Official Plan; and,

- The proposed development is compatible with the existing and planned development in the immediate area, and is in keeping with the character of the surrounding neighbourhood through good urban design principles.

**Actual Changes:**

1. Schedule "A" General Land Use Plan is hereby amended by redesignating the subject lands from "Residential", "General Commercial", and "Institutional" to "Shopping Centres", as shown on the attached Schedule "A" of this amendment.
2. Schedule "A3" Secondary Plan West Mountain Planning District is hereby amended by redesignating the subject lands from "Low Density Residential", "Medium Density Residential", "General Commercial", and "Institutional" to "Community Shopping Centre", as shown on the attached Schedule "B" of this amendment.
3. That Policy 3.3.1 of the Stoney Creek Official Plan is amended to add the following additional Policy:

3.3.1.8 Notwithstanding Policy 3.3.1.4(b), the lands located on the west side of Upper Centennial Parkway and east of First Road West between Highland Road West and Mud Street West in Upper Stoney Creek, and known municipally as 165 Upper Centennial Parkway in the Felker Neighbourhood may be developed to a maximum gross leasable floor area of 27,900 square metres.

4. That Policy 13.3 of the Stoney Creek Official Plan is amended to add the following Policy:

13.3.14.1 Notwithstanding Policy 13.3.14, the following shall apply to the lands located on the west side of Upper Centennial Parkway and east of First Road West between Highland Road West and Mud Street West in Upper Stoney Creek, and known municipally as 165 Upper Centennial Parkway in the Felker Neighbourhood:

To minimize impacts of commercial development on the abutting residential areas, a substantial landscape buffer generally having a width of 15m will be established. The landscape buffer shall include plant materials and fencing and may include berms and sanitary, stormwater or water services. The landscape buffer may also include, if required, an acoustical barrier. The final width and configuration of the landscape buffer will be defined based on the approved Urban Design Guidelines and servicing strategy for the lands fronting onto Upper Centennial Parkway and will be incorporated into the approved Site Plan for the subject lands.



**Implementation:**

An implementing Zoning By-law Amendment and Site Plan application will give effect to the intended use on the subject lands.

This is Schedule "1" to By-law No. \_\_\_\_\_, passed on the \_\_\_\_\_ day of \_\_\_\_\_, 2010.

The  
City of Hamilton

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FRED EISENBERGER  
MAYOR

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KEVIN C. CHRISTENSON  
CLERK

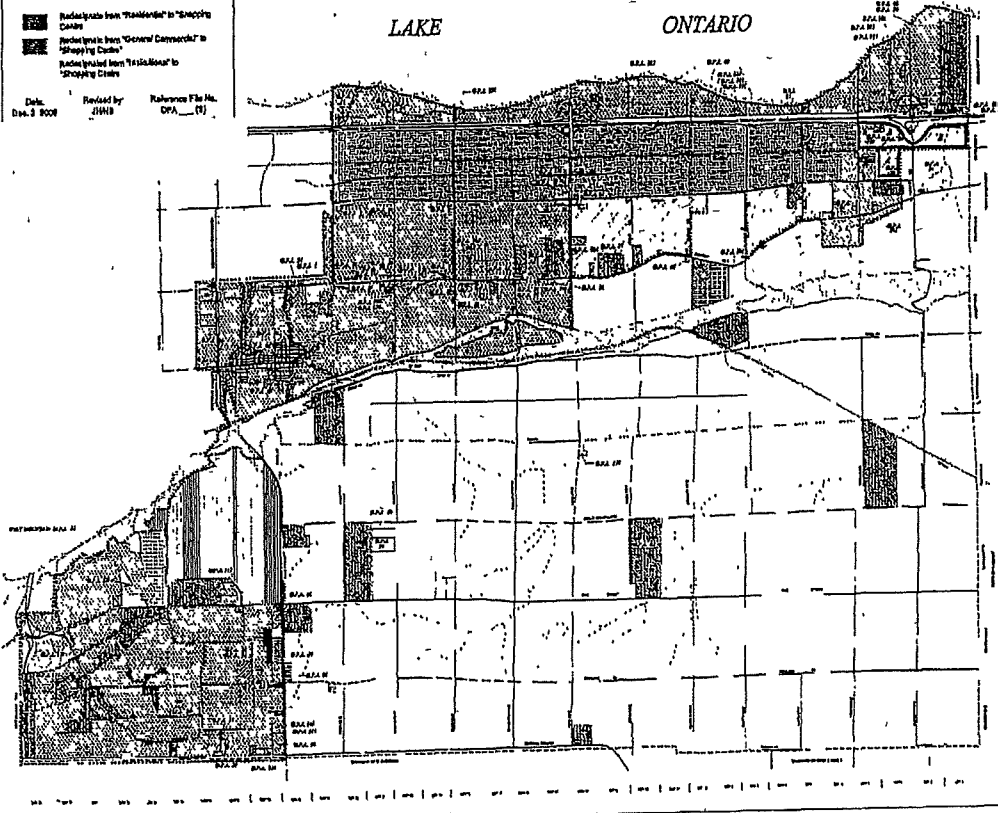
ZAC-06-099  
OPA-06-026

# CITY OF STONEY CREEK OFFICIAL PLAN Schedule "A" General Land Use Plan

Schedule A  
DRAFT Amendment No. \_\_\_\_\_  
To the Official Plan  
for the  
former City of Stoney Creek

Redeveloped from "Residential" to "Shopping Centre"  
 Redeveloped from "General Commercial" to "Shopping Centre"  
 Redeveloped from "Industrial" to "Shopping Centre"

Date: Dec. 3, 2008 Revised by: JPH/8 Reference File No.: OPA \_\_\_\_\_ (1)



## Legend

### Land Use Designations

Residential	Medium Density Residential
Downtown	Special Policy Area 1st
Shopping Centre	Special Policy Area 1st
General Commercial	Special Policy Area 1st
Highway Commercial	Area subject to Policy A.12.4c
Service Commercial	Municipal Boundary
Industrial - Business Park	Business Improvement Area (B.I.A.)
Institutional	Provincial Highway
Winona Urban Community	Regional Road
Open Space	Municipal Road
Escarpment/Natural Area	Railway
Agricultural	Water Course
Rural Industrial	Urban Policy Area
Rural Lakeshore	O.P.A. Official Plan Amendment
	Sub-Regional Centre



