

ISSUE DATE:

Aug. 25, 2008

08-198



Ontario

Ontario Municipal Board

Commission des affaires municipales de l'Ontario

PL070732
PL071115

Robert Payne/SFJ Inc. (Flying J) 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 land at 33-37 Fifty Rd to permit a travel plaza and associated uses catering to the traveling public.
OMB File No. O070107

Robert Payne/SFJ Inc. (Flying J) 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 of the City of Hamilton to rezone lands respecting 33-37 Fifty Rd to permit a travel plaza and associated uses catering to the traveling public.
OMB File No. Z070102

Robert Payne/SFJ Inc. (Flying J) has referred to the Ontario Municipal Board under subsection 41(12) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended, determination and settlement of details of a site plan for lands located at 33-37 Fifty Church Road, in the City of Hamilton.
OMB File No. PL071115

APPEARANCES:

Parties

Counsel

City of Hamilton

A. Zuidema

SFJ Inc. (Flying J)

C. Lantz

ACTION: P. De...

MEMORANDUM OF ORAL DECISION DELIVERED BY J. R. AKER ON JULY 2, 2008 AND ORDER OF THE BOARD

B. Khes
A Zuidema

Mr. Zuidema, counsel for the City of Hamilton, advised the Board that the parties have reached a settlement. The settlement requires an Official Plan amendment and two Zoning By-law amendments. Records
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The subject property is located in the southeast quadrant of the QEW and Fifty Road interchange and is approximately 18 acres in size. The property will be known as 1640 South Service Road in the City of Hamilton and formerly the City of Stoney Creek.

The proposal is for a travel plaza with restaurant, driver's lounge area with change rooms, gift shop, fuel pump islands, weight scale and wash area and land for future development.

Mr. Peter De Iulio, Senior Project Manager responsible for development review in the City of Hamilton, provided opinion planning evidence in support of the proposed development.

Mr. De Iulio provided land use planning evidence with respect to the Provincial Policy Statement (2005), the Growth Plan For the Greater Golden Horseshoe (2006), the former Region Of Hamilton-Wentworth Official Plan and the City of Stoney Creek Official Plan including Special Policy Area F.

Mr. De Iulio provided opinion planning evidence on Zoning By-law 3692-92 of the former City of Stoney Creek and Zoning By-law 05-200 of the City of Hamilton.

No one spoke in opposition.

Based on the evidence, the Board finds that the proposed Official Plan amendment conforms with the policies of the Stoney Creek Official Plan and all the requirements of Special Policy Area F have been complied with.

Based on the evidence, the Board finds that the proposed Zoning By-law amendment to Zoning By-law 3692-92 is in conformity with the proposed Official Plan amendment and represents good planning.

Based on the evidence, the Board finds that the proposed Zoning By-law amendment to Zoning By-law 05-200 appropriately implements the required map changes.

Based on all the evidence, the Board finds that the proposed development represents good planning and is in the public interest and should be approved.

The Order of the Board is set out as Attachment "A" appended to this Decision.

The hearing for the determination and settlement of the site plan is scheduled to commence at 10:00 a.m. on Tuesday, July 29, 2008. Three (3) days have been

reserved on the Board's calendar. The location is the Ontario Municipal Board Hearing Room 6, McMaster Learning Centre, 50 Main Street East, Hamilton.

This member is seized.

No further notice is required.

The Board so Orders.

"J. R. Aker"

J. R. AKER
MEMBER

ATTACHMENT "A"

PL070732
PL071115

ONTARIO MUNICIPAL BOARD

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OMB File No. O070107

Robert Payne/SFJ Inc. (Flying J) 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 of the City of Hamilton to rezone lands respecting 1640 South Service Road (formerly identified as 33-37 Fifty Road) to permit a travel plaza and associated uses catering to the traveling public.
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OMB File No. PL071115

BEFORE:

J.R. AKER, MEMBER) Wednesday, the 2nd day of July, 2008

THE BOARD ORDERS that the appeal of the Official Plan Amendment application under section 22(7) of the *Planning Act* be allowed and the Official Plan Amendment be approved as set out in Attachment "1";

AND THE BOARD FURTHER ORDERS that the appeal of the Zoning By-law Amendment application under section 34(11) of the *Planning Act* be allowed and the Zoning By-law Amendments be approved as set out in Attachment "2" and Attachment "3".

The Board so Orders

"J.R. Aker"

J.R. AKER
MEMBER

Attachment "1"
Amendment No. 141
to the
Former City of Stoney Creek Official Plan

The following text together with Schedule "A" – General Land Use Plan, attached hereto, constitute Official Plan Amendment No. 141 of the Official Plan of the former City of Stoney Creek.

Purpose:

The purpose of this Amendment is to redesignate the lands from "Special Policy Area F" to "Industrial – Business Park" and "Open Space" in order to permit the development of a travel plaza and other uses catering to the goods movement industry, associated uses catering to the travelling public, and may also include a hotel or motel, tourism information office, and office uses.

Location:

The lands affected by the Amendment are known municipally as 1640 South Service Road, located south of the Queen Elizabeth Way and east of Fifty Road, in the former City of Stoney Creek.

Basis:

The intent of the Amendment is to permit the development of a travel plaza and associated uses. The basis for the redesignation is as follows:

- The proposed travel plaza is an appropriate commercial use suitable for employment lands as it is considered an ancillary facility, consistent with the definition of Employment Areas that is provided in the Provincial *Growth Plan for the Greater Golden Horseshoe* and the Provincial Policy Statement (2005);
- The Amendment is consistent with the policies of the Provincial *Growth Plan for the Greater Golden Horseshoe* that promote economic development, preserve lands in the vicinity of major highways for such uses and support goods movement;
- The Amendment is consistent with the City of Hamilton *Transportation Master Plan*, which states the importance of ensuring that facilities in support of goods distribution are taken into account in the approval process for major development projects; and,

- The completion of a secondary plan prior to the development of the subject lands is not required on the basis that this Amendment is in compliance with Ontario Municipal Board Order No. 1202 which requires the completion of a number of studies in order for development to proceed ahead of the secondary plan. These policies read as follows:

“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 [including the subject lands], the following policies shall be 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 Parcel B; and,*
 - 2. identified clause iv) above shall be at the complete cost of the landowners located within Parcels A and B.”**

All of the requirements of Clause a) above have been completed to the satisfaction of the City for the lands subject to this Amendment.

- The Amendment will provide support and benefits to other industrial and commercial activities and help to stimulate new local development within these sectors by providing a facility that supports the trucking industry and goods distribution.

- The Amendment includes design policies to ensure the appropriate development of the subject lands situated at a gateway entrance area into the City of Hamilton.

Schedule Changes

Schedule "A", General Land Use Plan, is hereby amended by redesignating the subject lands from "Special Policy Area F" to "Industrial – Business Park" and "Open Space", and identifying the subject lands as OPA No. 141 as shown on Schedule "A" attached to this Amendment.

Actual Changes

Subsection A.4: INDUSTRIAL – BUSINESS PARK of the Stoney Creek Official Plan is hereby amended by adding the following subsections:

4.2.22 In addition to the permitted uses outlined in Policy A.4.2.1, the lands known municipally as 1640 South Service Road may be used for a travel plaza, offices, and other uses catering to the goods movement industry, and associated uses catering to the travelling public.

In addition to Policy 4.2.6, the following Urban Design policies shall apply to the lands designated "Industrial- Business Park" municipally known as 1640 South Service Road, to reflect the proximity of the lands to a gateway entrance area into the City of Hamilton:

- a) The travel plaza building shall be located closer to the street line than any fuel pump island;
- b) The northeast corner of the property shall include enhanced landscaping to screen views of large areas of parking and the fuel pump islands from the Queen Elizabeth Way (QEW);
- c) The landscaping across the frontage of the property, along South Service Road, shall include landscaping that is reminiscent of the character of the soft fruit farming for which the area is known, by incorporating plants such as flowering fruit trees arranged in orchards and hedgerows;
- d) The facades of all buildings facing the South Service Road and east property line should be the most architecturally prominent, highly articulated and include windows;
- e) The facades of all buildings facing the South Service Road shall include articulated pedestrian entrances;



- f) Large equipment, such as vehicle washing stations and weigh stations, is to be appropriately screened from view from the QEW by architectural and/or landscape features; and
- g) Signs shall not be a dominant feature, shall be compatible and in scale with the physical and visual character of the development, and shall not exceed a height of 14 metres.

Implementation:

An implementing Zoning By-Law Amendment will give effect to the intended use on the subject lands.

This is Schedule "1" to By-law No. _____, passed on the ____ day of _____, 2008, by OMB Order _____.

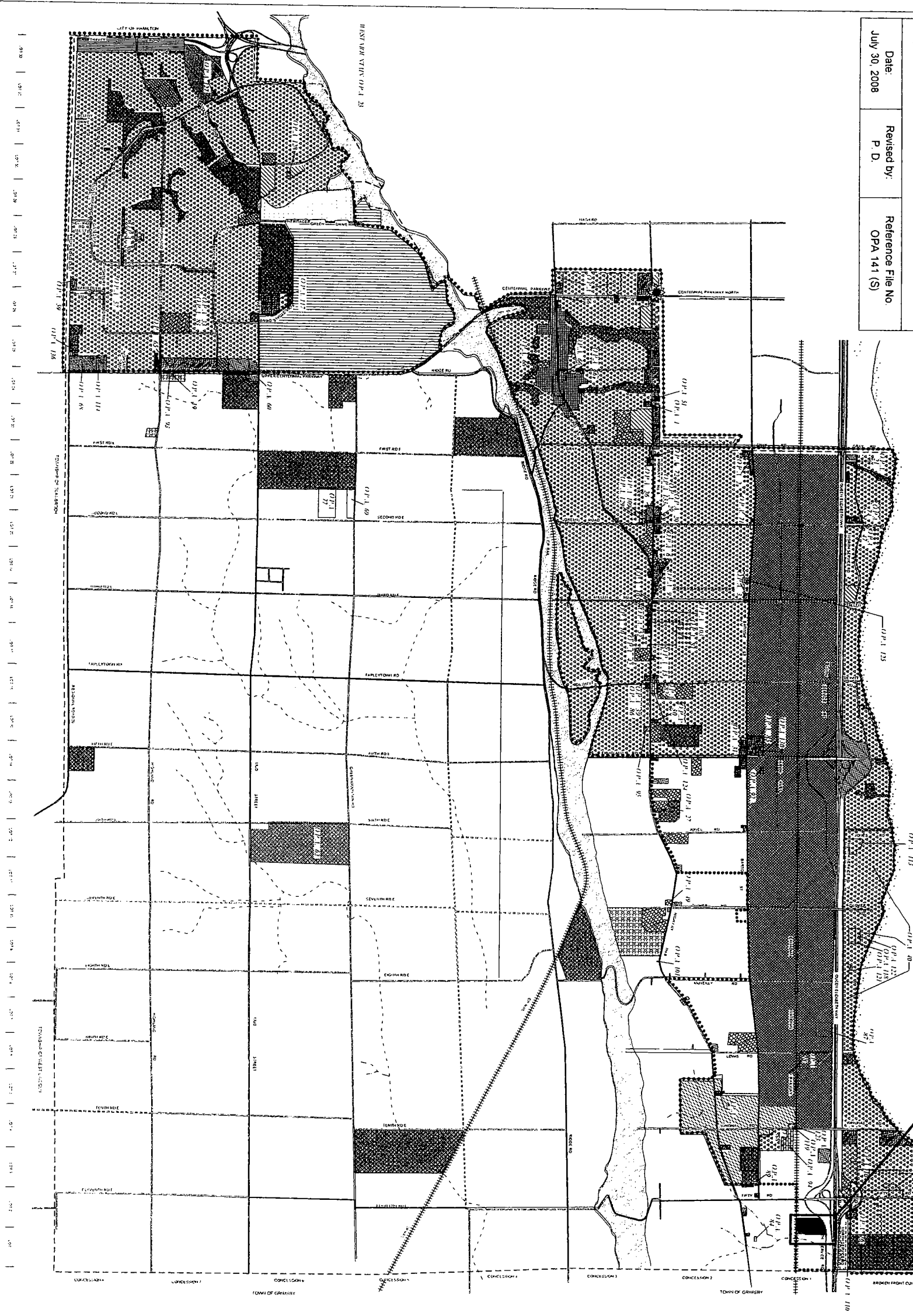
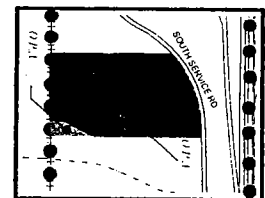
Schedule A
 Amendment No. 141 to the
 Official Plan for the former
 City of Stoney Creek

 Lands to be redesignated from "Special Policy Area 'A'" to "Industrial Business Park" and to be identified as OPA 141
 Lands to be redesignated from "Special Policy Area 'A'" to "Open Space" and to be identified as OPA 141

Date: July 30, 2008
 Revised by: P. D.
 Reference File No: OPA 141 (S)












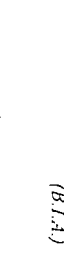





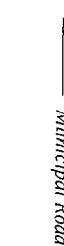

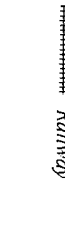



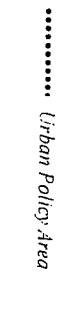



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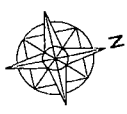
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Legend

Land Use Designations

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



CITY OF STONEY CREEK
 PLANNING DEPARTMENT

August 2007