

**Ontario Land Tribunal**  
Tribunal ontarien de l'aménagement  
du territoire



**ISSUE DATE:** March 03, 2022

**CASE NO(S):**

PL180728

**PROCEEDING COMMENCED UNDER** subsection 17(36) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended

Appellant: Intermarket Real Estate Group  
Appellant: Joseph & Laura Puopolo  
Appellant: White Water Holdings Inc.  
Subject: Proposed Official Plan Amendment No. OPA 128  
Municipality: Region of Waterloo  
OLT Case No.: PL180728  
OLT File No.: PL180728  
OLT Case Name: Puopolo v. Waterloo (Region)

**Heard:** February 16, 2022 by Video Hearing

**APPEARANCES:**

**Parties**

**Counsel**

Regional Municipality of Waterloo

Brian Duxbury  
Fiona McCrea

City of Cambridge

Patrick Kraemer

Intermarket Real Estate Group

Jennifer Meader

Laura and Joseph Puopolo

Steven O'Melia

Michael and Kim Pollock

Kevin Thompson

Hildagard Annie Shiry, Brian  
Harold Shiry, Pauline Victoria Shiry  
and Helen Elizabeth Shiry

David Sunday

John, Don, Larry, Douglas, James, Kyle Gossen  
Edward and Connie Hammer,  
Cathy Murphy and Veronica Kerr

**MEMORANDUM OF ORAL DECISION DELIVERED BY T. PREVEDEL ON FEBRUARY  
16, 2022 AND ORDER OF THE TRIBUNAL**

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**Introduction**

[1] The matter before the Tribunal is the Region of Waterloo's ("Region") adoption of Regional Official Plan Amendment No. 2 ("ROPA 2") and the resultant appeals lodged against it.

[2] At the onset of this process, there were originally three Appellants. The appeal by White Water Holdings Inc. ("White Water") was withdrawn as per the Tribunal's Order dated June 9, 2021.

[3] The matter before this Hearing is the proposed settlement with respect to the third Appellant, Joseph and Laura Puopolo ("Puopolo").

**Motion**

[4] The Region has submitted a Motion for:

- An Order allowing the Appeal of Puopolo in part;
- An Order amending ROPA 2 in accordance with Schedule "A" attached;
- An abridgement of time to serve and file this Notice of Motion Record, if necessary; and,
- Such further and other relief as counsel may advise and this Tribunal may permit.

## **The Hearing**

[5] This was a Settlement Hearing as the Region, the City of Cambridge (“City”), the Madison Group and Whitewater Holdings Inc. have entered into a settlement to resolve the Puopolo Appeal in accordance with the executed Minutes of Settlement amongst the Parties.

[6] Brian Duxbury, counsel for the Region, provided an overview of the proposed settlement and advised the Tribunal that the Minutes of Settlement (“Minutes”) contemplate, among other matters, that the Puopolo lands will be utilized as a stormwater retention pond and outlet facility to the Grand River. This will free up other lands within ROPA 2 for residential development.

[7] Mr. Duxbury further advised the Tribunal that a small amount of land will remain for redevelopment of four (4) lots in the rural designation and that the settlement does not affect or expand the urban area.

[8] On a final note, Mr. Duxbury advised that the balance of the Puopolo appeal is withdrawn.

[9] Steven O’Melia, counsel for the Puopolos, agreed with the comments provided by Mr. Duxbury and confirmed that the balance of the Puopolo appeal is withdrawn, but that they wish to retain Party status in order to monitor the balance of the proceedings.

[10] Brenna Mackinnon was available at the Hearing and was qualified by the Tribunal as an expert witness in land use planning.

## **Planning Evidence**

[11] A written affidavit was provided by Ms. Mackinnon with respect to the proposed settlement, providing expert opinion that the proposed settlement appropriately addresses the matters of provincial interest in s. 2 of the *Planning Act*, is consistent with the Provincial

Policy Statement, 2020 (“PPS, 2020”), conforms with the Growth Plan for the Greater Golden Horseshoe, 2019 (“Growth Plan, 2019”), conforms with and implements the policies of the ROP and helps to maintain the integrity of the ROPA 2 lands as approved by Council for the Region.

[12] Ms. Mackinnon provided the Tribunal with a brief overview of the proposed settlement.

[13] In her written affidavit, she opined that the settlement achieves a result that does not require any new lands to be included in ROPA 2 under the Urban Area designation. Due to the amount of land that can be designated (115 hectares), bringing in additional land would require other lands, already approved by Council, to be removed. Rather, the Puopolo lands will be largely utilized as a stormwater management facility in conjunction with the development of a significant portion of the lands owned by the Madison Group and by White Water Holdings Inc., already located within the Urban Area Designation of ROPA 2. The Minutes contain extensive provisions in respect to the study work that has already been done to ensure that the Puopolo lands may serve a stormwater retention and outlet function for a portion of the ROPA 2 lands. The Minutes also contemplate that a small portion of remnant lands, still to be retained by the Puopolos, may be developed in due course for a limited number of residential lots, still under a rural residential designation in the City’s Official Plan that pertains to much of the land along Riverbank Drive.

[14] She also advised that the settlement resolves a long outstanding appeal without the need to further adjust or litigate the Urban Area Boundary established by ROPA 2. The Puopolo lands will serve as a beneficial stormwater outlet and retention facility and thereby allow a more complete development of ROPA 2 lands for residential uses. The settlement results in the ability to develop a few lots on the remaining Puopolo lands for uses that are consistent with the current designation and the current character of Riverbank Drive.

## Disposition

[15] Based on the written and oral testimony provided by the expert witness, and the uncontested motion brought forward by the Region, the Tribunal finds that the proposed settlement has regard for matters of provincial interest as per s. 2 of the *Planning Act*, is consistent with the policies of the PPS, 2020, conforms with the Growth Plan, 2019 and conforms with and implements the policies of the ROP.

## Scheduling of a Future Case Management Conference (“CMC”)

[16] Jennifer Meader, counsel for Intermarket Real Estate Group, advised the Tribunal that not all of the issues for the remaining appeals have been settled and resolved.

[17] On consent of the Parties, a future date for a CMC or potential Motion Hearing was scheduled for **Tuesday, May 24, 2022 at 10 a.m.**

[18] Parties and participants are asked to log into the video hearing at least **15 minutes** before the start of the event to test their video and audio connections:

<https://meet.goto.com/235609973>

**Access code: 235-609-973**

[19] Parties and participants are asked to access and set up the application well in advance of the event to avoid unnecessary delay. The desktop application can be downloaded at [GoToMeeting](#) or a web application is available:

<https://app.gotomeeting.com/home.html>.

[20] Persons who experience technical difficulties accessing the GoToMeeting application or who only wish to listen to the event can connect to the event by calling into an audio-only telephone line: **(Toll Free): 1(888) 455-1389 or +1 (647) 497-9391**. The **access code** is **235-609-973**.

[21] Individuals are directed to connect to the event on the assigned date at the correct time. It is the responsibility of the persons participating in the hearing by video to ensure that they are properly connected to the event at the correct time. Questions prior to the hearing event may be directed to the Tribunal's Case Coordinator having carriage of this case.

## **ORDER**

[22] **The Tribunal Orders** that the Appeal of Joseph and Laura Puopolo is allowed in part.

[23] **The Tribunal Orders** that the Region of Waterloo Official Plan Amendment No. 2 is amended in accordance with Schedule "A" attached to this Decision

[24] The Member is not seized but may assist with case management, schedules permitting.

[25] No further notice will be given.

*"T. Prevedel"*

T. PREVEDEL  
MEMBER

### **Ontario Land Tribunal**

Website: [olt.gov.on.ca](http://olt.gov.on.ca) Telephone: 416-212-6349 Toll Free: 1-866-448-2248

The Conservation Review Board, the Environmental Review Tribunal, the Local Planning Appeal Tribunal and the Mining and Lands Tribunal are amalgamated and continued as the Ontario Land Tribunal ("Tribunal"). Any reference to the preceding tribunals or the former Ontario Municipal Board is deemed to be a reference to the Tribunal.

## SCHEDULE A

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### APPENDIX F

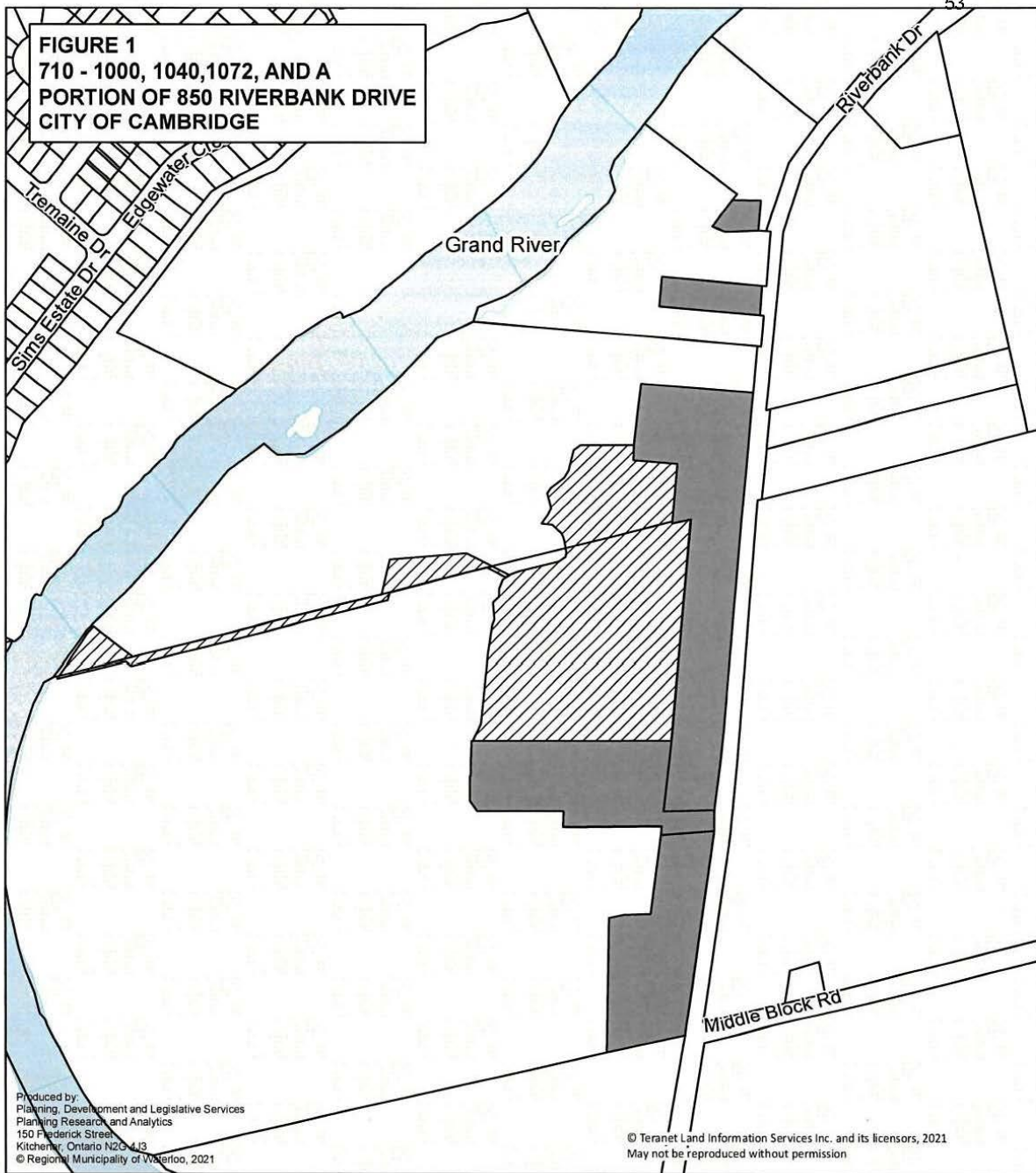
#### MODIFICATIONS TO ROPA 2

ROPA 2 as adopted by the Region on June 27, 2018 shall be further modified and amended by adding new Policy 2.D.40 to Amendment No. 2 to the Regional Official Plan and by adding a new Schedule 7B, as described in Figure 1 below, to the Regional Official Plan as follows:

2.D.40 There exists a rural residential cluster, located on the west side of Riverbank Drive and comprised of 710 to 830, 870 to 1000, 1040, 1072 and 1.2 hectares of 850 Riverbank Drive, all identified on Figure 1 to which the following policies apply:

- a) for the lands located at 850 Riverbank Drive outside of the rural residential cluster the following uses shall be permitted:
  - i. the existing single family residence; and
  - ii. a storm water management facility of approximately 4.5 hectares in size and associated inlet, outlet and maintenance access to be developed and constructed in conjunction with the lands located on the east side of Riverbank Drive, south of the Randall Drain.
- b) for that portion of the lands located at 850 Riverbank Drive identified as part of the rural residential cluster four (4) rural residential lots on private services or public services shall be permitted;
- c) no expansion to the existing rural residential cluster shall be permitted; and
- d) the existing rural residential cluster and the storm water management facility shall be designated in the City of Cambridge Official Plan.

The lands affected by the above policies that identify the rural residential cluster and permit the proposed storm water management facility and development for four rural residential lots are shown on Figure 1.



**Legend**

- Future Stormwater Management Facility and Inlet and Outlet
- Rural Residential Cluster

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