

Issue Date:

Sept. 09, 2010



PL031256

Ontario Municipal Board
Commission des affaires municipales de l'Ontario

Hamilton General Homes (1971) Ltd. and Ministry of Municipal Affairs and Housing 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. 0030406

Hamilton General Homes (1971) Ltd. and Ministry of Municipal Affairs and Housing 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. 0030407

APPEARANCES:

Parties

Counsel*/Agent

City of Hamilton

J. Wice*

1800615 Ontario Inc.
Successor to 1478742 Ontario Inc. by
amalgamation)

R. D. Cheeseman*

Mile Visnjic and Peter Visnjic

P. Pickfield*

Ronald McLaren and June McLaren

J. McLaren

**MEMORANDUM OF ORAL DECISION DELIVERED BY H. GOLDKIND ON
MAY 27, 2010 AND ORDER OF THE BOARD**

BACKGROUND

This matter is before the Board as a result of an appeal by the Ministry of Municipal Affairs and Housing (the “Ministry”) of Regional Official Plan Amendment (ROPA) No. 14 and City of Stoney Creek Official Plan Amendment (OPA) No. 99 to expand the urban boundary of the former City of Stoney Creek (now the City of Hamilton by amalgamation) and designate these newly included lands for urban uses.

On October 23, 2003, the City of Hamilton (the “City”) adopted OPA 99 and ROPA 14 and the Ministry appealed to the Board on November 26, 2003.

The Ministry sought to protect lands in the expanded urban area for inclusion in the future Greenbelt Plan, which came into effect on December 16, 2004. Under the Greenbelt Plan, some of the lands in the expanded urban area, including the three sites now before the Board, were designated as “Protected Countryside”.

At a Prehearing on November 22, 2005, the Ministry and City advised the Board that they had entered into an agreement that resulted in the reduction of the expanded urban area in order to exclude lands protected under the Greenbelt Plan.

The Board’s Decision and Order Number 2634 of September 19, 2006, allowed the Ministry’s appeal in part and approved of the said agreement, subject to the exclusion of four parcels of land that were reserved for a future Hearing for determining their respective status with regard to inclusion within the urban boundary for urban uses. On December 4, 2007, the Ministry withdrew its appeal with respect to these four parcels of land.

The Board’s Decision and Order of June 17, 2009 dealt with one of the four reserved parcels, the Glover McDonald block, and approved of the inclusion of that block of land within the urban boundary for urban uses under OPA 99 and ROPA 14.

The matter now before the Board is the determination of the status of the remaining three parcels of land under OPA 99 and ROPA 14. The three parcels or properties (collectively, the “Subject Parcels”) can be described as follows:

- 1361 Barton Street, owned by the Visnjics. This parcel has an area of 0.96 hectares and is on the north side of Barton Street.

- 347 Fifty Road, owned by 1800615 Ontario Inc. This parcel has an area of 2.95 hectares
- 970 Barton Street, owned by the McLarens. This parcel has an area of 0.788 hectares.

All of the parties agree that the Subject Parcels should be included within the urban boundary and designated for urban uses in OPA 99 and ROPA 14. Joanne Hickey-Evans, a land-use planner with the City of Hamilton, gave expert land-use planning evidence in support of the inclusion of the Subject Parcels within the urban boundary for urban uses. The witness provided oral and affidavit evidence that was uncontested.

From the evidence of the witness, the Board is satisfied that the inclusion of the Subject Parcels within the urban boundary and their designation for urban uses under OPA 99 and ROPA 14 is consistent with the Provincial Policy Statement, 2005, has regard to the Provincial Policy Statement, 1997, satisfies the requirements of all other relevant planning documents and represents good planning.

The owners of these lands and the City also agreed that the Subject Parcels be added to Special Policy Area "F" in order to make them subject to the provisions of Special Policy "F" in OPA 99. They also requested the amendment of Policy A.12.6 of OPA 99 with respect to the Greenbelt Plan. The Special Policies relate to pre-development studies and comprehensive planning requirements. The Board is satisfied that the additions and amendment satisfy the requirements of the planning regime, provide for the orderly development of the Subject Parcels and constitute good planning.

The Board approves of the inclusion of the Subject Parcels within the urban boundary and their designation for urban uses in OPA 99 and ROPA 14.

The Board also approves of the "special provision" additions to OPA 99, and amendment of OPA 99 with respect to the Greenbelt Plan. The OPA's, as modified, are approved.

THE BOARD HEREBY ORDERS:

That Official Plan Amendment 14 of the Region of Hamilton-Wentworth and Official Plan Amendment No. 99 to the City of Stoney Creek are hereby modified for three blocks of land (970 Barton Street, 1361 Barton Street and 347 Fifty Road), as follows:

A. Hamilton-Wentworth Regional Official Plan (ROPA 14(3))

- i) Map 1 of the Regional Official Plan be amended to redesignate the lands from “Rural Area” to “Urban” as shown on Schedule “A”;

B. Former City of Stoney Creek Official Plan (OPA 99(3))

- i) That Schedule "A", General Land Use Plan of the Stoney Creek Official Plan be amended by:

- a) adding the subject lands to the “Urban Policy Area” and to Special Policy Area “F”:

- 1. 970 Barton Street (0.788 ha);
- 2. 1361 Barton Street (0.96 ha.); and
- 3. 347 Fifty Road (2.95 ha.).

- b) identifying the lands at 1361 Barton Street and 347 Fifty Road as part of Parcel A.

as shown on the attached Schedule “B” of this Amendment.

- ii) Schedule “C” to the former City of Stoney Creek Official Plan be amended by redesignating the lands from “Rural Area” to “Stage One”, as shown on Schedule “C” to this Amendment.

- iii) That Section A.12 – Special Policy Areas be amended by:

- a) adding the words the words “including *1361 Barton Street (0.96 ha.); and 347 Fifty Road (2.95 ha.)* between the words ‘west of Fifty Road’ and ‘identified’ in clause a);

- b) adding the following new addresses to clause c) in Policy A.12.6 as:

- 2. 970 Barton Street (0.788 ha);
- 3. 1361 Barton Street (0.96 ha.); and
- 4. 347 Fifty Road (2.95 ha.).

so the Policy 12.6 reads as follows (**changes in bold**)

“12.6 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, **including 1361 Barton Street (0.96 ha.) and 347 Fifty Road (2.95 ha.)** 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 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 in clause iv) above shall be at the complete cost of the landowners located within 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.
- c) Sections and policies of the Green Belt Plan, including Section 5.2.1, permit the implementation of the urban area designation and any other subsequent urban land use designations and policies of this Plan, for the lands located at:

1. Glover Road, Barton Street, Concession 1, dividing Lots 11 and 12 and Highway No.8 (30.87 ha approximately);
2. **970 Barton Street (0.788 ha);**
3. **1361 Barton Street (0.96 ha.); and,**
4. **347 Fifty Road (2.95 ha.).”**

So Orders the Board.

“H. S. Goldkind”

H. S. GOLDKIND
MEMBER





