

ISSUE DATE:

Jan. 28, 2011



PL070212

By-law No. 11-096

Ontario
Ontario Municipal Board
Commission des affaires municipales de l'Ontario

Losani Homes 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 to enact a proposed amendment to the Regional Official Plan (ROPA-05-06) for the City of Hamilton for a redesignation of employment lands to residential to permit a subdivision proposal, which includes 144 lots, 5 blocks for single-detached dwellings and 10 blocks for townhouses, at a location municipality know as 1187 Barton Street, et al.

OMB File No. PL070212-O070056

OMB Case No. PL070212-O070056

Losani Homes 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 to enact a proposed amendment to the Official Plan (OPA-5-25) for the City of Hamilton for a redesignation of employment lands to residential to permit a subdivision proposal, which includes 144 lots, 5 blocks for single-detached dwellings and 10 blocks for townhouses, at a location municipality know as 1187 Barton Street, et al.

OMB File No. PL070212-O070063

OMB Case No. PL070212-O070056

Losani Homes 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 to enact a proposed amendment to Zoning By-law ZAC-05-128 of the City of Hamilton to rezone lands respecting 1187 Barton Street, et al. to redesignate employment lands to residential to permit a subdivision proposal, which includes 144 lots, 5 blocks for single-detached dwellings and 10 blocks for townhouses.

OMB File No. PL070212-Z070002

OMB Case No. PL100547-O070056

IN THE MATTER OF subsection 51(34) of the Planning Act, R.S.O. 1990, c. P.13, as amended

Appellant:	Losani Homes
Subject:	Draft Plan of Subdivision No. 25T-2005-26
Property Address/Description	1187 Barton Street, et al.
Municipality:	City of Hamilton
OMB Case No.:	PL070212-S070034
OMB File No.:	PL070212-O070056

APPEARANCES:

Parties

Losani Homes

City of Hamilton

Counsel

C. Barnett

M. Kovacevic

**MEMORANDUM OF ORAL DECISION DELIVERED BY M. C. DENHEZ
ON NOVEMBER 22, 2010, AND ORDER OF THE BOARD**

This dispute has been settled. Losani Homes (the Applicant), proposed a 13.45-hectare residential subdivision in the Stoney Creek area of the City of Hamilton (the City). The area had previously been designated as Employment lands. The application would involve seven aspects:

1. An Official Plan Amendment (OPA) to the Official Plan (OP) of the former Region of Hamilton-Wentworth;
2. An OPA, to the OP of the former City of Stoney Creek;
3. A Zoning By-law Amendment (ZBA), to remove the subject property from the existing ambit of the City's Zoning By-law 05-200;
4. A ZBA to address zoning arrangements for an Open Space component;
5. A ZBA to address new zoning arrangements for lands to be developed;
6. A Draft Plan of Subdivision; and
7. Conditions for the Draft Plan of Subdivision.

However, when the Applicant applied to the City, Council formally refused. The Applicant appealed to the Board.

The City had concerns, notably pertaining to the conversion of Employment lands to residential use. However, discussions during the lead-up to the hearing ultimately led

to consensus. The City and the Applicant agreed on a new configuration, whereby about half the subject property would remain in the Employment lands designation – with additional tangible benefits for Employment uses. On analysis, the City was satisfied that the revised arrangement met its employment needs, particularly as the Applicant would upgrade the Employment lands (via servicing) to "shovel-ready" status.

In addition, the Applicant would build a new stormwater facility (with the potential of servicing a larger area), extend an important road, and purchase some surplus City lands (which had always been the intention, but that arrangement became "crystallised" during the course of discussions). Finally, the residential development would have a higher percentage of townhouses, and hence more density and "intensity" than foreseen in the original application.

At the hearing, the Applicant and the City jointly recommended Board approval of the seven aspects of the proposal. The Applicant's Planner, Mr. Armstrong, offered the expert opinion that there had been due regard for all the applicable statutory criteria, and logical consistency, with the other provisions of the applicable Official Plans. The revised arrangements conformed to all applicable criteria for rezoning, and for subdivisions, notably under Subsection 51(24) of the *Planning Act*.

The Board finds no dispute.

The Board is also mindful that one of the components to this proposal is to withdraw the subject property from the existing ambit of Zoning By-law 05-200 – a By-law which has other components currently under appeal before this Board. It was common ground, however, that proceeding with the Parties' recommended course has no effect on those other appeals; and although there has been appropriate public notice of the proposed outcome of these present proceedings, there have been no other objections to that outcome. The Board is satisfied that there is no apparent obstacle to proceeding accordingly.

In conclusion, the Board has carefully considered all the evidence, as well as the submissions of Counsel. The Board concludes, as the expert Planner did, that the proposal – in its seven aspects – now meets the terms of the *Planning Act* for the Official Plan Amendments, the Zoning By-law Amendments, the Draft Plan of Subdivision, and the Conditions thereto.

THE BOARD THEREFORE ORDERS that the appeal is allowed, and:

1. The Official Plans of the former Region of Hamilton-Wentworth and the former City of Stoney Creek are hereby modified in the manner set out in Attachment "1" to this Order.
2. Zoning By-law 05-200 of the City of Hamilton is hereby amended in the manner set out in Attachment "2" to this Order.
3. Zoning By-law 3692-92 of the former City of Stoney Creek is hereby amended in the manner set out in Attachment "3" to this Order.
4. The Board authorizes the City Clerk to assign numbers to the above for record-keeping purposes.
5. The Board Approves the Draft Plan of Subdivision, as it appears at Attachment "4" to this Order.
6. The approval of the Draft Plan of Subdivision is subject to Conditions, as they appear at Attachment "5" hereto.
7. Pursuant to Subsection 51(56.1) of the *Planning Act*, the City shall have the authority to clear the Conditions of Draft Plan approval and to administer final approval of the Plan of Subdivision for the purposes of Subsection 51(58) of the *Act*. In the event that there are any difficulties implementing any of the Conditions of Draft Plan approval, or if any changes are required to be made to the Draft Plan, the Board may be spoken to.

It is so Ordered.

"M.C. Denhez"

M. C. DENHEZ
MEMBER

Attachment "1"

**Official Plan Amendment No. 42
to the Official Plan
of the former Regional Municipality of Hamilton-Wentworth;**

and,

**Official Plan Amendment No. 162
to the Official Plan
of the former City of Stoney Creek.**

Respecting:

1187, 1199, 1211, 1217, 1227 and 1239 Barton Street

The following text together with Schedule "A" (Schedule A - General Land Use Plan, Stoney Creek Official Plan) attached hereto, constitute:

1. Official Plan Amendment No. 42 to the former Regional Municipality of Hamilton-Wentworth Official Plan; and,
2. Official Plan Amendment No. 162 to the former City of Stoney Creek Official Plan.

Purpose:

The purpose of these amendments is to redesignate a portion of the lands from industrial to residential in the Regional and local Official Plans to permit the development of a residential subdivision.

Location:

The Subject Property comprises 6.69 hectares, and is situated on the north side of Barton Street between West Avenue and Lewis Road, in the former City of Stoney Creek.

Basis:

- The proposed Amendments are consistent with the Provincial Policy Statement.
- The proposed Amendments implement the resolution of the Council, dated April 7, 2008.
- The site is directly adjacent to the existing Winona Urban Community and represents a logical and ideal expansion of residential development.

- The development will be serviced from the existing municipal watermain and sanitary sewer system, and transportation network.

Actual Changes:

1. **That the former Regional Municipality of Hamilton-Wentworth Official Plan be amended as follows:**

Map Changes

Map No. 1 – Regional Development Pattern, be amended by redesignating the subject lands from “Business Parks” to “Urban”, and identifying the subject lands as OPA No. 42, as shown on the attached Schedule “A” to this Amendment.”

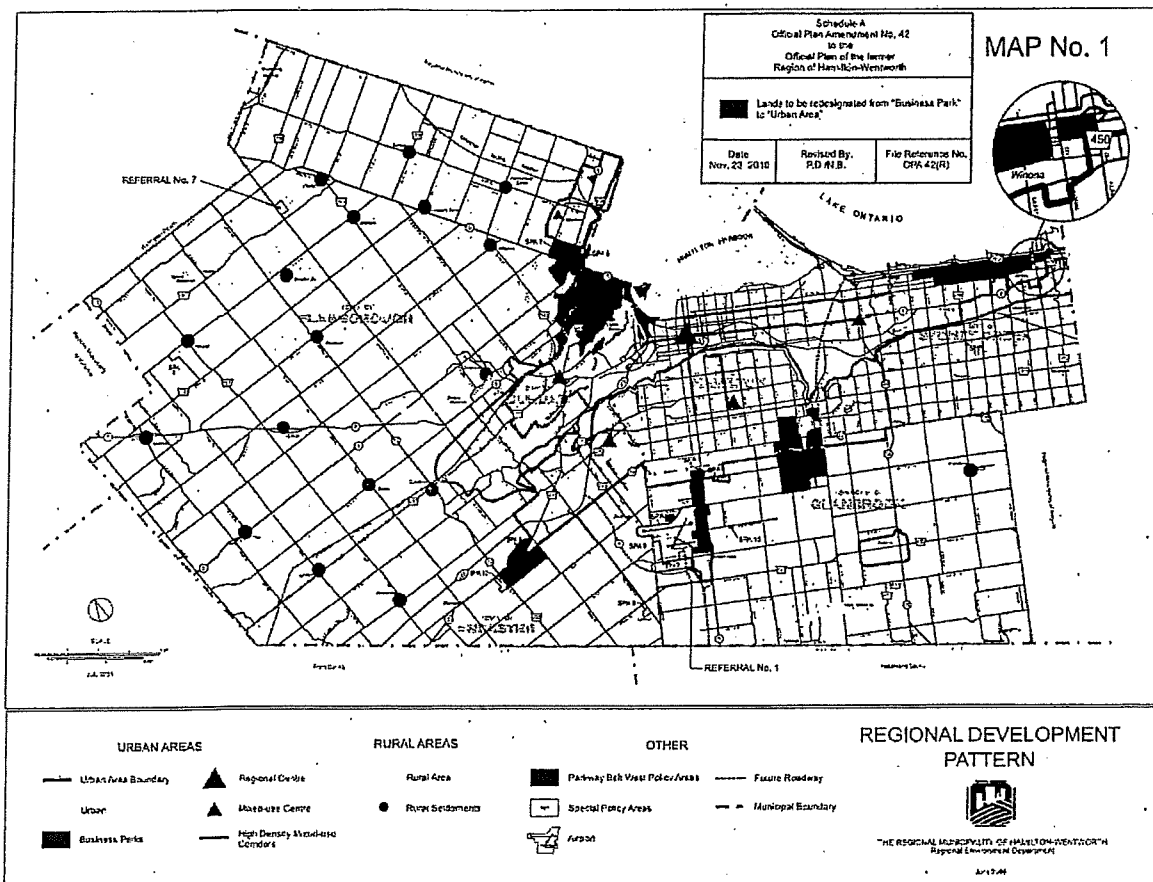
2. **That the former City of Stoney Creek Official Plan be amended as follows:**

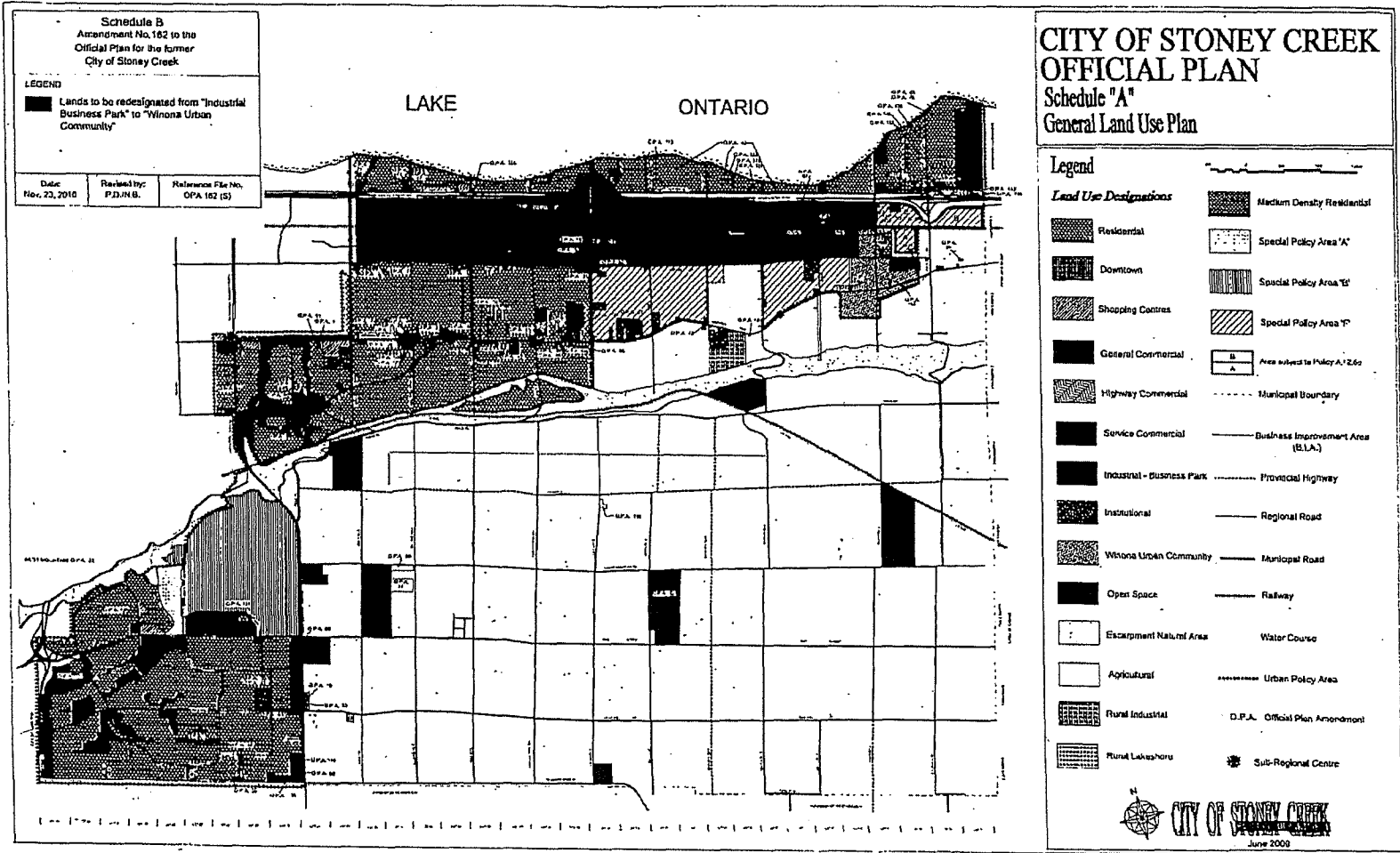
Map Changes

- a) Schedule “A” - General Land Use Plan, be amended by redesignating the subject lands from “Industrial – Business Park” to “Winona Urban Community”, and identifying the subject lands as OPA No. 162, as shown on the attached Schedule “B” to this Amendment.
- b) Schedule “A-2” – Winona Urban Community Secondary Plan, be amended by incorporating a portion of the subject lands into the “Winona Urban Community District Boundary”, designating a portion of the lands as “Low Density Residential” and “Medium Density Residential”, and redesignating a portion of the lands from “Low Density Residential” to “Medium Density Residential” and identifying the subject lands as OPA No. 162, as shown on the attached Schedule “C” to this Amendment.

Implementation:

An implementing Zoning By-law Amendment and Draft Plan of Subdivision will give effect to this Amendment.

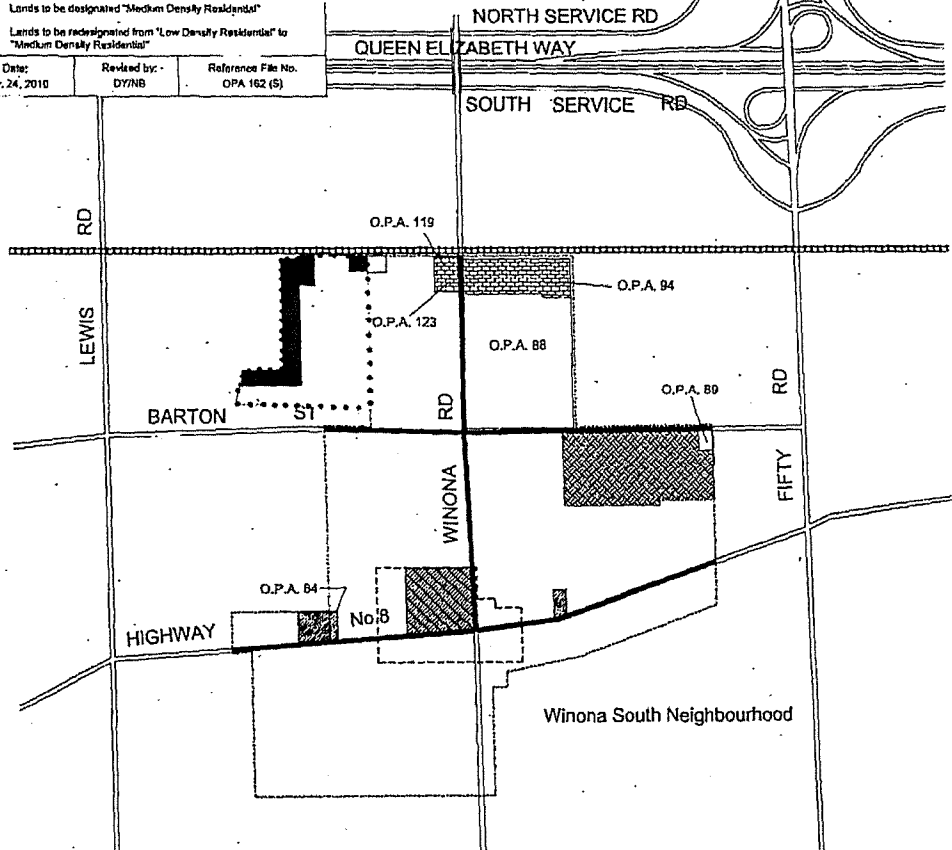




Schedule C
Amendment No. 162 to the
Official Plan for the former
City of Stoney Creek

- LEGEND**
- ***** Lands to be included in the Winona Urban Community District Boundary
 - Lands to be designated "Low Density Residential"
 - Lands to be designated "Medium Density Residential"
 - Lands to be redesignated from "Low Density Residential" to "Medium Density Residential"

Date: Nov. 24, 2010	Revised by: DY/NB	Reference File No. OPA 162 (S)
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CITY OF STONEY CREEK
OFFICIAL PLAN
Schedule "A2" Secondary Plan
Winona Urban Community

Legend

- Land Use Designations
- Low Density Residential
 - Medium Density Residential
 - General Commercial
 - Elementary School
 - Community Park
 - District Boundary
 - - - Winona Centre Boundary
 - Collector Road
 - Arterial Road

* Land use designations apply only to the lands within the Winona Urban Community District Boundary.



October 2008