

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



**ISSUE DATE:** June 24, 2014

**CASE NO(S):** PL111171

Appellant: Calloway REIT (Welland) Inc.  
Subject: Proposed New Official Plan  
Legislative Authority: Subsection 17(36) of the *Planning Act*, R.S.O. 1990, c. P.13,  
as amended  
Municipality: City of Welland  
OMB Case No.: PL111171  
OMB File No.: PL111171

Appellant: Calloway REIT (Welland) Inc.  
Subject: Proposed Official Plan Amendment No. OPA 132  
Legislative Authority: Subsection 17(36) of the *Planning Act*, R.S.O. 1990, c. P.13,  
as amended  
Municipality: City of Welland  
OMB Case No.: PL110874  
OMB File No.: PL110874

Calloway REIT (Welland) 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 Welland to redesignate land at the north side of Woodlawn Road, west of Highway 406 and east of Primeway Drive (102 Primeway Drive) from Prestige Light Industrial / Highway Commercial Designation to a modified Prestige Light Industrial / Highway Commercial Designation to permit a range of retail and service commercial uses, including a department store and a home and auto supply store  
(Approval Authority File No. 2006-19)  
OMB File No. PL080877

Calloway REIT (Welland) 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 Welland to redesignate land at the north side of Woodlawn Road, west of Highway 406 and west of Primeway Drive (69 & 165 Primeway Drive) from Prestige Light Industrial / Highway Commercial Designation to a modified Prestige Light Industrial / Highway Commercial Designation to expand the list of permitted uses to include a range of retail and service commercial uses  
(Approval Authority File No. 2006-20)

OMB File No. PL080879

Calloway REIT (Welland) 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 2667 of the City of Welland to rezone lands respecting 102 Primeway Drive from H-C4-X13 to a Site Specific H-C4 Zone to permit the increase in maximum leasable floor area for the site, and delete the minimum gross leasable floor area requirement for complimentary service type uses

OMB File No. PL080795

Calloway REIT (Welland) 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 2667 of the City of Welland to rezone lands respecting 69 and 165 Primeway Drive from H-C4-X13 to a Site Specific H-C4 Zone to permit additional Commercial Retail Unit floor space, a second-hand store and complimentary service type uses

OMB File No. PL080796

#### **APPEARANCES:**

##### **Parties**

##### **Counsel**

City of Welland

S. Zakem

Calloway REIT (Welland) Inc.

S. Mahadevan

Doral Holdings Limited  
430635 Ontario Inc.  
North Welland B.I.A.

M. Bowman

#### **HEARING EVENT INFORMATION:**

Prehearing:

Held in Toronto, Ontario on May 13, 2014

#### **MEMORANDUM OF ORAL DECISION DELIVERED BY M. C. DENHEZ ON MAY 13, 2014 AND ORDER OF THE BOARD**

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#### **INTRODUCTION**

[1] This dispute pertaining to an Official Plan ("OP") has been settled, along with

related matters.

[2] It pertained mainly to the new OP for the City of Welland (the "City"), in the Regional Municipality of Niagara (the "Region"). The City had adopted the OP in May, 2010. In October, 2011, the Region modified (and approved as modified) certain portions of the OP, and deferred others.

[3] There were several appeals to the Ontario Municipal Board ("the Board"). Over time, all OP appeals were disposed of, except one remaining appeal by Calloway REIT (Welland) Inc. ("Calloway").

[4] However, there were linkages with other appeals:

- The appeals of the new OP were addressed in Board file PL111171.
- There had also been disputes over related Official Plan Amendments ("OPA's"), including Official Plan Amendment No. 132 ("OPA 132"). That appeal was in Board file PL110874.
- Calloway was also involved in site-specific appeals for proposed development. Those appeals were addressed in Board files PL080795, PL080796, PL080877, and PL080879.

[5] The above disputes also involved Zoning By-law No. 2667 of the City.

[6] Other parties also had an interest in the outcome of "the Calloway appeal", namely Doral Holdings Limited, 430635 Ontario Inc., and North Welland B.I.A. The Board was also advised of interest by the Downtown Welland B.I.A.

[7] Eventually, and after considerable discussion, the parties were able to reach consensus in the disputes involving all the above Board files. The terms of the proposed arrangement were submitted to the Board.

[8] On review, the Board fully considered the Affidavit evidence of expert planner Rose Di Felice, who outlined how the outcome complied with all statutory criteria, and represented good planning. The Board also considered the submissions of counsel for the City, Calloway, Doral Holdings Limited and 430635 Ontario Inc. (collectively, "Doral"), as well as the Downtown Welland B.I.A. and North Welland B.I.A. (collectively,

the “BIAs”) with respect to the proposed amendments.

[9] The Board notes that the City, Calloway, and the Region of Niagara consent to this draft Order, and Doral and the BIAs do not oppose this draft Order. It was also agreed that no costs should be awarded in this matter.

[10] On the evidence, the Board found no reason to disagree with the proposed outcome, or with the Order as proposed.

[11] The Board therefore disposes of the above matters as follows:

1. The appeals are allowed in part as outlined herein.
2. Pursuant to s. 17(50) of the *Planning Act*, the appeal filed by Calloway is allowed in part and
  - a) The amendments to the Official Plan for the City of Welland, as indicated in the redline revisions shown on Attachment “1” hereto, are hereby made and approved; and
  - b) Schedules “C”, “C1” and “C2” to the Official Plan for the City of Welland are hereby replaced with the revised versions of Schedules “C”, “C1” and “C2”, attached as Attachment “2” hereto.
3. Pursuant to s. 34(26) of the *Planning Act*, the appeal filed by Calloway is allowed in part and the amendments to Zoning By-law No. 2667 of the City of Welland indicated in the redline revisions shown on Attachments “3”, “4”, and “5” hereto are hereby made and approved.
4. The balance of the appeals in OMB File Nos. PL110874, PL080877, PL080879, PL080795 and PL080796 are otherwise dismissed.

5. The Board agrees with the joint submission of the parties that, in the event that some matter or matters should arise in connection with the implementation of this Order, the Board may be spoken to.

*"M. C. Denhez"*

M. C. DENHEZ  
MEMBER

**Ontario Municipal Board**

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