

Ontario Municipal Board
Commission des affaires municipales
de l'Ontario

14-314
Attachment 1



ISSUE DATE: September 12, 2014

CASE NO(S): PL140597

PROCEEDING COMMENCED UNDER subsection 17(24) of the Planning Act, R.S.O. 1990, C. P. 13, as amended

Appellant: Calloway Real Estate Investments Trust
Inc.
Subject: Proposed Official Plan Amendment No. OPA-
13-012
Municipality: City of Hamilton
OMB Case No.: PL140597
OMB File No.: PL140597

PROCEEDING COMMENCED UNDER subsection 17(45) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended

Motion By: Joel Farber
Purpose of Motion: Request for an Order Dismissing the Appeal
Appellant: Calloway Real Estate Investments Trust Inc.
Subject: Proposed Official Plan Amendment No. OPA-
13-012
Municipality: City of Hamilton
OMB Case No.: PL140597
OMB File No.: PL140597, PL140598

Heard: September 3, 2014 in Hamilton, Ontario

APPEARANCES:

Parties

Counsel

Calloway Real Estate Investments
Trust Inc.

Johanna Shapira

Trinity Development Group Inc.

Joel Farber

City of Hamilton

Steven Zakem

**MEMORANDUM OF ORAL DECISION DELIVERED BY J. de P. SEABORN ON
SEPTEMBER 3, 2014 AND ORDER OF THE BOARD**

[1] Calloway Real Estate Investments Inc. ("Calloway") appealed a decision made by the City of Hamilton ("City") to approve an official plan amendment and zoning by-law amendment. The Applicant, Trinity Development Group Inc., brought a motion to dismiss the appeal without the necessity of holding a hearing. At the outset of the motion hearing, counsel advised that all issues were resolved and a request was made to modify the official plan amendment under appeal, following which the appeal to the zoning by-law amendment would be withdrawn. On this basis, the motion to dismiss the appeal was withdrawn.

[2] Matthew Johnston, a land use planner qualified to give opinion evidence, testified in support of the approval of Official Plan Amendment No. 18 ("OPA 18"), as modified by agreement between Calloway, the Applicant and the City. By way of background, the Applicant received approval (OPA 18) from City Council on May 14, 2014 to proceed with its development application for lands located on Wilson Street West in the former Town of Ancaster. OPA 18 was appealed by Calloway. The development proposal, described in detail in the affidavit of Mr. Johnston, seeks approvals to facilitate commercial development, including a supermarket and other district commercial uses. Specifically, the application proposes re-designations from arterial commercial to district commercial, with maximum gross floor areas. The purpose of OPA 18 is to allow for a range of commercial uses on the subject lands and the modifications are intended to add a greater level of precision to the policies both in terms of the maximum square metres of permitted space and associated uses as well as clarifying the prohibited uses. It was Mr. Johnston's evidence that the changes introduced achieve these objectives.

[3] The modifications proposed (as set out in Exhibit 4, a black line version of the instrument) are intended to provide clarification as to the purpose of OPA 18, which is an amendment to the Urban Hamilton Official Plan. Modifications agreed to between the parties include both mapping changes (s. 4.1) and changes to the text (s. 4.2). It was

the opinion of Mr. Johnston that OPA 18, as modified, conforms to all applicable provincial plans, is consistent with the Provincial Policy Statement and represents an appropriate balance of interest as between Calloway and the Applicant. The City supports the modifications to OPA 18 and submitted they be adopted.

[4] The appeal is allowed in part. OPA 18 is modified in the manner set out in Attachment 1 (Exhibit 5) and as modified, is approved. The appeal by Calloway of the former Town of Ancaster By-law No. 87-57 is withdrawn and the Board's file will be closed. By agreement of counsel, the motion to dismiss the appeal is withdrawn, without costs.

"J. de P. Seaborn"

J. de P. SEABORN
VICE CHAIR

Ontario Municipal Board

A constituent tribunal of Environment and Land Tribunals Ontario

Website: www.elfto.gov.on.ca Telephone: 416-212-6349 Toll Free: 1-866-448-2248

**Amendment No. 18
to the
Urban Hamilton Official Plan**

The following text constitutes Official Plan Amendment No. 18 to the Urban Hamilton Official Plan.

1.0 Purpose and Effect:

The purpose of this Amendment is to amend Schedule E-1 - Urban Land Use Designations of the Hamilton Urban Official Plan by redesignating a portion of the lands from "Arterial Commercial" to "District Commercial"; to amend Volume 3: Map 1 and Map A-2 to identify two portions of the lands as being within an Area Specific Policy; and, to establish the text of the Area Specific Policy, all to allow for a range of commercial uses on the subject lands.

2.0 Location:

The properties affected by this Amendment are located at 1125, 1143 and 1185 Wilson Street West, within the City of Hamilton (former Town of Ancaster).

3.0 Basis:

The basis for permitting these Amendments is as follows; the Amendments:

- Provide for an alteration in the type of commercial uses currently permitted to allow for a greater range of daily and weekly shopping opportunities for area residents;
- Continues to provide for Arterial Commercial uses on a large portion of the subject lands;
- Provides needed retail opportunities that will not negatively impact existing retail uses in the surrounding area.

4.0 Changes:

4.1 Mapping Changes:

- 4.1.1 Schedule E-1 - Urban Land Use Designations is amended by redesignating a portion of the lands from "Arterial Commercial" to "District Commercial", as shown on Appendix "A", attached.

4.1.2 Volume 3: Map 1 - Area Specific Policies Key Map is amended by identifying Area Specific Policy UA-5 on the subject lands.

4.1.3 Volume 3: Map A-2 - Area Specific Policies is amended by identifying Area Specific Policy UA-5A and UA-5B on the subject lands.

4.2 Text Changes:

4.2.1 Volume 3: Chapter B -Ancaster Area Specific Policies is amended by:

- a) Adding the new Area Specific Subsection UA-5 to read as follows:

"UA-5A Lands Located north of Wilson Street West and north of Portia Drive (Area A)

1.0 A maximum of 10,525 square metres of commercial uses are permitted, inclusive of the district commercial uses referenced in subsection 1.1 hereto.

1.1 Notwithstanding the uses permitted in Policy E.4.8.2 - Arterial Commercial of Volume 1, a maximum of 2,807 square metres of district commercial uses in accordance with Policy E.4.7.2 shall be permitted, subject to the prohibitions in Policy E.4.7.3.

1.2 For greater certainty, a department store shall be prohibited.

UA-5B Lands Located north of Wilson Street West and south of Portia Drive (Area B)

2.0 Notwithstanding Policy E.4.7.7 a maximum of 13,000 square metres of district commercial uses are permitted, of which, a maximum of 4,725 square metres shall be a supermarket with the remaining 8,275 square metres permitted to be other district commercial uses.

2.1 Notwithstanding Policy E.4.7.2(b), offices are permitted on the ground floor."

2.2 Notwithstanding the uses permitted in Policy E.4.7.2 - District Commercial of Volume I, a department store shall be prohibited.

5.0 Implementation:

An implementing Zoning By-law Amendment will give effect to this Amendment.

This is Schedule "1" to By-law No. 14-111 passed on the 14th day of May, 2014.

The
City of Hamilton



Mayor



R. Caterini
City Clerk

Appendix A
Amendment No. 18
to the Urban Hamilton Official Plan

Change in designation from "Arterial Commercial" to "District Commercial"
(1125, 1143 and 1185 Wilson Street West)

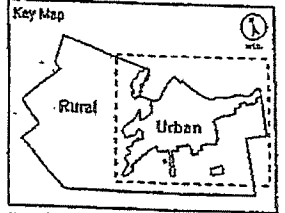
Date: April 2014
Revised By: GM/NB
Reference File No.: OPA-U-18(A)

APPEALS

***** The southern urban boundary that generally extends from Upper Cantonville Parkway and Mud Street East to the east, following the hydro corridor and encompassing the Red Hill Business Park, the Moral Hope area, and The Airport Business Park, and following Twenty Road and Garner Road to Fiddlers Green Road in the west remains under appeal.

★ **Lands Under Appeal**

- 17, 20, 22, 24, 26, 28, 30 and 32 Even Road, 5 Ocular Road and 20 Rillo Range Road (AWN Lands)
- 272 Fiddlers Green Road (PIN No. 170371425)
- 15 Highland Road and Mud Street (West side of Upper Cantonville)
- 0 Fymat Road East (PIN No. 170540025)
- 213 Oliver Road (PIN No. 170540035)

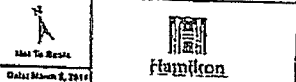


Note: For Rural Land Use Designations, refer to Schedule D of the Rural Hamilton Official Plan.

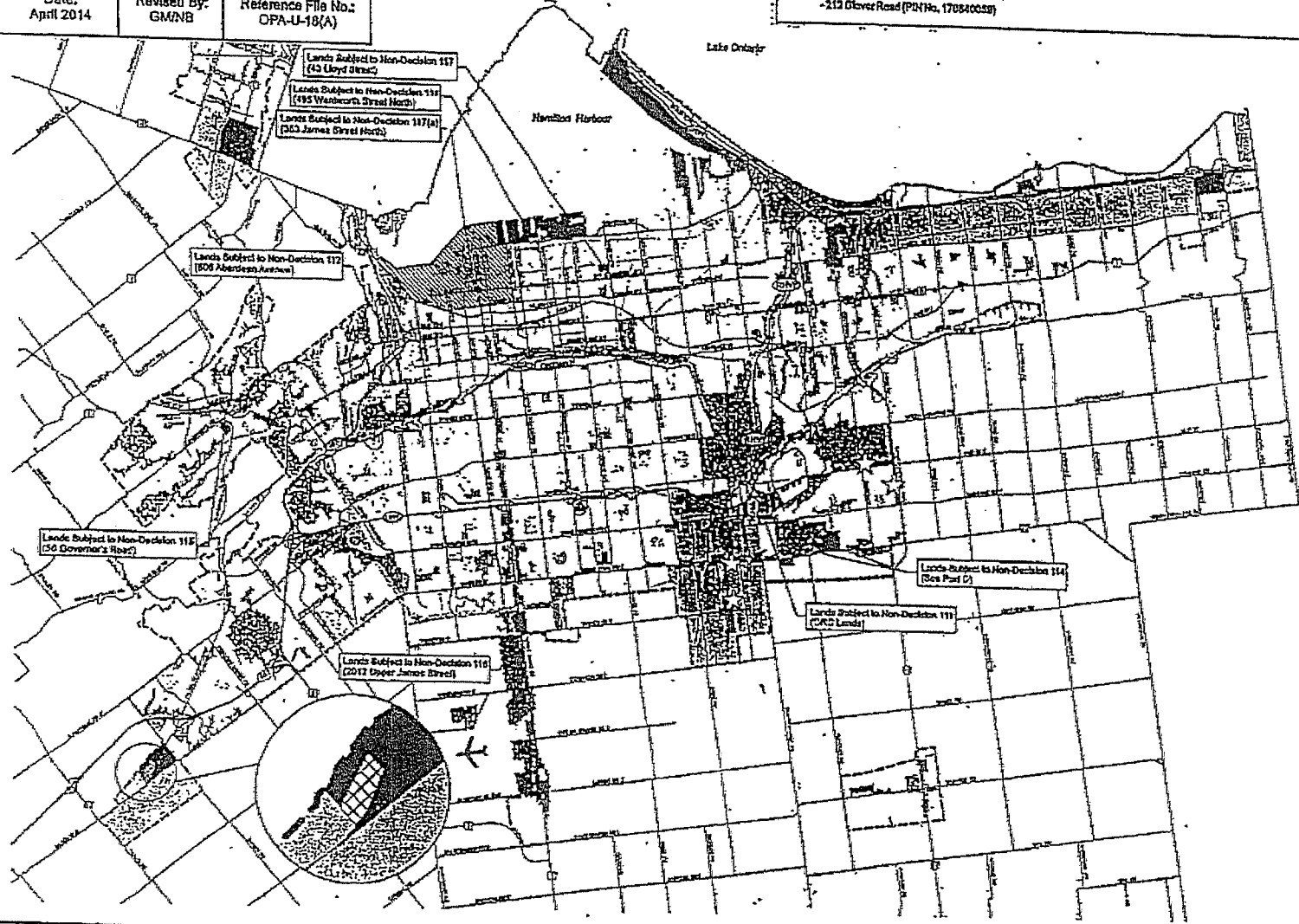
- Legend**
- Neighbourhoods
 - Open Space
 - Institutional
 - Utility
 - Commercial and Mixed Use Designations**
 - Downtown Mixed Use Area
 - Mixed Use - High Density
 - Mixed Use - Medium Density
 - District Commercial
 - Arterial Commercial
 - Employment Area Designations**
 - Industrial Land
 - Business Park
 - Airport Business Park
 - Shipping & Navigation
 - Other Features**
 - Rural Area
 - John C. Munro Hamilton International Airport
 - Hesperia Escarpment
 - Urban Boundary
 - Municipal Boundary
 - Lands Subject to Non-Decision 113 West Harbour Siding 518

Council Adoption: July 9, 2009
Ministerial Approval: March 18, 2011
Effective Date: August 16, 2013

Urban Hamilton Official Plan
Schedule E-1
Urban Land Use Designations



PLANNING & ECONOMIC DEVELOPMENT DEPARTMENT
© The Urban Land Use Designations Schedule E-1 and its associated (2009) Map and its related and related documents, shall be made a Plan of the City of Hamilton.



Lands Subject to Non-Decision 117
(43 Lloyd Street)

Lands Subject to Non-Decision 117
(495 Waterfront Street North)

Lands Subject to Non-Decision 117(a)
(263 James Street North)

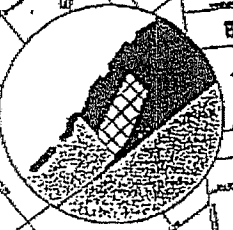
Lands Subject to Non-Decision 117
(500 Aberdeen Avenue)

Lands Subject to Non-Decision 118
(50 Governor's Road)

Lands Subject to Non-Decision 114
(See Part C)

Lands Subject to Non-Decision 111
(2400 Lands)

Lands Subject to Non-Decision 116
(2212 Upper James Street)



Appendix B
Amendment No. 1B
to the Urban Hamilton Official Plan

Lands to be Identified as Area Specific Policy
 UA-S

(1125, 1143 and 1185 Wilson Street West)

Date: April 2014	Revised By: GMM/B	Reference File No.: OPA-U-18(A)
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AREA
 The southern urban boundary that generally extends from Union Cemetery Parkway and Wood Street East in the east, following the hydro corridor, and encompassing the Red Hill Business Park, the Mount Hope area, and the Airport Business Park, and following Twenny Road and Garner Road to Fiddlers Green Road in the west remains under appeal - see illustration on Schedules E and E-1, Volume 1

- Legend**
- Refer to Urban Area Specific Policy Area 2, Volume 2, Chapter 8
 - Other Features**
 - Point Arps
 - John C. Munro Hamilton Municipal Airport
 - Kingsville Station
 - Urban Boundary
 - Municipal Boundary

Council Adoption: July 8, 2009
 Amended: April 2, 2014
 Effective Date: August 18, 2013

Urban Hamilton Official Plan
 Volume 3: Map 1

Area Specific Policies Key Map

North Arrow

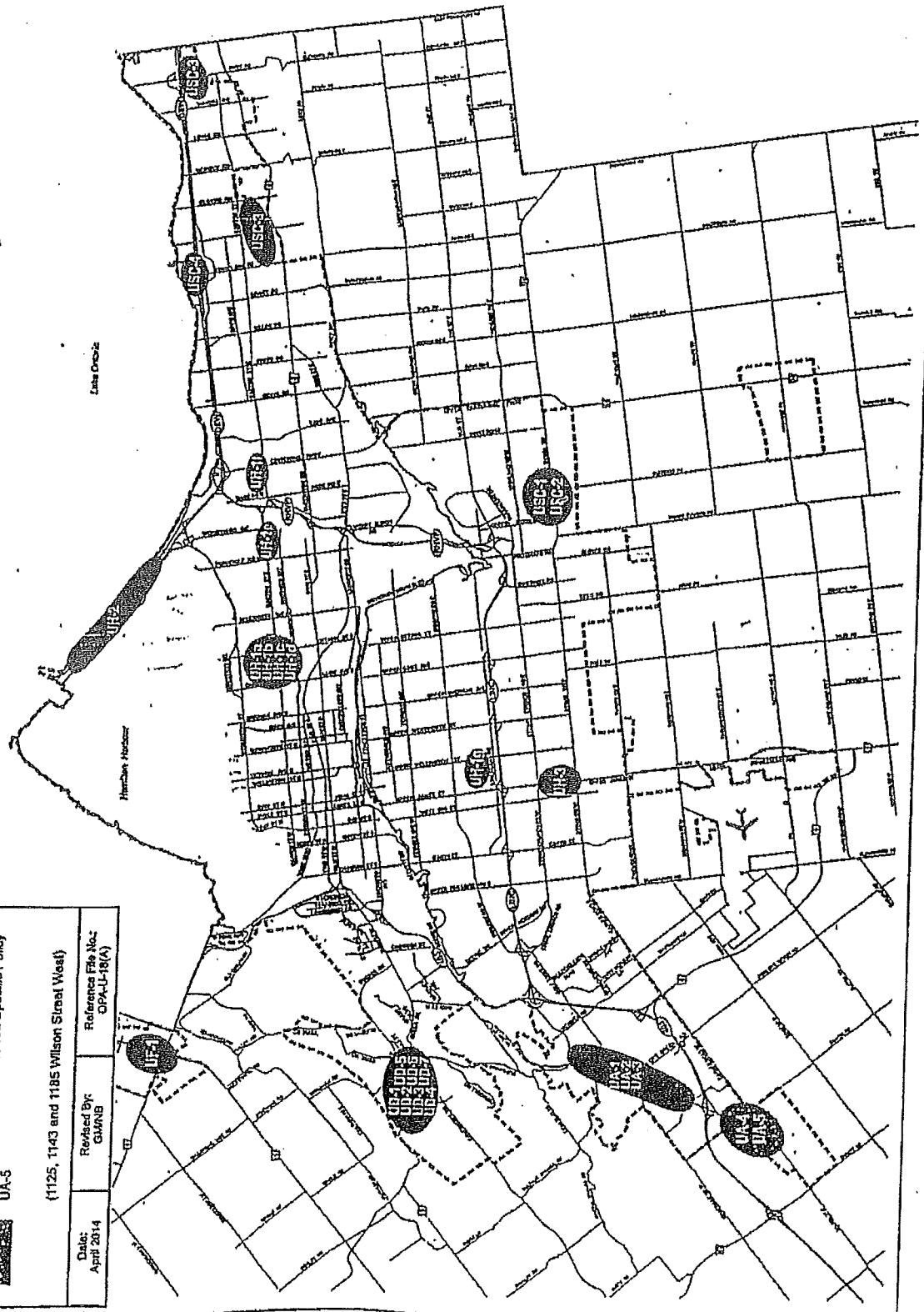
Scale Bar

City Logo

Hamilton

PLANNING & ECONOMIC DEVELOPMENT DEPARTMENT

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Appendix C
 Amendment No. 18
 to the Urban Hamilton Official Plan



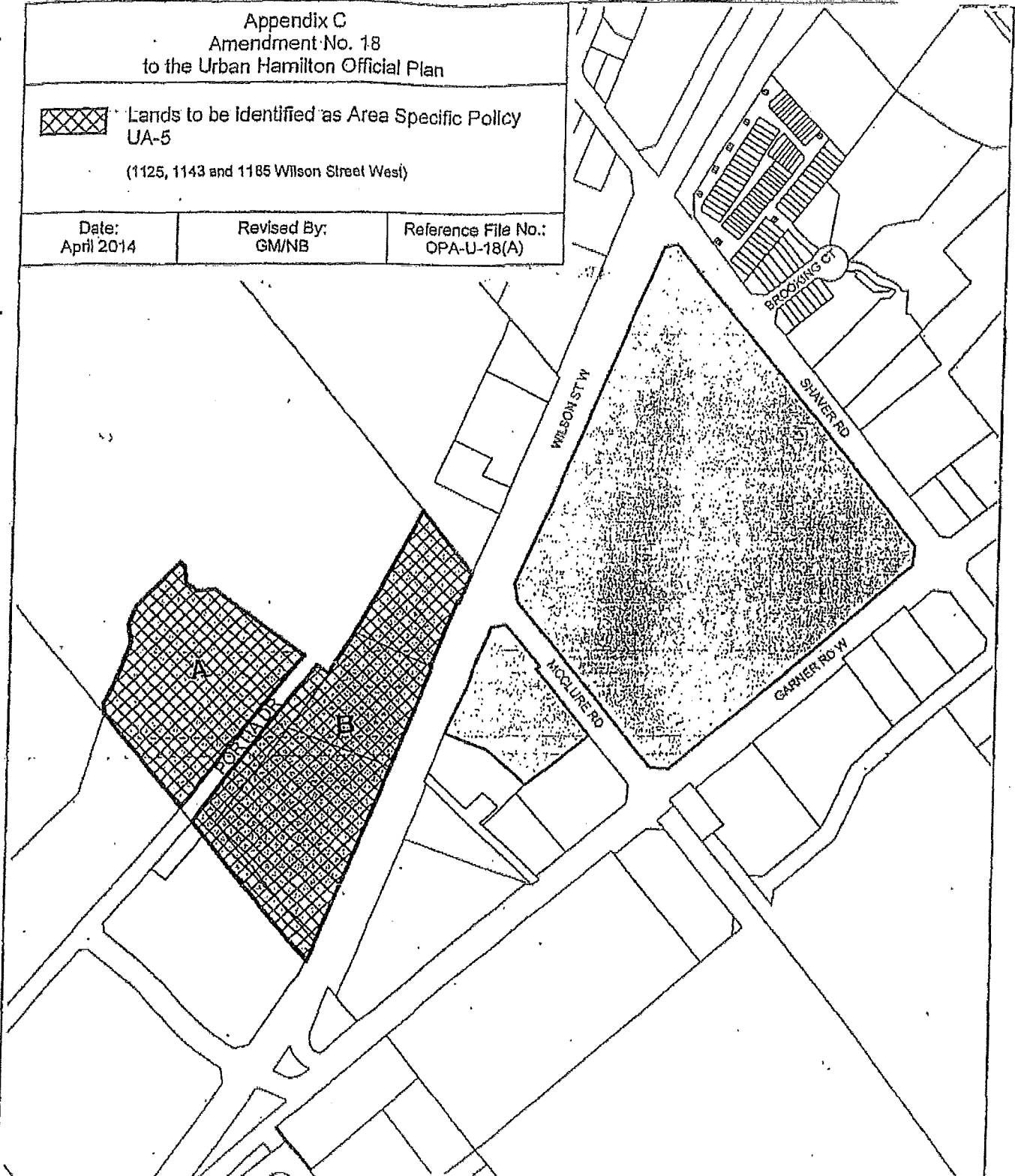
Lands to be Identified as Area Specific Policy
 UA-5

(1125, 1143 and 1185 Wilson Street West)

Date:
 April 2014

Revised By:
 GM/NB

Reference File No.:
 OPA-U-18(A)



Legend



UA-4 (existing)



UA-5

Council Adopted: July 9, 2009
 Ministerial Approval: March 16, 2011
 Effective Date: August 16, 2013

Urban Hamilton Official Plan
 Volume 3 : Map A-2
 Area Specific Policies



Not To Scale
 Date: Aug 14, 2013



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 OF SURVEY