

Ontario Municipal Board
Commission des affaires municipales
de l'Ontario
15-172-OMB-01
Exhibit C



ISSUE DATE: May 3, 2016

CASE NO(S): PL150805

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

Appellant:	Coalition For Rural Ontario Environmental Protection
Appellant:	Pharm Meds Limited
Appellant:	St. Mary's Cement Inc. (Canada)
Subject:	Proposed Official Plan Amendment No. 9
Municipality:	City of Hamilton
OMB Case No.:	PL150805
OMB File No.:	PL150805
OMB Case Name:	Coalition For Rural Ontario Environmental Protection v. Hamilton (City)

PROCEEDING COMMENCED UNDER subsection 34(19) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended

Appellant:	3727 Highway Six Inc.
Appellant:	Artstone Holdings Limited
Appellant:	Jawad Chaudhry
Appellant:	Coalition For Rural Ontario Environmental Protection; and others
Subject:	By-law No. 15-173
Municipality:	City of Hamilton
OMB Case No.:	PL150805
OMB File No.:	PL150806

Heard: April 7, 2016 in Hamilton, Ontario

APPEARANCES:

Parties

City of Hamilton

Counsel

J. Wice

Coalition for Rural Ontario Environmental Protection (CROP)	M. Connell
Multi-area Developments Inc.	J. Hoffman
20 Road (Glanbrook) Developments Limited Artstone Holdings Limited Weizer Investments Limited Corpveil Holdings Limited Pharm Meds Limited	A. Toumanians
Silverwood Homes Limited. Fern Brook Resorts Inc.	D. Baker
Oliver Klass and Jessica Myers	Self-represented
3727 Highway Six Inc.	R. Wellenreiter

**MEMORANDUM OF ORAL DECISION DELIVERED BY M. C. DENHEZ ON
APRIL 7, 2016 AND ORDER OF THE BOARD**

INTRODUCTION

[1] This is the first of a two-part decision.

[2] The decision stems from the first pre-hearing conference ("PHC") concerning Rural Hamilton Official Plan Amendment No. 9 ("RHOPA") of the City of Hamilton ("the City"), and the corresponding Zoning By-law No. 15-173 ("ZB").

[3] Both dealt specifically with the Rural area of the City, and the ZB was intended to harmonize various provisions across the City's former municipalities.

[4] Both the OPA and ZB were appealed, by various interests, to the Ontario Municipal Board ("the Board"). In some instances, settlements were negotiated, and/or Appellants withdrew. In others, the parties agreed on a roadmap for further

proceedings. Finally, in one instance, namely the appeal by 3727 Highway Six Inc., the City challenged the status of that Appellant to bring its appeal under the *Planning Act* ("the Act").

[5] This last matter, concerning the standing of this would-be Appellant, was addressed in the afternoon session of this PHC, and that outcome will be the subject of a separate decision of this Board. All other matters were addressed in the morning session of the PHC, whose outcome is outlined below.

PARTIES AND PARTICIPANTS

[6] Aside from the existing Appellants of record, no one else came forward seeking party or participant status.

[7] The Board has noted the withdrawal of two Appellants, St. Mary's Cement Inc. (Canada) and Jawad Chawdry.

ONGOING INFORMATION

[8] The City noted that it has created a website for materials related to these proceedings, at: <https://www.hamilton.ca/city-planning/official-plan-zoning-by-law/rural-zoning>

[9] The City said that, among other things, it intended to maintain an Exhibit List and Appellant Index on that website.

APPROVAL OF UNCONTESTED PROVISIONS

[10] The City said it had notified all the Appellants that it would be seeking approval of the uncontested portions of the OPA and ZB. It said that, in response, none had expressed an objection.

[11] The Board agrees with the City's request, and will return to that topic at the end of this decision.

[12] The City also used the opportunity to correct a numbering mistake on a municipal address.

RE-CATEGORIZATION OF APPEAL

[13] There were two unrepresented parties, Oliver Klass and Jessica Myers, who had filed an appeal of the OPA, and not of the ZB. The City said that, on review of the substance of their concern, it appeared that their appeal should actually have been directed the other way round, i.e. against the ZB and not the OPA. Mr. Klass and Ms. Myers did not dispute that characterisation.

[14] The City, Mr. Klass and Ms. Myers agreed that their appeal should proceed as an appeal of the ZB instead. There was no dispute.

[15] The Board is prepared to re-categorize their appeal accordingly.

THE FERN BROOK EXCEPTION

[16] One appellant, Fern Brook Resorts Inc. ("Fern Brook") owns property which, under the provisions of the applicable pre-existing Zoning By-law, was subject to a Holding ("H") provision.

[17] Fern Brook told the City that the new ZB would produce a substantive change in that zoning. On further discussion, Fern Brooke and the City agreed that they would maintain the pre-existing zoning status of the property.

[18] The City's planner, Joanne Hickey-Evans, provided sworn evidence that, from the standpoint of good planning, there was nothing wrong with the previous zoning status of the property – or with continuing it.

[19] The Board finds no dispute.

THE CROP APPEAL

[20] The Board was told that the appeal by the Coalition for Rural Ontario Environmental Protection ("CROP") tended to cover topics different from the other appeals in this file, but akin to topics covered in another Board File, No. PL151130. The latter file pertained to appeals of three by-laws that had been adopted more recently. Those three by-laws triggered appeals not only by CROP, but by other appellants.

[21] The City said that it might be more appropriate to "sever" CROP's current appeal from the current file, and to treat it as being together with the matters in PL151130. CROP did not dispute the idea.

[22] The Board is mindful that there is a PHC scheduled for PL151130, on July 13, 2016. The Board is also mindful that there are other parties to PL151130, who may have opinions on the matter. The Board therefore expresses no opinion as to whether the CROP appeal in the current file should be simply consolidated administratively with its appeal in PL151130, whether it should be fully consolidated with that file, whether those matters should be heard together, or otherwise. When the prospects there become clearer, notably subsequent to the July 13 PHC in that file, the Board is prepared to consider the matter further, including the possibility of "severing" the CROP appeal from the rest of the current proceedings, according to what may be most expeditious.

NEXT STEPS

[23] In the current file, there was consensus on the utility of another PHC in July 2016. The parties agreed on timelines to advise each other of their issues, and any procedural suggestions: Appellants would advise the City of same, about six weeks ahead of the PHC, and the City would respond, about two weeks ahead of the PHC.

[24] The Board reminded the parties of the availability of its mediation services.

[25] The Board also takes this opportunity to remind the parties that it may be in their interest to start thinking ahead to the possibility of eventual expert witness statements, expert meetings, agreed statements of fact, and whether any experts might testify as a panel.

[26] The Board disposes of the above matters as follows. The Board orders:

1. Those parts of Rural Hamilton Official Plan Amendment No. 9 that are not under appeal, as set out in Exhibit "C" to the affidavit of Ms. Hickey-Evans, dated March 30, 2016 (the "annotated RHOPA", at Exhibit 1 of these proceedings), came into effect on the day after the last day for filing a notice of appeal, being August 10, 2015, in accordance with the provisions of s. 17(27) of the Act.
2. Paragraph 1 above is subject to the following:
 - (a) That the coming into effect of portions of the RHOPA shall be strictly without prejudice to and shall not have the effect of:
 - (i) limiting the resolution of an appellant's appeal;

- (ii) affecting a party's right to seek to modify, delete or add to the unapproved policies, schedules and associated text or to seek to add a new policy to the RHOPA; or
 - (iii) limiting the jurisdiction of the Board to consider and approve modifications, deletions or additions to the unapproved policies, schedules and associated text or to add a new policy on a general or site-specific basis, as the case may be.
 - (b) The coming into effect of portions of the RHOPA is without prejudice to the positions taken by the parties to any site-specific appeals so that if those appeals proceed on a site-specific basis to a hearing, either on their own or as may be consolidated with other appeals, the City will not take the position that the Board ought not to approve site-specific modifications to the affected policies, schedules and associated text on the basis that they deviate from or are inconsistent with such policies, schedules and associated text on a City-wide basis (or as approved in respect of other lands which are subject to the same policies, schedules and associated text). However, this does not affect the City's right to assert that the approved policies, schedules and associated text should be applied to the specific sites without modification on the basis that they constitute good planning.
3. Those parts of Zoning By-law 15-173 (the "By-law") that are not in issue, as set out in Exhibit "D" to the affidavit of Ms. Hickey-Evans dated March 30, 2016 (the "annotated By-law"), are deemed to have come into force on the day the By-law was passed, being July 10, 2015, in accordance with s. 34(31) of the Act.
4. Paragraph 3 above is subject to the following:

- (a) The appeal by Fern Brook Resorts Inc. is allowed to the extent necessary to implement the changes as set out in Exhibit "E" to the affidavit of Ms. Hickey-Evens dated March 30, 2016, and the City is directed and authorized to remove the reference to Fern Brook Resort Inc. from the annotated version of the By-law as contained in Exhibit "D".
- (b) Correction of the municipal address error in Special Exception 118 shall be made in accordance with Exhibit "B" in the affidavit of Ms. Hickey-Evens dated March 30, 2016;
- (c) The coming into effect of certain portions of the By-law shall be strictly without prejudice to, and shall not have the effect of:
- (i) limiting the resolution of an appellant's appeal;
 - (ii) affecting a party's right, to seek to modify, delete or add to the unapproved sections, tables, definitions, maps, schedules, and associated text; or
 - (iii) limiting the jurisdiction of the Board to consider and approve modifications, deletions or additions to the unapproved sections, tables, definitions, maps, schedules and associated text, on a general or site-specific basis, as the case may be.
- (d) The coming into effect of certain portions of the By-law is without prejudice to the positions taken by the parties to any site-specific appeal, so that if those appeals proceed to a hearing, either on their own or as may be consolidated with other appeals, the City will not take the position that the Board ought not to approve site-specific modifications to the affected sections, tables, definitions, maps, schedules, and associated text, on the basis that they deviate from or are inconsistent with such sections, tables, definitions, maps, schedules, and associated text on a City-wide basis (or as approved in

respect of other lands which are subject to the same sections, tables, definitions, maps, schedules, and associated text). However, this does not affect the City's right to assert that the approved sections, tables, definitions, maps, schedules, and associated text should be applied to the specific sites without modification on the basis that they constitute good planning.

5. The Board notes that, notwithstanding anything ordered above, the City has not conceded that any portions of the RHOPA or the By-law that have not come into effect or that are not deemed in effect are properly under appeal and the City has reserved the right to bring motions or take any other action to have the breadth and scope of any appeal determined by the Board at a future date.
6. Notwithstanding anything ordered above, the Board hereby retains jurisdiction to consider and approve modifications to any policies, schedules and associated text approved herein as may be appropriate to dispose of any of the outstanding appeals before the Board, in accordance with s. 87 of the *Ontario Municipal Board Act*.
7. Any future settlements may be brought forward for approval by the Board by way of telephone conference call upon prior notice and circulation of the information to the parties.
8. On the consent of the City, the Board is prepared to treat the appeal by Mr. Klass and Ms. Myers as an appeal of Zoning By-law 15-173, as opposed to an appeal of the RHOPA, in the sense that Mr. Klass and Ms. Myers will be treated as parties to the appeal of Zoning By-law 15-173, and will be considered to have withdrawn their appeal of the RHOPA.
9. The Board fixes **Tuesday, July 26, 2016, at 10 a.m.** for the start of the next pre-hearing conference, at:

**Dundas Town Hall
Second Floor Auditorium
60 Main Street, Dundas
Hamilton, Ontario L9H 1C6**

10. In anticipation of a forthcoming Procedural Order, each Appellant shall provide to the City a draft of their own proposed issues, for eventual insertion into a consolidated Issues List. Their draft of issues shall be provided to the City no later than **June 14, 2016**. The City shall respond no later than **July 14, 2016**.
11. No further notice will be given for the matters currently before the Board.
12. This Member is not seized.

"M.C. Denhez"

M.C. DENHEZ
MEMBER

If there is an attachment referred to in this document,
please visit www.elto.gov.on.ca to view the attachment in PDF format.

Ontario Municipal Board

A constituent tribunal of Environment and Land Tribunals Ontario
Website: www.elto.gov.on.ca Telephone: 416-212-6349 Toll Free: 1-866-448-2248

ONTARIO MUNICIPAL BOARD
Commission des affaires municipales de l'Ontario

IN THE MATTER of subsection 17(24) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended,

Appellants: (See attached Appellant Index)
Subject: Rural Hamilton Official Plan Amendment Number 9
Municipality: City of Hamilton
OMB Case No.: PL150805

AND IN THE MATTER of subsection 34(19) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended,

Appellants: (See attached Appellant Index)
Subject: By-law 15-173
Municipality: City of Hamilton
OMB Case No.: PL150805

AFFIDAVIT OF JOANNE HICKEY-EVANS, MCIP, RPP
March 30, 2016

I, Joanne Hickey-Evans, of the City of Hamilton, make oath and swear as follows:

1. I am a Member of the Canadian Institute of Planners and a Registered Professional Planner. I have previously been qualified to provide expert evidence on land use planning matters by the Ontario Municipal Board. Attached hereto as Exhibit "A" is a copy of my curriculum vitae together with my executed Acknowledgement of Expert's Duty.
2. I have been employed as a planner with the City of Hamilton and the former Region of Hamilton-Wentworth for 31 years. I hold the position of Manager of Policy Planning and Zoning By-law Reform with the City of Hamilton ("City")

and have been responsible for supervising the team which prepared Rural Hamilton Official Plan Amendment No. 9 ("RHOPA") and Zoning By-law 15-173 ("the By-law") both of which are the subject of the appeals before the Ontario Municipal Board in OMB Case No. PL150805.

3. As a result of my position with the City and my responsibilities as Manager of the project, I have knowledge of the matters to which I hereinafter depose.

Motion 1 – Partial approval of the RHOPA and to deem the By-law in force

4. On July 10, 2015, the City of Hamilton adopted the RHOPA and passed the By-law which provide for the new, harmonized rural zoning, implementing the policy direction of the City's Rural Hamilton Official Plan. Subsequently, appeals were filed for both the RHOPA and By-law.
5. After reviewing the appeals with staff, I worked with and directed my staff to prepare annotated copies of those instruments. To the best of my knowledge, those annotations show the portions of the instrument that an appellant has taken to be at issue through grey shading and indicating in the explanatory notes within the margins the appellant associated with the annotation.
6. Through the review of Council approved By-law 15-173, errors in the municipal numbers referenced within the text of Special Exception 118 and an associated zoning map (Map 213) were found.
7. The municipal address for the property referenced as 3322 Highway 56 within Special Exception 118 has been confirmed to be 3316 Highway 56. To rectify this error the number "3322" has been deleted and replaced with "3316" within Special Exception 118.
8. The extent of the Special Exception 118 boundary applied on Map 213 as it pertains to these lands is correct and no changes are required.
9. Attached hereto as Exhibit "B" is the proposed correction with the portions to be revised shaded for clarity.

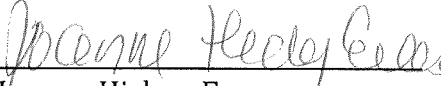
10. Attached to this Affidavit and marked as Exhibit "C", as well as provided on the City of Hamilton website at www.hamilton.ca/city-planning/official-plan-zoning-by-law/rural-zoning, is an annotated version of the RHOPA dated March 29, 2016 (hereinafter known as the "annotated RHOPA").
11. Attached to this Affidavit and marked as Exhibit "D", as well as provided on the City of Hamilton website at www.hamilton.ca/city-planning/official-plan-zoning-by-law/rural-zoning, is an annotated version of the By-law dated March 29, 2016 (hereinafter known as the "annotated By-law", together with the annotated RHOPA as the "annotated instruments").
12. The annotations that have been made to the instruments show the portions of the RHOPA and By-law that were noted as being under appeal by at least one appellant. Where an appellant has raised a site-specific concern, the mapping for the property/properties at issue are annotated for the purpose of noting that the RHOPA or By-law is not in effect at all for those shaded lands.
13. These annotated instruments dated March 11, 2016, were made available to the public generally on the City's website as of March 17, 2016, and the appellants were specifically provided with this information on March 18, 2016. Subsequent to feedback from some of the appellants, changes were made and a March 29, 2016 version of each was created and also made available on March 30, 2016.
14. If the Board grants the City's motion, the various appellant's rights to carry forward their remaining unresolved issues through a hearing or settlement process will be protected, while balancing the broader public interest of confirming the effective date for the RHOPA and allowing the By-law to substantially come into force.
15. It is my professional opinion that the portions of the RHOPA and the By-law not identified as under appeal (as depicted in the annotated instruments) represent good planning and are in the public interest. The provisions of the


By-law should come into effect as soon as possible to ensure section 26(9) of the *Planning Act*, being the requirement for zoning to be brought into conformity with an Official Plan within three years of amendments respecting conformity to provincial plans coming into effect, is met.

Motion 2 – Settlement of Fern Brook Inc. (“Fern Brook”) appeal


16. Subsequent to the filing of its appeal, discussions between City staff and Fern Brook have resulted in a City Council supporting a revision to the text of the By-law that will result in the reinstatement of some of the language in the previously approved By-Law 14-097.
17. To implement the settlement of the matter between the City and Fern Brook Resort, within Holding provision H9 of the By-law, the words “Shall not be permitted until such time as:” have been deleted and replaced with the following “The Holding provision shall remain in effect until such time as the completion of the following conditions:”.
18. The change would clarify the language within a site specific holding provision and would not result in a substantive change in the by-law.
19. Attached hereto as Exhibit “E” is the proposed replacement text to implement the settlement.
20. I make this affidavit as part of the City’s motions and for no other or improper purpose.

SWORN BEFORE ME)
at the City of Hamilton)
in the Province of Ontario)
this 30 day of March,)
2016)


Joanne Hickey-Evans


J. Manser
Affidavit Commission Commissioner, etc.,
Province of Ontario, for the City of Hamilton.
Expires April 13, 2018.

This is Exhibit "A" referred to in
the affidavit of Joanne Hickey-Evans
sworn before me, this 30th day of March, 2016



A Commissioner of Oaths

**Jillian Claire Manser, a Commissioner, etc.,
Province of Ontario, for the City of Hamilton.
Expires April 13, 2018.**

Joanne Hickey-Evans, M.C.I.P., R.P.P.

Work Experience

MANAGER POLICY PLANNING AND ZONING BY-LAW REFORM (VARIETY OF NAME CHANGES), PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT, CITY OF HAMILTON

2001 To Present

- Project lead for the development of specific zones for Comprehensive Zoning By-law (e.g.rural)
- Project leader/manager for the development of the Urban Hamilton Official Plan (2009) and the Rural Hamilton Official Plan (2006)
- Manager of GIS based information planning
- Policy Planning Lead/Divisional Lead for City Initiatives- Sourcewater Protection Planning, Airport Employment Growth District, Food and Farming Action Plan, Urban agriculture, Farmers market

MANAGER OF POLICY PLANNING AND ANYLSIS, PLANNING DEPARTMENT, CITY OF HAMILTON

1991 to 2001

- Manager responsible for Hamilton Official Plan and Policy Planning
- Departmental Lead with Region and local municipalities on Policy planning matters
- Manager of major policy planning initiatives
- Division Head of Development and Urban Design Section (September 1996-1997)

QUEENS UNIVERSITY, KINGSTON, ONTARIO

Master Degree, Urban and Regional Planning, 1985

Bachelor of Arts Degree, Geography/Economics, 1982



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

ACKNOWLEDGMENT OF EXPERT'S DUTY

Case Number	Municipality
PL150805	City of Hamilton

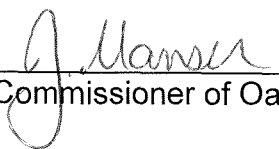
1. My name is Joanne Hickey-Evans
I live at the City of Hamilton in the Province of Ontario
2. I have been engaged by or on behalf of the City of Hamilton to provide evidence in relation to the above-noted Board proceeding.
3. I acknowledge that it is my duty to provide evidence in relation to this proceeding as follows:
 - a. to provide opinion evidence that is fair, objective and non-partisan;
 - b. to provide opinion evidence that is related only to matters that are within my area of expertise; and
 - c. to provide such additional assistance as the Board may reasonably require, to determine a matter in issue.
4. I acknowledge that the duty referred to above prevails over any obligation which I may owe to any party by whom or on whose behalf I am engaged.

Date...March 18 2016.....

Signature.....

A handwritten signature in cursive script, appearing to read "Joanne Hickey-Evans".

This is Exhibit "B" referred to in
the affidavit of Joanne Hickey-Evans
sworn before me, this 30th day of March, 2016


A Commissioner of Oaths

**Julian Claire Manser, a Commissioner, etc.,
Province of Ontario, for the City of Hamilton
Expires April 13, 2018.**

Exhibit "B" – Special Exception 118 (Numbering Correction)

Bold and highlighted text is the numbering requiring correction

Existing Wording of Special Exception 118 in By-law 15-173:

118. Notwithstanding Section 12.1.1 and in addition to Section 12.1.2, on those lands zoned Agriculture (A1) Zone identified on Maps 53, 65, 100, 109, 128, 129, 140, 141, 179, 180, 188, 191, 193, 194, 200, 201, 203, 206, 207, 213, 214, 215, 219 and 223, on Schedule "A" – Zoning Maps and described as addresses:

2330 Guyatt Road	Maps 193 and 194
1433 Guyatt Road	Map 206
2860 Kirk Road	Map 213
1115 Hendershot Road	Map 194
Part of 9305 Chippewa Road West	Map 201
3322 Highway 56	Map 213
Part of 1400 Seaton Road	Map 53
Part of 1270 Trinity Church Road	Map 179
3316 Golf Club Road	Map 180
6175 White Church Road East	Map 203
3157 Hendershot Road	Map 214
2147 Woodburn Road	Maps 207 and 215
1280 Hendershot Road	Map 194
1240 Seaton Road	Map 65
6363 White Church Road East	Maps 191 and 203
Part of 1700 Hall Road	Maps 219 and 223
435 Lynden Road	Maps 129 and 141
Part of 2505 Highway No. 5 West	Maps 100 and 109
3291 Jerseyville Road West	Map 141
Part of 160 Norsworthy Road	Maps 188 and 200
Part of 683 Lynden Road	Map 129
Part of 3667 Indian Trail Road	Maps 128, 140 and 141
Part of 4574 Governors Road	Map 128
1280 Hendershot Road	Map 194
345 Bell Road	Maps 224 and 225

The following special provisions shall also apply:

...

- c) The following regulation shall also apply for the property located at **3322** Highway 56:

The minimum side yard for the agricultural buildings and structures shall be 10.2 metres.

Proposed wording of Special Exception 118 in By-law 15-173:

118. Notwithstanding Section 12.1.1 and in addition to Section 12.1.2, on those lands zoned Agriculture (A1) Zone identified on Maps 53, 65, 100, 109, 128, 129, 140, 141, 179, 180, 188, 191, 193, 194, 200, 201, 203, 206, 207, 213, 214, 215, 219 and 223, on Schedule "A" – Zoning Maps and described as addresses:

2330 Guyatt Road	Maps 193 and 194
1433 Guyatt Road	Map 206
2860 Kirk Road	Map 213
1115 Hendershot Road	Map 194
Part of 9305 Chippewa Road West	Map 201
3316 Highway 56	Map 213
Part of 1400 Seaton Road	Map 53
Part of 1270 Trinity Church Road	Map 179
3316 Golf Club Road	Map 180
6175 White Church Road East	Map 203
3157 Hendershot Road	Map 214
2147 Woodburn Road	Maps 207 and 215
1280 Hendershot Road	Map 194
1240 Seaton Road	Map 65
6363 White Church Road East	Maps 191 and 203
Part of 1700 Hall Road	Maps 219 and 223
435 Lynden Road	Maps 129 and 141
Part of 2505 Highway No. 5 West	Maps 100 and 109
3291 Jerseyville Road West	Map 141
Part of 160 Norsworthy Road	Maps 188 and 200
Part of 683 Lynden Road	Map 129
Part of 3667 Indian Trail Road	Maps 128, 140 and 141
Part of 4574 Governors Road	Map 128
1280 Hendershot Road	Map 194
345 Bell Road	Maps 224 and 225

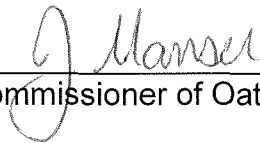
The following special provisions shall also apply:

...

- c) The following regulation shall also apply for the property located at **3316** Highway 56:

The minimum side yard for the agricultural buildings and structures shall be 10.2 metres.

This is Exhibit "C" referred to in
the affidavit of Joanne Hickey-Evans
sworn before me, this 30th day of March, 2016

A handwritten signature in cursive script, reading "J. Manser", written over a horizontal line.

A Commissioner of Oaths

**Jillian Claire Manser, a Commissioner, etc.,
Province of Ontario, for the City of Hamilton.
Expires April 13, 2018.**

****Exhibit "C" is also available online at:**

<https://www.hamilton.ca/city-planning/official-plan-zoning-by-law/rural-zoning>

Authority: Item 7, Planning Committee
Report: 15-011 (PED13167(c))
CM: (Council Date): July 10, 2015

Passed by Council on July 10, 2015

Bill No. 172

OMB File No. PL150805

By-law 15-172 is currently under appeal to the Ontario Municipal Board (OMB).

The text not in force is covered with a grey tone in this document.

CITY OF HAMILTON

BY-LAW NO. 15-172

To Adopt:

Official Plan Amendment No. 9 to the Rural Hamilton Official Plan

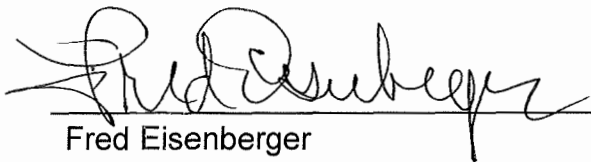
Respecting:

General Text Amendments


NOW THEREFORE the Council of the City of Hamilton enacts as follows:

1. Amendment No. 9 to the Rural Hamilton Official Plan consisting of Schedule "1", hereto annexed and forming part of this by-law, is hereby adopted.

PASSED this 10th day of July, 2015.



Fred Eisenberger
Mayor



Rose Caterini
City Clerk

Rural Hamilton Official Plan Amendment No. 9

The following text, together with:

Appendix "1" – Volume 1, Schedule B - Natural Heritage System
 Appendix "1a" – Volume 1, Schedule B-4 Detailed Natural Heritage Features Wetlands
 Appendix "2" – Volume 1, Schedule B-6 Detailed Natural Heritage Features Environmentally Significant Areas
 Appendix "3" – Volume 1, Schedule D- Rural Land Use Designations
 Appendix "4" – Volume 1, Map G, Source Protection – Vulnerable Areas
 Appendix "5" – Volume 2, Map 1 – Alberton Rural Settlement Area Plan
 Appendix "6" – Volume 2, Map 2 – Copetown Rural Settlement Area Plan
 Appendix "7" – Volume 2, Map 3 – Jerseyville Rural Settlement Area Plan
 Appendix "8" – Volume 2, Map 4 – Carlisle Rural Settlement Area Plan
 Appendix "8a" – Volume 2, Map 4a – Source Protection – Carlisle Vulnerable Areas
 Appendix "9" – Volume 2, Map 5 – Concession 5 East and Centre road Rural Settlement Area Plan
 Appendix "10" – Volume 2, Map 6 – Flamborough Centre Rural Settlement Area Plan
 Appendix "11" – Volume 2, Map 7 – Freelon Rural Settlement Area Plan
 Appendix "11a" – Volume 2, Map 7a – Source Protection – Freelon Vulnerable Areas
 Appendix "12" – Volume 2, Map 8 – Greensville Rural Settlement Area Plan
 Appendix "12a" – Volume 2, Map 8c – Source Protection – Greensville Vulnerable Areas
 Appendix "13" – Volume 2, Map 9 – Kirkwall Rural Settlement Area Plan
 Appendix "14" – Volume 2, Map 10 – Lynden Rural Settlement Area Plan
 Appendix "15" – Volume 2, Map 11 – Millgrove Rural Settlement Area Plan
 Appendix "16" – Volume 2, Map 12 – Orkney Rural Settlement Area Plan
 Appendix "17" – Volume 2, Map 13 – Rockton Rural Settlement Area Plan
 Appendix "18" – Volume 2, Map 14 – Sheffield Rural Settlement Area Plan
 Appendix "19" – Volume 2, Map 15 – Strabane Rural Settlement Area Plan
 Appendix "20" – Volume 2, Map 16 – Troy Rural Settlement Area Plan
 Appendix "21" – Volume 2, Map 17 – Westover Rural Settlement Area Plan
 Appendix "22" – Volume 2, Map 18 – Woodburn Rural Settlement Area Plan
 Appendix "23" – Volume 2, Map 19 – Tapleystown Rural Settlement Area Plan
 Appendix "24" – Volume 3, Appendix A – Site Specific Key Map

attached hereto, constitutes Official Plan Amendment No. 9 to the Rural Hamilton Official Plan.

1.0 Purpose:

The purpose of this amendment is to change current policies, include new policies, and amend mapping within the Rural Hamilton Official Plan to enable the implementation of new city-wide Rural Zoning. The proposed Rural Zones conform to the new Rural Hamilton Official Plan which is the first plan for the amalgamated communities of Ancaster, Dundas, Flamborough, Glanbrook, Hamilton, and Stoney Creek. The Rural Hamilton Official Plan implements the Growth Plan for the Greater Golden Horseshoe and is consistent with the Provincial Policy Statement, the Niagara Escarpment Plan, the Greenbelt Plan, and the Parkway Belt West Plan.

The effect of the Amendment to the Rural Hamilton Official Plan is to:

- Improve consistency between the Rural Hamilton Official Plan and the proposed Rural Zones to be included within the comprehensive Hamilton Zoning By-law 05-200;
- Add new permitted uses and provisions to the Agriculture, Specialty Crop, and Rural designations;
- Include new policies to implement Source Protection Plans; and
- Revise/correct section numbering and other typographical errors.


2.0 Location:

This Official Plan Amendment applies to the lands located within the entire rural area of the City of Hamilton.

3.0 Basis:

The basis for permitting this Amendment is as follows:

- The changes allow for consistency between the policies of the Rural Hamilton Official Plan and the regulations proposed in the Rural Zones;
- The changes allow for the amendment of the Rural Settlement Area Plan mapping to reflect up to date Conservation Authority generic regulation mapping that was completed after the Rural Hamilton Official Plan was approved;
- The changes provide limited increased flexibility in the range of agricultural uses to be permitted across the rural area (e.g. winery/brewery/cidery, agricultural processing); and

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- The Amendment is consistent with the Provincial Policy Statement and conforms to the Greenbelt Plan.

4.0 Text Changes:

4.1 Volume 1 – Parent Plan

4.1.1 Chapter C – City Wide Systems and Designations

- A) That Section C.1.0 Provincial Plans be amended by adding a new Section numbered C.1.4 and titled Source Protection Plans as follows:

1.4 Source Protection Plans

The Source Protection Plans are mandated under the Clean Water Act. The Plans include policies to ensure that activities and land uses do not pose significant threats to municipal drinking water sources. Source Protection Plans identify vulnerable areas such as wellhead protection areas coupled with vulnerability scores to illustrate where significant threats are possible. There are four Source Protection Plans that apply to the City of Hamilton, covering the Source Protection Areas of Halton Region, Hamilton Region, Grand River, and Niagara Peninsula.

- 1.4.1 The City shall implement the land use planning policies in the Source Protection Plans in accordance with Section F.1-Planning Act Implementation Tools and F.3.1.1-Source Protection Plan.
- 1.4.2 Any development or change of an existing use or building that is located within Vulnerable Area 1 identified on Schedule G- Source Protection - Vulnerable Areas and Volume 2, Map 4a - Source Protection - Carlisle Vulnerable Areas, Map 7a - Source Protection- Freelon Vulnerable Areas and Map 8c - Source Protection- Greenville Vulnerable Areas shall be reviewed by the City Risk Management Official.
- 1.4.3 The Rural Hamilton Official Plan and Zoning by-law shall be amended to prohibit certain land uses within the Vulnerable areas.
- 1.4.4 Site Plan approval shall be required to address the location of septic systems for properties located within the Vulnerable Area 1 identified on Schedule G - Source Protection Vulnerable Areas and Volume 2, Map 4a - Source Protection- Carlisle Vulnerable Areas, Map 7a - Source Protection - Freelon Vulnerable Areas and Map 8c - Source Protection - Greenville Vulnerable Areas.

- B) That Policy C.3.1.2 a)i) of Subsection C.3.1 Rural Area General Provisions be amended by deleting the words "an existing" and adding the words "building accessory to the dwelling" as follows:

3.1.2 The following uses shall be permitted in the Agriculture, Specialty Crop, Rural and Rural Settlement Area designations, provided the applicable conditions are met:

- a) A home business shall be permitted accessory to a dwelling provided that all following conditions and criteria are met:
 - i) The use must be located within a dwelling or building accessory to the dwelling. Limitations on the number of employees, the gross floor area and the types of home business permitted, as well as and other aspects, shall be established in the Zoning By-law;

4.1.2 Chapter D – Rural Systems/Designations

- A) That Subsection D.2.1 Permitted Uses be amended by adding two new policies including conditions: Policy D.2.1.1.4 for medical marihuana growing and harvesting facility and Policy D.2.1.1.5 for Aquaponic facility. The policies read as follows:

2.1.1.4 Medical marihuana growing and harvesting facilities are permitted in accordance with the regulations set out in the Zoning By-law and provided that the following conditions are met:

- a) a medical marihuana growing and harvesting facility is permitted in buildings existing at the date of the passing of the Zoning By-law;
- b) The gross floor area for a new medical marihuana growing and harvesting facility shall not exceed 2000 square metres;
- c) No retail sales are permitted;
- d) No outdoor storage is permitted; and
- e) The establishment of a new medical marihuana growing and harvesting facility or the expansion of an existing facility shall be subject to Site Plan approval to address the appropriate building size and location, set-backs, drainage and any other matters.

OMB Appeals

Medical Marihuana
Growing and
Harvesting Facility
Policies

7 - Pharm Meds
Limited

2.1.1.5 Aquaponics facilities may be permitted provided the following conditions are met:

- a) Site Plan approval shall be required to address appropriate building location, storm water management and drainage; and
- b) Any goods or materials offered for sale shall be limited to small scale retailing of products grown and produced primarily on site in accordance with the policies of Section D.2.1.3.2 c) of this Plan for on-farm secondary uses.

B) That Subsection D.2.1.1 Agricultural Uses of Subsection D.2.1 Permitted Uses be amended by:

- Renumbering policy D.2.1.1.4 to policy D.2.1.1.6;
- Adding "or bunk house" after "mobile home" in provision b) of Policy D.2.1.1.6;
- Deleting the words "Servicing of" at the beginning of provision b) i) and adding "serviced by the same private sewer and water systems used by the principal farm residence and be" before "in accordance with";
- Deleting provision b) ii) 1) of Policy D.2.1.1.6 in full; and
- Adding "the owner shall remove the temporary dwelling from the subject farm if, in the opinion of the City, it is no longer required or used as a farm labour residence to b) ii) of Policy D.2.1.1.6 after "farm labour residence" and deleting b) ii) 2) of Policy D.2.1.1.6.

The amended policy will read as follows:

2.1.1.6 A farm labour residence may be permitted on the same lot as the primary farm use provided all the following conditions are met:

- a) The size and nature of the farm operation requires additional on-site employment for regular and extended periods of time in the annual production process such that additional accommodation is required for the viability and effective operation of the farm, as shown in a justification report deemed acceptable by the City;
- b) A maximum of one farm labour residence may be permitted without an amendment to the Zoning By-Law, in the form of an accessory apartment attached to and forming part of the principal farm residence, or an accessory detached temporary

dwelling, such as a mobile home or bunk house provided:

- i) The second unit shall be serviced by the same private sewer and water systems used by the principal farm residence and be in accordance with Section C.5.1, Sustainable Private Water and Wastewater Services policies of this Plan.
- ii) Where a temporary dwelling is used as a farm labour residence, the owner shall remove the temporary dwelling from the subject farm if, in the opinion of the City, it is no longer required or used as a farm labour residence.

C) That Policy D.2.1.2 a) of Subsection D.2.1 Permitted Uses be amended by adding the word "agricultural" before "processing facilities", deleting the word "and" after "livestock assembly points" and adding "and veterinary services for farm animals" after "agricultural research operations" as follows:

2.1.2 Agricultural-related uses are farm-related commercial and farm-related industrial uses that are small scale, producing products and services, wholly and directly related to a farming operation and which are required in close proximity to an agricultural use. They are uses necessary to support agricultural uses and are permitted provided the following conditions are met:

- a) The use must produce products or services directly related to a farming operation, and require a location in close proximity to a farm operation. Permitted uses shall be limited to grain dryers, feed mills, grain and seed storage facilities, primary farm produce bulk storage and agricultural processing facilities, farm product supply dealers, livestock assembly points, agricultural research operations, and veterinary services for farm animals;

D) That Subsection D.2.1 Permitted Uses be amended by adding two new policies: Policy D.2.1.3.1 f) for Winery, Brewery, and Cidery provisions and new policy D.2.1.3.1 g) for Landscape Contracting provisions. The policies read as follows:

2.1.3.1 In addition to the above policies, on-farm secondary uses shall be subject to the following conditions:

- f) A small scale winery, brewery, or cidery may be permitted secondary to a permitted agricultural use in the Agriculture designation in accordance with the Zoning By-law and

provided the following conditions are met:

- i) A small scale winery, brewery, or cidery shall only be permitted as an accessory use to an agricultural use on lots 4 hectares (10 acres) or greater;
 - ii) Site Plan approval shall be required to address appropriate setbacks, building size and location, parking, lighting, drainage, buffering, screening and landscaping, and any other matters;
 - iii) A minimum of 2 hectares (5 acres) of the agricultural use parcel shall be used for the production of grapes, fruits or other produce directly associated with on-site beer, cider or wine production;
 - iv) A small scale winery, brewery, or cidery shall be located where access is provided by an appropriate road capable of accommodating the traffic generated. A transportation impact study may be required;
 - v) The maximum building area devoted to a brewer, winery, or cidery is restricted to 500 square metres of gross floor area not including the basement or cellar;
 - vi) The display, retail sale and/or tasting of wine, beer, or cider produced on the farm parcel and accessory retail sale may be permitted, as provided for by the Zoning By-law; and
 - vii) Restaurants, banquet halls, hotels, motels, hostels, schools, residences, and conference facilities shall not be permitted.
- g) Landscape Contracting is permitted secondary only to a Nursery and subject to the following conditions and in accordance with the Zoning By-law:
- i) the majority of the land is to be farmed either in field crops or horticultural products; and,
 - ii) to ensure that the scale of the landscape contracting business is clearly secondary to the main agricultural use, the gross floor area of buildings and outside storage, and parking shall be established in the Zoning By-law.

- E) That Section D.2.0 Agriculture Designation be amended by adding a new Section numbered D.2.3 and titled Prohibited Uses as follows:

2.3 Prohibited Uses

2.3.1 The following uses shall be prohibited on properties identified as Vulnerable Area 1 on Schedule G - Source Protection - Vulnerable Areas:

- a) Waste Disposal sites under Part V of Environmental Protection Act that include the following activities:
 - i) storage, treatment and discharge of mine tailings;
 - ii) land farming of petroleum refining waste;
 - iii) storage of polychlorinated biphenyl (PCB) waste;
 - iv) storage of hazardous waste;
 - v) application of untreated septage to land; and
 - vi) injection of liquid waste into a well.
- b) hazardous waste management facility;
- c) waste management facility;
- d) salt storage facility that can accommodate 5,000 tonnes and greater;
- e) snow storage facility on sites greater than 1 ha in size;
- f) motor vehicle service station; and
- g) motor vehicle collision repair establishment.

2.3.2 The following uses shall be prohibited on properties identified as Vulnerable Area 2 on Schedule G - Source Protection - Vulnerable Areas:

- a) Waste Disposal sites under Part V of Environmental Protection Act that include the following activities:

- i) the injection of liquid waste into a well; and
- ii) application of untreated septage to land.

b) Waste disposal facility.

2.3.3 The following uses shall be prohibited on properties identified as Vulnerable Area 3 on Schedule G - Source Protection - Vulnerable Areas:

- a) Waste Disposal sites under Part V of Environmental Protection Act that include the application of untreated septage to land.

F) That Section D.3.0 Specialty Crop Designation be amended by deleting policy D.3.1.1 in its entirety and subsequently renumbering D.3.1.2 as Policy D.3.1.1.

G) That Subsection D.4.1 of Section D.4.0 Rural Designation, be amended by adding a new policy D.4.1.2 as follows:

4.1.2 *Agriculture - Related Uses* may serve more than one on farm operation in accordance with the Zoning By-law regulations provided for the various uses.

Subsequent renumbering of Section D.4.1 policies will be required.

H) That Section D.4.0 Rural Designation be amended by adding a new Section numbered D.4.3 and titled Prohibited Uses as follows:

4.3 Prohibited Uses

4.3.1 The following uses shall be prohibited on properties identified as Vulnerable Area 1 on Schedule G - Source Protection - Vulnerable Areas:

- a) Waste Disposal sites under Part V of Environmental Protection Act that include the following activities:
 - i) Storage, treatment and discharge of mine tailings;
 - ii) Land farming of petroleum refining waste;
 - iii) Storage of polychlorinated biphenyl (PCB) waste;

- iv) Storage of hazardous waste;
 - v) Application of untreated septage to land; and
 - vi) Injection of liquid waste into a well.
- b) Hazardous waste management facility;
 - c) Waste management facility;
 - d) Salt storage facility that can accommodate 5,000 tonnes and greater;
 - e) Snow storage facility greater than 1 ha in size;
 - f) Motor vehicle service station; and
 - g) Motor vehicle collision repair establishment.

4.3.2 The following uses shall be prohibited on properties identified as Vulnerable Area 2 on Schedule G - Source Protection - Vulnerable Areas:

- a) Waste Disposal sites under Part V of Environmental Protection Act that include the following activities:
 - i) The injection of liquid waste into a well; and
 - ii) Application of untreated septage to land.
- b) waste disposal facility.

4.3.3 The following uses shall be prohibited on properties identified as Vulnerable Area 3 on Schedule G - Source Protection - Vulnerable Areas:

- a) Waste Disposal sites under Part V of Environmental Protection Act that include the application of untreated septage to land.

- I) That Section D.6.0 Mineral Aggregate Resource Extraction Areas be amended by adding a new Policy D.6.32 and titled Prohibited Uses as follows:

6.32 Prohibited Uses shall include:

- a) A snow storage facility below the water table that is greater than 0.01 ha in size; and
- b) A snow storage facility greater than 1 ha in size.

4.1.3 Chapter F – Implementation

- A) That Table F.1.9.1 of Section F.1.9 Complete Application Requirements and Formal Consultation be amended by adding a new clause "j) Full Disclosure Report" under Subsection 5 Environmental/Servicing and Infrastructure as follows:

Table F.1.9.1 Other Information and Materials

5	Environmental/Servicing and Infrastructure The objective of required Environmental/Servicing and Infrastructure information and materials is to ensure that a proposed development and/or change in land use is safe from contamination, can be supported by adequate soil conditions and stormwater management facilities, and shall not have an adverse impact on the City's natural water resources.
j)	Full Disclosure Report

4.1.4 Chapter G - Glossary

- A) That the definition of *Farm Labour Residence* in Volume 1, Chapter G – Glossary be amended by adding the words "or bunk house" after "mobile home" in provision b) and deleting the words " and serviced by the same private sewer and water systems used by the principal farm residence" as follows:

Farm Labour Residence: means secondary accommodations provided for full-time farm labour where the size and nature of the farm operation requires additional employment in the form of either of the following:

- a) An accessory apartment attached to and forming part of the principal farm residence; or
- b) An accessory detached dwelling of temporary construction, such as a mobile home or bunk house, located in close proximity to the farm cluster.

- B) That Volume 1, Chapter G – Glossary be amended by adding a new definition Medical Marihuana Growing and Harvesting Facility as follows:

OMB Appeals

Medical
Marihuana
Growing and
Harvesting
Definition

7 - Pharm Meds
Limited

Medical Marihuana Growing and Harvesting Facility: shall mean a wholly enclosed building or structure used for growing, harvesting, testing, destroying, packaging and shipping of marihuana, for medical purposes as permitted under the Marihuana for Medical Purposes Regulations (MMPR) SOR/2013-119 made under the Controlled Substances Act as the MMPR read on March 31, 2014; The testing, packaging, and shipping shall be accessory to the growing and harvesting of the marihuana for medical purposes.

4.1.5 Volume 1 - Schedules

That the following Schedules be amended by identifying the subject lands and changes as shown on Appendices 1 to 4 of this amendment:

- Schedule B – Natural Heritage Features to add and delete core areas;
- Schedule B-4 – Detailed Natural Heritage Features Wetlands to delete a wetland;
- Schedule B-6 – Detailed Natural Heritage Features Local Natural Areas Environmentally Significant Areas (ESA) to add and delete ESA's;
- Schedule D – Rural Land use Designations to change two land use designations; and
- Schedule G – Source Protection – Vulnerable Areas to be added.

4.2 Volume 2 – Secondary Plans/Rural Settlement Area Plans

4.2.1 Chapter A – Rural Settlement Area Plans (RSAP)

A) That Volume 2, Chapter A – Rural Settlement Area Plans, Table of Contents be amended by adding new Section 1.5 Settlement Institutional and changing the designation name "Hazard Lands" to Natural Open Space (Hazard Lands) by adding the words "Natural Open Space" before "Hazard Lands" and parentheses around "Hazard Lands" for 1.6 Hazard Lands as follows:

CHAPTER A - RURAL SETTLEMENT AREA PLANS

A-1

A.1.0 GENERAL POLICIES

A.1-1

1.1 Objectives

A.1-1

1.2 General Policies

A.1-1

1.3 Settlement Residential

A.1-2

1.4 Settlement Commercial

A.1-3

1.5 Settlement Institutional

A.1-3

1.6 Open Space and Parks

A.1-4

1.7 Natural Open Space (Hazard Lands)

A.1-4

1.8 Implementation

A.1-5

Subsequent renumbering of the Table of Contents, Chapter A, Section 1.0 will be required as shown above.

- B) That Chapter A – Rural Settlement Area Plans, Section A.1.0 General Policies be amended by adding a new Section numbered A.1.5 and titled Settlement Institutional as follows:

1.5 Settlement Institutional

1.5.1 On lands designated Settlement Institutional on Map 1 to Map 19, places of worship, schools, libraries, community centres and similar uses that are related to the needs of the residents in the Rural Settlement Area and the surrounding Rural Area may be permitted subject to the following:

- a) New Settlement Institutional uses or the enlargement of existing Settlement Institutional uses shall be subject to Site Plan approval. Site plans shall ensure that traffic impacts are minimized and that building designs and massing are complementary to the existing built environment.
- b) The City shall encourage the conservation of existing institutional buildings where appropriate, especially the adaptation of existing structures for new uses by amendment to this plan and the Zoning By-law if required.
- c) Additional lands may be designated Settlement Institutional by amendment to this Rural Settlement Area Plan, subject to the justification for the need of the use and compatibility with the surrounding uses.

Subsequent renumbering of Section A.1.0 will be required

- C) That Section A.1.0 General Policies, renumbered Subsection A.1.7 be amended by changing the designation name "Hazard Lands" to Natural Open Space (Hazard Lands) by adding the words "Natural Open Space" before "Hazard Lands" and parentheses around "Hazard Lands" as follows:

1.7 Natural Open Space (Hazard Lands)

1.7.1 Natural Open Space (Hazard Lands) designated on Map 1 through Map 19 are lands which have inherent environmental hazards such as flooding, erosion susceptibility, soil instability or any other physical

conditions which are severe enough to cause property damage or potential loss of life on the subject lands, or to upstream or downstream lands within the watershed, if these lands were to be used or developed or site alteration takes place inappropriately.

1.7.2 The uses permitted in Natural Open Space (Hazard Lands) shall be limited to conservation, forestry, fish and wildlife management areas, low intensity or passive public or private recreational uses, and uses legally existing at the time of the approval of this Plan. Buildings and structures associated with these lands will not be permitted unless they are intended for flood and, or erosion control and meet the requirements of the City and the appropriate Conservation Authority.

1.7.3 No development, including the placement or removal of fill, new buildings and structures or other works associated with flood or erosion control, shall be permitted without the written approval of the appropriate Conservation Authority.

1.7.4 The City shall work with the appropriate Conservation Authority to refine the boundaries of Natural Open Space (Hazard Lands). An amendment to this Plan shall not be required for changes to Natural Open Space (Hazard Lands) boundaries which are in accordance with regulations subject to the appropriate Conservation Authority.

1.7.5 All lots abutting a Natural Open Space (Hazard Lands) which are subject to Conservation Authority regulations shall require specific Zoning By-law regulations regarding lot area and setbacks from the associated hazard. These requirements may be reduced by a Zoning By-law amendment, subject to the requirements of the appropriate Conservation Authority and the City.

1.7.6 Privately held lands designated as Natural Open Space (Hazard Lands) shall not be considered as free and open to the general public, nor will designation as Natural Open Space (Hazard Lands) imply that such lands will necessarily be acquired by a public authority.

D) That Volume 2, Chapter A – Rural Settlement Area Plans be amended by changing the number of land use categories identified (*change italicized*) and adding the designation "Settlement Institutional" to the list of land use designations identified within the following RSAP's as follows:

i) A.3.0 FLAMBOROUGH RURAL SETTLEMENT AREA PLANS

3.2 Concession 5 East and Centre Road Rural Settlement Area Plan

3.2.3.1 Map 5 establishes the land use pattern of future development and redevelopment. There are *four* land use categories: Settlement Residential, Settlement Commercial, Settlement Institutional and City Wide Park.

3.6 Kirkwall Rural Settlement Area Plan

3.6.3.1 Map 9 establishes the land use pattern of future development and redevelopment of Kirkwall. There are four different land use categories: Settlement Residential, Settlement Institutional, General Open Space and Natural Open Space (Hazard Lands).

3.11 Sheffield Rural Settlement Area Plan

3.11.3.1 Map 14 establishes the land use pattern of future development and redevelopment of Sheffield. There are four land use categories: Settlement Residential, Settlement Commercial, Settlement Institutional and Community Park.

ii) A.5.0 STONEY CREEK RURAL SETTLEMENT AREA PLANS

5.1 Tapleystown Rural Settlement Area

5.1.3.1 Map 19 establishes the land use pattern of future development and redevelopment of Tapleystown. There are *five* land use categories: Settlement Residential, Settlement Commercial, Settlement Institutional, Neighbourhood Park and General Open Space.

E) That Volume 2, Chapter A – Rural Settlement Area Plans be amended by changing the designation name "Hazard Lands" to Natural Open Space (Hazard Lands) by adding the words "Natural Open Space" before "Hazard Lands" and parentheses around "Hazard Lands" as follows:

i) A.2.0 ANCASTER RURAL SETTLEMENT AREA PLANS

2.2 Copetown Rural Settlement Area Plan

2.2.5.1 Map 2 establishes the land use pattern of future development and redevelopment. There are six land use categories: Settlement Residential, Settlement Commercial, Settlement Institutional, Natural Open Space (Hazard Lands), Community Park and General Open Space

ii) A.3.0 FLAMBOROUGH RURAL SETTLEMENT AREA PLANS

3.5 Greensville Rural Settlement Area Plan

3.5.4.1 Map 8a establishes the land use pattern of future development and redevelopment of Greensville. There are eight land use categories: Settlement Residential, Settlement Commercial, Settlement Institutional, Neighbourhood Park, Community Park, General Open Space, Open Space and Parks and Natural Open Space (Hazard Lands).

3.7 Lynden Rural Settlement Area Plan

3.7.3.1 Map 10 establishes the land use pattern of future development and redevelopment of Lynden. There are five land use categories: Settlement Residential, Settlement Commercial, Community Park, General Open Space and Natural Open Space (Hazard Lands).

3.10 Rockton Rural Settlement Area Plan

3.10.3.1 Map 13 establishes the land use pattern of future development and redevelopment of Rockton. There are five land use categories: Settlement Residential, Settlement Commercial, City Wide Park, General Open Space and Natural Open Space (Hazard Lands).

3.13 Troy Rural Settlement Area Plan

3.13.3.1 Map 16 establishes the land use pattern of future development and redevelopment. There are three land use categories: Settlement Residential, Settlement Commercial and Natural Open Space (Hazard Lands).

F) That Volume 2, Chapter A – Rural Settlement Area Plans be amended by changing the number of land use categories identified (*change italicized*), adding the designation "Settlement Institutional" to the list of land use designations identified and changing the designation name "Hazard Lands" to Natural Open Space (Hazard Lands) by adding the words "Natural Open Space" before "Hazard Lands" and parentheses around "Hazard Lands" as follows:

i) A.3.0 FLAMBOROUGH RURAL SETTLEMENT AREA PLANS

3.1 Carlisle Rural Settlement Area Plan

3.1.3.1 Map 4 establishes the land use pattern of future development and redevelopment of Carlisle. There are *eight* land use categories: Settlement Residential, Settlement Commercial, Settlement Institutional, Neighbourhood Park, Community Park, Parkette, General Open Space and Natural Open Space (Hazard Lands).

3.3 Flamborough Centre Rural Settlement Area Plan

3.3.3.1 Map 6 establishes the land use pattern of future development and redevelopment of Flamborough Centre. There are six land use categories: Settlement Residential, Settlement Commercial, Settlement Institutional, Neighbourhood Park, General Open Space and Natural Open Space (Hazard Lands).

3.4 Freelon Rural Settlement Area Plan

3.4.3.1 Map 7 establishes the land use pattern of future development and redevelopment of Freelon. There are seven land use categories: Settlement Residential, Settlement Commercial, Settlement Institutional, Community Park, General Open Space, Parkette and Natural Open Space (Hazard Lands).

3.8 Millgrove Rural Settlement Area Plan

3.8.3.1 Map 11 establishes the land use pattern of future development and redevelopment of Millgrove. There are six land use categories: Settlement Residential, Settlement Institutional, Community Park, General Open Space and Natural Open Space (Hazard Lands).

3.12 Strabane Rural Settlement Area Plan

3.12.3.1 Map 15 establishes the land use pattern of future development and redevelopment of Strabane. There are *four* land use categories: Settlement Residential, Settlement Commercial, Settlement Institutional and Natural Open Space (Hazard Lands).

G) That Volume 2, Chapter A – Rural Settlement Area Plans be amended by changing the policy numbers identified in the policies referring to each of the land use categories in Section A.1.0 General Policies as follows:

i) A.2.0 ANCASTER RURAL SETTLEMENT AREA PLANS

2.1 Alberton Rural Settlement Area Plan

2.1.3.2 The policies pertaining to each of the land use categories are detailed in the policies set out in Sections A.1.2 to A.1.7, Volume 2 of this Plan.

ii) A.3.0 FLAMBOROUGH RURAL SETTLEMENT AREA PLANS

3.1 Carlisle Rural Settlement Area Plan

3.1.3.2 The policies pertaining to each of the land use categories are detailed in the policies set out in Sections A.1.2 to A.1.7, Volume 2 of this Plan.

3.2 Concession 5 East and Centre Road Rural Settlement Area Plan

3.2.3.2 The policies pertaining to each of the land use categories are detailed in the policies set out in Sections A.1.2 to A.1.7, Volume 2 of this Plan.

3.4 Freelton Rural Settlement Area Plan

3.4.3.2 The policies pertaining to each of the land use categories are detailed in the policies set out in Sections A.1.2 to A.1.7, Volume 2 of this Plan.

3.6 Kirkwall Rural Settlement Area Plan

3.6.3.2 The policies pertaining to each of the land use categories are detailed in the policies set out in Sections A.1.2 to A.1.7, Volume 2 of this Plan.

3.7 Lynden Rural Settlement Area Plan

3.7.3.2 The policies pertaining to each of the land use categories are detailed in the policies set out in Sections A.1.2 to A.1.7, Volume 2 of this Plan.

3.8 Millgrove Rural Settlement Area Plan

3.8.3.2 The policies pertaining to each of the land use categories are detailed in the policies set out in Sections A.1.2 to A.1.7,

Volume 2 of this Plan.

3.9 Orkney Rural Settlement Area Plan

3.9.3.2 The policies pertaining to each of the land use categories are detailed in the policies set out in Sections A.1.2 to A.1.7, Volume 2 of this Plan.

3.10 Rockton Rural Settlement Area Plan

3.10.3.2 The policies pertaining to each of the land use categories are detailed in the policies set out in Sections A.1.2 to A.1.7, Volume 2 of this Plan.

3.11 Sheffield Rural Settlement Area Plan

3.11.3.2 The policies pertaining to each of the land use categories are detailed in the policies set out in Sections A.1.2, to A.1.7, Volume 2 of this Plan.

3.12 Strabane Rural Settlement Area Plan

3.12.3.2 The policies pertaining to each of the land use categories are detailed in the policies set out in Sections A.1.2 to A.1.7, Volume 2 of this Plan.

3.13 Troy Rural Settlement Area Plan

3.13.3.2 The policies pertaining to each of the land use categories are detailed in the policies set out in Sections A.1.2 to A.1.7, Volume 2 of this Plan.

3.14 Westover Rural Settlement Area Plan

3.14.3.2 The policies pertaining to each of the land use categories are detailed in the policies set out in Sections A.1.2 to A.1.7, Volume 2 of this Plan.

iii) A.4.0 GLANBROOK RURAL SETTLEMENT AREA PLANS

4.1 Woodburn Rural Settlement Area plan

4.1.3.2 The policies pertaining to each of the land use categories are detailed in the policies set out in Sections A.1.2 to A.1.7, Volume 2 of this Plan.

iv) A.5.0 STONEY CREEK RURAL SETTLEMENT AREA PLANS

5.1 Tapleystown Rural Settlement Area

5.1.3.2 The policies pertaining to each of the land use categories are detailed in the policies set out in Sections A.1.2 to A.1.7, Volume 2 of this Plan.

H) That Volume 2, Chapter A – Rural Settlement Area Plans, Section A.3.0 Flamborough Rural Settlement Area Plans be amended by adding a new Section numbered A.3.1.5 and titled Prohibited Uses as follows:

3.1.5 Prohibited Uses

3.1.5.1 The following uses shall be prohibited on properties identified as Vulnerable Area 1 on Schedule G - Source Protection - Vulnerable Areas:

a) Waste Disposal sites under Part V of the Environmental Protection Act that include the following activities:

- i) Storage, treatment and discharge of mine tailings;
- ii) Land farming of petroleum refining waste;
- iii) Storage of polychlorinated biphenyl (PCB) waste;
- iv) Storage of hazardous waste;
- v) Application of untreated septage to land; and
- vi) Injection of liquid waste into a well.

b) Hazardous waste management facility;

c) Waste management facility;

d) Salt storage facility that can accommodate 5,000 tonnes and greater;

e) Snow storage facility on sites greater than 1 ha in size;

- f) Motor vehicle service station; and
- g) Motor vehicle collision repair establishment.

3.1.5.2 The following uses shall be prohibited on properties identified as Vulnerable Area 2 on Schedule G - Source Protection - Vulnerable Areas:

- a) Waste Disposal sites under Part V of Environmental Protection Act that include the following activities:
 - i) the injection of liquid waste into a well.

l) That Volume 2, Chapter A – Rural Settlement Area Plans, Section A.3.0 Flamborough Rural Settlement Area Plans be amended by adding a new Section numbered A.3.4.5 and titled Prohibited Uses as follows:

3.4.5 Prohibited Uses

3.4.5.1 The following uses shall be prohibited on properties identified as Vulnerable Area 1 on Schedule G - Source Protection - Vulnerable Areas:

- a) Waste Disposal sites under Part V of Environmental Protection Act that include the following activities:
 - i) Storage, treatment and discharge of mine tailings;
 - ii) Land farming of petroleum refining waste;
 - iii) Storage of polychlorinated biphenyl (PCB) waste;
 - iv) Storage of hazardous waste;
 - v) Application of untreated septage to land;
 - vi) Injection of liquid waste into a well.
- b) Hazardous waste management facility;
- c) Waste management facility;

- d) Salt storage facility that can accommodate 5,000 tonnes and greater;
- e) Snow storage facility on sites greater than 1 ha in size;
- f) Motor vehicle service station; and
- g) motor vehicle collision repair establishment.

3.4.5.2 The following uses shall be prohibited on properties identified as Vulnerable Area 2 on Schedule G - Source Protection - Vulnerable Areas:

- a) Waste Disposal sites under Part V of Environmental Protection Act that include the following activities:
 - i) The injection of liquid waste into a well; and
 - ii) Application of untreated septage to land.
- b) Waste disposal facility.

J) That Volume 2, Chapter A – Rural Settlement Area Plans, Section A.3.0 Flamborough Rural Settlement Area Plans be amended by adding a new Section numbered A.3.5.10 and titled Source Protection – Vulnerable Areas as follows:

3.5.10 Source Protection – Vulnerable Areas

3.5.10.1 The following uses shall be prohibited on properties identified as Vulnerable Area 1 on Schedule G - Source Protection - Vulnerable Areas:

- a) Waste Disposal sites under Part V of Environmental Protection Act that include the following activities:
 - i) Storage, treatment and discharge of mine tailings;
 - ii) Land farming of petroleum refining waste;
 - iii) Storage of polychlorinated biphenyl (PCB) waste;

- iv) Storage of hazardous waste;
- v) Application of untreated septage to land; and
- vi) Injection of liquid waste into a well.

- b) Hazardous waste management facility;
- c) Waste management facility;
- d) Salt storage facility that can accommodate 5,000 tonnes and greater;
- e) Snow storage facility on sites greater than 1 ha in size;
- f) Motor vehicle service station; and
- g) Motor vehicle collision repair establishment.

3.5.10.2 The following uses shall be prohibited on properties identified as Vulnerable Area 2 on Schedule G - Source Protection - Vulnerable Areas:

- a) Waste Disposal sites under Part V of Environmental Protection Act that include the following activities:
 - i) The injection of liquid waste into a well; and
 - ii) Application of untreated septage to land.
- b) Waste disposal facility.

Subsequent renumbering of the remainder of the section will be required.

- K) That Volume 2, Chapter A – Rural Settlement Area Plans, Section A.3.0 Flamborough Rural Settlement Area Plans be amended by changing the designation name "Hazard Lands" to "Natural Open Space (Hazard Lands)" by adding the words "Natural Open Space" before "Hazard Lands" and parentheses around "Hazard Lands" for Section A.3.5.9 Hazard Lands and changing subsequent policies as follows:

3.5.9 Natural Open Space (Hazard Lands)

Those lands designated as Natural Open Space (Hazard Lands) on Map 8a generally consist of natural systems and their component parts such as wetlands, watercourses, floodplains, ravines and valleys. Due to these characteristics, Natural Open Space (Hazard Lands) have inherent environmental constraints such as flooding or erosion susceptibility, soil instability or any other physical condition which is severe enough to cause property damage or potential loss of life to upstream or downstream lands within the watershed, if these lands were to be developed. Uses permitted on Natural Open Space (Hazard Lands) are limited to conservation, forestry, agriculture, horticultural nurseries, fish and wildlife management areas, low intensity or passive type public or private recreational uses, and uses legally existing on July 16, 1990, subject to the following policies:

- 3.5.9.1 It is intended that Natural Open Space (Hazard Lands) will be conserved and that land uses or activities which could be affected by prevailing hazardous conditions such as flooding or erosion, will be prohibited in and adjacent to these areas.
- 3.5.9.4 Natural Open Space (Hazard Lands) shall be appropriately identified in the Zoning By-law. All lots which may abut a watercourse or its tributaries shall be subject to specific Zoning By-law regulations regarding lot area and setbacks from the watercourse and its tributaries. These requirements may be reduced, by amendment to the Zoning By-law, subject to the requirements of the Hamilton Region Conservation Authority, the Niagara Escarpment Commission, the Province and the City.
- 3.5.9.6 Where an existing structure in the Natural Open Space (Hazard Lands) designation is destroyed in a manner not related to the inherent physical or hazardous characteristics of the lands, permission may be granted by the City to permit the structure to be rebuilt on the site. In this regard, the City as well as the Ministry of Natural Resources, the Hamilton Region Conservation Authority and the Niagara Escarpment Commission, must be satisfied that the new structure will not be endangered by the prevailing hazard, specific to the site.
- 3.5.9.7 Any privately held lands delineated as Natural Open Space (Hazard Lands) shall not be considered as free and open to the general public, nor will designation as Natural Open Space (Hazard Lands) imply that such lands will necessarily be acquired by a public authority.

3.5.9.8 Severances shall not be permitted on Natural Open Space (Hazard Lands) except where required to allow the undertaking of works associated with flood or erosion control or for drainage or watercourse protection or the conservation of land.

4.2.2 Volume 2 - Rural Settlement Area Plan Maps

That the following Maps be amended by identifying the subject lands and changes as shown on Appendices 5 to 23 of this amendment:

- Volume 2, Map 1 – Alberton Rural Settlement Area Plan
- Volume 2, Map 2 – Copetown Rural Settlement Area Plan
- Volume 2, Map 3 – Jerseyville Rural Settlement Area Plan
- Volume 2, Map 4 – Carlisle Rural Settlement Area Plan
- Volume 2, Map 4a – Source Protection – Carlisle Vulnerable Areas
- Volume 2, Map 5 – Concession 5 East and Centre Road Rural Settlement Area Plan
- Volume 2, Map 6 – Flamborough Centre Rural Settlement Area Plan
- Volume 2, Map 7 – Freelon Rural Settlement Area Plan
- Volume 2, Map 7a – Source Protection – Freelon Vulnerable Areas
- Volume 2, Map 8 – Greensville Rural Settlement Area Plan
- Volume 2, Map 8c – Source Protection – Greensville Vulnerable Areas
- Volume 2, Map 9 – Kirkwall Rural Settlement Area Plan
- Volume 2, Map 10 – Lynden Rural Settlement Area Plan
- Volume 2, Map 11 – Millgrove Rural Settlement Area Plan
- Volume 2, Map 12 – Orkney Rural Settlement Area Plan
- Volume 2, Map 13 – Rockton Rural Settlement Area Plan
- Volume 2, Map 14 – Sheffield Rural Settlement Area Plan
- Volume 2, Map 15 – Strabane Rural Settlement Area Plan
- Volume 2, Map 16 – Troy Rural Settlement Area Plan
- Volume 2, Map 17 – Westover Rural Settlement Area Plan
- Volume 2, Map 18 – Woodburn Rural Settlement Area Plan
- Volume 2, Map 19 – Tapleystown Rural Settlement Area Plan

4.3 Volume 3 – Special Policy and Site Specific Areas

4.3.1 Chapter B - Rural Site Specific Areas

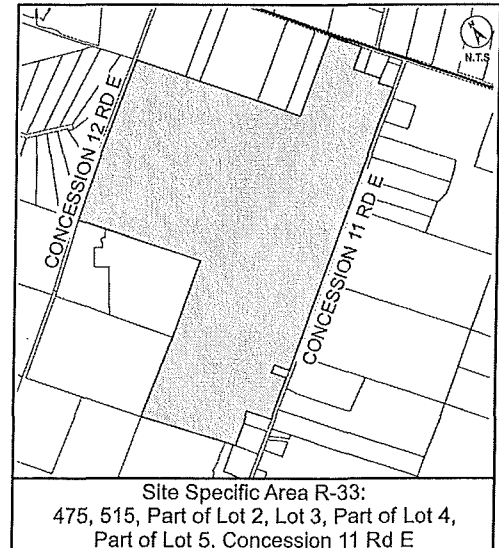
- A) That Volume 3, Chapter B – Rural Site Specific Areas be amended by deleting Site Specific R-6, Section 1.0 k) in its entirety relating to Hopkins Court (including policy and map insert) and re-lettering site specific l) as site specific k).

- B) That Volume 3, Chapter B – Rural Site Specific Areas be amended by adding a new site specific policy and map for the lands located at 475, 515, Parts of Lot 2, Lot 3, Part of Lot 4, Part of Lot 5 Concession 11 Road East as follows:

R-33 Lands Known as 475, 515, Parts of Lot 2, Lot 3, Part of Lot 4, and Part of Lot 5 Concession 11 Road East

1.0 For the lands known as 475, 515, Parts of Lot 2, Lot 3, Part of Lot 4, and Part of Lot 5 Concession 11 Road East designated Rural on Schedule "D – Rural Land Use Designations, the following additional policies shall apply, in accordance with the Conservation Easement:

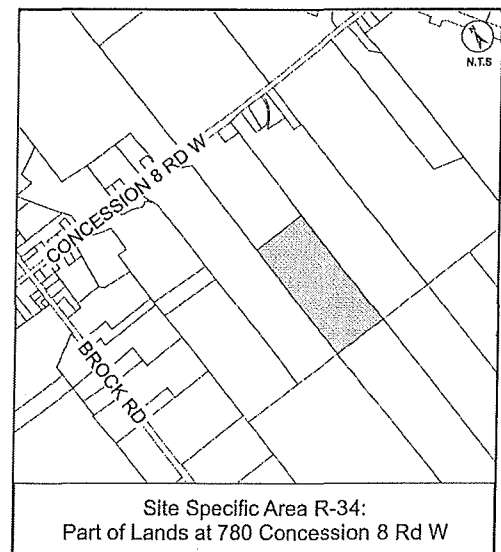
- a) A portion of the lands will be zoned to protect the natural heritage and hydrologic features and functions; and,
- b) A quarry and a pit are prohibited uses on the lands.



- C) That Volume 3, Chapter B – Rural Site Specific Areas be amended by adding a new site specific policy and map for part of the lands located at 780 Concession 8 Road West as follows:

R-34 Lands known as part of 780 Concession 8 Road West

1.0 Notwithstanding Section D.2.1.1.4 a) and b), a maximum gross floor area of 21,500.0 square metres may be permitted for all buildings associated with a Medical Marihuana Growing and Harvesting Facility, in accordance with the Zoning By-law.



4.3.2 Volume 3 - Appendices

That the following Appendix be amended by identifying the subject lands and changes as shown on Appendix 24 of this amendment:

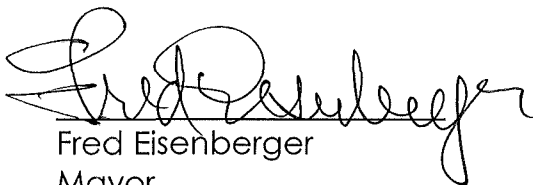
- Volume 3, Appendix A – Site Specific Key Map

5.0 Implementation:

An implementing Zoning By-Law Amendment will give effect to the intended uses on the subject lands.

This Schedule is Schedule "1" to By-law No. 15-172 passed on the 10th day of July, 2015.

**The
City of Hamilton**


Fred Eisenberger
Mayor


Rose Caterini
City Clerk

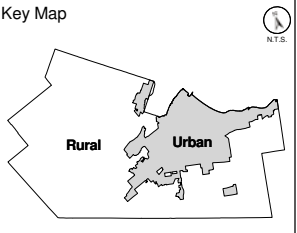
Appendix 1
Amendment No. 9
to the Rural Hamilton Official Plan

- Areas to be removed from "Core Areas"
- Areas to be added to "Core Areas"

Date:
July 8, 2015

Revised By:
JHE/NB

Reference File No.:
OPA-(R)-9



Note: For Urban Detailed Natural Heritage Features refer to Schedule B of the Urban Hamilton Official Plan.

Deferral pending the resolution of the Official Plan Amendment application

Legend

- Rural Settlement Areas
- Natural Heritage Features**

Core Areas

Linkages

Greenbelt Protected Countryside

Greenbelt Natural Heritage System

Niagara Escarpment Plan Area
- Other Features**

Urban Area

John C. Munro Hamilton International Airport

Niagara Escarpment

Urban Boundary

Municipal Boundary

Council Adoption: September 27, 2006
Ministerial Approval: December 24, 2008
Effective Date: March 7, 2012

Rural Hamilton Official Plan
Schedule B
Natural Heritage System

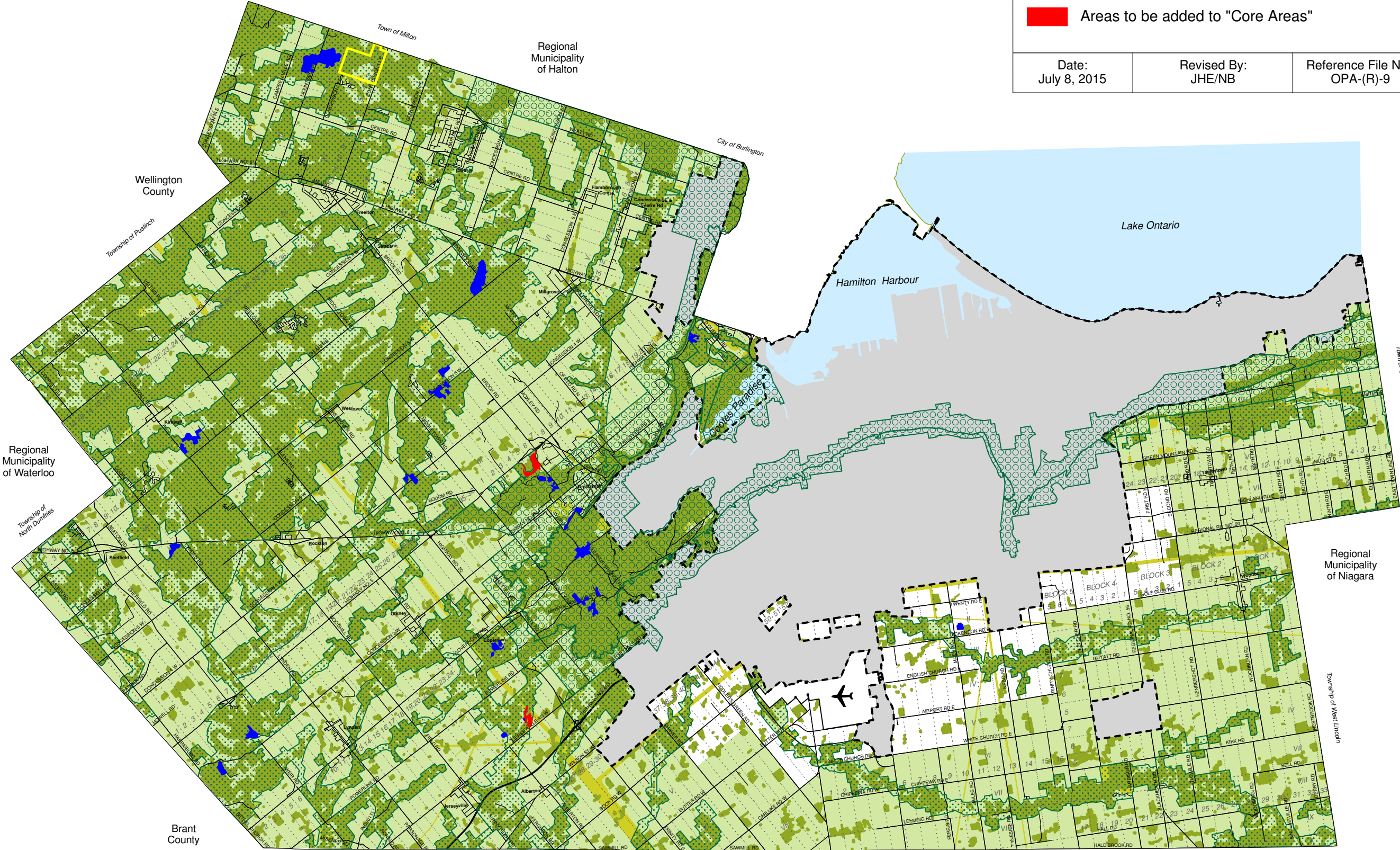
Not To Scale

Hamilton

Date: April 2014

PLANNING & ECONOMIC DEVELOPMENT DEPARTMENT

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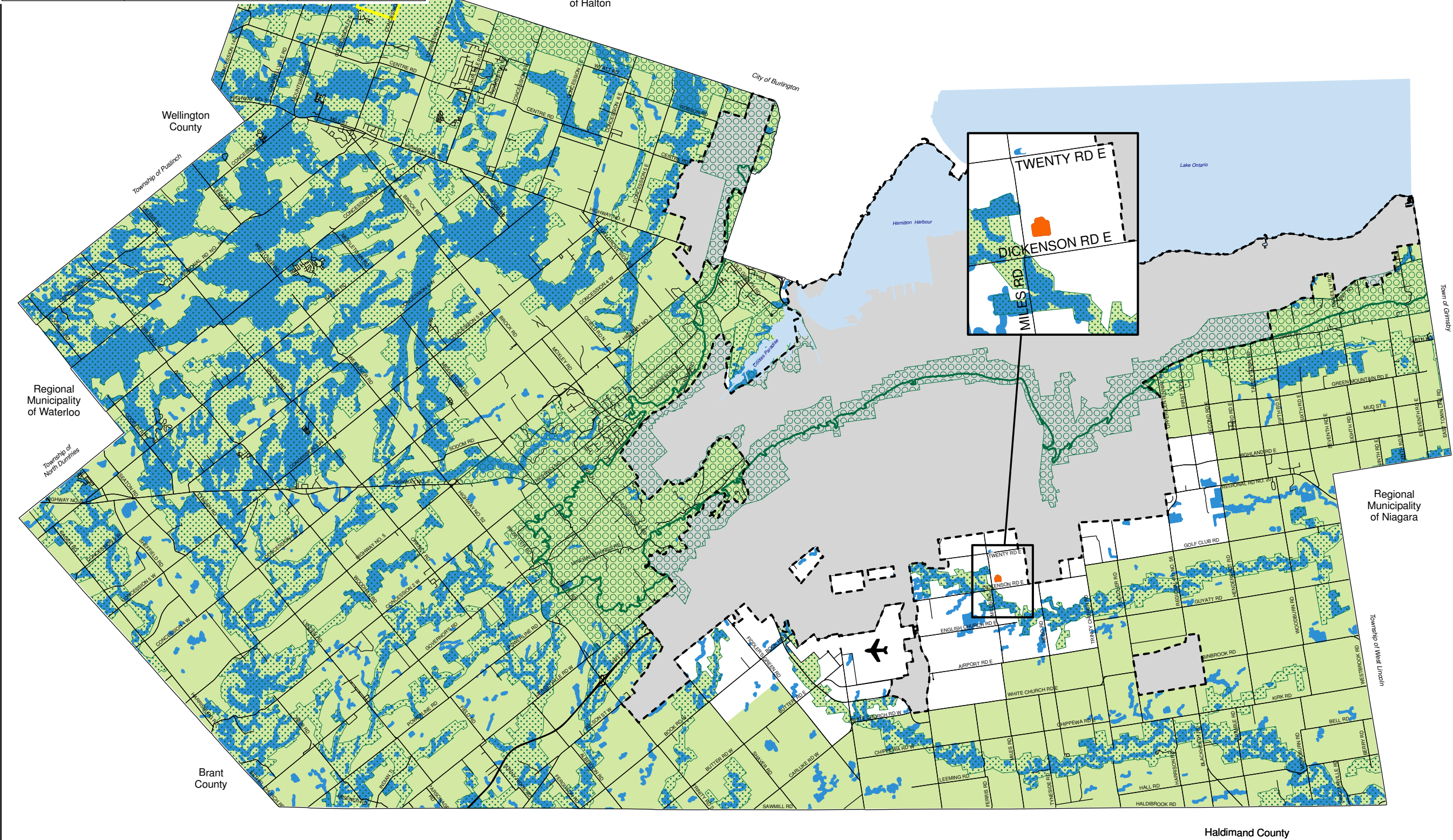
Appendix 1a
Amendment No. 9
to the Rural Hamilton Official Plan

Area to be deleted from "Provincially Significant Wetlands"

Date:
July 8, 2015

Revised By:
JHE/NB

Reference File No.:
OPA-(R)-9



Key Map

Note: For Urban Detailed Natural Heritage Features refer to Schedule B-4 of the Urban Hamilton Official Plan.

Deferral pending the resolution of the Official Plan Amendment application

Legend

Key Natural Heritage and Key Hydrologic Feature Wetlands ★

Greenbelt Protected Countryside

Greenbelt Natural Heritage System

Niagara Escarpment Plan Area

Other Features

Urban Area

John C. Munro Hamilton International Airport

Niagara Escarpment

Urban Boundary

Municipal Boundary

*** Note: Feature mapped with a 30m Vegetation Protection Zone.**



Council Adoption: September 27, 2006
Ministerial Approval: December 24, 2008
Effective Date: March 7, 2012

**Rural Hamilton Official Plan
Schedule B-4**
Detailed Natural Heritage Features
Key Natural Heritage Feature and Key Hydrologic Feature Wetlands

Not To Scale
Date: April 2014

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Appendix 2
Amendment No. 9
to the Rural Hamilton Official Plan

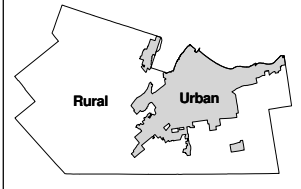
-  Areas to be removed from "Local Natural Area Environmentally Significant Area"
-  Areas to be added to "Local Natural Area Environmentally Significant Area"

Date:
July 8, 2015


Revised By:
JHE/NB

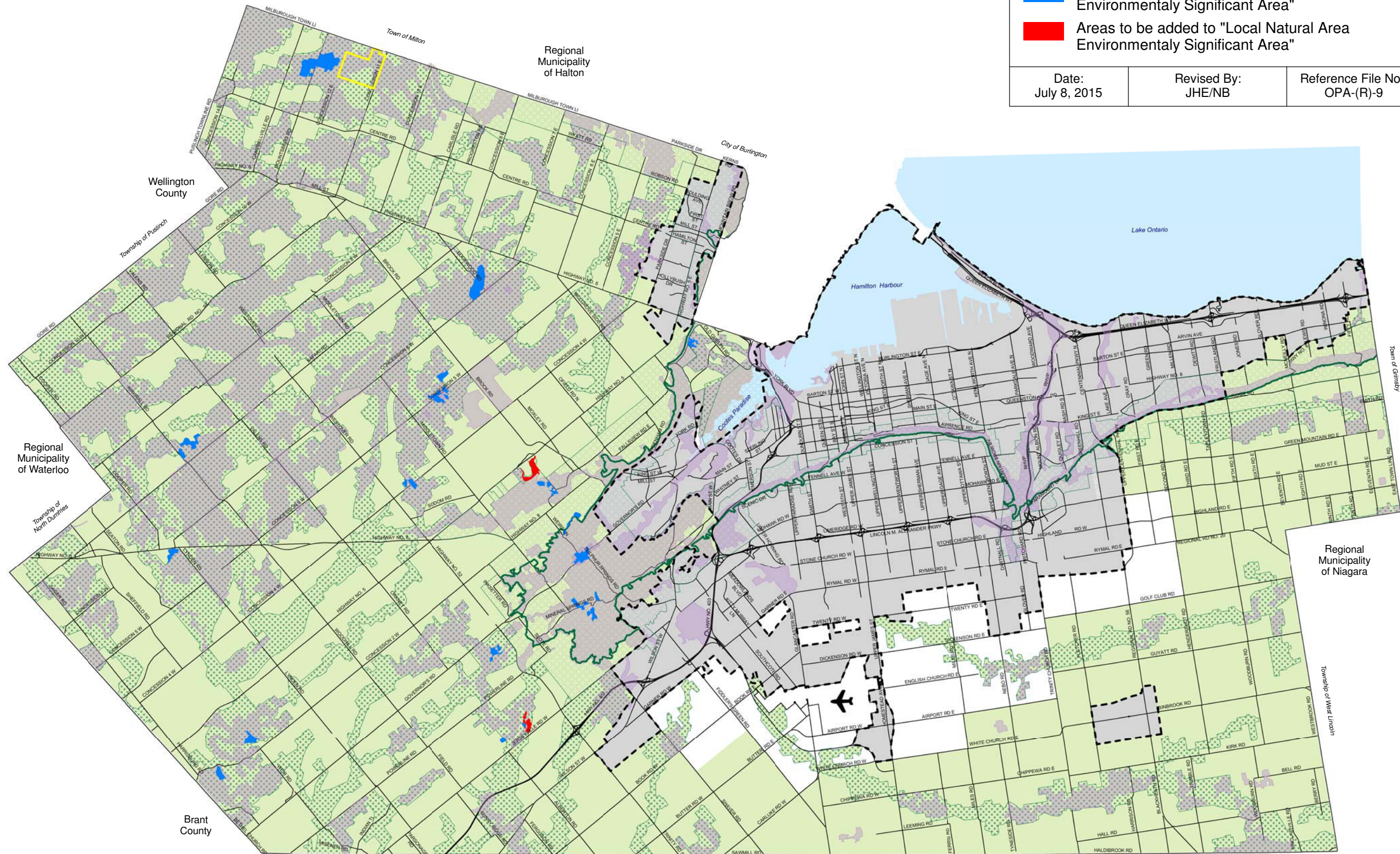
Reference File No.:
OPA-(R)-9

Key Map



Note: For Urban Detailed Natural Heritage Features refer to Schedule B-6 of the Urban Hamilton Official Plan.






 Deferral pending the resolution of the Official Plan Amendment application



Legend

-  Local Natural Area Environmentally Significant Area
-  Greenbelt Protected Countryside
-  Greenbelt Natural Heritage System
-  Niagara Escarpment Plan Area

Other Features

-  Urban Area
-  John C. Munro Hamilton International Airport
-  Niagara Escarpment
-  Urban Boundary
-  Municipal Boundary

Council Adoption: September 27, 2006
Ministerial Approval: December 24, 2008
Effective Date: March 7, 2012

Rural Hamilton Official Plan
Schedule B-6
Detailed Natural Heritage Features
Local Natural Area
Environmentally Significant Areas

Not To Scale



Date: April 2014

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Appendix 3
Amendment No. 9
To the Rural Hamilton Official Plan

Lands to be redesignated from “Open Space” to “Rural” (Concession 1, Block 5, Part of Lot 5 - Glanbrook)

Lands to be redesignated from “Mineral Aggregate Resource Extraction Areas” to “Rural” (Concession 8, Part of Lot 2 - Flamborough)

Lands to be redesignated from “Agricultural” to “Rural” (67 Concession 6 E)

Lands to be redesignated from “Agricultural” to “Open Space” (167 Highway No. 5 West)

Date:
July 8, 2015

Revised By:
LW/NB

Reference File No.:
OPA-(R)-9

Key Map

Note : For Urban Land Use Designations, refer to Schedule E-1 of the Urban Hamilton Official Plan.

Legend

Rural Settlement Areas

Rural Land Use Designations

Agriculture

Specialty Crop

Rural

Mineral Aggregate Resource Extraction Areas

Open Space

Utility

Other Features

Urban Area

John C. Munro Hamilton International Airport

Niagara Escarpment

Urban Boundary

Municipal Boundary

Council Adoption: September 27, 2006
Ministerial Approval: December 24, 2008
Effective Date: March 7, 2012

Rural Hamilton Official Plan
Schedule D
Rural Land Use Designations

Not To Scale

Date: April 10/14

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Annotated Council adopted version of By-law 15-172 (OPA 9), dated March 29, 2016

Appendix 4
Amendment No. 9
to the Rural Hamilton Official Plan

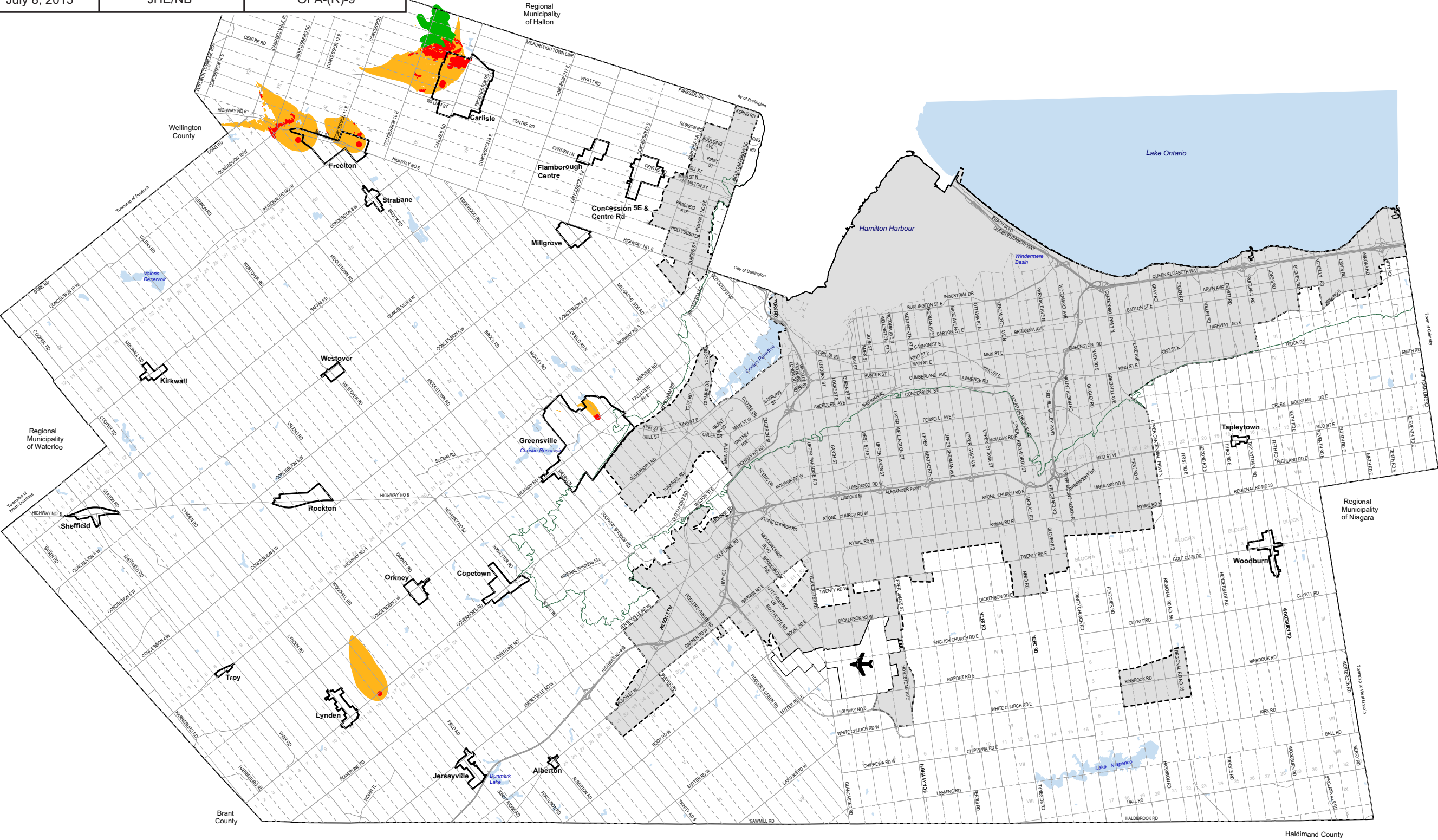
A new map to be added to Volume 1 as Schedule G.

Date:
July 8, 2015

Revised By:
JHE/NB

Reference File No.:
OPA-(R)-9

Note: For a detailed view of Source Protection Vulnerable Areas, refer to Volume 2, Rural Settlement Area Map 4a, Map 7a and Map 8c.



Legend

- Vulnerable Area 1
- Vulnerable Area 2
- Vulnerable Area 3

Other Features

- Urban Area
- Lake
- John C. Munro Hamilton International Airport
- Niagara Escarpment
- Urban Boundary
- Municipal Boundary

**Hamilton Official Plan
Volume 1: Schedule G
Source Protection Vulnerable Area**

Date: April 14, 2015

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Appendix "5"
Amendment No. 9
To the Rural Hamilton Official Plan

Lands to be redesignated from "Settlement Commercial" to "Settlement Residential"

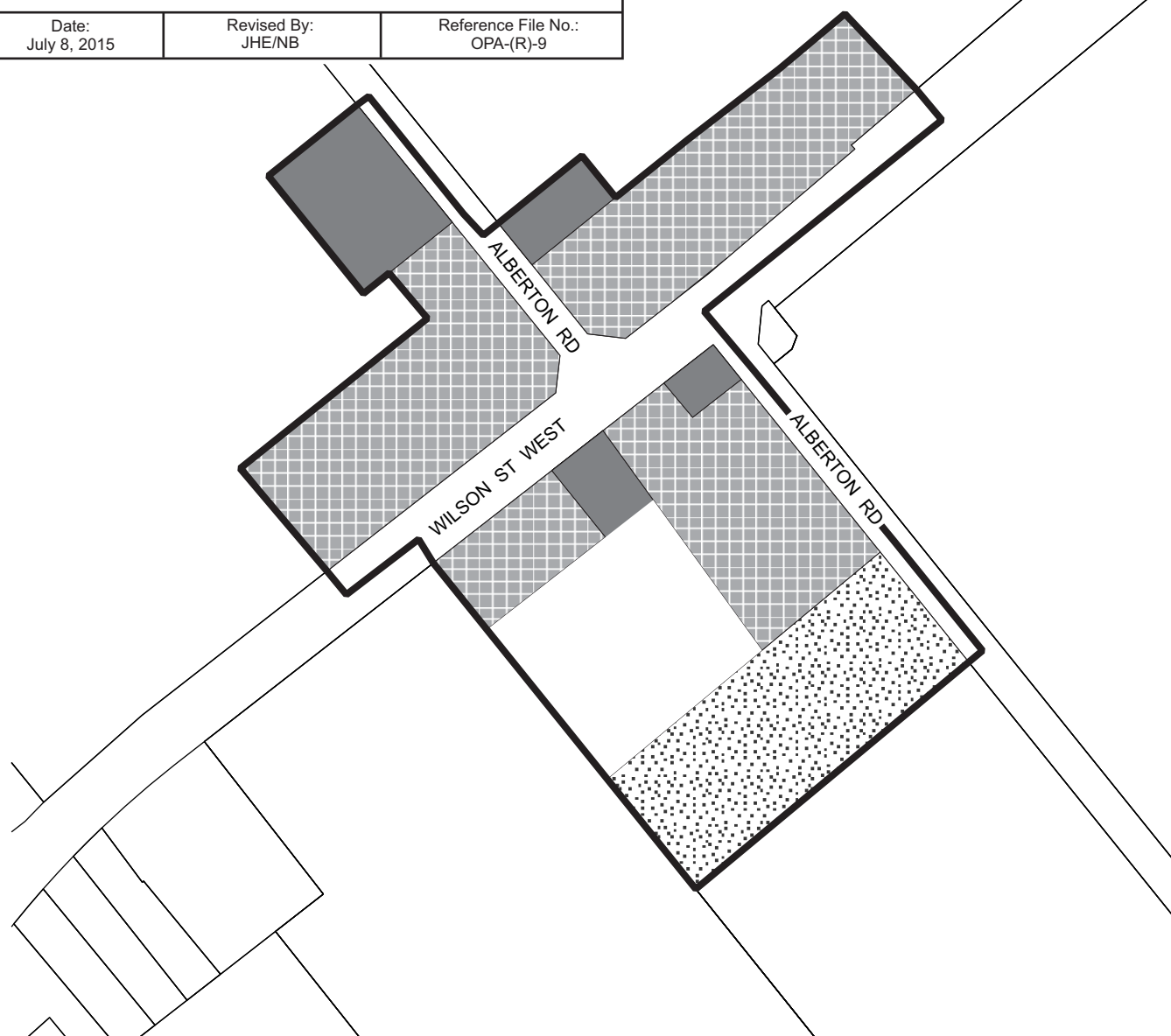
Date:
July 8, 2015

Revised By:
JHE/NB

Reference File No.:
OPA-(R)-9



N.T.S.



Legend


 Settlement Area Boundary

LAND USE DESIGNATIONS

 Settlement Residential

 Settlement Commercial

Open Space and Parks Designations

 Community Park

Volume 2: Map 1 Alberton Rural Settlement Area Plan






Rural Hamilton Official Plan

Council Adoption: September 27, 2006
Ministerial Approval: December 24, 2008
Effective Date: March 7, 2012



Hamilton

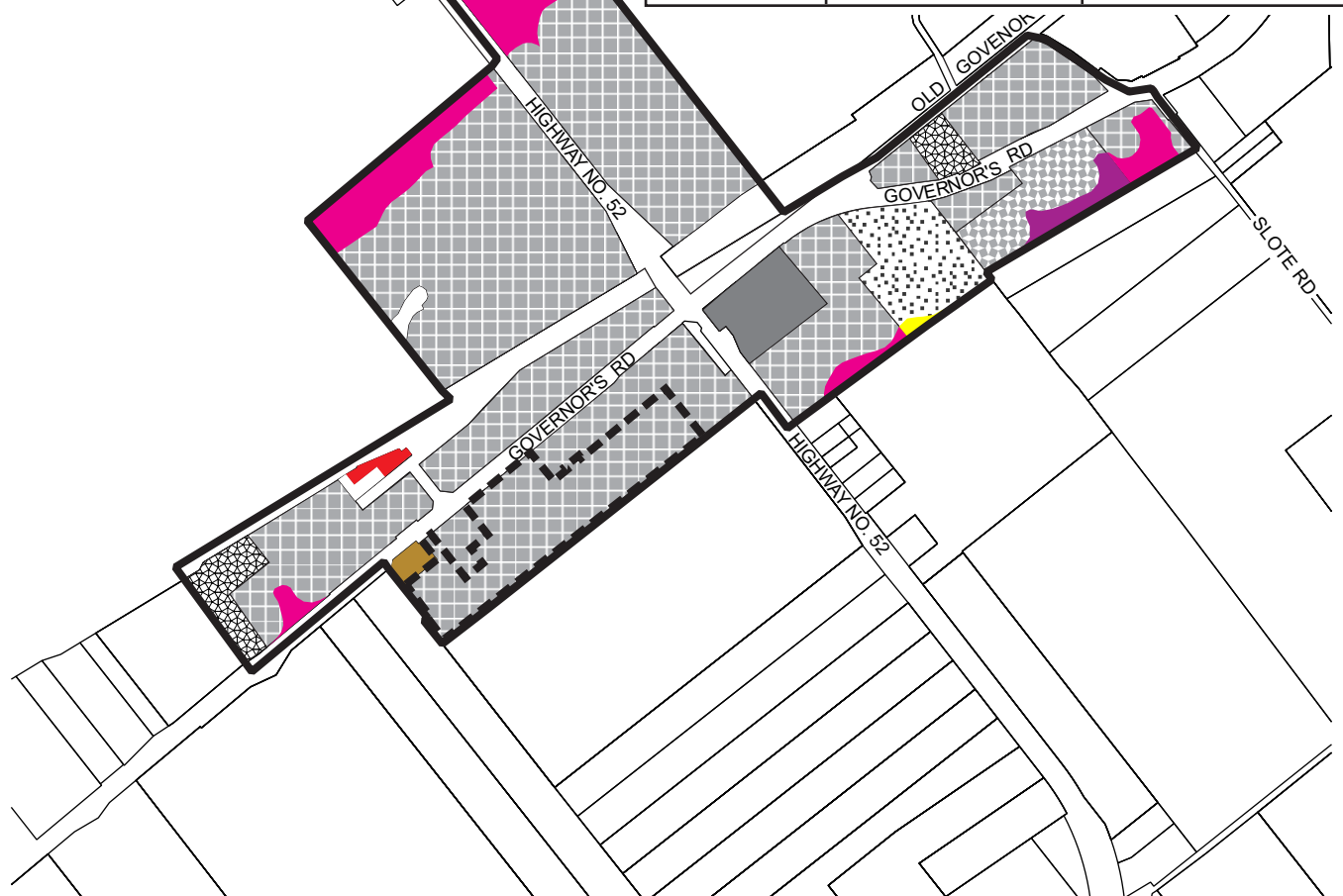
Appendix "6"
Amendment No. 9
To the Rural Hamilton Official Plan

-  Lands to be redesignated from "Settlement Institutional" to "Natural Open Space (Hazard Lands)"
 -  Lands to be redesignated from "Community Park" to "Natural Open Space (Hazard Lands)"
 -  Lands to be redesignated from "Settlement Institutional" to "Settlement Residential"
 - Lands to be redesignated from "Hazard Lands" to "Settlement Residential"
 -  Lands to be redesignated from "Settlement Residential" to "Natural Open Space (Hazard Lands)"
 -  Lands to be redesignated from "Hazard Lands" to "Settlement Commercial"
- Change "Hazard Lands" to "Natural Open Space (Hazard Lands)" in Legend

Date:
July 8, 2015

Revised By:
JHE/NB

Reference File No.:
OPA-(R)-9





Legend

 Settlement Area Boundary

 Site Specific Area 1

LAND USE DESIGNATIONS


 Settlement Residential


 Settlement Commercial

 Settlement Institutional

Open Space and Parks Designations

 Community Park

 General Open Space

 Hazard Lands

Volume 2: Map 2 Copetown Rural Settlement Area Plan

Rural Hamilton Official Plan



Council Adoption: September 27, 2006

Ministerial Approval: December 24, 2008

Effective Date: March 7, 2012



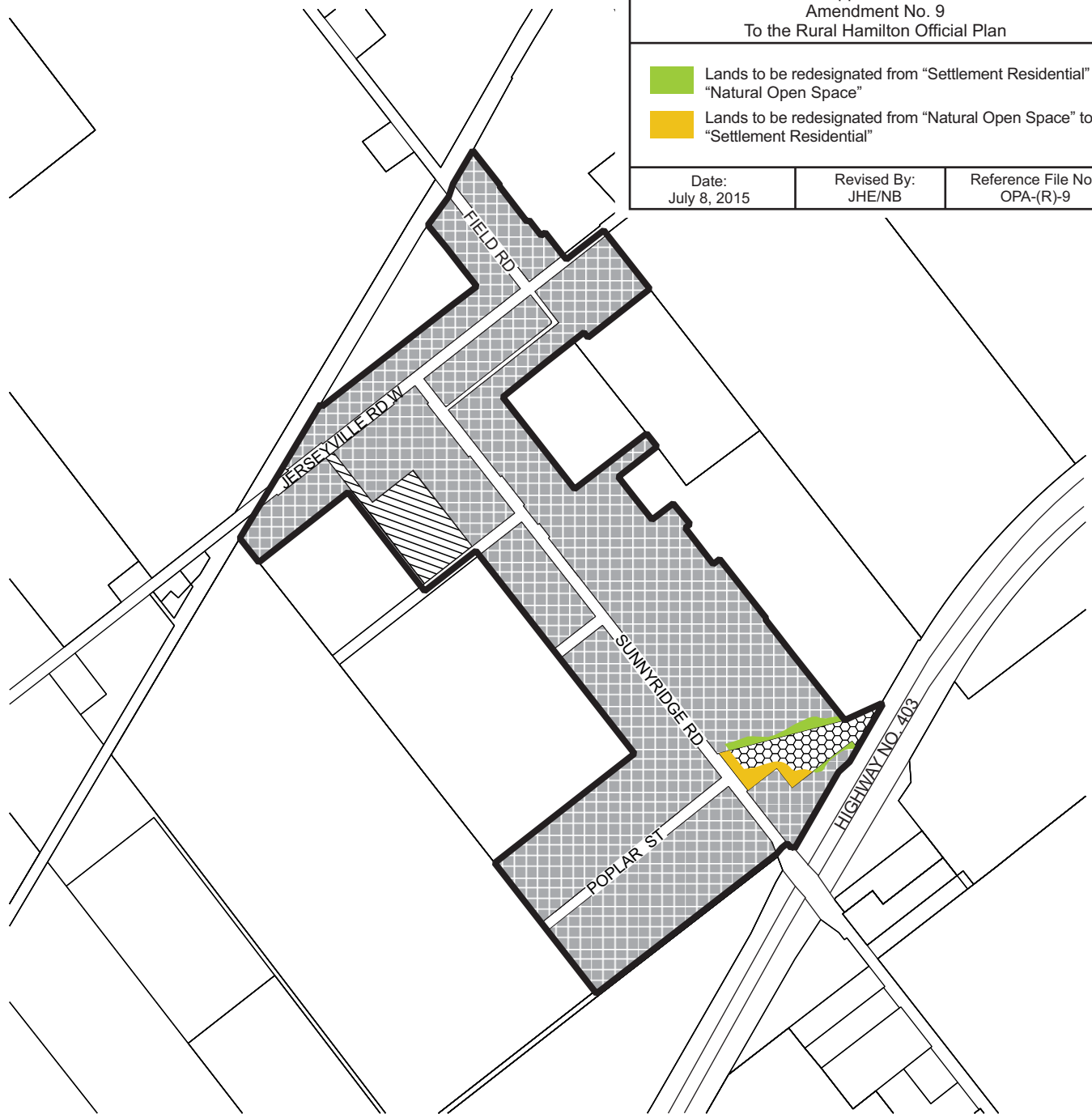
Appendix "7"
Amendment No. 9
To the Rural Hamilton Official Plan

-  Lands to be redesignated from "Settlement Residential" to "Natural Open Space"
-  Lands to be redesignated from "Natural Open Space" to "Settlement Residential"

Date:
July 8, 2015

Revised By:
JHE/NB

Reference File No.:
OPA-(R)-9



Legend

 Settlement Area Boundary

LAND USE DESIGNATIONS

 Settlement Residential

Open Space and Parks Designations

 Neighbourhood Park

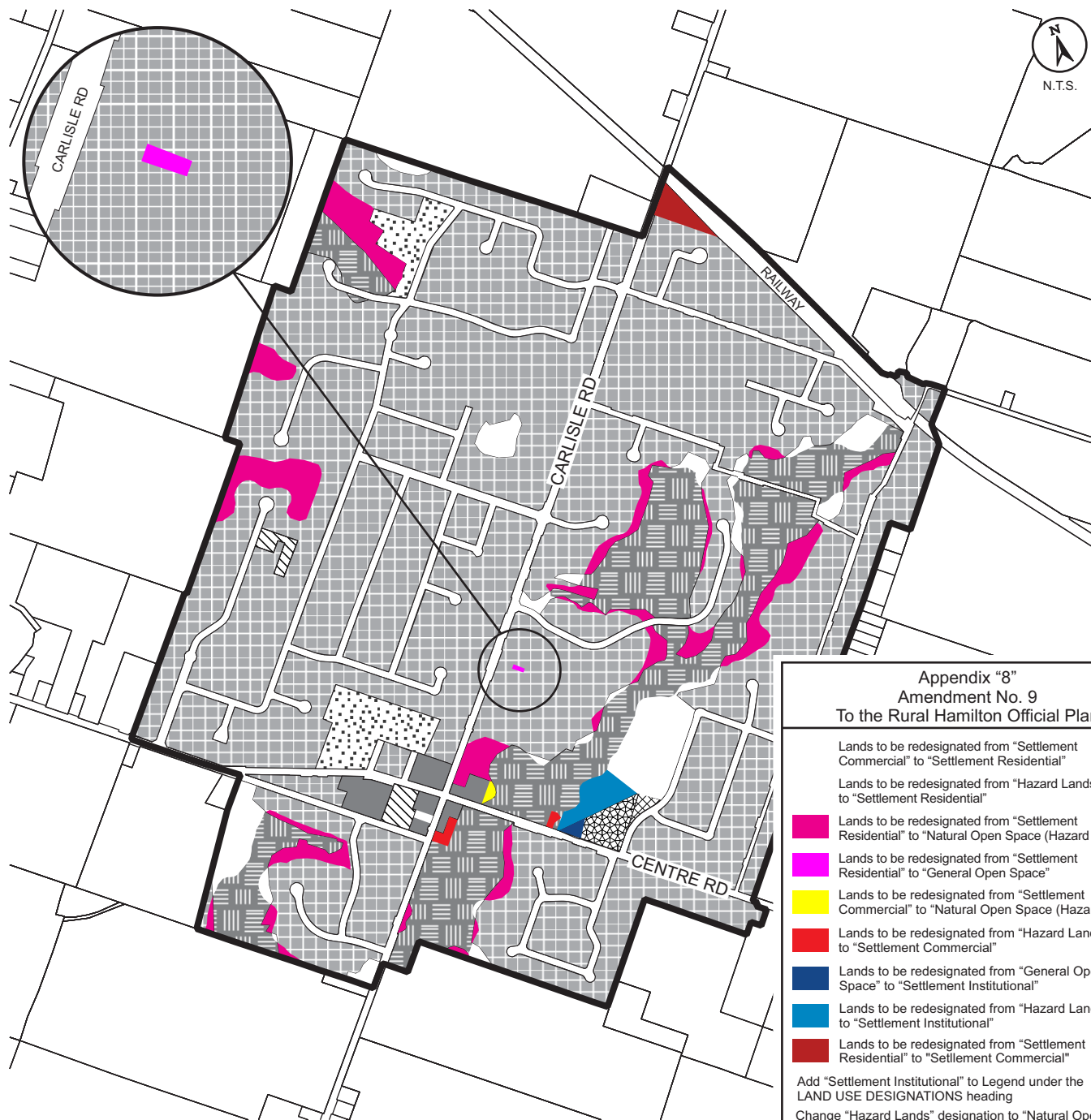
 Natural Open Space

Volume 2: Map 3 Jerseyville Rural Settlement Area Plan

Rural Hamilton Official Plan

Council Adoption: September 27, 2006
Ministerial Approval: December 24, 2008
Effective Date: March 7, 2012





Appendix "8" Amendment No. 9 To the Rural Hamilton Official Plan

Lands to be redesignated from "Settlement Commercial" to "Settlement Residential"

Lands to be redesignated from "Hazard Lands" to "Settlement Residential"

■ Lands to be redesignated from "Settlement Residential" to "Natural Open Space (Hazard Lands)"

■ Lands to be redesignated from "Settlement Residential" to "General Open Space"

■ Lands to be redesignated from "Settlement Commercial" to "Natural Open Space (Hazard Lands)"

■ Lands to be redesignated from "Hazard Lands" to "Settlement Commercial"

■ Lands to be redesignated from "General Open Space" to "Settlement Institutional"

■ Lands to be redesignated from "Hazard Lands" to "Settlement Institutional"

■ Lands to be redesignated from "Settlement Residential" to "Settlement Commercial"

Add "Settlement Institutional" to Legend under the LAND USE DESIGNATIONS heading

Change "Hazard Lands" designation to "Natural Open Space (Hazard Lands)" in Legend

Date:
July 8, 2015

Revised By:
JHE/NB

Reference File No.:
OPA-(R)-9

Legend

Settlement Area Boundary

LAND USE DESIGNATIONS

Settlement Residential

Settlement Commercial

Open Space and Parks Designations

Community Park

General Open Space

Hazard Lands

Parkette

Neighbourhood Park

Volume 2: Map 4 Carlisle Rural Settlement Area Plan

Rural Hamilton Official Plan

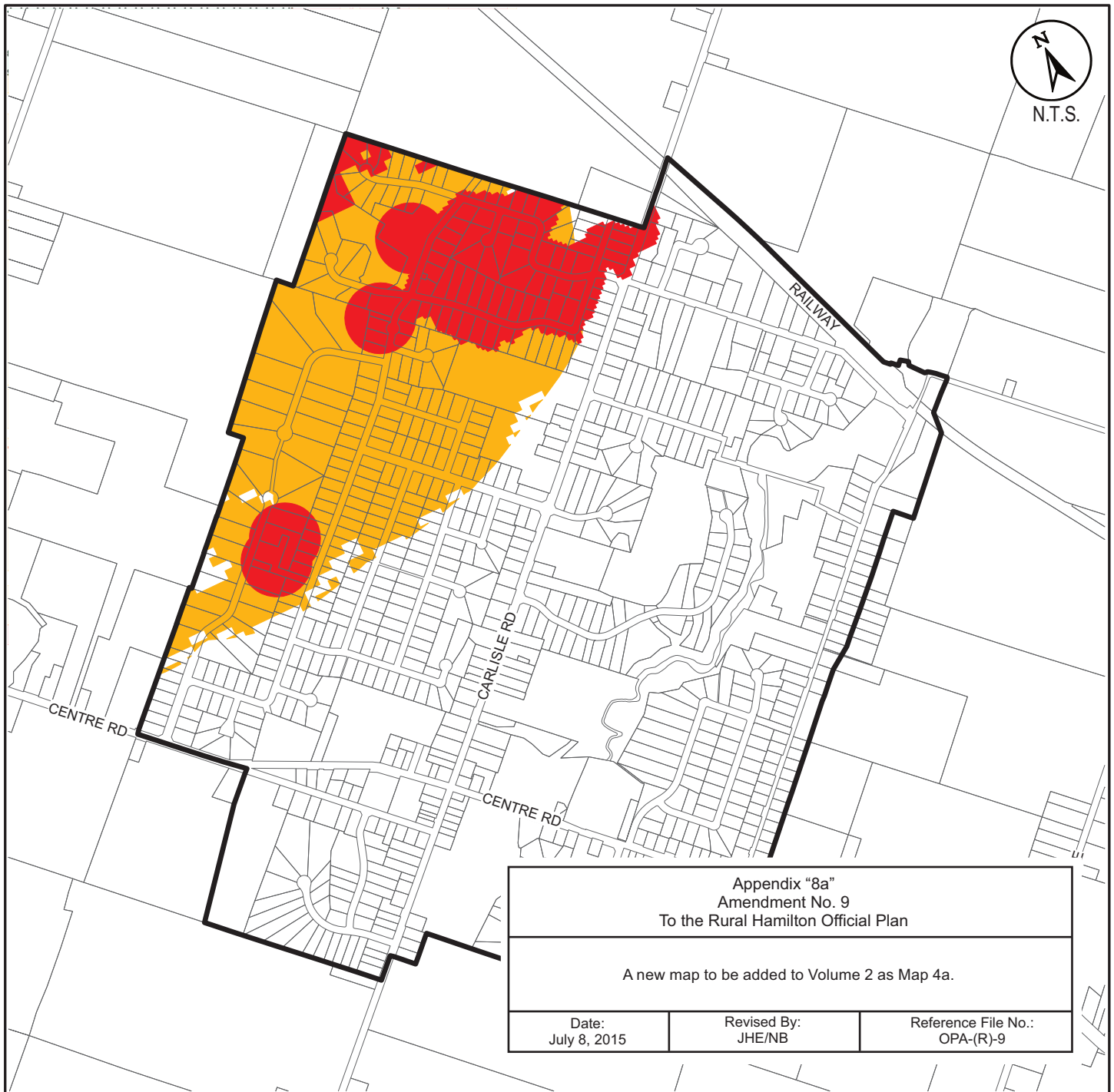
Council Adoption: September 27, 2006

Ministerial Approval: December 24, 2008

Effective Date: March 7, 2012






Hamilton



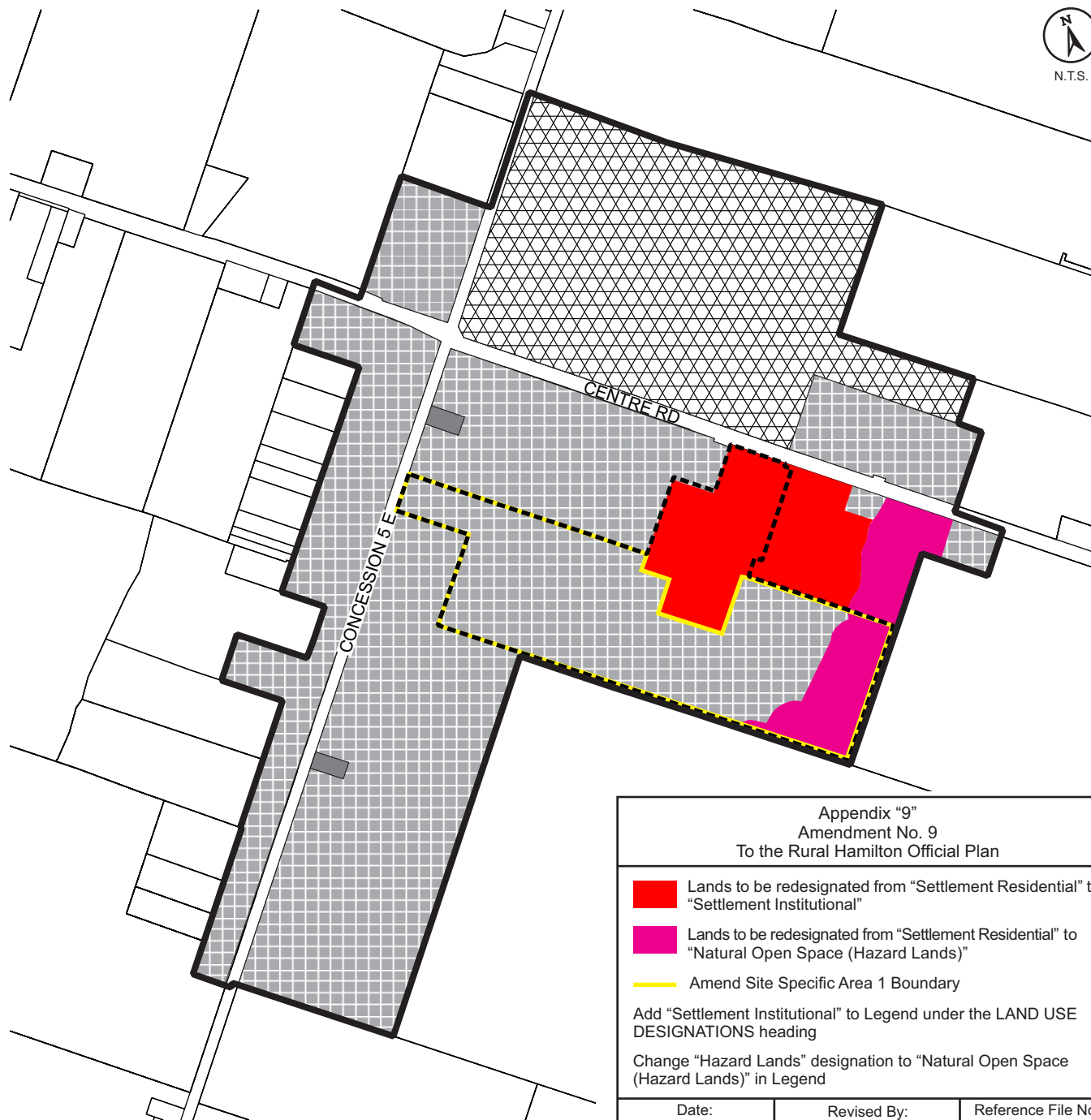
Appendix "8a" Amendment No. 9 To the Rural Hamilton Official Plan		
A new map to be added to Volume 2 as Map 4a.		
Date: July 8, 2015	Revised By: JHE/NB	Reference File No.: OPA-(R)-9

Legend




-  Settlement Area Boundary
-  Vulnerable Area 1
-  Vulnerable Area 2

Volume 2: Map 4a Carlisle Rural Settlement Area Plan Source Protection - Carlisle Vulnerable Areas Rural Hamilton Official Plan





Appendix "9"
Amendment No. 9
To the Rural Hamilton Official Plan

-  Lands to be redesignated from "Settlement Residential" to "Settlement Institutional"
-  Lands to be redesignated from "Settlement Residential" to "Natural Open Space (Hazard Lands)"
-  Amend Site Specific Area 1 Boundary

Add "Settlement Institutional" to Legend under the LAND USE DESIGNATIONS heading

Change "Hazard Lands" designation to "Natural Open Space (Hazard Lands)" in Legend

Date:
July 8, 2015

Revised By:
JHE/NB

Reference File No.:
OPA-(R)-9


Legend

 Settlement Area Boundary

 Site Specific Area 1

LAND USE DESIGNATIONS

 Settlement Residential

 Settlement Commercial

Open Space and Parks Designations

 City Wide Park

Volume 2: Map 5 Concession 5 E and Centre Road Rural Settlement Area Plan






Rural Hamilton Official Plan

Council Adoption: September 27, 2006
Ministerial Approval: December 24, 2008
Effective Date: March 7, 2012



Hamilton

Appendix "10"
Amendment No. 9
To the Rural Hamilton Official Plan

-  Lands to be redesignated from "Settlement Residential" to "Natural Open Space (Hazard Lands)"
-  Lands to be redesignated from "Hazard Lands" to "Settlement Residential"
-  Lands to be redesignated from "Settlement Residential" to "Settlement Institutional"
-  Lands to be redesignated from "General Open Space" to "Settlement Residential"
-  Lands to be redesignated from "Settlement Residential" to "Settlement Commercial"

Delete "General Open Space" designation from Legend

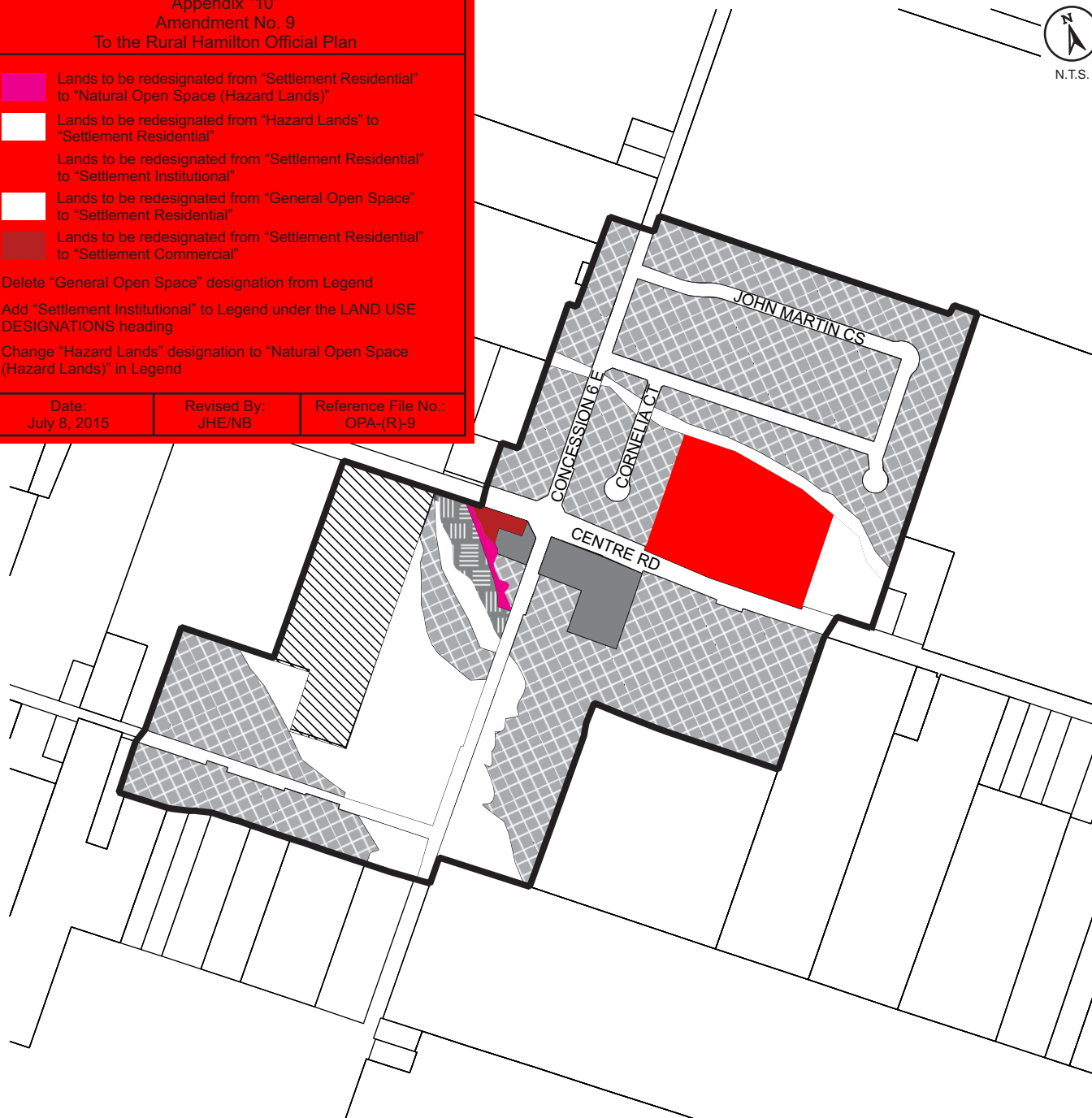
Add "Settlement Institutional" to Legend under the LAND USE DESIGNATIONS heading

Change "Hazard Lands" designation to "Natural Open Space (Hazard Lands)" in Legend

Date:
July 8, 2015

Revised By:
JHE/NB


Reference File No.:
OPA-(R)-9




Legend

 Settlement Area Boundary

LAND USE DESIGNATIONS


 Settlement Residential

 Settlement Commercial

Open Space and Parks Designations

 Neighbourhood Park

 General Open Space

 Hazard Lands

Volume 2: Map 6 Flamborough Centre Rural Settlement Area Plan

Rural Hamilton Official Plan

Council Adoption: September 27, 2006
Ministerial Approval: December 24, 2008
Effective Date: March 7, 2012



Hamilton

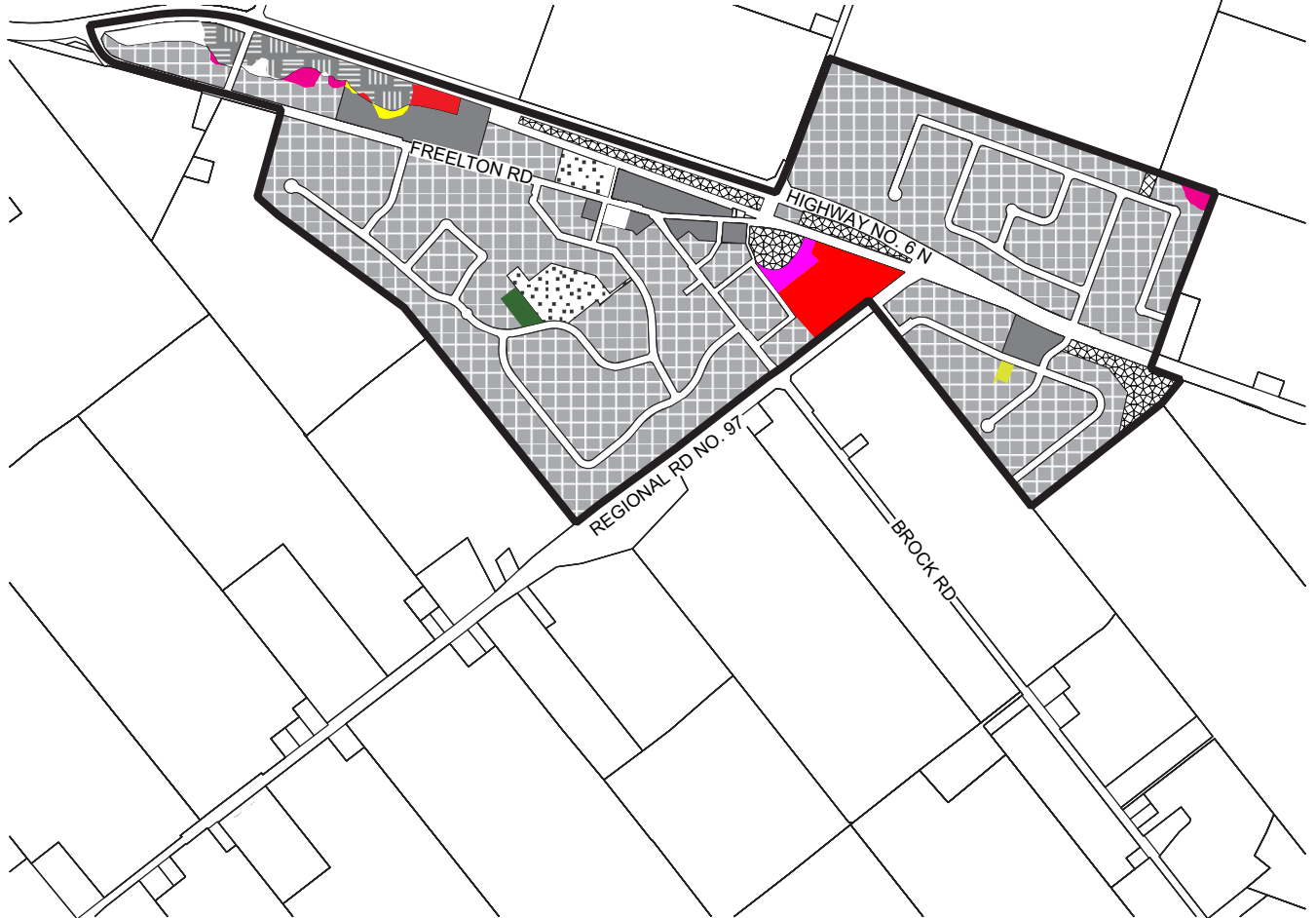
Appendix "11"
Amendment No. 9
To the Rural Hamilton Official Plan

Lands to be redesignated from "Settlement Commercial" to "Settlement Residential"	Lands to be redesignated from "Settlement Commercial" to "Natural Open Space (Hazard Lands)"
Lands to be redesignated from "Settlement Residential" to "Settlement Institutional"	Lands to be redesignated from "Settlement Residential" to "Community Park"
Lands to be redesignated from "Hazard Lands" to "Settlement Residential"	Lands to be redesignated from "Settlement Residential" to "General Open Space"
Lands to be redesignated from "Settlement Residential" to "Natural Open Space (Hazard Lands)"	Lands to be redesignated from "Settlement Residential" to "Parkette"
Lands to be redesignated from "General Open Space" to "Settlement Residential"	Add "Settlement Institutional" to Legend under the LAND USE DESIGNATIONS heading
Lands to be redesignated from "Hazard Lands" to "Settlement Commercial"	Change "Hazard Lands" designation to "Natural Open Space (Hazard Lands)" in Legend

Date:
July 8, 2015

Revised By:
JHE/NB

Reference File No.:
OPA-(R)-9



Legend

— Settlement Area Boundary

LAND USE DESIGNATIONS

	Settlement Residential
	Settlement Commercial

Open Space and Parks Designations

	Community Park
	General Open Space
	Hazard Lands
	Parkette

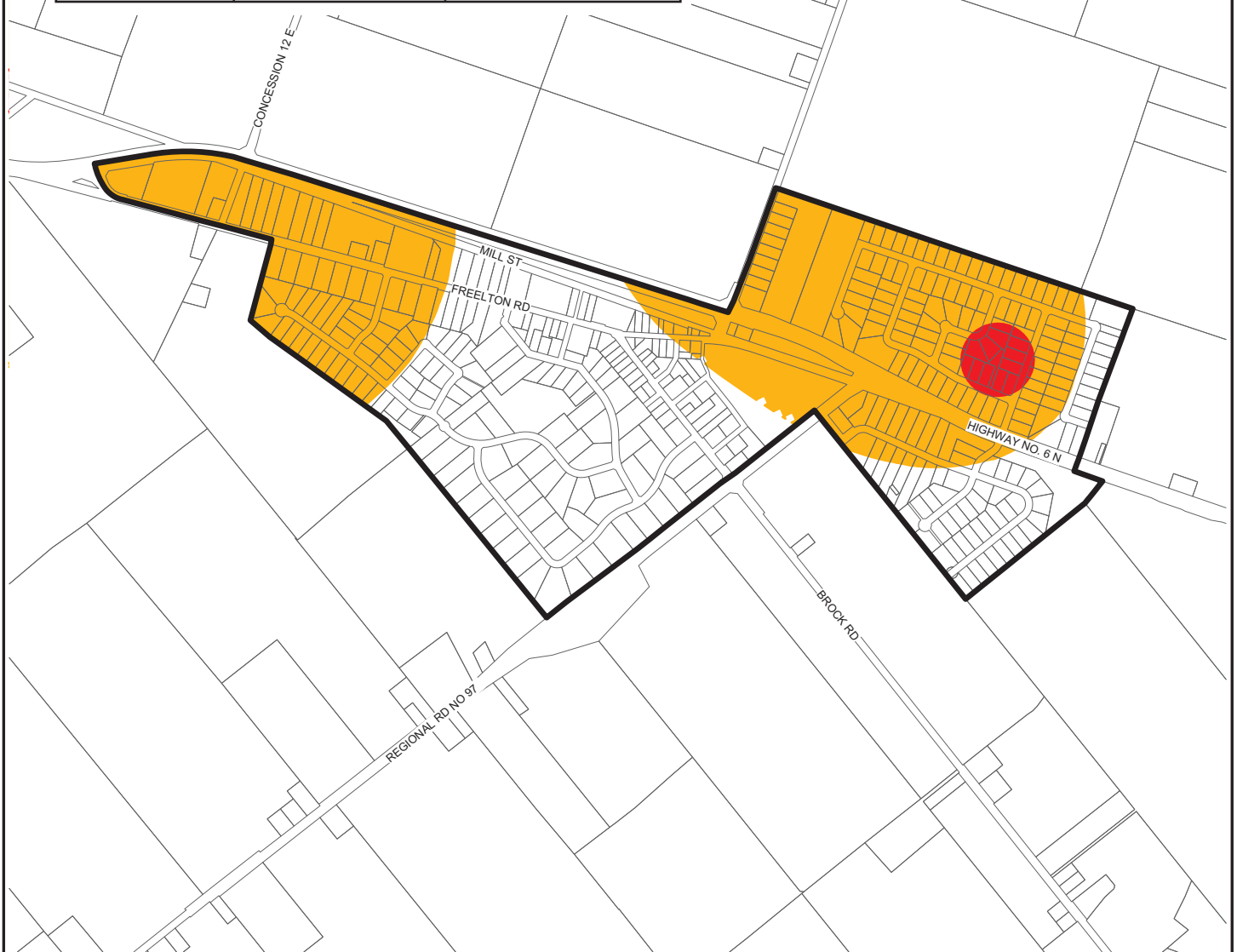
Volume 2: Map 7 Freelon Rural Settlement Area Plan

Rural Hamilton Official Plan




Council Adoption: September 27, 2006
Ministerial Approval: December 24, 2008
Effective Date: March 7, 2012



Appendix "11a" Amendment No. 9 To the Rural Hamilton Official Plan		
A new map to be added to Volume 2 as Map 7a.		
Date: July 8, 2015	Revised By: JHE/NB	Reference File No.: OPA-(R)-9

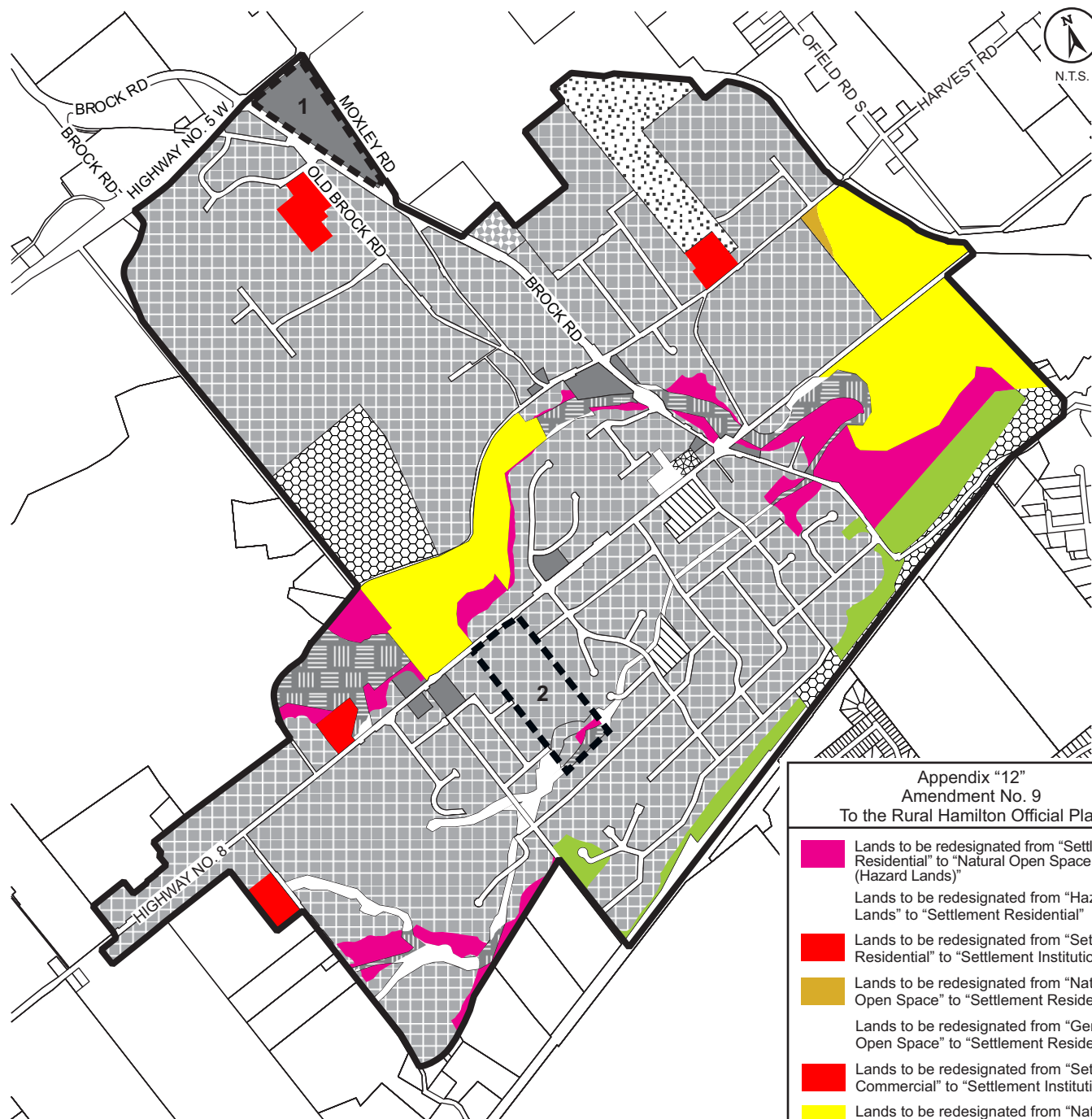


Legend

-  Settlement Area Boundary
-  Vulnerable Area 1
-  Vulnerable Area 2

Volume 2: Map 7a Freelon Rural Settlement Area Plan Source Protection - Freelon Vulnerable Areas Rural Hamilton Official Plan





Legend

— Settlement Area Boundary

- - - Site Specific Area

LAND USE DESIGNATIONS

Settlement Residential

Settlement Commercial

Settlement Institutional

Open Space and Parks Designations

Community Park

General Open Space

Hazard Lands

Natural Open Space

Neighbourhood Park

Appendix "12" Amendment No. 9 To the Rural Hamilton Official Plan

Lands to be redesignated from "Settlement Residential" to "Natural Open Space (Hazard Lands)"

Lands to be redesignated from "Hazard Lands" to "Settlement Residential"

Lands to be redesignated from "Settlement Residential" to "Settlement Institutional"

Lands to be redesignated from "Natural Open Space" to "Settlement Residential"

Lands to be redesignated from "General Open Space" to "Settlement Residential"

Lands to be redesignated from "Settlement Commercial" to "Settlement Institutional"

Lands to be redesignated from "Natural Open Space" to "Natural Open Space (Hazard Lands)"

Lands to be redesignated from "Settlement Residential" to "Natural Open Space"

Change "Hazard Lands" designation to "Natural Open Space (Hazard Lands)" in Legend

Date:
July 8, 2015

Revised By:
JHE/NB

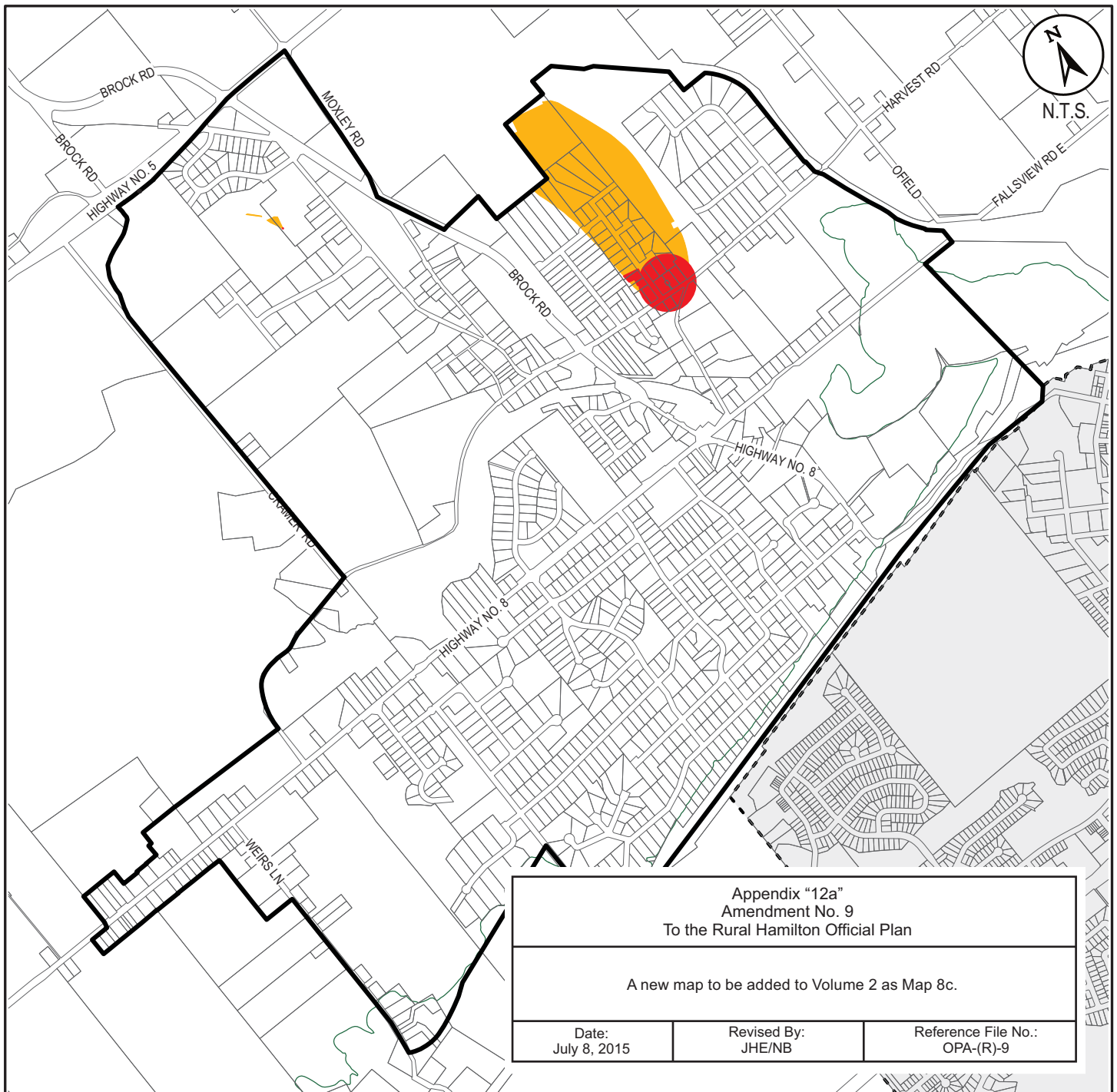
Reference File No.:
OPA-(R)-9

Volume 2: Map 8a Greenville Rural Settlement Area Plan Rural Hamilton Official Plan





Council Adoption: September 27, 2006
Ministerial Approval: December 24, 2008
Effective Date: March 7, 2012



Hamilton



Legend

-  Settlement Area Boundary
-  Vulnerable Area 1
-  Vulnerable Area 2
-  Urban Boundary

Volume 2: Map 8c Greenville Rural Settlement Area Plan Source Protection - Greenville Vulnerable Areas Rural Hamilton Official Plan



Appendix "13"
Amendment No. 9
To the Rural Hamilton Official Plan

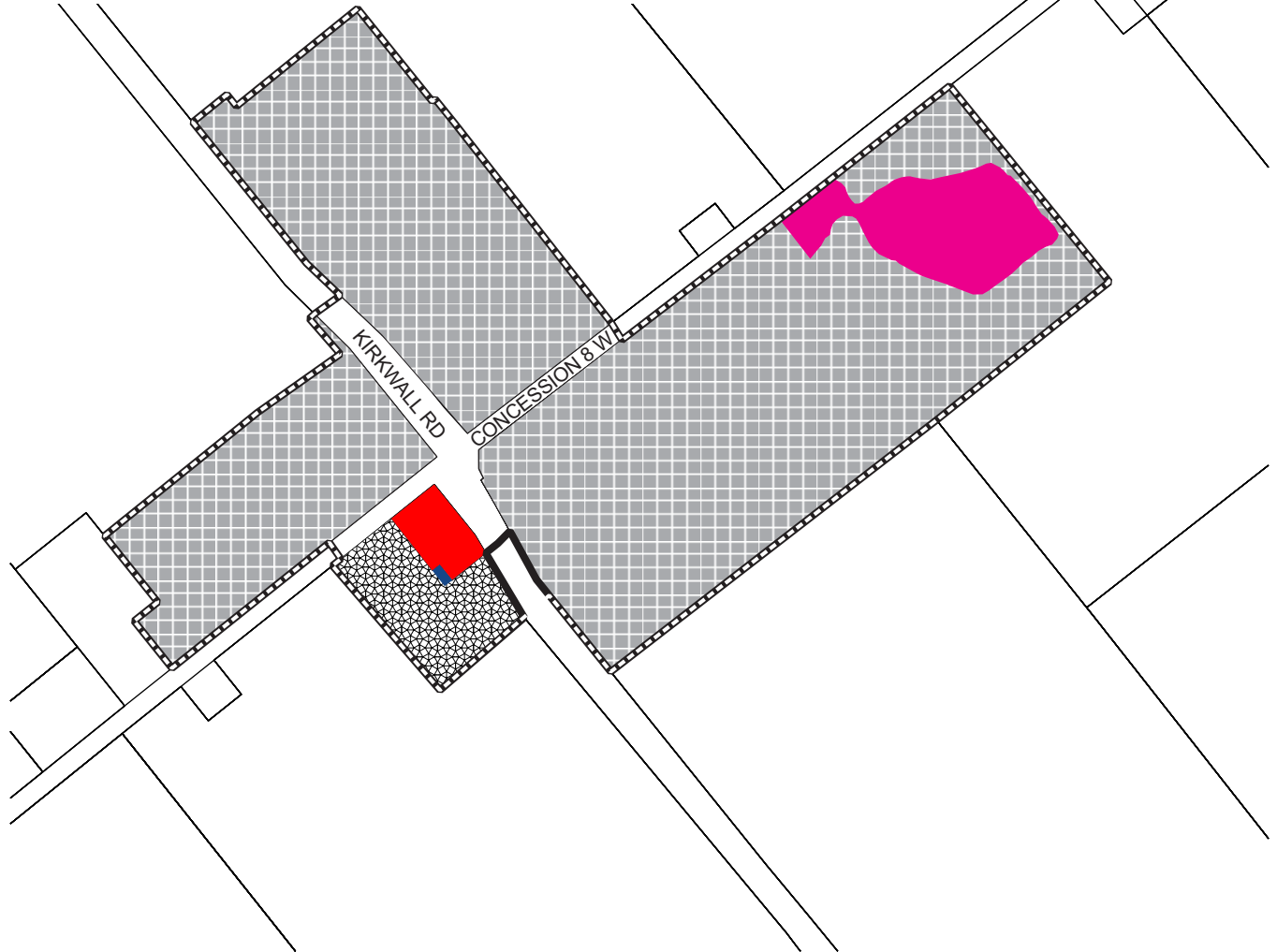
- Lands to be redesignated from "General Open Space" to "Settlement Institutional"
 - Lands to be redesignated from "Settlement Residential" to "Settlement Institutional"
 - Lands to be redesignated from "Settlement Residential" to "Natural Open Space (Hazard Lands)"
- Amend Rural Settlement Area Boundary

Add "Settlement Institutional" to Legend under the LAND USE DESIGNATIONS heading
Add "Natural Open Space (Hazard Lands)" to Legend under the Open Space and Parks heading

Date:
July 8, 2015

Revised By:
JHE/NB

Reference File No.:
OPA-(R)-9



Legend

Settlement Area Boundary

LAND USE DESIGNATIONS

Settlement Residential

Open Space and Parks Designations

General Open Space

Volume 2: Map 9 Kirkwall Rural Settlement Area Plan

Rural Hamilton Official Plan

Council Adoption: September 27, 2006
Ministerial Approval: December 24, 2008
Effective Date: March 7, 2012



Appendix "14"
Amendment No. 9
To the Rural Hamilton Official Plan

Lands to be redesignated from "Settlement Commercial" to "Settlement Residential"

Lands to be redesignated from "Hazard Lands" to "Settlement Residential"

 Lands to be redesignated from "Settlement Residential" to "Natural Open Space (Hazard Lands)"

 Lands to be redesignated from "Settlement Residential" to "General Open Space"

 Remove "Settlement Residential" designation

 Remove "Site Specific Area 1"

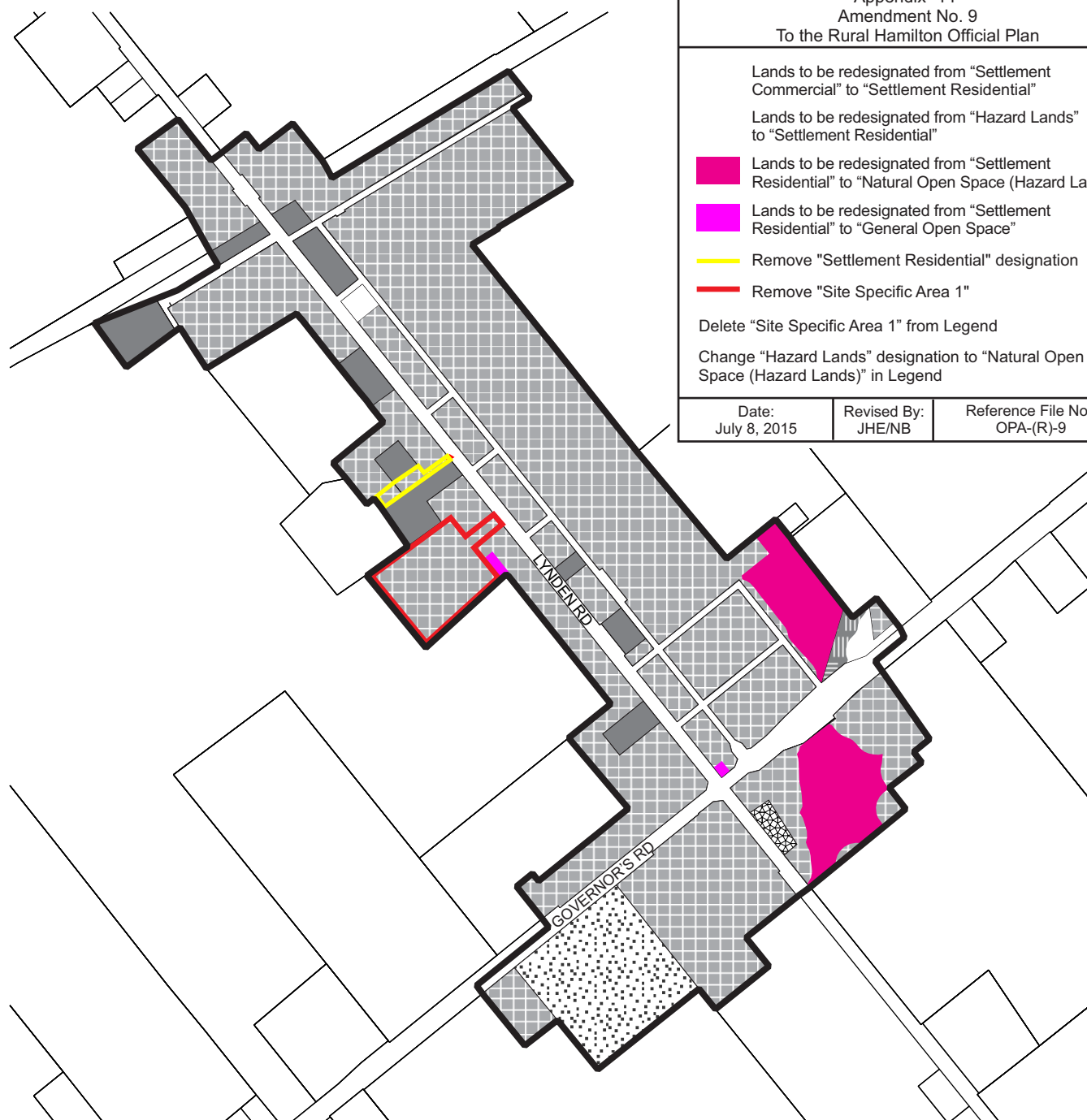
Delete "Site Specific Area 1" from Legend

Change "Hazard Lands" designation to "Natural Open Space (Hazard Lands)" in Legend

Date:
July 8, 2015

Revised By:
JHE/NB

Reference File No.:
OPA-(R)-9




Legend

 Settlement Area Boundary

 Site Specific Area 1


LAND USE DESIGNATIONS


 Settlement Residential

 Settlement Commercial

Open Space and Parks Designations

 Community Park

 General Open Space

 Hazard Lands

Volume 2: Map 10 Lynden Rural Settlement Area Plan

Rural Hamilton Official Plan

Council Adoption: September 27, 2006

Ministerial Approval: December 24, 2008

Effective Date: March 7, 2012



Hamilton

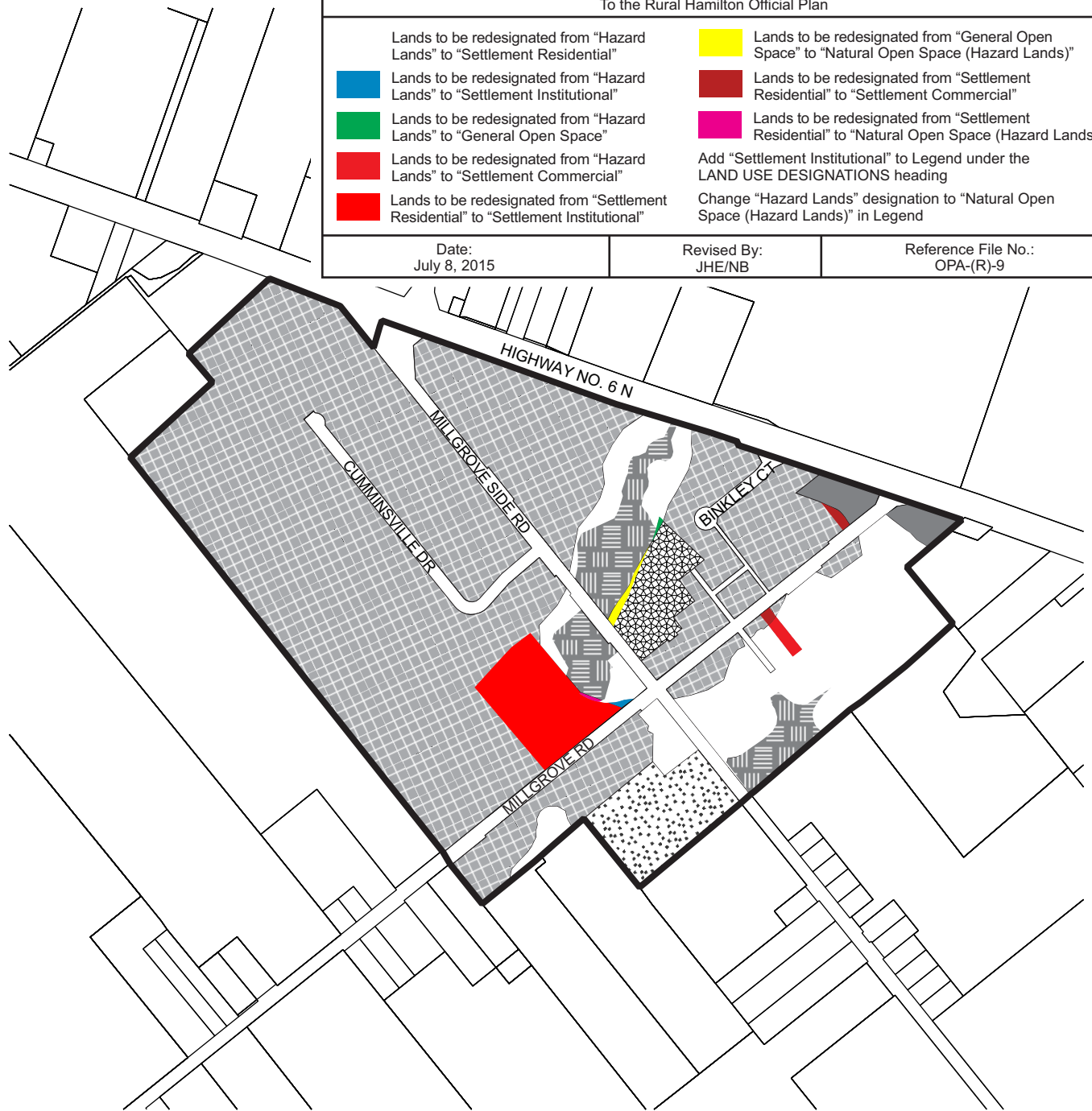
Appendix "15"
Amendment No. 9
To the Rural Hamilton Official Plan

Lands to be redesignated from "Hazard Lands" to "Settlement Residential"	Lands to be redesignated from "General Open Space" to "Natural Open Space (Hazard Lands)"
Lands to be redesignated from "Hazard Lands" to "Settlement Institutional"	Lands to be redesignated from "Settlement Residential" to "Settlement Commercial"
Lands to be redesignated from "Hazard Lands" to "General Open Space"	Lands to be redesignated from "Settlement Residential" to "Natural Open Space (Hazard Lands)"
Lands to be redesignated from "Hazard Lands" to "Settlement Commercial"	Add "Settlement Institutional" to Legend under the LAND USE DESIGNATIONS heading
Lands to be redesignated from "Settlement Residential" to "Settlement Institutional"	Change "Hazard Lands" designation to "Natural Open Space (Hazard Lands)" in Legend

Date:
July 8, 2015

Revised By:
JHE/NB

Reference File No.:
OPA-(R)-9



Legend

— Settlement Area Boundary

LAND USE DESIGNATIONS

Settlement Residential

Settlement Commercial

Open Space and Parks Designations

Community Park

General Open Space

Hazard Lands

Volume 2: Map 11 Millgrove Rural Settlement Area Plan

Rural Hamilton Official Plan

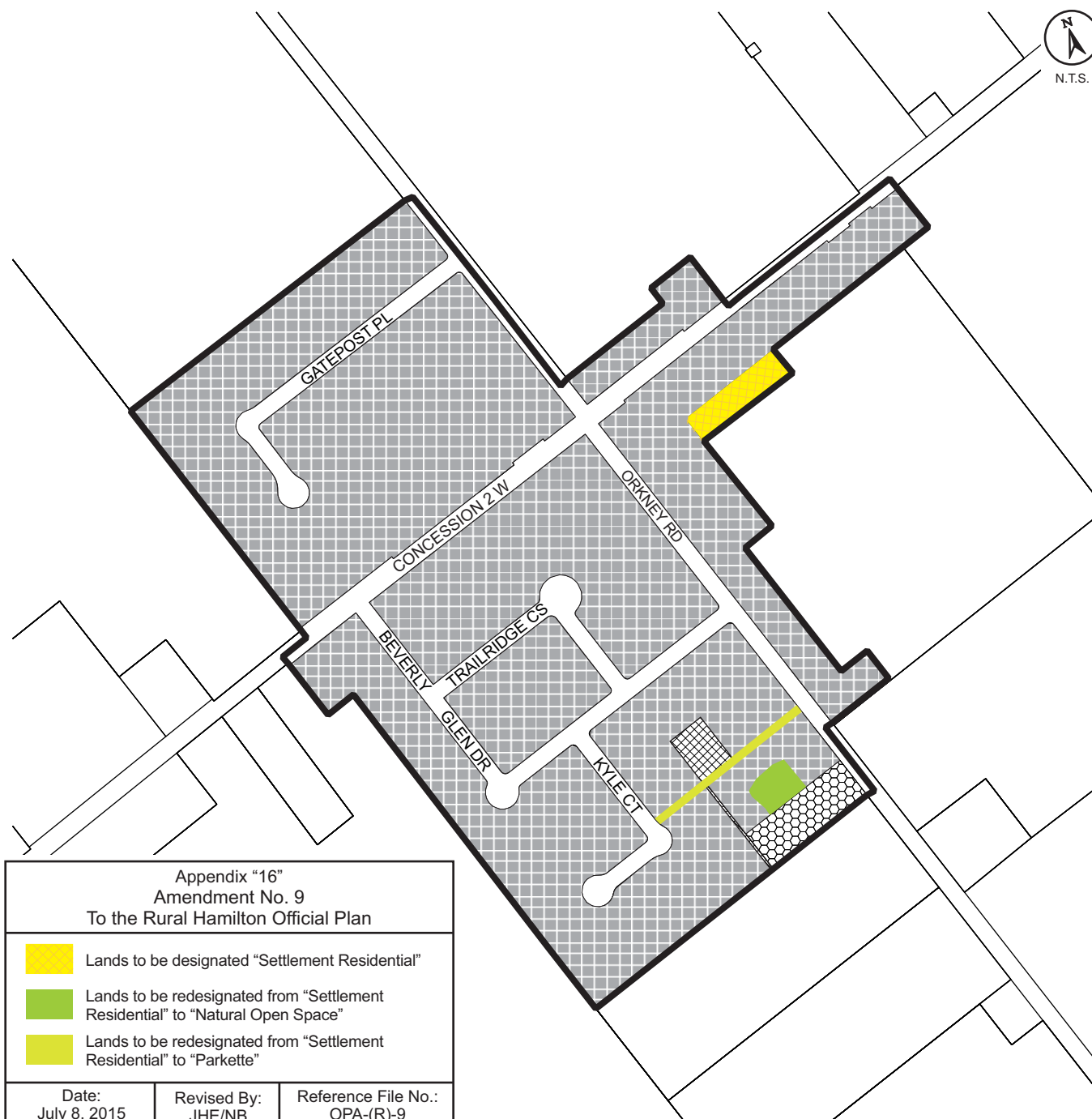
Council Adoption: September 27, 2006

Ministerial Approval: December 24, 2008




Effective Date: March 7, 2012



Hamilton



Appendix "16"
Amendment No. 9
To the Rural Hamilton Official Plan

-  Lands to be designated "Settlement Residential"
-  Lands to be redesignated from "Settlement Residential" to "Natural Open Space"
-  Lands to be redesignated from "Settlement Residential" to "Parkette"

Date:
July 8, 2015

Revised By:
JHE/NB

Reference File No.:
OPA-(R)-9

Legend

 Settlement Area Boundary

LAND USE DESIGNATIONS

 Settlement Residential

Open Space and Parks Designations

 Natural Open Space

 Parkette

Volume 2: Map 12 Orkney Rural Settlement Area Plan





Rural Hamilton Official Plan

Council Adoption: September 27, 2006
Ministerial Approval: December 24, 2008
Effective Date: March 7, 2012



Hamilton

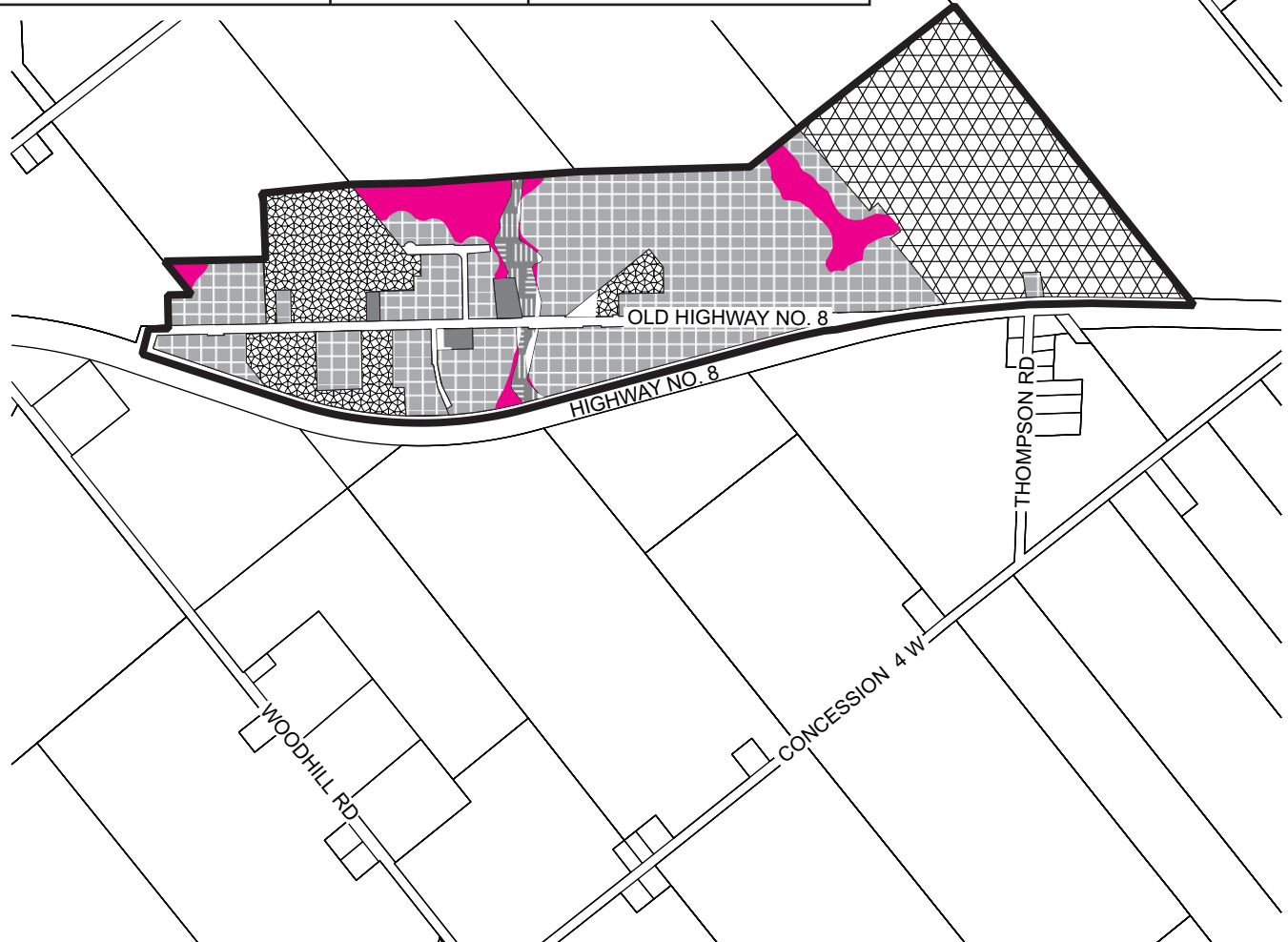
Appendix "17"
Amendment No. 9
To the Rural Hamilton Official Plan

-  Lands to be redesignated from "Settlement Residential" to "Natural Open Space (Hazard Lands)"
-  Lands to be redesignated from "Hazard Lands" to "Settlement Residential"
-  Lands to be redesignated from "General Open Space" to "Settlement Residential"
-  Lands to be redesignated from "Settlement Commercial" to "Settlement Residential"
- Change "Hazard Lands" designation to "Natural Open Space (Hazard Lands)" in Legend

Date:
July 8, 2015

Revised By:
JHE/NB

Reference File No.:
OPA-(R)-9




Legend

 Settlement Area Boundary


LAND USE DESIGNATIONS


 Settlement Residential

 Settlement Commercial

Open Space and Parks Designations

 City Wide Park

 General Open Space

 Hazard Lands

Volume 2: Map 13 Rockton Rural Settlement Area Plan

Rural Hamilton Official Plan

Council Adoption: September 27, 2006
Ministerial Approval: December 24, 2008
Effective Date: March 7, 2012



Appendix "18"
Amendment No. 9
To the Rural Hamilton Official Plan



- Lands to be redesignated from "Settlement Residential" to "Settlement Institutional"
- Lands to be redesignated from "Settlement Residential" to "Natural Open Space (Hazard Lands)"

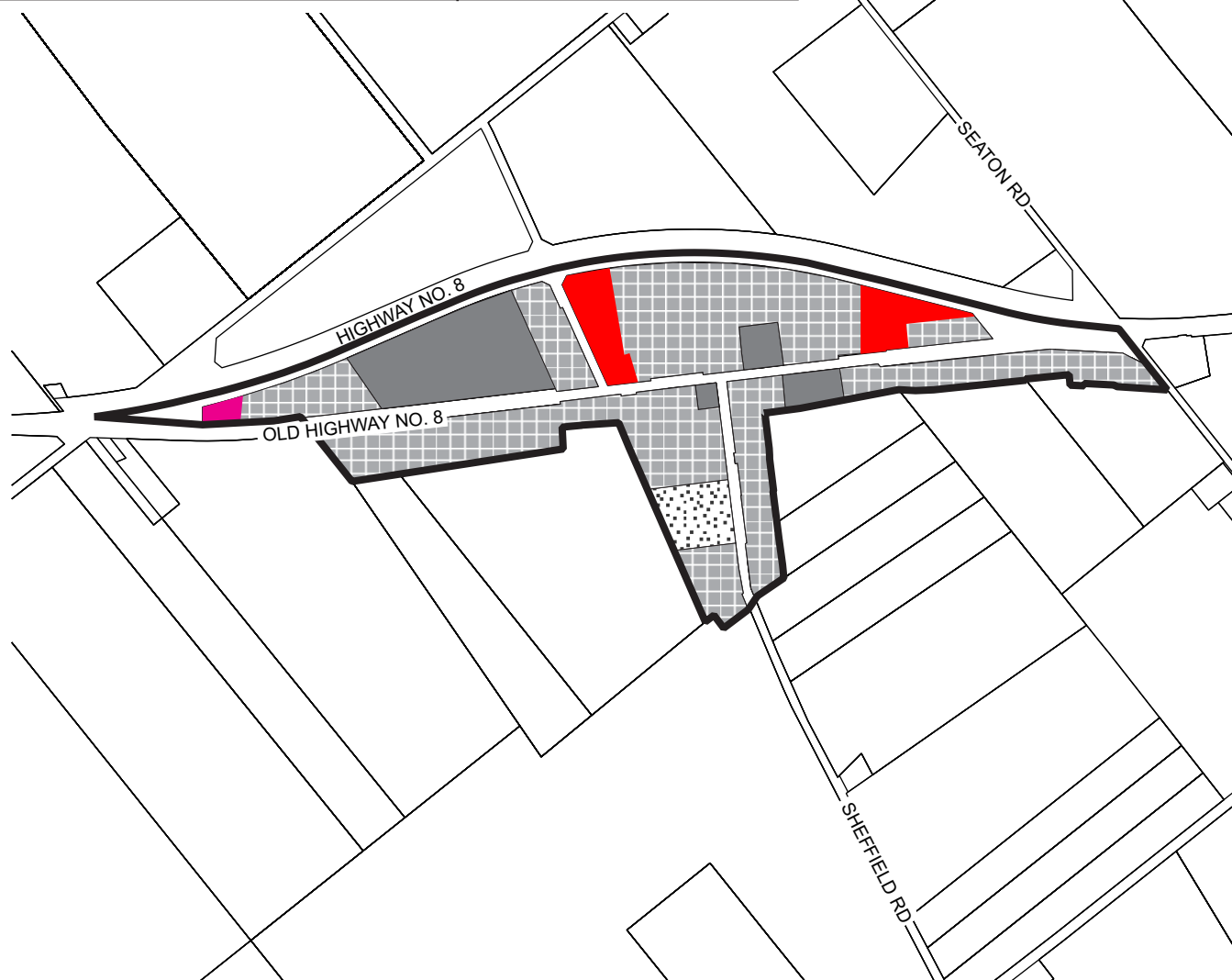
Add "Settlement Institutional" to Legend under the LAND USE DESIGNATIONS heading

Add "Natural Open Space (Hazard Lands)" to Legend under the Open Space and Parks heading

Date:
July 8, 2015

Revised By:
JHE/NB

Reference File No.:
OPA-(R)-9



Legend

Settlement Area Boundary

LAND USE DESIGNATIONS

Settlement Residential

Settlement Commercial

Open Space and Parks Designations

Community Park

Volume 2: Map 14 Sheffield Rural Settlement Area Plan




Rural Hamilton Official Plan

Council Adoption: September 27, 2006
Ministerial Approval: December 24, 2008
Effective Date: March 7, 2012



Hamilton

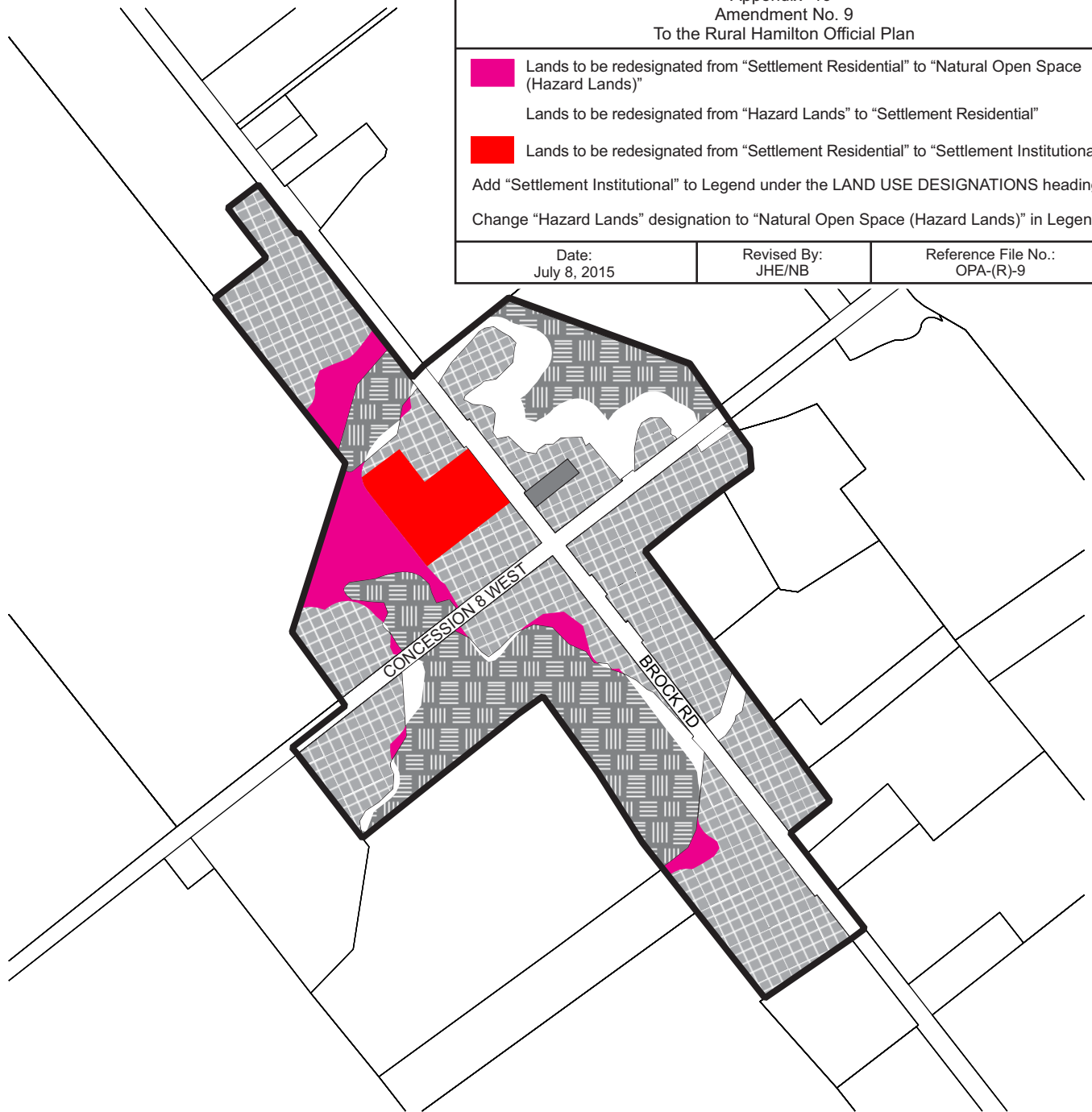
Appendix "19"
Amendment No. 9
To the Rural Hamilton Official Plan

-  Lands to be redesignated from "Settlement Residential" to "Natural Open Space (Hazard Lands)"
-  Lands to be redesignated from "Hazard Lands" to "Settlement Residential"
-  Lands to be redesignated from "Settlement Residential" to "Settlement Institutional"
- Add "Settlement Institutional" to Legend under the LAND USE DESIGNATIONS heading
- Change "Hazard Lands" designation to "Natural Open Space (Hazard Lands)" in Legend

Date:
July 8, 2015

Revised By:
JHE/NB


Reference File No.:
OPA-(R)-9




Legend


 Settlement Area Boundary

LAND USE DESIGNATIONS

 Settlement Residential

 Settlement Commercial

Open Space and Parks Designations

 Hazard Lands

Volume 2: Map 15 Strabane Rural Settlement Area Plan

Rural Hamilton Official Plan

Council Adoption: September 27, 2006
Ministerial Approval: December 24, 2008
Effective Date: March 7, 2012



Appendix "20"
Amendment No. 9
To the Rural Hamilton Official Plan

Lands to be redesignated from "Hazard Lands" to "Settlement Residential"



Lands to be redesignated from "Settlement Residential" to "Settlement Commercial"



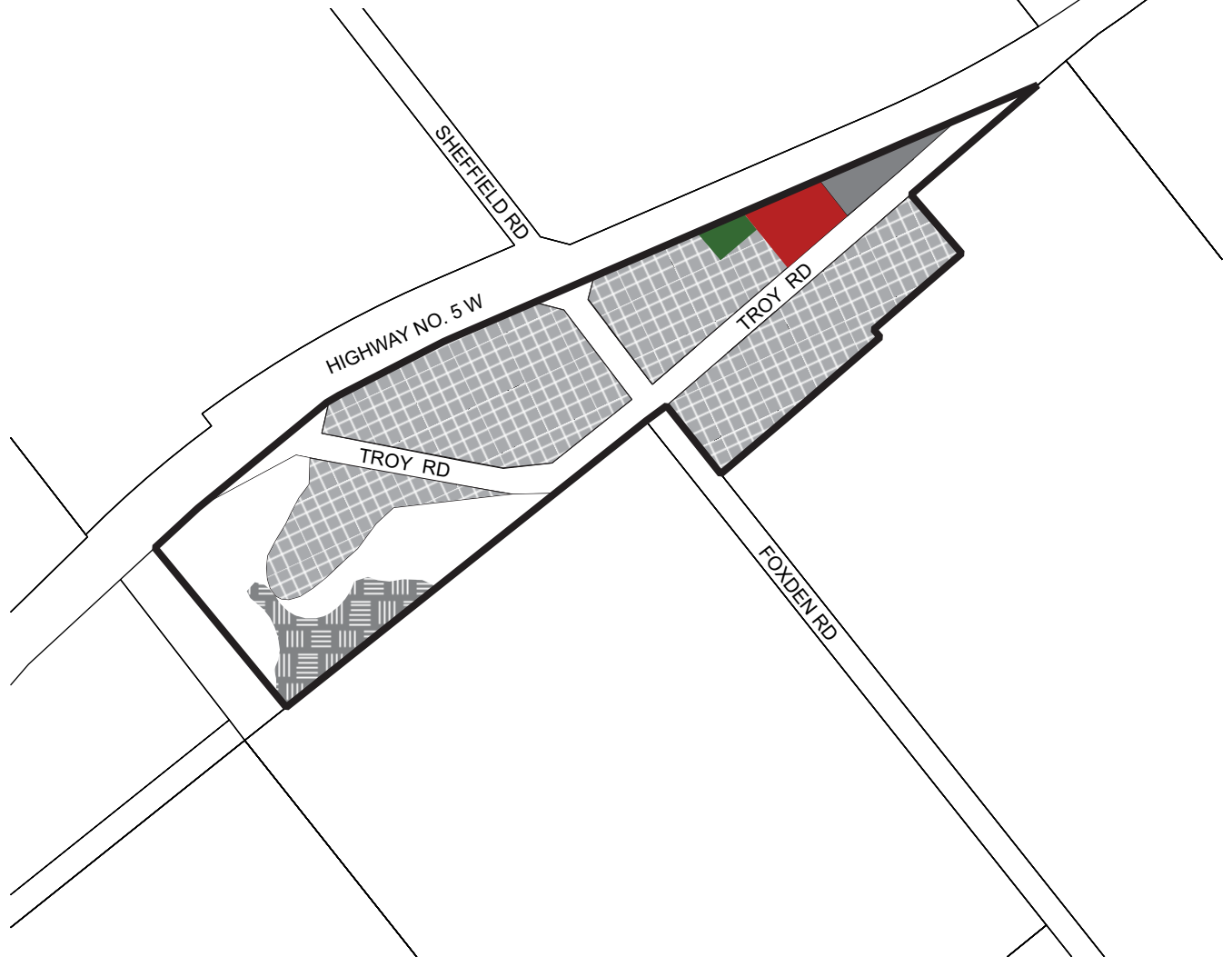
Lands to be redesignated from "Settlement Residential" to "Neighbourhood Park"

Change "Hazard Lands" designation to "Natural Open Space (Hazard Lands)" in Legend

Date:
July 8, 2015

Revised By:
JHE/NB

Reference File No.:
OPA-(R)-9



Legend

Settlement Area Boundary

LAND USE DESIGNATIONS



Settlement Residential



Settlement Commercial

Open Space and Parks Designations



Hazard Lands

Volume 2: Map 16 Troy Rural Settlement Area Plan


Rural Hamilton Official Plan

Council Adoption: September 27, 2006
Ministerial Approval: December 24, 2008
Effective Date: March 7, 2012



Hamilton

Appendix "21"
Amendment No. 9
To the Rural Hamilton Official Plan

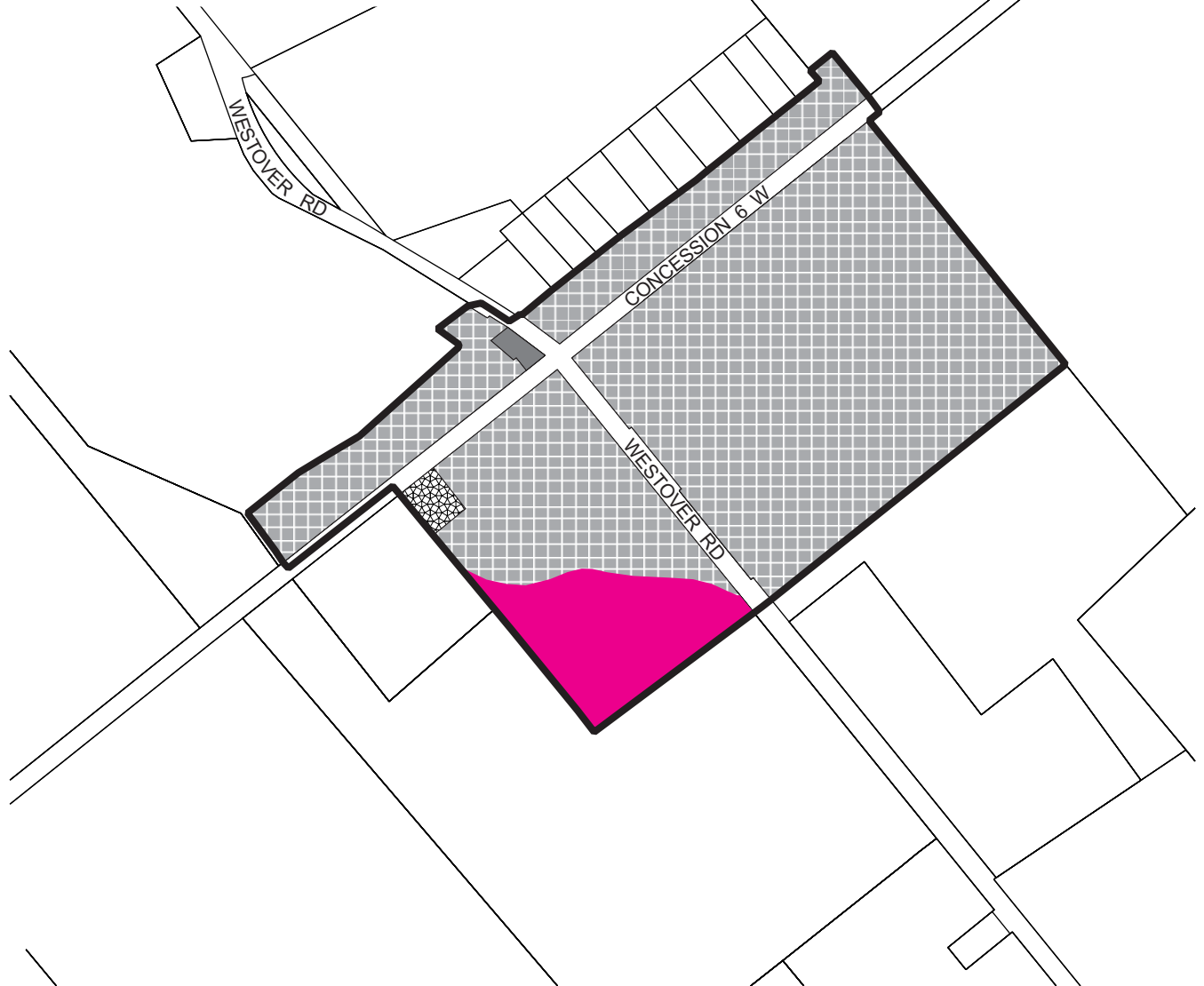
 Lands to be redesignated from "Settlement Residential" to "Natural Open Space (Hazard Lands)"

Add "Natural Open Space (Hazard Lands)" to Legend under the Open Space and Parks heading

Date:
July 8, 2015

Revised By:
JHE/NB

Reference File No.:
OPA-(R)-9




Legend


 Settlement Area Boundary

LAND USE DESIGNATIONS

 Settlement Residential

 Settlement Commercial

Open Space and Parks Designations

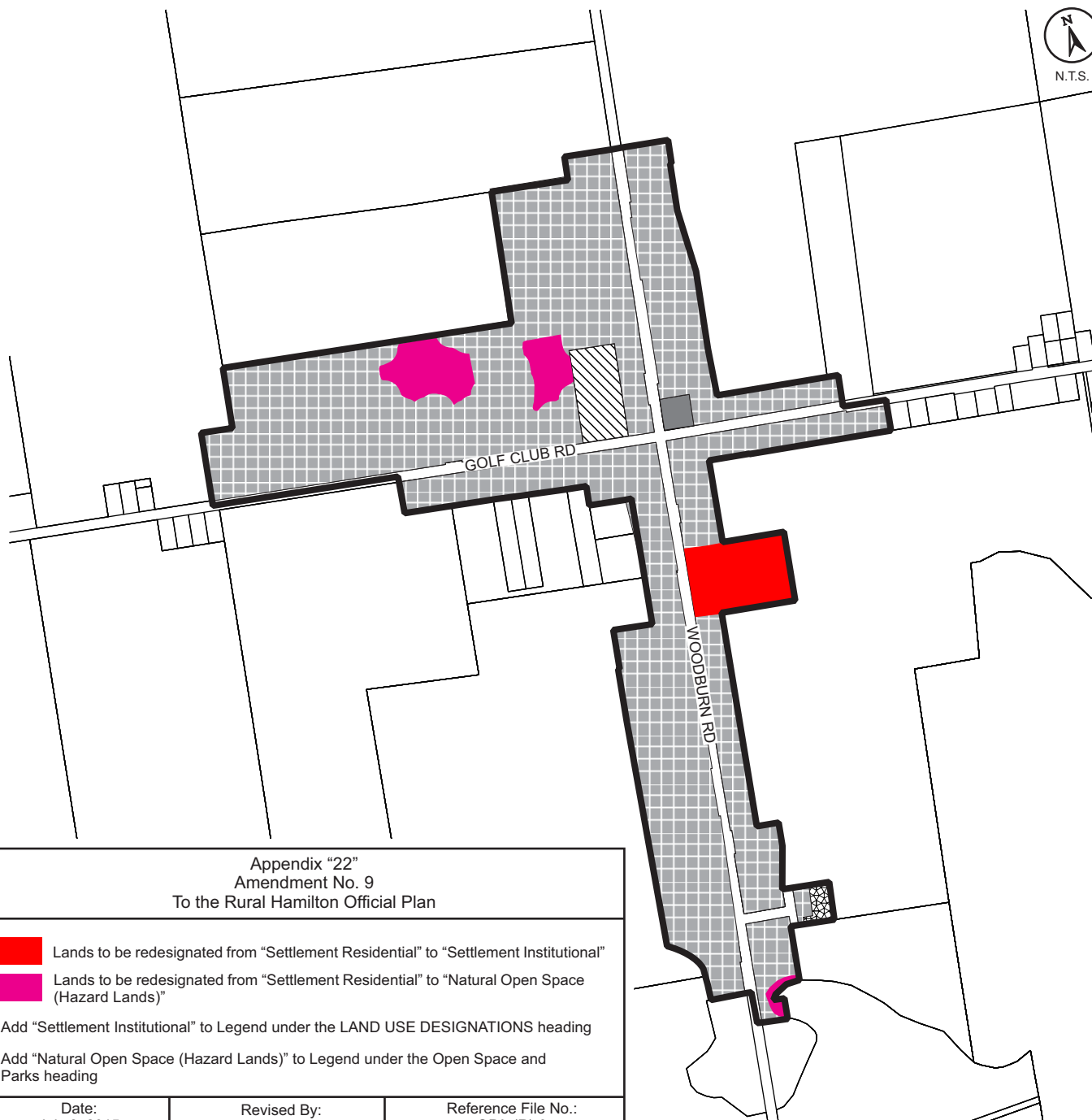
 General Open Space

Volume 2: Map 17 Westover Rural Settlement Area Plan

Rural Hamilton Official Plan

Council Adoption: September 27, 2006
Ministerial Approval: December 24, 2008
Effective Date: March 7, 2012





Legend

Settlement Area Boundary

LAND USE DESIGNATIONS

Settlement Residential

Settlement Commercial

Open Space and Parks Designations

Neighbourhood Park

General Open Space

Volume 2: Map 18 Woodburn Rural Settlement Area Plan

Rural Hamilton Official Plan

Council Adoption: September 27, 2006
Ministerial Approval: December 24, 2008
Effective Date: March 7, 2012



Hamilton

Appendix "23"
Amendment No. 9
To the Rural Hamilton Official Plan

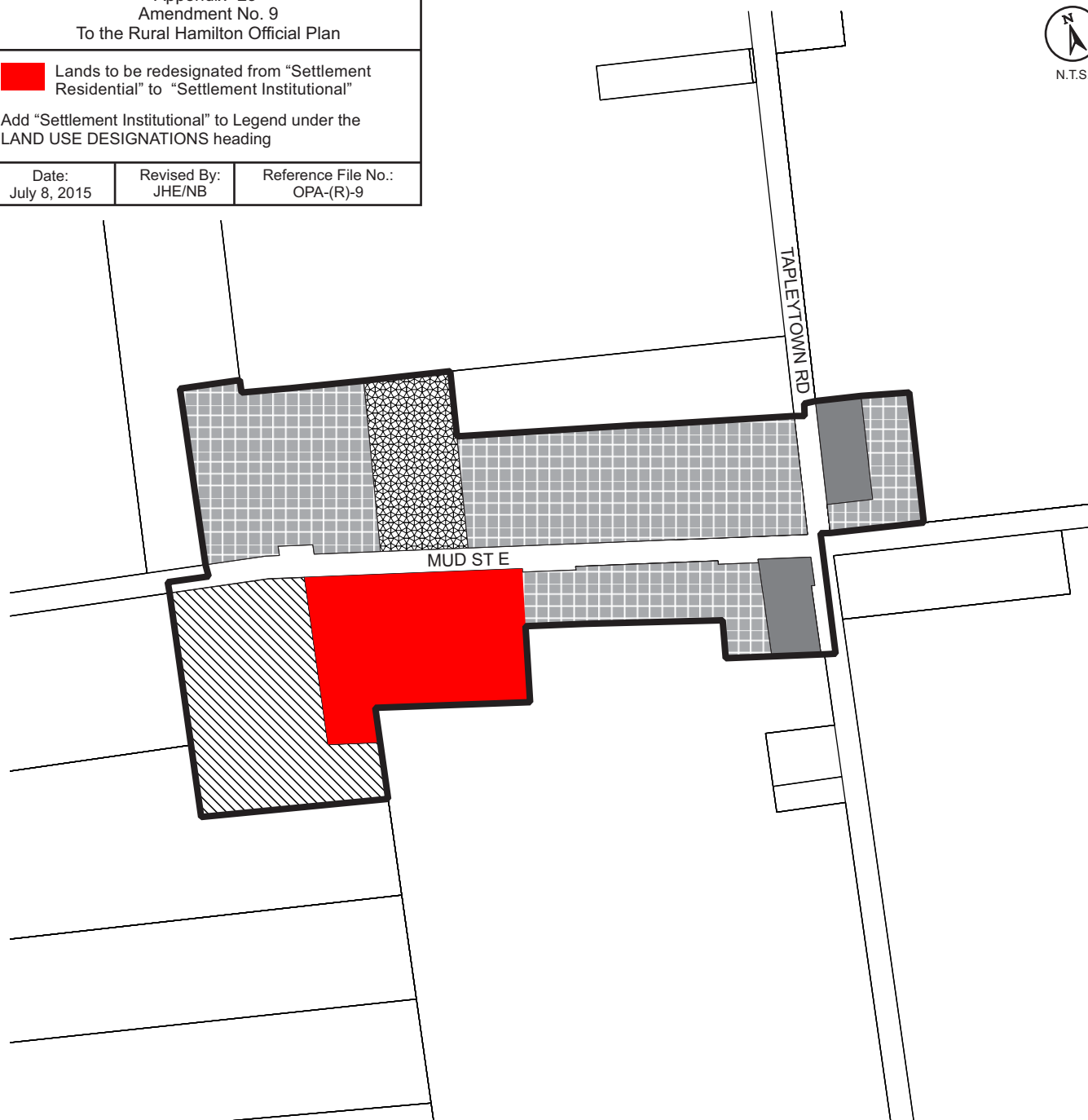
 Lands to be redesignated from "Settlement Residential" to "Settlement Institutional"

Add "Settlement Institutional" to Legend under the
LAND USE DESIGNATIONS heading

Date:
July 8, 2015

Revised By:
JHE/NB


Reference File No.:
OPA-(R)-9




Legend

 Settlement Area Boundary


LAND USE DESIGNATIONS

 Settlement Residential

 Settlement Commercial

Open Space and Parks Designations

 Neighbourhood Park

 General Open Space

Volume 2: Map 19 Tapleystown Rural Settlement Area Plan

Rural Hamilton Official Plan

Council Adoption: September 27, 2006
Ministerial Approval: December 24, 2008
Effective Date: March 7, 2012



Hamilton

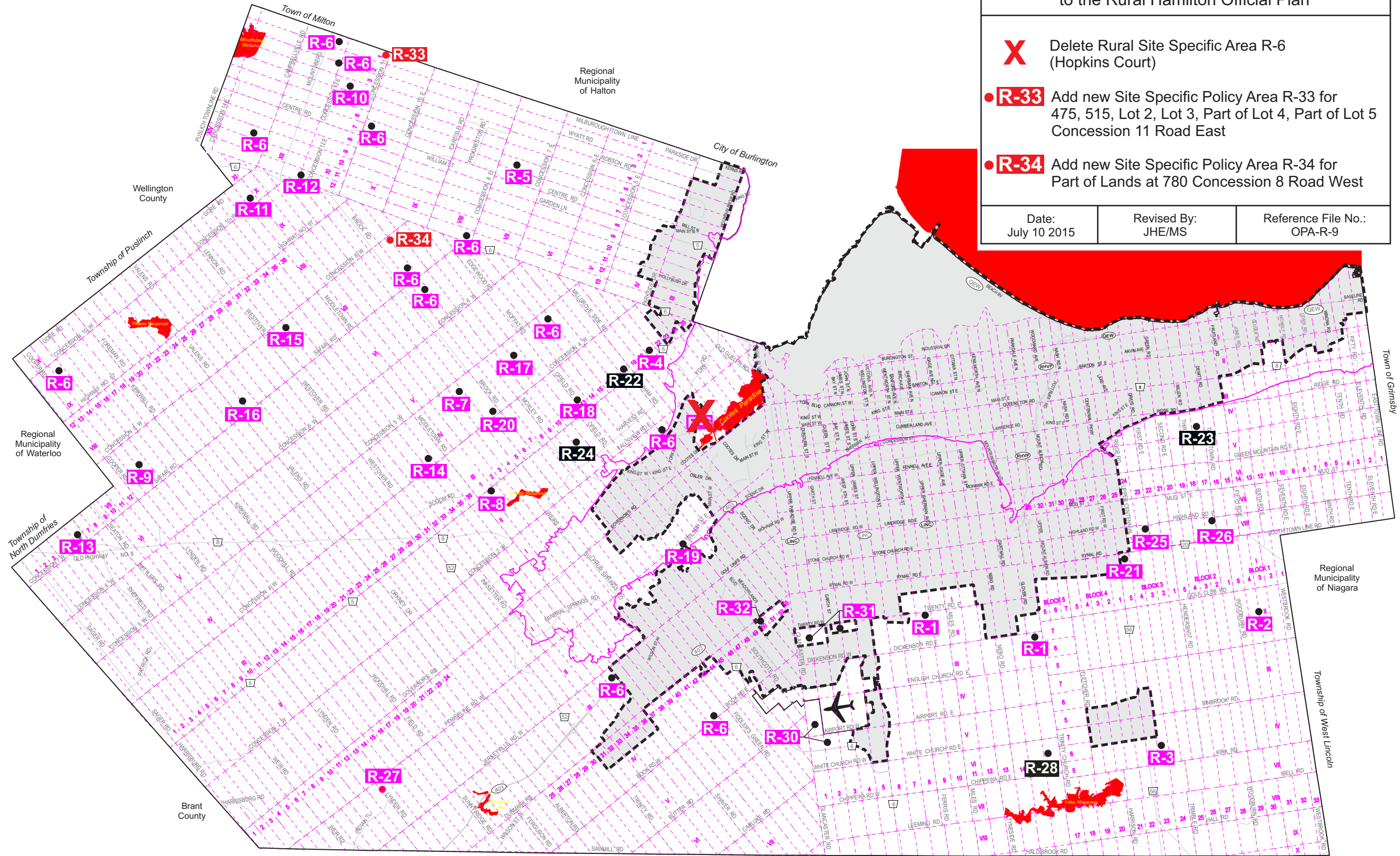
Appendix 24
Amendment No. 9
to the Rural Hamilton Official Plan

- X** Delete Rural Site Specific Area R-6 (Hopkins Court)
- **R-33** Add new Site Specific Policy Area R-33 for 475, 515, Lot 2, Lot 3, Part of Lot 4, Part of Lot 5 Concession 11 Road East
- **R-34** Add new Site Specific Policy Area R-34 for Part of Lands at 780 Concession 8 Road West

Date:
July 10 2015

Revised By:
JHE/MS

Reference File No.:
OPA-R-9



Legend

- Site Specific Areas (SSA)
- R-** Refers to Rural Site Specific Area #, Volume 3, Chapter B

Other Features

- Urban Area
- John C. Munro Hamilton International Airport
- Niagara Escarpment
- Urban Boundary
- Municipal Boundary

Council Adoption: September 27, 2006
Ministerial Approval: December 24, 2008
Effective Date: March 7, 2012

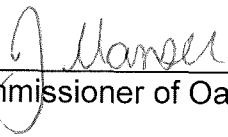
Rural Hamilton Official Plan
Volume 3: Appendix A
Site Specific Key Map

Not To Scale
Date: April 10, 2015



PLANNING & ECONOMIC DEVELOPMENT DEPARTMENT
© Teramet Land Information Services Inc. and its licensors. [2009]
May Not be Reproduced without Permission. THIS IS NOT A PLAN OF SURVEY

This is Exhibit "D" referred to in
the affidavit of Joanne Hickey-Evans
sworn before me, this 30th day of March, 2016



A Commissioner of Oaths

**Jillian Claire Manser, a Commissioner, etc.,
Province of Ontario, for the City of Hamilton,
Expires April 13, 2018.**

****Exhibit "D" is also available online at:**

<https://www.hamilton.ca/city-planning/official-plan-zoning-by-law/rural-zoning>

This is Exhibit "E" referred to in
the affidavit of Joanne Hickey-Evans
sworn before me, this 30th day of March, 2016



A Commissioner of Oaths

**Jillian Claire Manser, a Commissioner, etc.,
Province of Ontario, for the City of Hamilton.
Expires April 13, 2018.**

Exhibit "E"

Fernbrook Resorts - No. 57 Concession 12 Road East, east of Highway 6
(Flamborough)

Existing Wording of Holding provision H-9 in By-law 15-173:

Bold and highlighted text is the wording in to be amended

- "9. Notwithstanding Section 12.2 and Special Exception No. 248 of this By-law, on those lands zoned Rural (A2) Zone, identified on Map 16 of Schedule "A" – Zoning Maps and described as part of 57 12th Concession Road East, the development of up to 50 permanent mobile home sites (units) as well as the following uses:

Clubhouse, accessory to the Manufactured and Mobile Home Park, which may include as ancillary uses to the park, administrative offices, a convenience store, a hotel consisting of 20 suites, a restaurant and tavern, a dining area, games room, fitness and leisure facilities including a pool, hot tub, sauna, showers, and fitness room;

One Manager's suite and two staff apartments, adjacent to the existing clubhouse;

Maintenance, utility and storage buildings; and,

Facilities for outdoor sports and leisure, including an outdoor pool, hot tub, children's play area, volleyball and tennis courts, and picnic areas.

Shall not be permitted until such time as:

...

Proposed Wording of Holding provision H-9 in By-law 15-173

- "9. Notwithstanding Section 12.2 and Special Exception No. 248 of this By-law, on those lands zoned Rural (A2) Zone, identified on Map 16 of Schedule "A" – Zoning Maps and described as part of 57 12th Concession Road East, the development of up to 50 permanent mobile home sites (units) as well as the following uses:

Clubhouse, accessory to the Manufactured and Mobile Home Park, which may include as ancillary uses to the park, administrative offices, a convenience store, a hotel consisting of 20 suites, a restaurant and tavern, a dining area, games room, fitness and leisure facilities including a pool, hot tub, sauna, showers, and fitness room;

One Manager's suite and two staff apartments, adjacent to the existing clubhouse;

Maintenance, utility and storage buildings; and,

Facilities for outdoor sports and leisure, including an outdoor pool, hot tub, children's play area, volleyball and tennis courts, and picnic areas.

The Holding provision shall remain in effect until such time as the completion of the following conditions:

...

Ontario Municipal Board
Commission des affaires municipales
de l'Ontario



ISSUE DATE: May 3, 2016

CASE NO(S): PL150805

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

Appellant:	Coalition For Rural Ontario Environmental Protection
Appellant:	Pharm Meds Limited
Appellant:	St. Mary's Cement Inc. (Canada)
Subject:	Proposed Official Plan Amendment No. 9
Municipality:	City of Hamilton
OMB Case No.:	PL150805
OMB File No.:	PL150805
OMB Case Name:	Coalition For Rural Ontario Environmental Protection v. Hamilton (City)

PROCEEDING COMMENCED UNDER subsection 34(19) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended

Appellant:	3727 Highway Six Inc.
Appellant:	Artstone Holdings Limited
Appellant:	Jawad Chaudhry
Appellant:	Coalition For Rural Ontario Environmental Protection; and others
Subject:	By-law No. 15-173
Municipality:	City of Hamilton
OMB Case No.:	PL150805
OMB File No.:	PL150806

Heard: April 7, 2016 in Hamilton, Ontario

APPEARANCES:

Parties

City of Hamilton

Counsel

J. Wice

Coalition for Rural Ontario Environmental Protection (CROP)	M. Connell
Multi-area Developments Inc.	J. Hoffman
20 Road (Glanbrook) Developments Limited Artsone Holdings Limited Weizer Investments Limited Corpveil Holdings Limited Pharm Meds Limited	A. Toumanians
Silverwood Homes Limited. Fern Brook Resorts Inc.	D. Baker
Oliver Klass and Jessica Myers	Self-represented
3727 Highway Six Inc.	R. Wellenreiter

**MEMORANDUM OF ORAL DECISION DELIVERED BY M. C. DENHEZ ON
APRIL 7, 2016 AND ORDER OF THE BOARD**

INTRODUCTION

[1] This is the second part of a two-part decision. The first part was essentially procedural. This current part deals with the standing of one appellant to bring forward a zoning appeal, in the absence of any previous participation in that rezoning process.

[2] This debate occurred at a pre-hearing conference ("PHC") concerning the Rural Hamilton Official Plan Amendment No. 9 ("RHOPA") of the City of Hamilton ("the City"), and, more specifically, the corresponding Zoning By-law No. 15-173 ("ZB"). Both the OPA and the ZB focused on the Rural area of the City.

[3] The ZB addresses a sprawling area, covering most of the land in the entire City. The ZB was intended to harmonize various provisions across the City's former municipalities.

[4] The ZB was appealed, by various interests, to the Ontario Municipal Board ("the Board"). In the case of one appeal, by 3727 Highway Six Inc. ("the Appellant"), the City challenged the standing of that appellant to bring its appeal under the *Planning Act* ("the Act"), because it had made no previous oral or written submissions to a public meeting or Council. This Appellant brought a motion, calling on the Board to recognize its standing to pursue its appeal. It added that the City's public notice of the ZB had been defective. The City disagreed on both counts.

[5] The Board has carefully considered the motion materials of both sides, including all the evidence attached thereto, as well as the able submissions of counsel.

[6] Although counsel for the Appellant argued eloquently that this Appellant should not be disqualified, the Board is compelled to agree with the City. The terms of the statute are clear. The Act does not authorize this Appellant's appeal to proceed. The details and reasons are outlined below.

THE STATUTE

[7] The statutory provision at the centre of this dispute is s. 34(19) of the Act. It was adopted by the Legislature and came into force a decade ago:

...Any of the following may appeal to the Municipal Board by filing with the clerk of the municipality a notice of appeal...:

1. The applicant
2. A person or public body who, before the by-law was passed, made oral submissions at a public meeting or written submissions to the council.
3. The Minister

[8] It was undisputed that this Appellant was not in any of the above categories, notably because it had made no oral or written submissions.

[14] The City's published notice had included text and a map (portraying the entire Rural area of the City). In the Board's exhibit, the map was the size of a postage stamp. It was much smaller than an accompanying decorative picture of a cow. Counsel for the Appellant observed pointedly that there was less detail on the map than on the cow. Although the map certainly conveyed the sweeping scale of the rezoning, it was essentially useless for getting one's bearings.

[15] The text was entitled: "Notice of Public Meeting – Amendments to the Rural Hamilton Official Plan and Hamilton Zoning By-law 05-200". Near the top, in bold, was the title "Rural Hamilton Official Plan Amendment". Immediately underneath were bullet points, listing the objectives throughout the Rural area:

- To correct land use designations;
- to expand and clarify uses in the agriculture and rural designations;
- to update/change the rural settlement area designations (maps) and text to reflect up to date hazard/conservation lands (natural open space) and land use designations;

City of Hamilton Zoning By-law No. 05-200

- to add 11 new zones (text) that will apply to the rural area...

[16] Subject to comments later, the notice repeated that the rezoning would apply to the entirety of the Rural area of the City (it used the phrase "all the lands with the rural area", presumably meaning "all the lands *within* the rural area"):

- to zone all the lands with the rural area (see the map below)

[17] The "map below" may have been small, but it did unequivocally illustrate the entire Rural area of the City.

[18] The published notice then went on to describe exceptions, which the Board will call "exempted areas". These areas were exempted from the rezoning. The controversial exempted area was the following:

Lands generally bounded by Garner Road East, Highway 6 South, Glancaster Road, White Church Road, Carluke Road and Fiddlers Green Road.

[19] The Board thanks counsel, who provided the undersigned Member with a geography lesson on the southern edge of Hamilton, and did so with patience. To identify what lands are “bounded” by the references in the notice:

- Garner Road East and Glancaster Road are north of John C. Munro International Airport, essentially at the urban boundary
- Fiddlers Green Road is west of the airport
- White Church Road and Carluke Road are south and southwest of the airport
- The new route for Provincial “Highway 6 South” is south and west of the airport. For decades, however, Highway 6 continued northward along Upper James Street, east of the airport; it now officially veers westward, ultimately to connect with Highway 403

[20] In short, the exempted area here could be interpreted as the vicinity of the airport.

[21] Finally, the notice contained the usual contact information for readers with questions.

[22] The Appellant is a firm with property fronting on Highway 6, in the Rural area of the City south of the airport, a few hundred meters south of White Church Road. The Appellant’s property faces the exact location where the old Highway 6 converges with the new one.

[23] Counsel for the Appellant argued that the published notice was subject to misinterpretation. A reader might infer that properties *along* Highway 6 South were in the exempted area, and hence were outside the rezoning. Because of this ambiguity, he said, "I can't imagine any scenario where that map is adequate". He concluded that the notice was "not clear enough for someone to lose their right of appeal", adding that "the Board has some discretion to alleviate that."

ANALYSIS

[24] Counsel for the Appellant said he relied on two Board decisions: *Sheldrake v. Springwater (Township)*, issued on July 24, 2015 ("*Sheldrake*"), and *Murphy v. Casselman (Village) Zoning By-law 91-498*, 1994 CarswellOnt 5037 ("*Murphy*").

[25] In *Sheldrake, supra*, a lower-tier municipality (Township) was considering a new Secondary Plan. The statutory public meeting for it took place in 2008. Township Council adopted it in October, 2011; but the following month, the upper-tier municipality (County) decided to put the designation of selected properties in abeyance (a "non-decision"); they were exempted. One was a car dealership. Three years later, in 2014, the County adopted substantively different site-specific provisions for that dealership's lands.

[26] Neighbours disagreed with that new arrangement. They appealed, but the dealership objected, saying they were disqualified, because they had not made oral or written submissions earlier.

[27] The Board disagreed:

In this situation, there has never been public notice of designations or policies being contemplated for the Subject Property... Since the Appellants had no prior notice of what designations or policies were being considered for the subject property, it appears unfair to deny them any meaningful ability to meet the statutory requirements... and then deny them the right of appeal. It is unreasonable to expect that, without either of these pieces of information – notice of a pending decision or

what the proposed decision was to be – that they could have fulfilled the statutory requirement...

[28] In *Murphy, supra*, the municipality had published notice of a rezoning. It described the property as "Part II, Registered Plan 50R-421", and the map was essentially illegible. The Board concluded that the public notice was deficient:

The Board is not satisfied that the Council of the Village of Casselman has effectively ensured that sufficient information was made available to enable the public to generally understand the zoning proposal that was being considered...

[29] The Board does not take these matters lightly. The citizenry's right of appeal, concerning Ontario land-use controls, is long-established; encroachments on that right should be approached with circumspection. In the current instance, however, the Board finds the above two cases distinguishable, for the reasons below.

[30] The test for the sufficiency of notice is laid out at s. 34(12)(a)(i) of the Act: "The Council shall ensure that sufficient information and material is made available to enable the public to understand generally the zoning proposal that is being considered."

[31] The public notice in *Sheldrake* and *Murphy, supra*, did not pass that test. There was a near-total absence of that information. However, the Board does not find the current situation comparable, for two reasons.

[32] The first is the ZB's published notice itself. It did contain information that could be expected to put all rural landowners on alert. This was not a situation like *Sheldrake*, where unannounced provisions were adopted without any mechanism for the public to learn their substantive contents. Nor was it like *Murphy*, where readers had little way of discerning that the rezoning might affect them. In the current instance, the ZB notice was overt: it would affect *all* Rural properties, unless they were specifically exempted.

[33] Granted, the wording for the exempted areas could have been improved. For example, when this exempted area was said to be "bounded" by "Highway 6 South", that must have meant the old route of Highway 6 (Upper James Street), not the new route south of the airport – because otherwise, the exempted area lacked an eastern boundary. The Board has no hesitation in finding that this geographic description of this exempted area was awkward. There were other typographical or grammatical problems with the notice; there were issues with the size of the map; the Board offers no comment about the cow.

[34] The Board disagrees, however, that the notice was so inept that it failed the test of s. 34(12)(a)(i). Any readers who were landowners in the Rural area should have known immediately that there were potential implications for their own properties – and even if not (exceptionally) for their own, then at least for their neighbours' properties. This would not normally be ignored by any landowners in the Rural area.

[35] Furthermore, the "confusion" argument should not be exaggerated. In normal parlance, when one says that a specific area is "bounded" by a street, that does not usually mean every property on both sides of that street is inside that area – particularly when the street extends for many kilometers. For that matter, a local reader who gave some thought to that exempt area could have realized that all the roads listed in the notice were part of the perimeter of the airport and vicinity. Finally, the notice listed White Church Road as a boundary – and when compared with the other reference points listed, the appellant's property was beyond that boundary. Though the geographic description of this exempt area in the notice was clumsy, the Board does not accept the notion that the Appellant was unable to discern, from this notice, that there was a fair chance that its property would be affected, directly or indirectly.

[36] Finally, although the Board acknowledges that readers might still have been confused, as to whether their land was one of those rare exceptions to the general rule (about rezoning the Rural area in its entirety), the Board agrees with the City that the

normal course of action would then have been to follow the advice in the notice, and contact the City.

[37] In short, despite imperfections, the Board did not find the notice so intrinsically flawed that it provided the appellant with an excuse to sidestep the statutory requirements.

[38] The Appellant's motion also fails for a second reason. The supposed inadequacies of the notice's contents were not the cause of the Appellant's non-compliance anyway. The Appellant acknowledged that the real reason was that its principal was unaware of the rezoning at all; he had not been following it, and he missed the newspaper notices.

[39] In short, there was no causal link between the contents of the notice, and the failure to make oral or written submissions. The Board does not find therein a ground to sidestep the legislation.

[40] There have been many learned commentaries on why the Province adopted that legislation. One view, expressed in *Hilchey v. Mulmur (Township)*, (2014) 81 O.M.B.R. 340, was that the Province intended "to ensure that appeals do not come forward to the Board based upon issues that have not been given due consideration by Council." A related hypothesis was that the Province wanted to encourage interested parties to engage in relevant debate before Council's decision, not after. In the words of Aaron Sorkin, "democracy belongs to those who show up."

CONCLUSION AND ORDER

[41] The Board disposes of this matter as follows:

1. The motion to confirm this Appellant's standing is dismissed.
2. The appeal of 3727 Highway Six Inc. is dismissed.

3. The first part of this decision, pertaining to procedure, addresses a number of existing Appellants and appeals; those Appellants and appeals will not be deemed to include this Appellant and its appeal.

"M.C. Denhez"

M.C. DENHEZ
MEMBER

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Ontario Municipal Board

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