

ISSUE DATE:  
**Nov. 2, 2006**  
 DECISION/ORDER NO:  
**3080**



Ontario

Ontario Municipal Board

Commission des affaires municipales de l'Ontario

06-354

1009  
046-05

PL050686

The Ministry of Municipal Affairs and Housing, Michael Desnoyers and Carol Desnoyers, and James Capuccinello and Felicia Capuccinello have appealed to the Ontario Municipal Board under subsection 17(36) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended, from a decision of the City of Hamilton to approve Proposed Amendment No. 25 to the Regional Official Plan for the City of Hamilton

OMB File No. O050105

The Ministry of Municipal Affairs and Housing, Michael Desnoyers and Carol Desnoyers, and James Capuccinello and Felicia Capuccinello have appealed to the Ontario Municipal Board under subsection 17(36) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended, from a decision of the City of Hamilton to approve Proposed Amendment No. 104 to the Official Plan for the City of Hamilton (former Town of Ancaster)

OMB File No. O050106

The Ministry of Municipal Affairs and Housing, Michael Desnoyers and Carol Desnoyers, and James Capuccinello and Felicia Capuccinello have appealed to the Ontario Municipal Board under subsection 17(36) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended, from a decision of the City of Hamilton to approve Proposed Amendment No. 50 to the Official Plan for the City of Hamilton (former Township of Glanbrook)

OMB File No. O050107

At the request of Sullter Twenty Limited, Spallacci and Sons Limited and Twenty Road Developments inc., the Regional Municipality of Hamilton-Wentworth has referred to the Ontario Municipal Board under subsection 17(24) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended, Deferral No. 11 of the Official Plan for the former Regional Municipality of Hamilton-Wentworth

OMB File No. O060179

**APPEARANCES:**

Parties

City of Hamilton  
 Ministry of Municipal Affairs and Housing  
 Sillstar Limited  
 Twenty Roads Development Limited  
 Spallacci @ Sons Ltd.  
 Tradeport International Corporation  
 Swisscan Properties Inc.

Counsel

N. Smith  
 M. MacNeill  
 J. D. Farber  
 B. Parker

OFFICE OF THE CITY CLERK	
NOV 06 2006	
REC. BY <i>[Signature]</i>	DATE <i>Nov 7</i>
REF'D TO <i>T. McCabe</i>	DATE .....
REF'D TO <i>N. Smith</i>	DATE .....
REF'D TO <i>A. Galley</i>	DATE .....
ACTION: <i>G. Papavella</i>	
<i>S. Renchard</i>	
<i>J. Hickey-Evan</i>	

**MEMORANDUM OF ORAL DECISION DELIVERED BY R. G. M. MAKUCH ON SEPTEMBER 25, 2006 AND ORDER OF THE BOARD**

The City had brought a Motion for an Order of the Board dismissing the appeals without holding a full hearing on the grounds that the notices of appeal did not disclose any apparent land use planning grounds upon which the Board could be approved or refused by the Board.

At the commencement of the hearing, counsel for the parties advised the Board that the parties had reached a settlement and requested that the Board dismiss the City's motion and that the appeals be allowed in part in order for the Board to amend the official plan amendments under appeal.

The Board is satisfied based on the undisputed and uncontradicted evidence of Guy Paparella, the professional land use planner for the City, that the proposed amendments are in conformity with the Provincial Policy Statement 2005 and represent appropriate land use planning.

The official plan amendments do not constitute an expansion of a settlement area but rather the creation of a special study area for study. The lands in question are in the vicinity of the John C. Munroe International Airport and the creation of the special policy area in order to consider an Airport Employment Growth District around the airport. The city proposes to carry out a number of studies related to all of the issues related to such a development such as, the amount of land required, the nature of then proposed employment uses, the infrastructure needed to service the lands, provisions required to maintain the key functions of the airport, including the minimization of land use conflicts related to existing/planned airport operations, and the cost and method of financing the employment district. The proposed amendments to the official plan amendments enacted by City Council and attached to the executed Minutes of Settlement between the parties provide further particulars and clarification with respect to the process of preparing the necessary studies including the consultations to take place.

The lands covered by Deferral 11 in the Regional Municipality of Hamilton  
Wentworth Official Plan

Map No. 1, Regional Development pattern, as it applies to part of the West Half of Lot 3, Concession II, generally located south of Twenty Road West, north of Dickenson Road West, east of Glancaster Road and west of Highway No. 6, as indicated in blue on Map 1 identified as Number 11.

as referred to the Ontario Municipal Board by the Minister of Municipal Affairs and Housing by letter dated September 18, 2006, will also be subject to the Policies referred in this settlement, which in no way changes the underlying designations of these lands. The settlement clarifies the planning review necessary to consider these lands for an urban designation. All references to Deferral 11 in the Regional Municipality of Hamilton Wentworth Official Plan will be deleted.

Accordingly, the Board orders as follows:

1. The City's Motion for an Order of the Board dismissing the appeals without holding a full hearing are hereby dismissed;
2. The appeals are allowed in part; and
3. Proposed Amendment No. 25 to the Regional Municipality of Hamilton Wentworth Official Plan; Proposed Amendment No. 104 to the Official Plan for the City of Hamilton (former Town of Ancaster); and Proposed Amendment No. 50 to the Official Plan for the City of Hamilton (former Township of Glanbrook) are hereby amended in accordance with Attachment "1", (Appendix 1 to the Minutes of Settlement, Exhibit 4) hereto.

It is so Ordered.

"R. G. M. Makuch"

R. G. M. MAKUCH  
MEMBER

## Attachment 1

### Amendments

#### to the

#### Regional Municipality of Hamilton-Wentworth, Town of Ancaster, the Township of Glanbrook Official Plans

The following text, together with Schedule "A" (*Map No. 7, Airport Influence Area of the former Regional Municipality of Hamilton-Wentworth Official Plan*), Schedule "B" (*Map No. 1 – Regional Development Pattern of the former Regional Municipality of Hamilton-Wentworth Official Plan*), Schedule "C" (*Schedule "F-1 - Special Policy Areas*), of the Official Plan of the former Town of Ancaster and Schedule "D" (*Schedule "A" – Land Use Plan*) of the former Township of Glanbrook Official Plan, attached hereto, constitutes;

1. Official Plan Amendment No. 25 to the Regional Municipality of Hamilton-Wentworth Official Plan;
2. Official Plan Amendment No. 104 to the Town of Ancaster Official Plan;
3. Official Plan Amendment No. 50 to the Township of Glanbrook Official Plan;

#### Purpose:

The purpose of this amendment is to identify a Special Policy Area in which to consider an Airport Employment Growth District centered around the John C. Munro International Airport. This is to recognize, protect and capitalize on the long-term economic importance of the Airport and its unique role as a catalyst for airport related and other employment uses.

The effect of the Amendment is:

- to protect John C. Munro International Airport's 24 hour operation by restricting incompatible and noise sensitive land uses from encroachment into Airport noise sensitive areas; and,
- to provide for the development of a future employment land growth centre.

Further study is required to demonstrate such matters as the amount of land required for the Airport Employment Growth District, the nature of the proposed employment uses, the infrastructure (particularly sewage, water and transportation) needed to service the lands, provisions required to maintain the key functions of the airport, including the minimization of land use conflicts related to existing/planned airport operations, and the cost and method of financing the employment district.

Location:

The lands subject to this Amendment are in the vicinity of the John C. Munro Airport.

The lands identified for further study as a Special Policy Area, are generally bounded by the existing Urban Area Boundary adjacent to Upper James Street to the east, White Church and Fiddler's Green Roads on the south, Garner Road on the west and Glancaster Road and Twenty Road West on the north.

Basis:

1. City Council's Strategic Plan "Right on Course" commits to the following:
  - (a) to focus all available resources on economic development as its No. 1 priority with particular attention to the airport as a key economic node to future prosperity;
  - (b) to pursue initiatives at the airport to ensure benefits of economic development are felt city-wide; and,
  - (c) to pursue investment in strategic infrastructure to attract new non-residential business.
2. City Council's adopted Economic Development Strategy (October, 2004) and the HIA Gateway Opportunities Study (October, 2002) commits to the creation of an Aerotropolis Cluster which is intended to form an industrial, commercial and residential community around the John C. Munro Hamilton International Airport in support of the airport operation and the City's economic development objectives.
3. The Places to Grow discussion paper identified the Airport as Hamilton's top economic priority, by stating growth should "take advantage of the economic opportunities provided by the airport."
4. The Province, in conjunction with the GTA municipalities and Hamilton prepared growth forecasts for employment lands. Based on the Hemson forecasts, total employment on employment lands in the City of Hamilton will increase by approximately 50,000 jobs in the 2001-31 time period. As part of the comprehensive amendment process, the City shall complete background studies and conduct community planning and public consultation processes, including the establishment of a community liaison committee. This work will assist in identifying the types and layout of future employment land uses, determining land supply and infrastructure

requirements, and developing community growth management policies and designations.

5. A secondary plan will be required to determine the mix of employment uses, the servicing requirements, the appropriate transportation network and the funding required for the completion of the hard infrastructure. This will be completed in conjunction with GRIDS and all related Master Servicing Plans to ensure that the airport is an integral part of the City's future growth.
6. The Regional Official Plan identifies an Airport Influence Area. The boundaries have been modified to coincide with 28 NEF contour as identified in the Airport Master Plan. The Airport Influence Area will protect John C. Munro International Airport's 24 hour operation by restricting incompatible and noise sensitive land uses from encroachment into Airport noise sensitive areas.

#### Actual Changes

##### Regional Official Plan

1. That the Official Plan for the Regional Municipality of Hamilton-Wentworth be amended as follows:
  - 1.0 Add a new schedule titled "Map 7- Airport Influence Area", attached as shown on the attached Schedule "A" of this Amendment.
  - 1.1 Delete Policy C.4.3.5.3 in its entirety and replace it with the following policy:

*"Minimize future conflicts between the operation of the Airport and surrounding land uses. Under this policy, the affected Area Municipalities will be required, in their Official Plans and Zoning By-laws, to apply noise exposure forecast contours (Transport Canada) and guidelines for development in the Vicinity of the Airport (Transport Canada) so that:*

- a) *no sensitive land uses are permitted to be developed within areas exposed to noise disturbance levels greater than the 28 NEF, except where the lands are currently designated Urban; and,*
- b) *any sensitive land uses permitted to be developed between 25 and 28 NEF contours will be required to implement noise mitigative measures in accordance with Provincial and Federal guidelines/standards."*

- 1.2 Amend Policy C.4.3.5.4 to delete the last sentence and replace it with the following sentence.

*"The limitations of the Airport Influence area are defined on Map 7 – Airport Influence Area."*

- 1.3 Add a new policy to section C.4.3.5 as follows:

*"C.4.3.5.5 The City of Hamilton, in conjunction with the John C. Munro Airport, are required to update and maintain up-to-date Airport Zoning Regulations and Noise Exposure Forecast to protect the long term 24 hour, seven day a week and three hundred and sixty five day a year operation."*

- 1.4 Map No. 1 – Regional Development Pattern – be revised by adding Special Policy Area 9, as shown on the attached Schedule "B" of this Amendment.

- 1.5 Section C.3.1.4 be amended by adding the following new policies:

*"C.3.1.4.6 The lands identified as SPA 9 on Map 1, are designated Rural in this Plan and are subject to all relevant policies pertaining to the Rural designation of this Plan and the applicable Agricultural designation in the Town of Ancaster Official Plan and the applicable Agricultural and Open Space designation of the Township of Glanbrook Official Plan, as well as to the Airport influence Area policies of this Plan. They shall not be construed to be within the Urban Area unless and until such time as a comprehensive amendment has been developed by the City and approved to permit urban uses in all or part of such lands.*

*3.1.4.7 It is recognized that portions of SPA 9 contain concentrations of existing residential and other land uses incompatible with the industrial, business service and other essential uses associated with an airport employment growth district. In planning for the proposed Airport Employment Growth District, the City shall prohibit all new residential, retail commercial or other forms of development that are incompatible with future industrial and employment development objectives for this area.*

*3.1.4.8 The City shall not accept nor approve a privately-initiated amendment to this Plan pertaining to SPA 9 prior to consideration of municipally-initiated studies as set out below and the preparation and final approval of a municipally-initiated comprehensive amendment to permit*

employment uses in part or all of SPA 9 as described in Section C.3.1.4.6 above.

As part of the comprehensive amendment process, the City shall complete background studies and conduct community planning and public consultation processes, including the establishment of a community liaison committee. The background studies and public consultation processes shall assist in identifying the types and layout of future employment land uses, determining land supply and infrastructure requirements, and developing community growth management policies and designations. More specifically, the background studies shall include the following:

- a) A comprehensive review and land budget analysis to demonstrate the need for an urban boundary expansion which includes an assessment of occupied and vacant urban land, land use densities and intensification opportunities. *Any lands beyond those identified for the proposed Airport Growth District will be considered*
- b) Environmental Impact Statements pertaining to the Natural Heritage System as required by applicable Official Plan and provincial policies; *in the context of a comprehensive amendment for other urban uses*
- c) Demonstrating that the public infrastructure which is planned or available will be suitable to service the future proposed employment lands over the long term. This infrastructure shall include, but not limited to, the provision of full municipal sanitary sewage and water supply and an appropriate transportation network.
- d) The completion of a financing policy for cost effective urban services and other community infrastructure;
- e) An assessment of agricultural capability which considers directing the proposed Airport Employment Area Growth district onto those lands which are not, or on lower priority lands which ~~are~~ *are* designated Agriculture.
- f) Demonstrating that impacts from new or expanding employment areas on agricultural operations which are adjacent or close to the employment area are mitigated to the extent feasible.

*BT. M. M. J.*



- g) Other studies and policies which the City deems necessary for the development of SPA 9 as a sustainable, employment growth district.

3.1.4.9 In addition to the above, the City shall also prepare a secondary plan concurrently with, or immediately following, the approval of the comprehensive amendment. Though this secondary plan, the following additional requirements will be required:

- a) Sub-watershed plans and secondary plan policies/designations related to the protection and/or management of natural heritage features and functions, including the management objectives for storm water infrastructure;
- b) The designation of appropriate employment land uses and policies pertaining to the design and density of such uses;
- c) Completion of the City-wide water/wastewater (lake based system) master plan, the City-wide storm water master plan and the city wide transportation master plan, that will produce an infrastructure servicing strategy for the proposed airport employment growth district and adjacent urban communities as may be relevant;
- d) Completion of Class Environmental Assessments for major urban servicing infrastructure deemed to be essential to commencement or completion of development of all or part of SPA 9 lands;
- e) An urban development staging, phasing or implementation strategy in keeping with City-wide Master Plan priorities and Secondary Plan objectives;

3.1.4.10 The City shall establish a comprehensive public participation process that will include a Community Liaison Committee comprised of landowners, public agencies, representatives of other interested community groups and appointed City Councillors to oversee the development of the secondary plan referred to in Policy 3.1.4.9.

- 3.1.4.11 Coincident with the adoption of a comprehensive amendment, the City of Hamilton will repeal SPA 9 in its entirety.”

**Town of Ancaster Official Plan**

2. That the Official Plan for the Town of Ancaster be amended as follows:
- 2.1 Schedule "F-1 - Special Policy Areas – be revised by including the subject lands as Specific Policy Area 57 and 57a, as shown on the attached Schedule "B" to this Amendment.
- 2.2 Section 5 be amended by adding the following new policies;

**5.12 SPECIFIC POLICY AREA NO.57**

"5.12 In addition to the existing applicable policies in this Plan, this Section sets out additional policies for the lands identified on Schedule "F-1" as Specific Policy Areas 57 and 57a.

5.12.1 The area identified as Specific Policy Area 57 on Schedule "F-1", shall be subject to Policies C.4.3.5.3 and C.4.3.5.4 of the Regional Official Plan.

5.12.2 The area identified as Specific Policy Area 57a on Schedule "F-1", shall be subject to Policies C.3.1.4.6, C.3.1.4.7, C.3.1.4.8, C.3.1.4.9, C.3.1.4.10 and C.3.1.4.11 of the Regional Official Plan."

**Township of Glanbrook Official Plan**

3. That the Official Plan for the Township of Glanbrook be amended as follows:
- 3.1 Schedule "A – Land Use Plan – be revised by including the subject lands as Special Policy Area 2 and 2a, as shown on the attached Schedule "D" to this Amendment.
- 3.2 Section B.1 be amended by adding a new Subsection B.1.12 as follows;
- "B.1.12 In addition to the existing applicable policies in this Plan, including Special Policy Area 1, this Section sets out additional policies for the lands identified on Schedule "A" – Land Use Plan, as Special Policy Areas 2 and 2a.
- (i) The area identified as Special Policy Area 2 shall be subject to Policies C.4.3.5.3 and C.4.3.5.4 of the Regional Official Plan.

- (ii) The area identified as Special Policy Area 2a shall be subject to Policies C.3.1.4.6, C.3.1.4.7, C.3.1.4.8, C.3.1.4.9, C.3.1.4.10 and C.3.1.4.11 of the Regional Official Plan.”

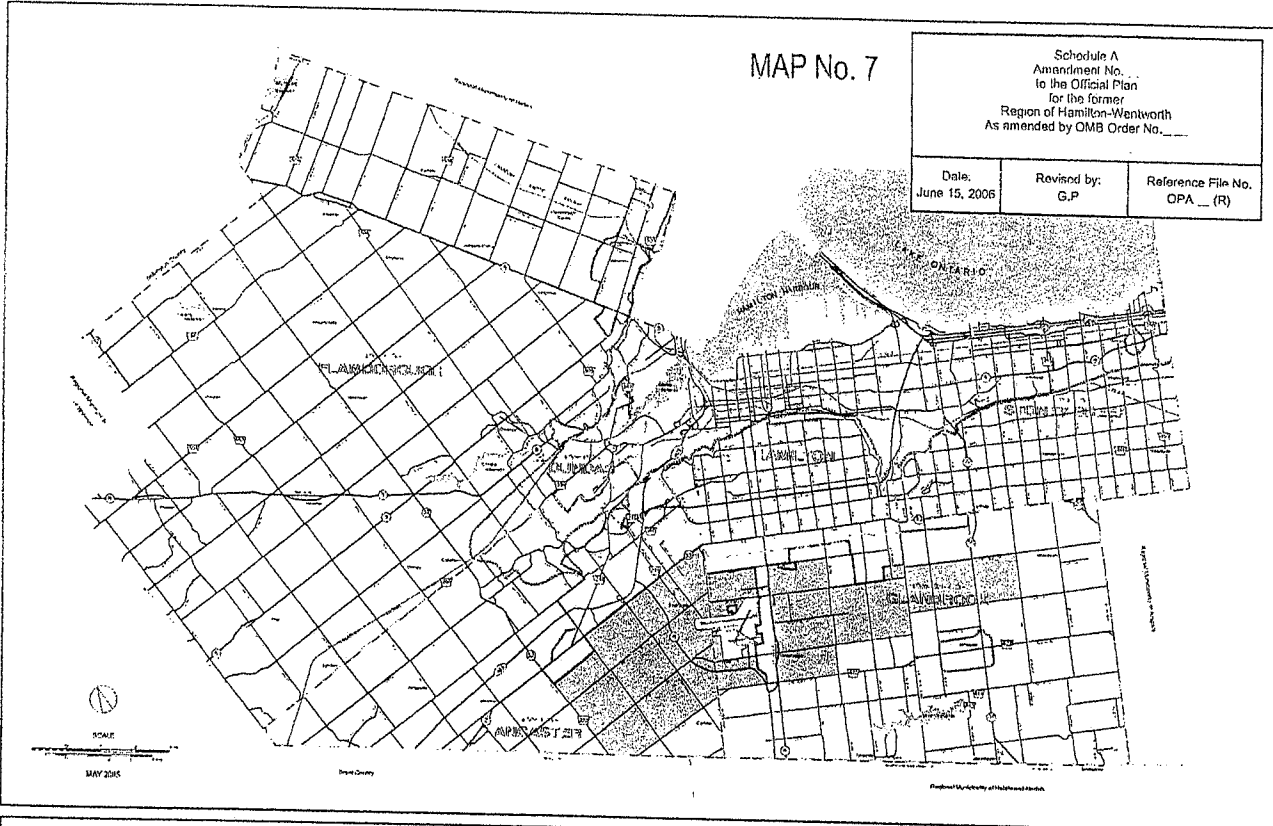
**Implementation:**

OMB Order No. ~~xxx~~ will give effect to this Amendment. In addition, to the provisions of Section D – Implementation, of the Official Plan for the former Regional Municipality of Hamilton-Wentworth, Section 7 – Implementation, of the Official Plan for the former Town of Ancaster, and Section G – Implementation of the Official Plan for the former Township of Glanbrook, will give effect to the amendments.

MAP No. 7

Schedule A  
Amendment No. ...  
to the Official Plan  
for the former  
Region of Hamilton-Wentworth  
As amended by OMB Order No. ...

Date: June 15, 2006	Revised by: G.P	Reference File No. OPA ___ (R)
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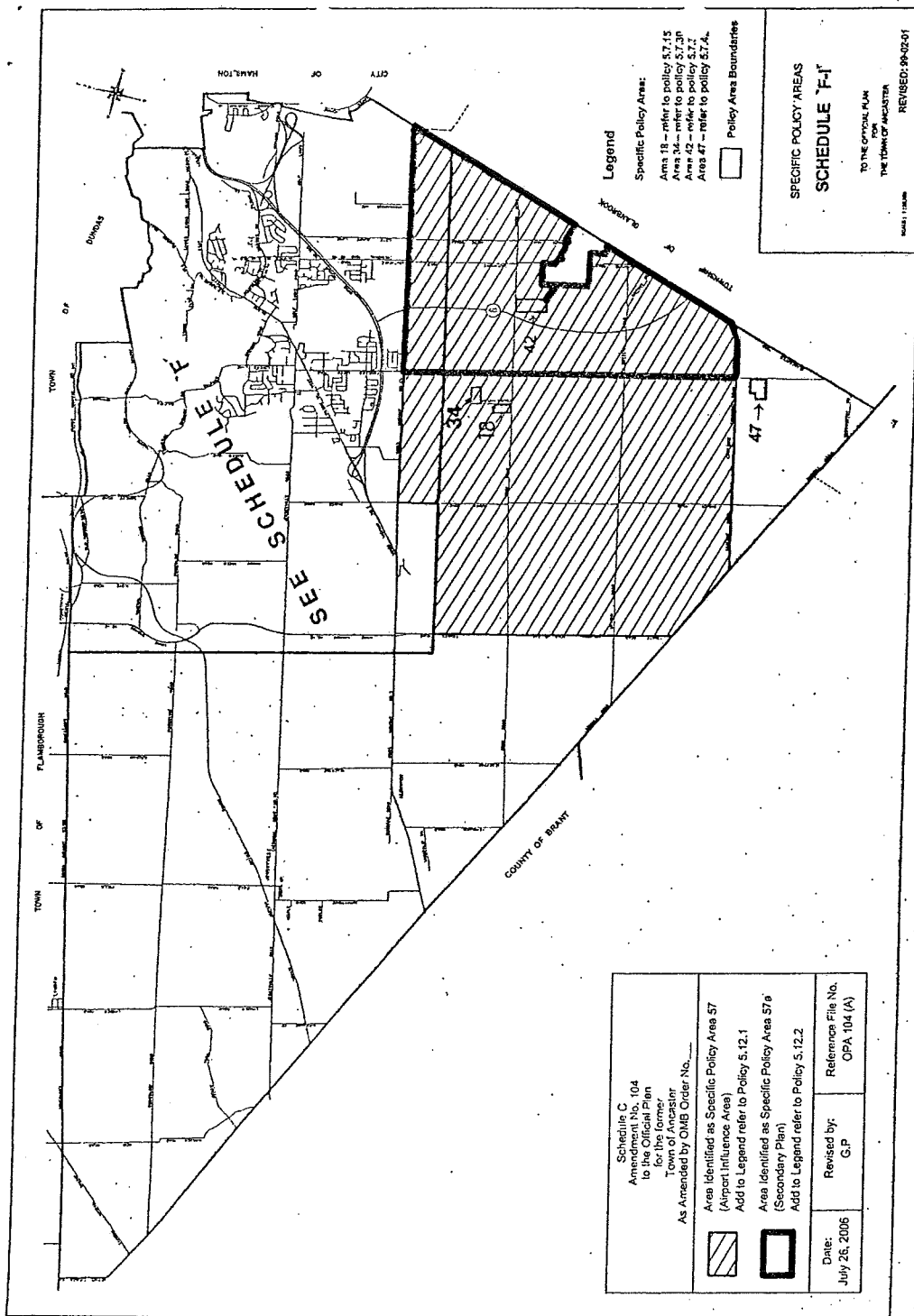
LEGEND



-  AIRPORT INFLUENCE AREA
-  URBAN AREA BOUNDARY

AIRPORT INFLUENCE AREA




Hamilton  
Planning & Economic  
Development Department  
May 2005



Schedule C Amended No. 104 to be added to the former Town of Ancaster As Amended by OMB Order No. ....	
	Area Identified as Specific Policy Area 57 (Airport Influence Area) Add to Legend refer to Policy 5.12.1
	Area Identified as Specific Policy Area 57e (Secondary Plan) Add to Legend refer to Policy 5.12.2
Date: July 26, 2006	Revised by: G.P. Reference File No. OPA 104 (A)

**Legend**

**Specific Policy Areas:**  
 Area 34 - refer to policy 5.7.15  
 Area 37 - refer to policy 5.7.20  
 Area 42 - refer to policy 5.7.2  
 Area 47 - refer to policy 5.7.4.

 Policy Area Boundaries

**SPECIFIC POLICY AREAS**  
**SCHEDULE "F-I"**  
 TO THE OFFICIAL PLAN  
 FOR  
 THE TOWN OF ANCASTER  
 REVISED: 06-02-01