

ISSUE DATE:

November 14, 2013



Ontario

Ontario Municipal Board

Commission des affaires municipales de l'Ontario

PL110766

By-law 11-191

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

Appellant: Calloway Real Estate Investment Trust Inc.
 Subject: Proposed Regional Official Plan Amendment No. 43
 Municipality: City of Hamilton
 OMB Case No.: PL110766
 OMB File No.: PL110766

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

Appellant: Calloway Real Estate Investment Trust Inc.
 Subject: By-law No. BL 11-191
 Municipality: City of Hamilton
 OMB Case No.: PL110766
 OMB File No.: PL110767

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

Appellant: Calloway Real Estate Investment Trust Inc.
 Subject: Proposed Official Plan Amendment No. 137
 Municipality: City of Hamilton
 OMB Case No.: PL110766
 OMB File No.: PL110779

IN THE MATTER OF subsection 51(39) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended

Appellant: Calloway Real Estate Investment Trust Inc.
 Subject: Proposed Plan of Subdivision
 Property Address/Description: 1125-1143 Wilson Street West
 Municipality: City of Hamilton
 Municipal File No.: 25T-201005
 OMB Case No.: PL110766
 OMB File No.: PL110808

OFFICE OF THE CITY CLERK	
NOV 20 2013	
REF'D TO	<u>J. Hickey-Goss</u>
REF'D TO	<u>S. Robichaud</u>
REF'D TO	<u>J.A. Priel</u>
	L. Barros M. Kovacic V. Robichaud
ACTION	_____

BEFORE:

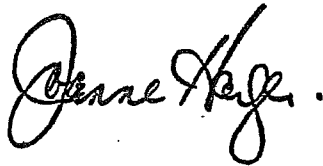
S. STEFANKO
VICE-CHAIR

) Wednesday, the 13th
)
) day of November, 2013

THIS MATTER having come on for public hearing, and the Board having issued its Decision dated September 12, 2012;

AND THE BOARD having received a request, on consent, from the parties to formally approve the implementing zoning by-law;

THE BOARD ORDERS that the Town of Ancaster Zoning By-law No. 87-57, is hereby amended in the manner set out in Zoning By-law Amendment 11-191, as amended, in the form attached as Attachment 1 to this Order.



SECRETARY

Attachment 1

Authority: Item 4, Planning Committee
Report: 11-012 (PED11102)
CM: June 29, 2011
O.M.B. Decision Sept. 12, 2012

Bill No. 191

CITY OF HAMILTON

BY-LAW NO. 11-191

As amended by the Ontario Municipal Board

**To Amend Zoning By-law No. 87-57 (Ancaster),
Respecting Lands Located at 1125-1143 Wilson Street West (Ancaster)**

WHEREAS the City of Hamilton Act, 1999, Statutes of Ontario, 1999 Chap. 14, Sch. C. did incorporate, as of January 1, 2001, the municipality "City of Hamilton";

AND WHEREAS the City of Hamilton is the successor to certain area municipalities, including the former area municipality known as the "The Corporation of the Town of Ancaster" and is the successor to the former Regional Municipality, namely, "The Regional Municipality of Hamilton-Wentworth";

AND WHEREAS the City of Hamilton Act, 1999 provides that the Zoning By-laws and Official Plans of the former area municipalities and the Official Plan of the former regional municipality continue in force in the City of Hamilton until subsequently amended or repealed by the Council of the City of Hamilton;

AND WHEREAS Zoning By-law No. 87-57 (Ancaster) was enacted on the 22nd day of June 1987, and approved by the Ontario Municipal Board on the 23rd day of January, 1989;

AND WHEREAS this By-law is in conformity with the Urban Hamilton Official Plan of the City of Hamilton in accordance with the provisions of the Planning Act.

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

1. That Map 5 to Schedule "A" of Zoning By-law No. 87-57 (Ancaster), as amended, is hereby further amended by changing from the Agricultural "A" Zone:
 - (a) to the Holding-Shopping Centre Commercial "H-C2-629" Zone, the lands comprised in Block 1;

- (b) to the Holding-Shopping Centre Commercial "H-C2-630" Zone, the lands comprised in Block 2;
- (c) to the Holding-Shopping Centre Commercial "H-C2-634" Zone, the lands comprised in Block 3;
- (d) to the Holding-Shopping Centre Commercial "H-C2-635" Zone, the lands comprised in Block 4;
- (e) to the Private Open Space "O1-633" Zone, the lands comprised in Block 5;

the extent and boundaries of which are shown on a plan hereto annexed as Schedule "A".

2. That Section 34: Exceptions of Zoning By-law No. 87-57 (Ancaster), as amended, is hereby further amended by adding the following Sub-sections:

H-C2-629 That notwithstanding the provisions in Sections 22.1 and 22.2 of the Shopping Centre Commercial "C2" Zone and the provisions of Sections 3.0: Definitions and 7.14: Parking and Loading of Zoning By-law No. 87-57 of the Town of Ancaster, the following special provisions shall apply to the lands zoned "H-C2-629", described as 1125-1143 Wilson Street West:

1.0 (A) Permitted Uses

Notwithstanding Section 22.1, only the following uses shall be permitted. These uses shall be permitted to a maximum aggregate total of 10,600 square metres of Gross Floor Area on the lands zoned under this Sub-section.

Animal Hospital
 Animal Hospital with outside runs
 Building Supply Sales
 Building Supply Sales in wholly enclosed buildings
 Convenience Retail Store in conjunction with and accessory to a Motor vehicle service station
 Caterers
 Conference or Convention Centre
 Craft and custom workshops
 Home Furnishing Retail Establishment
 Home Improvement Supply Establishment
 Hotels
 Motels, and may include one dwelling unit
 Motor vehicle service stations
 New and/or used motor vehicle sales establishments

Nurseries, garden centres and landscaping establishments
 Parking areas or structures
 Places of entertainment or recreation within wholly enclosed buildings, but shall not include a movie theatre
 Recreational areas or uses, miniature golf courses and golf driving ranges
 Recreational vehicle sales, service and rental
 Rental establishments but not including establishments for the rental or repair of motor vehicles and trailers
 Rental establishments or service shops
 Restaurants
 Restaurants, Fast Food

 Uses, buildings, and structures accessory to permitted uses, including open storage.

(B) Prohibited Uses

Notwithstanding the provisions of Subsection 22.1 – Permitted Uses of Section 22, the following uses shall be prohibited:

Department stores;
 Supermarket;
 Residential uses; except for one dwelling accessory to a Motel;
 and,
 Stores primarily selling apparel, housewares, electronics, sporting goods, or general merchandise.

2.0

Regulations

Notwithstanding Sections 22.2 and 7.14, the following provisions apply:

- | | | |
|-----|--------------------|--|
| (a) | Minimum Front Yard | 1.5 metres, except as provided in (e) below. |
| (b) | Minimum Side Yard | 1.5 metres, except where an interior side yard abuts a private vehicular turnaround, a 0.0 metre side yard shall be permitted. |
| (c) | Minimum Rear Yard | 10.0 metres. |
| (d) | Minimum Frontage | 30 metres. |

- (e) Minimum Landscaping Strip 3.0 metres adjacent each lot line which abuts a public street or lot containing a dwelling comprising one or two dwelling units (but shall permit the location of principal buildings, walkways/sidewalks, retaining walls, curbs, signs, and light standards within required landscaping strip).
- (f) Parking for all uses shall be provided at a rate of 3.5 spaces for each 93 square metres of Gross Floor Area or part thereof.

The 'H' Holding prefix shall be lifted from the "H-C2-629" Zone once the following conditions have been completed, to the satisfaction of the Senior Director of Growth Management and the Manager of Traffic Engineering:

- i) The approval of a Traffic Impact Study and until the owner/applicant can demonstrate how the approved works can be implemented, to the satisfaction of the Senior Director of Growth Management and the Manager of Traffic Engineering.
-
- ii) Until such time as the owner/applicant demonstrates how the restrictions concerning water supply, as identified in the Functional Servicing Report, are to be addressed, to the satisfaction of the Senior Director of Growth Management.

3.0

Definitions

Notwithstanding Section 3.0, the following provisions apply:

- (a) "Supermarket" means a store in which various kinds of food and non-food items are offered or kept for sale, including fresh meats and fresh produce, provided that the area devoted to food items is predominant, and the non-food items may include but are not limited to flowers, hardware, patent medicines, toiletries, household supplies, garden supplies, wine, photofinishing, magazines and videos.

H-C2-630 That notwithstanding the provisions in Sections 22.1 and 22.2 of the Shopping Centre Commercial "C2" Zone and the provisions of Sections 3.0: Definitions and 7.14: Parking and Loading of Zoning By-law No. 87-57 of the Town of Ancaster, the following special provisions shall apply to the lands zoned "H -C2-630", described as 1125-1143 Wilson Street West:

1.0 (A) Permitted Uses

Notwithstanding Section 22.1, only those uses in the H-C2-629 Zone shall be permitted on the lands zoned under this Sub-section. These uses shall be permitted to a maximum aggregate total of 14,870 square metres of Gross Floor Area on the lands zoned under this Sub-section.

(B) Prohibited Uses

Notwithstanding the provisions of Subsection 22.1 – Permitted Uses of Section 22, the following uses shall be prohibited:

Department stores;
 Supermarket;
 Residential uses; except for one dwelling accessory to a Motel;
 and,
 Stores primarily selling apparel, housewares, electronics, sporting goods, or general merchandise.

2.0 Regulations

Notwithstanding Sections 22.2 and 7.14, the following provisions apply:

- | | | |
|-----|---------------------------|--|
| (a) | Minimum Front Yard | 1.5 metres, except as provided in (e) below. |
| (b) | Minimum Side Yard | 1.5 metres, except where an interior side yard abuts a private vehicular turnaround, a 0.0 metre side yard shall be permitted. |
| (c) | Minimum Rear Yard | 10.0 metres. |
| (d) | Minimum Frontage | 30 metres. |
| (e) | Minimum Landscaping Strip | 3.0 metres adjacent each lot line which abuts a |

public street or lot containing a dwelling comprising one or two dwelling units (but shall permit the location of principal buildings, walkways/sidewalks, retaining walls, curbs, signs, and light standards within required landscaping strip).

- (f) Parking for all uses shall be provided at a rate of 3.5 spaces for each 93 square metres of Gross Floor Area or part thereof.

The 'H' Holding prefix shall be lifted from the "H-C2-630" Zone once the following conditions have been completed, to the satisfaction of the Senior Director of Growth Management and the Manager of Traffic Engineering:

- i) The approval of a Traffic Impact Study and until the owner/applicant can demonstrate how the approved works can be implemented, to the satisfaction of the Senior Director of Growth Management and the Manager of Traffic Engineering.
- ii) Until such time as the owner/applicant demonstrates how the restrictions concerning water supply, as identified in the Functional Servicing Report, are to be addressed, to the satisfaction of the Senior Director of Growth Management.

3.0

Definitions

Notwithstanding Section 3.0, the following provisions apply:

- (a) "Supermarket" means a store in which various kinds of food and non-food items are offered or kept for sale, including fresh meats and fresh produce, provided that the area devoted to food items is predominant, and the non-food items may include but are not limited to flowers, hardware, patent medicines, toiletries, household supplies, garden supplies, wine, photofinishing, magazines and videos.

H-C2-634

That notwithstanding the provisions in Sections 22.1 and 22.2 of the Shopping Centre Commercial "C2" Zone and the provisions of Sections 3.0: Definitions and 7.14: Parking and Loading of Zoning

By-law No. 87-57 of the Town of Ancaster, the following special provisions shall apply to the lands zoned "H-C2-634", described as 1125-1143 Wilson Street West:

1.0

(A) Permitted Uses

Notwithstanding Section 22.1, only those uses permitted in the H-C2-629 Zone shall be permitted. These uses shall be permitted to a maximum aggregate total of 3,160 square metres of Gross Floor Area on the lands zoned under this Sub-section.

(B) Prohibited Uses

Notwithstanding the provisions of Subsection 22.1 – Permitted Uses of Section 22, the following uses shall be prohibited:

Department stores;
 Supermarket;
 Residential uses; except for one dwelling accessory to a Motel;
 and,
 Stores primarily selling apparel, housewares, electronics, sporting goods, or general merchandise.

2.0

Regulations

Notwithstanding Sections 22.2 and 7.14, the following provisions apply:

- | | | |
|-----|---------------------------|--|
| (a) | Minimum Front Yard | 1.5 metres, except as provided in (e) below. |
| (b) | Minimum Side Yard | 1.5 metres, except where an interior side yard abuts a private vehicular turnaround, a 0.0 metre side yard shall be permitted. |
| (c) | Minimum Rear Yard | 10.0 metres. |
| (d) | Minimum Frontage | 30 metres. |
| (e) | Minimum Landscaping Strip | 3.0 metres adjacent each lot line which abuts a public street or lot containing a dwelling comprising one or two dwelling units (but shall |

permit the location of principal buildings, walkways/sidewalks, retaining walls, curbs, signs, and light standards within required landscaping strip).

- (f) In addition to the regulations detailed above, the following shall also apply:

Within 20 metres of the Wilson Street West lot line, the minimum façade shall be equal to 40% or more of the measurement of the Wilson Street Lot Line, and shall be subject to the following:

- 1) A maximum building set back of 6.0 metres;
- 2) A minimum of 50% of the area of the ground floor façade shall be composed of windows and doors; and,
- 3) No parking, driveways, drive through lanes, stacking lanes, or aisles shall be located between the building façade facing Wilson Street and Wilson Street.

- (g) Parking for all uses shall be provided at a rate of 3.5 spaces for each 93 square metres of Gross Floor Area or part thereof.

- (h) No direct access to the planned northerly extension of McClure Road will be permitted. A maximum of 1 private driveway will be permitted along Wilson Street.

The 'H' Holding prefix shall be lifted from the "H-C2-634" Zone once the following conditions have been completed, to the satisfaction of the Senior Director of Growth Management and the Manager of Traffic Engineering:

- i) The approval of a Traffic Impact Study and until the owner/applicant can demonstrate how the approved works can be implemented, to the satisfaction of the Senior Director of Growth Management and the Manager of Traffic Engineering.
- ii) Until such time as the owner/applicant demonstrates how the restrictions concerning water supply, as identified in the

Functional Servicing Report, are to be addressed, to the satisfaction of the Senior Director of Growth Management.

3.0 Definitions

Notwithstanding Section 3.0, the following provisions apply:

- (a) "Façade" shall mean a building or series of building walls facing a street.
- (b) "Supermarket" means a store in which various kinds of food and non-food items are offered or kept for sale, including fresh meats and fresh produce, provided that the area devoted to food items is predominant, and the non-food items may include but are not limited to flowers, hardware, patent medicines, toiletries, household supplies, garden supplies, wine, photofinishing, magazines and videos.

H-C2-635 That notwithstanding the provisions in Sections 22.1 and 22.2 of the Shopping Centre Commercial "C2" Zone and the provisions of Sections 3.0: Definitions and 7.14: Parking and Loading of Zoning By-law No. 87-57 of the Town of Ancaster, the following special provisions shall apply to the lands zoned "H -C2-635", described as 1125-1143 Wilson Street West:

1.0 (A) Permitted Uses

Notwithstanding Section 22.1, only those uses permitted in the H-C2-629 Zone shall be permitted to a maximum aggregate total of 2,815 square metres of Gross Floor Area on the lands zoned under this Sub-section.

(B) Prohibited Uses

Notwithstanding the provisions of Subsection 22.1 – Permitted Uses of Section 22, the following uses shall be prohibited:

Department stores;
 Supermarket;
 Residential uses; except for one dwelling accessory to a Motel;
 and,
 Stores primarily selling apparel, housewares, electronics, sporting goods, or general merchandise.

2.0 Regulations

Notwithstanding Sections 22.2 and 7.14, the following provisions apply:

- | | | |
|-----|---------------------------|---|
| (a) | Minimum Front Yard | 1.5 metres, except as provided in (e) below. |
| (b) | Minimum Side Yard | 1.5 metres, except where an interior side yard abuts a private vehicular turnaround, a 0.0 metre side yard shall be permitted. |
| (c) | Minimum Rear Yard | 10.0 metres. |
| (d) | Minimum Frontage | 30 metres. |
| (e) | Minimum Landscaping Strip | 3.0 metres adjacent each lot line which abuts a public street or lot containing a dwelling comprising one or two dwelling units (but shall permit the location of principal buildings, walkways/sidewalks, retaining walls, curbs, signs, and light standards within required landscaping strip). |

-
- (f) In addition to the regulations detailed above, the following shall also apply:

Within 20 metres of the Wilson Street West lot line, the minimum façade shall be equal to 40% or more of the measurement of the Wilson Street Lot Line, and shall be subject to the following:

- 1) A maximum building set back of 6.0 metres, unless a greater setback is required in order to accommodate servicing easement;
- 2) A minimum of 50% of the area of the ground floor façade shall be composed of windows and doors; and,
- 3) No parking, driveways, drive through lanes, stacking lanes, or aisles shall be located between the building façade facing Wilson Street and Wilson Street.

- (g) Parking for all uses shall be provided at a rate of 3.5 spaces for each 93 square metres of Gross Floor Area or part thereof.
- (h) No direct access to Wilson Street will be permitted.

The 'H' Holding prefix shall be lifted from the "H-C2-635" Zone once the following conditions have been completed, to the satisfaction of the Senior Director of Growth Management and the Manager of Traffic Engineering:

- i) The approval of a Traffic Impact Study and until the owner/applicant can demonstrate how the approved works can be implemented, to the satisfaction of the Senior Director of Growth Management and the Manager of Traffic Engineering.
- ii) Until such time as the owner/applicant demonstrates how the restrictions concerning water supply, as identified in the Functional Servicing Report, are to be addressed, to the satisfaction of the Senior Director of Growth Management.

3.0

Definitions

Notwithstanding Section 3.0, the following provisions apply:

- (a) "Supermarket" means a store in which various kinds of food and non-food items are offered or kept for sale, including fresh meats and fresh produce, provided that the area devoted to food items is predominant, and the non-food items may include but are not limited to flowers, hardware, patent medicines, toiletries, household supplies, garden supplies, wine, photofinishing, magazines and videos.

O1-633

That notwithstanding the provisions in Sections 32.1 and 32.2 of the Private Open Space "O1" Zone and the provisions of Section 3: "Definitions", the following special provisions shall apply to the lands zoned "O1-633", described as 1125-1143 Wilson Street West:

1.0

Permitted Uses

Notwithstanding Sections 32.1, only the following uses shall be permitted:

Conservation
Flood and Erosion Control Facilities

2.0 Regulations

Notwithstanding Section 32.2, the following provisions apply:

- a) Minimum Lot Frontage 10 metres.

3.0 Definitions

Notwithstanding Section 3.0, the following provisions apply:

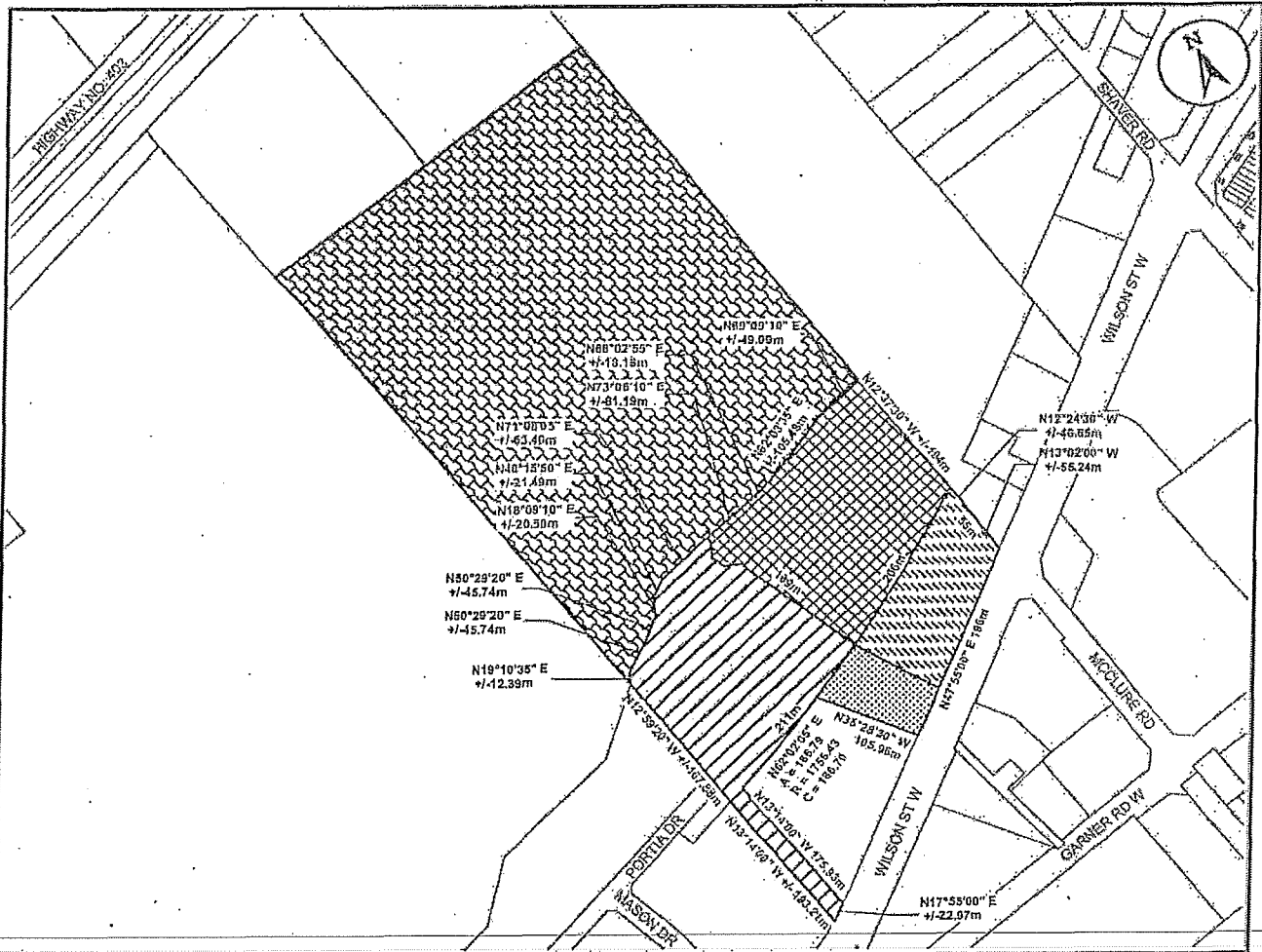
- a) The definition of a Lot shall include lands that front onto a private driveway.
 - (b) "Conservation" shall mean the use of land, buildings, or structures for the purpose of the protection and management of the natural environment.
3. That the amending by-law be added to Map 5 of Schedule "A" of Ancaster Zoning By-law No. 87-57.
 4. That the Clerk is hereby authorized and directed to proceed with the giving of notice of the passing of this by-law, in accordance with the Planning Act.

PASSED and ENACTED this [] day of [], 2011.

R. Bratina
Mayor

Rose Caterini
Clerk

ZAC-10-035 / 25T201005 / ROPA-2010002 / OPA-2010-012



This is Schedule "A" to By-Law No. 11-

Passed the day of, 2011

Clerk

Mayor






Schedule "A"

Map Forming Part of
By-Law No. 11-191

to Amend By-law No. 87-57

Subject Property

1125 - 1143 Wilson Street West, Ancaster

-  Block 1: Change in Zoning from the Agricultural "A" Zone to the Holding-Shopping Centre Commercial "H-C2-629" Zone, Modified
-  Block 2: Change in Zoning from the Agricultural "A" Zone to the Holding-Shopping Centre Commercial "H-C2-630" Zone, Modified
-  Block 3: Change in Zoning from the Agricultural "A" Zone to the Holding-Shopping Centre Commercial "H-C2-634" Zone, Modified
-  Block 4: Change in Zoning from the Agricultural "A" Zone to the Holding-Shopping Centre Commercial "H-C2-635" Zone, Modified
-  Block 5: Change in Zoning from the Agricultural "A" Zone to the Private Open Space "O1-633" Zone, Modified

Scale:
N.T.S.

File Name/Number:
ZAC-19-035/OPA-19-012/
ROPA-2010-002/25T-201005

Date:
June 10, 2011

Planner/Technician:
EJ/NB



Hamilton

PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT