

CITY OF HAMILTON

***Planning and Economic Development Department
Strategic Services and Special Projects Division***

TO: Chair and Members Planning Committee	WARD(S) AFFECTED: WARD 13
COMMITTEE DATE: May 17, 2011	
SUBJECT/REPORT NO: Addition of Lands to the Niagara Escarpment Plan - Cootes Paradise Link - Additional City Comments (PED10228a) (Ward 13)	
SUBMITTED BY: Tim McCabe General Manager Planning & Economic Development Department	PREPARED BY: Joanne Hickey-Evans 905-546-2424 Ext 1282
SIGNATURE:	

RECOMMENDATION:

That City Council withdraws their objections to Niagara Escarpment Plan Amendment No. 176-Cootes Paradise provided the following conditions are met:

- (a) Niagara Escarpment Plan Amendment No. 176 is modified:
 1. to designate Olympic park and Hydro building as Escarpment Rural instead of Escarpment Protection, as shown on the attached map marked as "Appendix "A";
 2. to remove the Public lands designation overlay for Olympic Park; and,
 3. to add the following notwithstanding clause to the permitted use section of the Escarpment Rural designation for Olympic Park:

“Notwithstanding the permitted uses of this section (Escarpment Rural), the lands within Olympic Park owned by the City of Hamilton, may be used for recreational activities such as sports fields, a community centre, an arena, or similar indoor sports facility and any expansions of these facilities, and facilities accessory or incidental to these uses and, including servicing, parking lots and related signage in Part of Lot 20, Concession 1, City of Hamilton (in the former Town of Dundas).”

- (b) The Olympic Park lands be excluded from NEC’s Development Control regulation.
- (c) That City staff review the Escarpment Rural designation at the time of the 2015 the Niagara Escarpment Plan review to determine their appropriateness for inclusion of the Olympic Park and Hydro One sites within the Urban designation of the Niagara Escarpment Plan.

EXECUTIVE SUMMARY

1.0 City Comments on the Niagara Escarpment Plan Amendment

The Niagara Escarpment Commission, through Amendment No. 176-Cootes Paradise- is proposing to designate the lands, located north of Cootes Drive, west of Olympic Drive, south of the railway line and east of Cootes Paradise, as “Escarpment Protection” and “Escarpment Natural”.

Staff supported the designations and the inclusion of the lands within the Niagara Escarpment Parks and Open Space System (NEPOSS) for a majority of the lands with the exception of two sites:

- i) the City owned Park (Olympic Park); and,
- ii) the lands occupied by the Hydro buildings and associated storage facilities.

At its meeting of October 12, 2010, Council supported staff’s recommendation to include the lands within the NEPA and further directed staff to work with the province to remove the lands from the NEPA.

2.0 Suggested Changes to Council’s Recommendations on Amendment No. 176

Staff met with NEC staff to review the City’s concerns about including the Olympic Park site and the Hydro One building site within the NEPA No. 176. NEC staff suggested some immediate changes, as well as some future actions that could alleviate many of the concerns expressed by the City. Appendix “B” identifies the changes and they are summarized as follows:

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- a. Niagara Escarpment Plan Amendment No. 176 is modified:
 - 1. to designate Olympic park and Hydro building as Escarpment Rural instead of Escarpment Protection; and,
 - 2. to remove the Public lands designation overlay for Olympic Park.
 - 3. to add a notwithstanding clause to the permit the recreational uses in the Escarpment Rural designation.
- b. The Olympic Park lands not be included in the development control regulation and the City's zoning would apply.
- c. That City staff review the Escarpment Rural designation at the time of the 2015 review of the Greenbelt Plan and the Niagara Escarpment Plan to determine their appropriateness for inclusion in the urban area.

Alternatives for Consideration – See Page 8

FINANCIAL / STAFFING / LEGAL IMPLICATIONS (for Recommendation(s) only)

Financial: None

Staffing: None

Legal: None

HISTORICAL BACKGROUND (Chronology of events)

1.0 Staff Report – Niagara Escarpment Plan Amendment No. 176

The NEC, through Amendment No. 176-Cootes Paradise proposed to designate the lands, located north of Cootes Drive, west of Olympic Drive, south of the railway line and east of Cootes Paradise, as “Escarpment Protection” and “Escarpment Natural”. These lands, as well other City lands (i.e. Pleasantview area) were added to the Niagara Escarpment Plan Planning area through an Order of Cabinet in June 2010. The lands were previously under the Parkway Belt West Plan (PWBW).

Staff supported the designations and the inclusion of the lands within the Niagara Escarpment Parks and Open Space System (NEPOSS) for a majority of the lands with the exception of two sites:

- i) the City owned Park (Olympic Park); and,

- ii) the lands occupied by the Hydro buildings and associated storage facilities.

Olympic Park mostly serves City residents who live within the urban area of the City. The hydro buildings and associated facilities are more commonly found in an urban area and have characteristics of an employment area. Therefore, based on the existing land uses and to allow for redevelopment of the sites in the future, it would be appropriate to remove these sites from the Niagara Escarpment Plan.

2.0 Council Decision

Council, at its meeting of October 12, 2010, supported the staff recommendations as follows:

- (a) That the City of Hamilton support the proposed Niagara Escarpment Plan designations of “Escarpment Protection” and “Escarpment Natural” and the inclusion of the lands within the Niagara Escarpment Parks and Open Space System (NEPOSS), for a portion of the lands, located north of Cootes Drive, west of Olympic Drive, south the railway line and east of Cootes Paradise, identified in Amendment No.176 - Cootes Paradise Link, shown on the attached Appendices “A” and “B”, provided the following condition is met:
 - i) the City owned Park (Olympic Park) and the lands occupied by the Hydro buildings and associated storage facilities are removed from the proposed Amendment No. 176;
- (b) That City staff be directed to work in conjunction with the Province to undertake the necessary steps at the Provincial level to have these lands removed from the Niagara Escarpment Plan Planning Area.

3.0 Recommended changes to Council’s Recommendations on Amendment No. 176

Staff met with NEC staff to review the City’s concerns about including the Olympic Park site and the Hydro One building site within the Niagara Escarpment Plan Amendment No. 176.

Niagara Escarpment Commission staff suggested some immediate changes as well as some future actions that could alleviate many of the concerns expressed in the staff report. Appendix “B” to Report PED10228 identifies the changes recommended and they can be summarized as follows:

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1. The Escarpment Protection Area proposed on the Olympic Park property and the Hydro transformer works yard will be changed to Escarpment Rural Area. The exception would be the wetlands at the south end of the Hydro lands which would remain Escarpment Natural Area.
2. The Public Lands (in Parks and Open Space System) designation overlay would be removed from Olympic Park and the Hydro lands.
3. Notwithstanding clause
“Notwithstanding the permitted uses of this section, the lands within Olympic Park operated by the City of Hamilton, may be used for recreational activities such as sports fields, a community centre, an arena or similar indoor sports facility, and facilities accessory or incidental to these uses including servicing, parking lots and related signage in Part of Lot 20, Concession 1, City of Hamilton (in the former Town of Dundas).”
4. The lands would be included in the City’s Zoning By-law.
5. At the time of the 2015 NEP review, the City could bring forward the request to have these lands designated “urban” in the NEP.

POLICY IMPLICATIONS

NEC Development Control Permit vs Zoning

A development permit from the NEC is required for any lands that are designated Escarpment Rural in the Niagara Escarpment Plan. However, Niagara Escarpment Commission has recommended that the regulation identifying development control areas exclude Olympic Park.

It is preferable for the City to retain zoning for the lands so then no development permit would be required from the NEC.

RELEVANT CONSULTATION

- Recreation Division, Community Services Department has advised they support the recommended changes put forward by the NEC staff.

ANALYSIS / RATIONALE FOR RECOMMENDATION

(include Performance Measurement/Benchmarking Data, if applicable)

City staff would prefer these lands be removed from the NEP altogether. However, another option was to include the lands within the NEP and designate them "Urban". NEC staff advised they are not permitted to designate the lands urban at this time because of changes made to the Greenbelt Act; however, during the 2015 NEP Review, the City can request the NEP be amended to designate the lands Urban.

1.0 Proposed Niagara Escarpment Plan Designations and Special Provisions

Until this change can occur, an interim step would be to designate both the park and Hydro One site as Escarpment Rural and include a site specific policy which would allow the use of the lands for a variety of sports facilities.

Staff supports the Escarpment Rural designation in the interim; however, a few minor wording changes in the Notwithstanding clause are recommended to better clarify the existing and future uses of the Olympic Park:

1. the word *operated* should be changed to *owned* since the City will continue to own the lands; and,
2. add a reference to future expansions for the facilities and parking areas.

A similar notwithstanding clause was not included for the Hydro One site and any redevelopment would have to be approved by the NEC.

2.0 Development Control vs. Zoning

Generally, lands designated as Escarpment Rural are within the Development Control Area. Therefore, any development/redevelopment of lands requires a development permit from the NEC. However, NEC Staff has recommended these lands be excluded from Development Control so the City's zoning would apply.

It is City staff's preference for the lands to be zoned.

3.0 2015 Niagara Escarpment Plan Review

In 2015, NEP will undergo a review. It is only through this process that municipalities and citizens can request designation changes to the NEP. The long term desire for the City is to have Olympic Park and the Hydro One site designated Urban. The Hydro office building and storage yard are uses more characteristic of employment uses which are more commonly located in the urban area and Olympic Park serves the urban area.

4.0 Conclusions

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Based on the proposed changes to NEPA No, 176 suggested by the NEC staff, it is recommended that City Council withdraws their objections to NEPA No. 176-Cootes Paradise provided the following conditions are met:

- (a) Niagara Escarpment Plan Amendment No. 176 is modified:
1. to designate Olympic park and Hydro building as Escarpment Rural instead of Escarpment Protection;
 2. to remove the Public lands designation overlay for Olympic Park; and,
 3. to add the following notwithstanding clause to the permitted use section of the Escarpment Rural designation for Olympic Park (underlined words are the changes proposed by the City staff):

“Notwithstanding the permitted uses of this section (Escarpment Rural), the lands within Olympic Park owned by the City of Hamilton, may be used for recreational activities such as sports fields, a community centre, an arena, or similar indoor sports facility and any expansions of these facilities, and facilities accessory or incidental to these uses and, including servicing, parking lots and related signage in Part of Lot 20, Concession 1, City of Hamilton (in the former Town of Dundas).”
- (b) The Olympic Park lands be excluded from NEC’s Development Control regulation.
- (c) That City staff review the Escarpment Rural designation at the time of the 2015 the Niagara Escarpment Plan review to determine their appropriateness for inclusion of the Olympic Park and Hydro One sites within the Urban designation of the Niagara Escarpment Plan.

ALTERNATIVES FOR CONSIDERATION:

(include Financial, Staffing, Legal and Policy Implications and pros and cons for each alternative)

Option 1- City Council maintain its position to have the two sites removed from the Niagara Escarpment Plan Planning Area

This Option would retain City Council’s existing recommendation to request these two sites be removed from the NEPA. Staff would liaise with the province to determine what procedures are required to request removal of these lands.

CORPORATE STRATEGIC PLAN (Linkage to Desired End Results)

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Focus Areas: 1. Skilled, Innovative and Respectful Organization, 2. Financial Sustainability, 3. Intergovernmental Relationships, 4. Growing Our Economy, 5. Social Development, 6. Environmental Stewardship, 7. Healthy Community

Financial Sustainability

- ◆ Effective and sustainable Growth Management

Environmental Stewardship

- ◆ Natural resources are protected and enhanced

Healthy Community

- ◆ Plan and manage the built environment

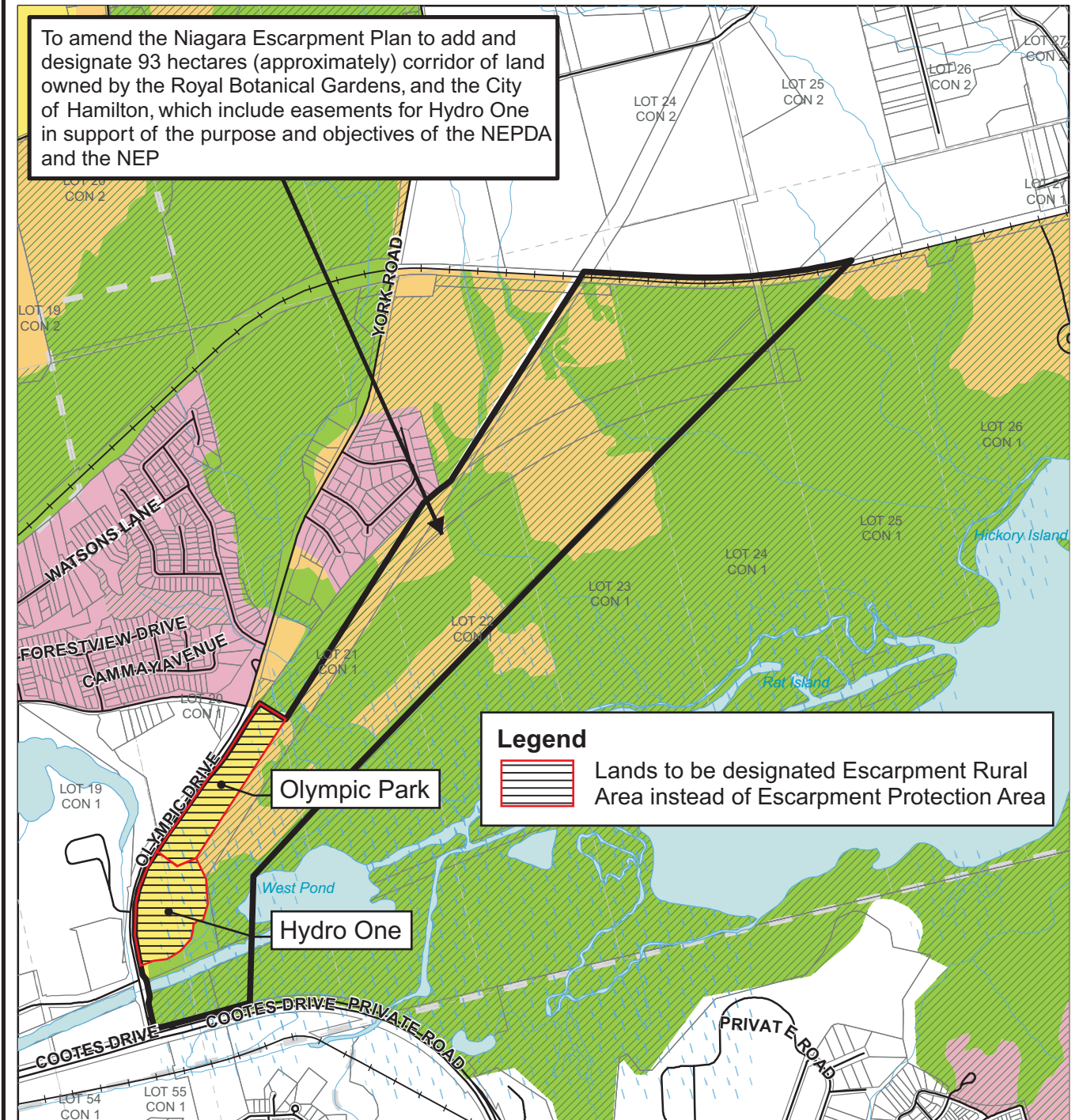
APPENDICES / SCHEDULES

Appendix "A" Proposed Niagara Escarpment Plan Designation Changes

Appendix "B" Letter from the Niagara Escarpment Commission staff

Joanne Hickey-Evans/ra
Attachs (2)

To amend the Niagara Escarpment Plan to add and designate 93 hectares (approximately) corridor of land owned by the Royal Botanical Gardens, and the City of Hamilton, which include easements for Hydro One in support of the purpose and objectives of the NEPDA and the NEP



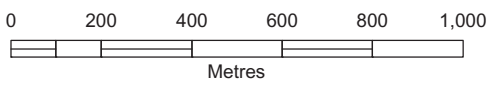
Legend

	Lands to be designated Escarpment Rural Area instead of Escarpment Protection Area
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**DRAFT SCHEDULE A
MAP SHOWING AMENDMENT PW 176 08**



- | | | | |
|--|----------------------------|--|--|
| | Amendment Boundary | | Escarpment Rural Area |
| | Escarpment Natural Area | | Urban Area |
| | Escarpment Protection Area | | Public Land (in Parks and Open Space System) |



The Niagara Escarpment Plan Designations shown on this map are approximate and subject to confirmation through site inspection and the application of the "Interpretation of Boundaries" section of the Niagara Escarpment Plan.
This map is not a legal document and may contain errors or omissions.
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February 28, 2011

SOURCE:
Base derived from the Ontario Digital Topographic Database, Scale 1:10000
Map Compiled and Produced by the Geographic Information Systems (GIS) Department of the Niagara Escarpment Commission, Ministry of Natural Resources

Niagara Escarpment Commission

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Ontario



Ontario's Niagara Escarpment
A World Biosphere Reserve

RECEIVED MAR 22 2011

March 15, 2011

Mr. Bill Janssen
Manager, Strategic and Community Planning
City of Hamilton
71 Main Street West, 4th Floor
Hamilton ON L8P 4Y5

Dear Mr. Janssen:

**RE: Proposed Niagara Escarpment Plan Amendment PW 176 08
(Cootes Paradise Link)**

The Niagara Escarpment Commission (NEC) staff appreciated the opportunity to meet with Joanne Hickey-Evans and yourself on March 4, 2011 to discuss the City's comments on the above noted Amendment. We believe the discussions were fruitful and will lead to a settlement that results in not requiring that the matter be referred to a hearing by the Commission.

As set out in our discussion, we believe that the following would form the basis for the resolution of the City's concerns:

1. The Escarpment Protection Area proposed on the Olympic Park property and the Hydro transformer works yard will be changed to Escarpment Rural Area. The exception would be the wetlands at the south end of the Hydro lands which would remain Escarpment Natural Area.
2. The Public Lands (in Parks and Open Space System) designation overlay would be removed from Olympic Park and the Hydro lands.

To address the City concern about recognition of uses in Olympic Park and the future possibilities of redevelopment or expansion, the NEC would provide a specific notwithstanding provision in the Permitted Uses of the Escarpment Rural Area to read as follows:

- Notwithstanding the permitted uses of this section, the lands within Olympic Park operated by the City of Hamilton, may be used for recreational activities such as sports fields, a community centre, an arena or similar indoor sports facility, and facilities accessory or incidental to

these uses including servicing, parking lots and related signage in Part of Lot 20, Concession 1, City of Hamilton (in the former Town of Dundas).

Additionally, once the Amendment was approved, the NEC would not recommend to the Minister of Natural Resources that the Olympic Park lands then be included in the Niagara Escarpment Development Control Area. The lands would remain outside the Regulation and be subject to the current municipal zoning. Therefore, NE Permits would not be required on these lands.

An urban designation for the Olympic Park and the Hydro lands can be dealt with at the 2015 Review of the Niagara Escarpment Plan and the Greenbelt Plan when changes involving new urban designations or uses may be considered, if the City brings the request forward for inclusion of this matter in the 2015 Review.

The City is the only objector, and the NEC is hopeful that with these changes to the proposed Amendment this will result in an Amendment that can be supported by the City through this settlement and thus would not require referral to a hearing.

A copy of the revised Amendment Map Schedule is enclosed.

I await the City's response.

If you have questions please contact me at 905-877-4026 or by email at ken.whitbread@ontario.ca

Yours truly,



Ken Whitbread
Manager

c. Joanne Hickey-Evans (Hamilton)
Lisa Grbinicek (NEC)