

CITY OF HAMILTON

PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT
Planning Division

TO: Chair and Members Planning Committee	WARD(S) AFFECTED: WARD 13
COMMITTEE DATE: April 30, 2013	
SUBJECT/REPORT NO: Proposed Niagara Escarpment Plan Amendment No. 179 (February 21, 2013) - Pleasantview Lands (PED11052(a)) (Ward 13)	
SUBMITTED BY: Tim McCabe General Manager Planning and Economic Development Department	PREPARED BY: Joanne Hickey-Evans (905) 546-2424 Ext. 1282
SIGNATURE:	

RECOMMENDATION

- (a) That the City of Hamilton supports the policies and mapping contained in the second draft of proposed Niagara Escarpment Plan Amendment (NEPA) 179, dated February 21, 2013, attached as Appendix "A" to Report PED11052(a), for the Pleasantview lands, generally bounded by Valley Road, Patterson Road, Highway 6, and the Canadian National Railway (CNR Line)/Royal Botanical Gardens and Highway 403, with the exception of the following matters:
- (i) That the lands (Areas 1 to 4 illustrated on Schedule "A" to Appendix "A" of Report PED11052(a)) fronting on York Road, extending up Valley Road and adjacent to the Escarpment, be designated as one consistent designation, which may be Escarpment Protection Area or Escarpment Rural Area;

- (b) That the City of Hamilton objects to the wording contained in Clause 4.c) in the second draft of proposed Niagara Escarpment Plan Amendment (NEPA) 179, dated February 21, 2013, attached as Appendix "A" to Report PED11052(a), for the following reasons and requests:
- (i) That Clause 4.c) in NEPA 179 be amended by deleting the words "an existing" and "of record" so the Policy reads as follows: "Notwithstanding the provision set out in a) ii) above, a single detached dwelling may be permitted on a lot with a minimum size of 10 hectares (25 acres) in accordance with the Development Criteria of the Plan" so the clause reflects the 1995 Ontario Municipal Board decision and the current Dundas Official Plan (OP);
- (c) That the City of Hamilton objects to the site-specific uses contained in the second draft of proposed Niagara Escarpment Plan Amendment (NEPA) 179, dated February 21, 2013, attached as Appendix "A" to Report PED11052(a), for the property located at Nos. 154 and 574 Northcliffe Road (Sisters of St. Joseph), for the following reasons and requests:
- (i) That the following uses proposed for the property located at Nos. 154 and 574 Northcliffe Road be deleted, as they do not conform to the City's planning documents and, therefore, are inappropriate for inclusion within the NEPA:
- (1) Place of Worship;
 - (2) Children's Day Nursery;
 - (3) Educational Establishment;
 - (4) School and School Lodging (more than 38 students);
 - (5) Retirement Home, including a Long Term Seniors Care Facility;
 - (6) Hospital, Health Care Centre, including Medical Clinic and Offices;
 - (7) Residential Care Facility, including a Group Home;
- (d) That the City Clerk be directed to forward a copy of staff Report PED11052(a) to the Niagara Escarpment Commission.

EXECUTIVE SUMMARY

In February 2013, Niagara Escarpment Commission staff requested comments from the City on the second draft of NEPA 179, dated February 21, 2013, for the Pleasantview lands. Staff has reviewed the draft amendment, and has concerns respecting:

- (a) The consistency of the designations in the area of York Road and east of Valley Road; and,

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- (b) Clause 4.c of the Amendment, which requires minor rewording to implement the provisions of the Town of Dundas Official Plan (OP).

However, staff objects to the uses that are proposed for the buildings located at Nos. 154 and 574 Northcliffe Road (Sisters of St. Joseph) since they do not conform to the Official Plans, the Town of Dundas Zoning By-law, and the May 2011 Council decision respecting the permitted use for these lands.

Alternatives for Consideration - See Page 11.

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

Financial: None.

Staffing: None.

Legal: None.

HISTORICAL BACKGROUND (Chronology of events)

1. Proposed Niagara Escarpment Plan Amendment No. 179 - First Draft April 2011:

The Niagara Escarpment Commission, through Amendment No. 179 for the Pleasantview lands, is proposing to designate the lands, generally bounded by Valley Road, Patterson Road, Highway 6, and the Canadian National Railway (CNR Line)/Royal Botanical Gardens and Highway 403, as “Escarpment Natural”, “Escarpment Protection”, and “Escarpment Rural”, as shown on Schedule “A” to Appendix “A”. These lands, as well other City lands (i.e. Cootes Paradise Link), were added to the Niagara Escarpment Plan Planning area through an Order of Cabinet in June 2010. In addition, the lands are also within both the Parkway Belt West Plan (PWBW) and the Greenbelt Plan (GBP).

Staff reviewed the proposed amendment and evaluated it considering Provincial Policy, Rural Hamilton and the Town of Dundas Official Plan Policies/Mapping and the Zoning By-law Regulations. Planning Committee (April 5, 2011) and City Council (April 13, 2011), at their meetings, approved the recommendations contained in staff Report PED11052 (see Appendix “B”). Several changes to the amendment were requested:

- The re-designation of three properties/areas from Escarpment Natural Area to Escarpment Protection Area, and two properties/areas from Escarpment Protection Area to Escarpment Rural Area; and,

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- The inclusion of special provisions for existing lots of record and the property located at No. 1810 Highway 6 (325 Guelph Road).

At the time, staff indicated that a separate Report, concerning the Committee of Adjustment application for the lands located at Nos. 154 and 574 Northcliffe Road, would be forthcoming.

2. Nos. 154 and 574 Northcliffe Road - Committee of Adjustment Application:

In February 2011, an application was made to the Committee of Adjustment to allow a dormitory and a commercial school (Columbia International College) within a portion of one of the existing buildings (Sisters of St. Josephs Convent) located on the property. The remaining part of the Building was used by the Sisters of St. Joseph. A second variance was sought to allow the existing driveway to access both the Convent, as well as a smaller building occupied by the Sisters of the Precious Blood Convent.

Staff recommended denial of the application for a number of reasons:

- The proposal was not consistent with the Parkway Belt West Plan and Provincial Policy Statement;
- It did not conform to the Region of Hamilton-Wentworth and Town of Dundas Official Plans;
- The uses were not permitted in the Town of Dundas Zoning By-law Zones PPS/S-56 and U/S-57; and,
- The proposed variances would permit the establishment of a commercial school and dormitories without any restrictions to the number of classes or number of dormitory residents, and no information was provided to justify that the proposed use would not cause compatibility, servicing, traffic, or environmental problems.

The Committee of Adjustment, at its meeting of February 10, 2011, approved the minor variance application.

3. Appeal of the City of Hamilton Committee of Adjustment Decision to Approve Minor Variance Application DN/A-11:08, Sisters of St. Joseph (Owner), 154 and 574 Northcliffe Avenue (Dundas):

Staff prepared Report PED11080, which recommended that Council proceed with the appeal to the Ontario Municipal Board (OMB), against the decision of the Committee of Adjustment (C of A), to approve Application DN/A-11:08.

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Planning Committee (May 17, 2011) and Council (May 25, 2011), at their meetings, approved the following recommendations:

“That Council directs appropriate Legal Services and Planning staff to attend any future Ontario Municipal Board (OMB) Hearing with respect to the Committee of Adjustment’s decision to approve Application DN-A-11:08 on the basis of the following agreed to settlement:

- (a) To permit a dormitory and accessory uses only for 38 students in conjunction with a commercial school (Columbia International School) within the existing Building “B” (as shown on the attached plan), which is occupied by a religious organization (Sisters of St. Joseph Convent);
- (b) To permit a maximum of 3 classrooms until December 31, 2011, in conjunction with a commercial school (Columbia International College) within the existing Building “B” (as shown on the attached plan), which is occupied by a religious organization (Sisters of St. Joseph Convent);
- (c) That the City take no position on the third party appeal of the matter; and,
- (d) That Report PED11080 be received.”

The matter was settled prior to the OMB hearing. In August 2012, a Building Permit was issued for a dormitory on the third floor of the convent for 38 students (2 students to a room) and a computer room.

4. Proposed NEPA 179 (Draft February 21, 2013):

The NEC staff forwards a copy of a second draft for review, prior to submission to the Commission. Staff has identified concerns about the Amendment that were not previously addressed in the first Report (PED11052). Since NEPA 179 is in the final stages of approval, the City has to object to portions of the Amendment they have concerns with.

POLICY IMPLICATIONS/LEGISLATED REQUIREMENTS

- None.

RELEVANT CONSULTATION

Staff talked with the NEC staff in February to clarify some mapping and policy matters in the second draft. However, at that time, a full review of the implications of the Amendment was not discussed.

In April, staff was advised by NEC staff that if the City was opposed to certain elements of NEPA 179, the City would have to object to those elements.

ANALYSIS / RATIONALE FOR RECOMMENDATION

(include Performance Measurement/Benchmarking Data, if applicable)

In February 2013, Niagara Escarpment Commission staff forwarded a copy of a second draft of the NEPA 179, attached as Appendix "A", to the City for review prior to submitting it to the Niagara Escarpment Commission for approval. Staff is appreciative of the opportunity to review the second draft of the NEPA, and has the following comments:

1. NEP Designations:

The second draft of the proposed Amendment incorporates two of the five designation changes (Areas 1 and 2 on the map attached in Appendix "B" of this Report) requested by the City in April 2011. City staff spoke with NEC staff to understand the rationale for not re-designating the remaining three properties/areas. Staff is satisfied with the NEC explanation and the designations for Areas 3 and 4 included in the first draft are the appropriate designation for the lands. However, staff still has a concern about the designation proposed in Area 5 along the south side of York Road.

Additional designation changes from the first draft have been made in the area of York (north side) and Valley Roads. In the first draft of the Amendment, these lands were designated "Escarpment Protection Area", whereas in the second draft, a portion of these lands have been designated "Escarpment Rural Area". As a result of this change, a small area of land consisting of 7 residential lots has remained designated "Escarpment Protection Area". This results in an inconsistent use of these designations for lands that buffer the Escarpment Natural Area.

Further, for the lands south of York Road and Valley Road, the City requested these lands be designated "Escarpment Rural Area" (Area 4 on the map attached to Appendix "A"). The explanation from NEC staff was these lands should remain "Escarpment Protection" because they buffer the adjacent Natural Area.

Therefore, the City is requesting that all the lands (Areas 1 to 4 illustrated on Schedule "A" to Appendix "A") fronting on York Road, extending up Valley Road, and the lands adjacent to the Escarpment, be designated either "Escarpment Protection Area" or "Escarpment Rural Area", not a hybrid of designations.

Staff recommends that all the lands (Areas 1 to 4 illustrated on map attached in Appendix "A") fronting on York Road, extending up Valley Road, and the lands adjacent to the Escarpment, be designated as one consistent designation, which may be "Escarpment Protection Area" or "Escarpment Rural Area", not a hybrid of designations.

2. Special Provisions:

The City requested the NEPA include special provisions as follows:

1. The definition of existing lot of record shall not apply.
2. Only uses, except for single detached dwellings that existed on or before February 16, 1993, shall be permitted.
3. Only single detached dwellings that existed on or before August 14, 1998, shall be permitted.
4. Notwithstanding the permitted uses of Part 1.4, the following uses shall be permitted for the property located at 1810 Highway No. (325 Guelph Road):
 - (i) Manufacturing of candles, a mini storage facility, and light industrial manufacturing, together with related administration and business offices, research and development, scientific laboratory, warehousing, and repair and ancillary sales;
 - (ii) For the purposes of this policy, light industrial uses are to be small scale, wholly enclosed operations, including the production and storage of goods;
 - (iii) Operations shall have infrequent movements of products and/or heavy trucks; low movements of truck traffic; limited amounts of outdoor storage; limited fugitive emissions, and use small amounts of water in the manufacture and processing of goods; and,
 - (iv) No Development Permit shall be issued, until such time as the owner receives Site Plan Approval from the City of Hamilton to set out the location and appropriate signage for the access and driveway on Old Guelph Road.

The NEPA has been amended to include the requested provisions. However, the NEPA also included one additional provision to allow a single detached dwelling on an existing lot of record, with a minimum size of 10 hectares and in accordance with the development criteria [Paragraph 4.c) in the second draft of the proposed amendment]. This Clause is inconsistent with the 1995 OMB decision and the current Dundas OP, which allows a single detached dwelling on a lot of 10 hectares. There is no requirement for restricting 10 hectares to existing lots of record.

Staff objects to Clause 4.c), as currently worded in NEPA 179, since it is inconsistent with the 1995 OMB decision and the current Dundas OP, and recommends that Clause 4.c) in the NEPA be amended by deleting the words on “an existing” and “of record”, so the policy reads as follows:

“Notwithstanding the provision set out in a) ii) above, a single detached dwelling may be permitted on ~~a an existing lot of record~~ with a minimum size of 10 hectares (25 acres), in accordance with the Development Criteria of the Plan.”

3. Nos. 154 and 574 Northcliffe Road:

NEC staff has recommended the following uses be permitted on the lands located at 574 Northcliffe Road, Clause 4.e:

- Convent and Place of Worship;
- Children’s Day Nursery;
- Educational Establishment;
- School and related Student Lodging;
- Retirement Home, including a Long Term Seniors Care Facility;
- Hospital, Health Care Centre, including Medical Clinic and Offices; and,
- Residential Care Facility, including a Group Home.

(i) Rural Hamilton Official Plan:

The lands are designated “Rural”. The following policies apply:

D.4.1.2 Institutional uses serving the rural community are permitted, provided the following conditions are met:

- (a) The Institutional use must be primarily related to and directly serving the needs of the rural population. Permitted Rural Institutional uses shall be limited to schools, school bus depots, small scale Places of

Worship, Rural Community Centres, and Residential Care Facilities;
and,

In addition, the following policies also apply:

“C.1.3 The Parkway Belt West Plan provides a system of linked natural areas, and protects utility corridors which extend from Dundas through the Regions of Halton, Peel, and York.

C.1.3.1 The provisions of the Parkway Belt West Plan shall apply to development of lands that are identified as Parkway Belt West Plan Area on Schedule A - Provincial Plans, of this Plan. In the case of discrepancy between the Parkway Belt West Plan and this Plan, the most restrictive policies shall prevail.

C.3.1.2c) A *small scale* Residential Care Facility shall be permitted as-of-right in any single detached dwelling, provided it complies with Section C.5.1, Sustainable Private Water and Wastewater Services Policies of this Plan and the Zoning By-law.”

The lands are located within Special Policy Area “A” of Volume 3, which states:

“1.0 Lands generally located between the eastern limits of the former Town of Dundas Urban Area, Cootes Paradise, Highway No. 6, and Old Guelph Road.

1.1 Notwithstanding Section C.1.3.1, or any other applicable policies in Volume 1 of this Plan, the lands identified as Special Policy Area A on Map A - Special Policy Areas, **remain subject to provisions of the Official Plan of the former Town of Dundas, as set out by the Ontario Municipal Board Decision (dated June 28, 1995)**. Following completion of a comprehensive growth management study known as GRIDS (Growth Related Integrated Development Strategy), Council has approved SPA “A” to remain as a part of the Rural Area. To reflect the unique circumstances of these lands, and permanently resolve their status under the Provincial Parkway Belt West Plan and ensure Greenbelt Plan conformity, the City shall conduct future studies, prepare Secondary Plan policies, and undertake community consultation to adopt a future amendment to this Plan for SPA “A”, in conformity with applicable Provincial plans and policies.

The additional uses do not conform to the Rural Hamilton Official Plan for the following reasons.

1. The proposed uses are not related to or directly serve the rural area, nor are they listed as permitted uses. The hospital and health care centre are only located within the Urban Area.

2. A small scale Residential Care Facility is only permitted within an existing single detached dwelling.
3. The provisions of the OPA 23 to the Town of Dundas OP do not permit the uses.

(ii) Town of Dundas Zoning By-law No. 3581-86:

The proposed list of uses is not permitted within the PPS/S-56 or the U/S-57 Zones.

As noted in the Background section of this Report, an application was made to the Committee of Adjustment to allow for a dormitory and commercial school for Columbia International College. At the present time, the site is used by the convent and the dormitory for 38 Columbia International school students. These uses are legal non-conforming.

The proposed additional uses are more extensive than the existing uses granted by the OMB.

Further, it is not clear if the proposed clause within the NEPA actually restricts the use to the existing buildings.

(iii) Niagara Escarpment Plan Escarpment General Development Criteria:

Policy 2.2.1 d) states that development meets the applicable Federal, Provincial and Municipal requirements, including health and servicing requirements. As stated above, these uses do not conform to the Rural Hamilton Official Plan.

Staff objects to the inclusion of additional uses for the property located at Nos. 154 and 574 Northcliffe Road for the following reasons:

1. The uses are not permitted in the Rural Hamilton Official Plan or the Town of Dundas OP;
2. They are not permitted uses in the existing Zoning By-law; and,
3. These uses are contrary to City Council's decision of May 2011, through an OMB settlement, which allowed a dormitory for 38 students and 3 temporary classrooms within one of the existing buildings.

ALTERNATIVES FOR CONSIDERATION

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

Option 1:

Support the proposed Designations and special provisions in the second draft of the NEPA 179 with no changes.

An alternative consideration is to accept the designations and the policies proposed in NEPA 179 without any designation or policy changes. The disadvantages of this Option are:

1. The proposed designations in the area of Valley Road and York Road and the escarpment are inconsistent;
2. Any development in the area would be restricted to lots of record, whereas the existing Town of Dundas OP allows for development on 10 hectares; and,
3. Additional uses would be permitted on the Northcliffe lands, which are not permitted by the City's Planning documents, and they are inconsistent with a previous Council decision on the range of permitted uses.

ALIGNMENT TO THE 2012 – 2015 STRATEGIC PLAN:

Strategic Priority #3 - Leadership and Governance:

WE work together to ensure we are a government that is respectful towards each other and the community has confidence and trust in.

Strategic Objective:

- 3.1 Engage in a range of inter-governmental relations (IGR) work that will advance partnerships and projects that benefit the City.

APPENDICES / SCHEDULES

- Appendix "A": Proposed Niagara Escarpment Plan Designations and Recommended Designation Changes - February 21, 2013
- Appendix "B": Staff Report PED11052 - Niagara Escarpment Plan Amendment No. 179 - Pleasantview Lands (Dundas) - April 2011

:JHE

Attachs. (2)

**PROPOSED NIAGARA ESCARPMENT PLAN
AMENDMENT PW 179 09**

**ADDITION OF LANDS TO THE NIAGARA ESCARPMENT PLAN
(THE PLEASANT VIEW SURVEY)**

February 21, 2013

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PART B – The Amendment

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PART A – The Preamble

PURPOSE:

To amend the Niagara Escarpment Plan (NEP) to add and designate the lands known generally as the Pleasant View Survey in the City of Hamilton. The area is bounded on the east by Highway 6, on the north by Patterson Road, on the west by York Road and on the south by the Canadian National Rail Line and Old Guelph Road. The lands are held in a mix of public, private, institutional and corporate ownership. These lands will be joined to the main body of the Niagara Escarpment Plan (NEP) which surrounds the lands on the north and west.

The NEC is responding to an Order-in-Council (OIC) filed on June 14, 2010, to include the lands in the Niagara Escarpment Planning Area (NEPA) for the purpose of facilitating an Amendment to the Niagara Escarpment Plan (NEP). Ontario Regulation 235/10 implementing the OIC was published in the Ontario Gazette on July 3, 2010.

AREA:

The lands subject to the proposed Plan Amendment consist of an area of approximately 399.4 hectares (986.95 acres).

LOCATION:

The lands consist of:

Part of Lots 23, 24, 25, 26, 27 and 28, Concession 1
Part of Lots 22, 23, 24, 25, 26, 27, 28 and 29, Concession 2
City of Hamilton, Former Town of Dundas
Former Regional Municipality of Hamilton-Wentworth

BASIS:

Under Section 6.1(2) of the *Niagara Escarpment Planning and Development Act* (NEPDA), the NEC may initiate an amendment to the NEP, with appropriate justification provided.

The Amendment proposes to add the Pleasant View Survey area lands to the Niagara Escarpment Plan (NEP), and designate such lands in accordance with the provisions of the NEP. These lands are currently subject to other Provincial Plans, namely the Greenbelt Plan, the Growth Plan and the Parkway Belt West Plan.

The subject lands constitute the Escarpment and lands in its vicinity which fulfil the purpose and objectives of the NEPDA and therefore such lands should be included within the Niagara Escarpment Plan. The Pleasant View Survey area lands should be designated "Escarpment Natural Area", "Escarpment Protection Area", "Escarpment Rural Area" and "Public Land" (in Parks and Open Space System), as these designations satisfy the applicable objectives and designation criteria of the NEP.

The addition of these lands to the Niagara Escarpment Plan would bring all of the Escarpment features in this area into the NEP. The lands also constitute a logical extension of a natural corridor of sensitive lands, stream valley features, contiguous forest patches and scenic rural landscapes that is missing from the NEP. This gap would be removed through the connection of these lands to areas now within the NEP, found to the north and west.

PART B – THE AMENDMENT

The Niagara Escarpment Plan is amended as follows:

1. Map 2 of the Niagara Escarpment Plan is amended as shown on Schedule A.
2. Map 10, Niagara Escarpment Parks and Open Space System, is amended to include the Public Lands brought into the Niagara Escarpment Parks and Open Space System (NEPOSS), including the addition of one new Natural Environment park to the Map Legend, which will be identified as the Pleasant View Conservation Sanctuary.
3. The Niagara Escarpment Plan is amended by adding the following park and open space area description and park classification to Appendix 1 after the Park identified as "Clappison Woods" as a new Park, and renumbering the Parks which follow:

Pleasant View Conservation Sanctuary (Natural Environment)

The Pleasant View Conservation Sanctuary consists of a number of public holdings (some of which are separated by closed road allowances) held primarily by Halton Conservation. The assembly currently totals about 36 ha (90 acres). Future acquisition would link more of the holdings. The largest tract is known as the Cartwright Nature Sanctuary and was secured with the aid of the Hamilton Naturalists' Club who helped prepare a management plan. The Pleasant View Conservation Sanctuary is situated along the lower slopes of the Niagara Escarpment and is almost entirely surrounded by or cut by ravines which contain creeks and streams. The lands are isolated, generally forested and undisturbed,

affording significant wildlife corridors. Identified as environmentally sensitive, they provide diverse habitat including species at risk. Passive recreation (i.e., nature trails) and nature appreciation is considered the optimum public use of the Conservation Sanctuary, given its sensitivity.

4. The Niagara Escarpment Plan is amended by adding the following special provisions that will apply to the lands identified as the Pleasant View Survey to the end of Part 2.2 the Development Criteria.

Special Provisions for the Pleasant View Survey Lands

The Pleasant View Survey Lands consisting of Part of Lots 23, 24, 25, 26, 27 and 28, Concession 2 and Part of Lots 22, 23, 24, 25, 26, 27, 28 and 29, Concession 2, City of Hamilton (former Town of Dundas), as identified on Schedule A of Amendment 179 to this Plan, are subject to the following additional special provisions:

- a) Notwithstanding the permitted uses, and the definitions for lot, existing lot of record and existing use in this Plan, the following apply:
 - i. only uses, except for single dwellings, that existed on or before February 16, 1993 shall be permitted, and
 - ii. only single dwellings that existed on or before August 14, 1998 shall be permitted.
- b) Notwithstanding the provisions set out in a) i) and ii) above, uses accessory or incidental to an existing use or to an existing single dwelling (e.g., garage, accessory building, swimming pool) may be permitted in accordance with the Development Criteria of this Plan. The replacement of an existing single dwelling may also be permitted in accordance with the Development Criteria of this Plan.
- c) Notwithstanding the provision set out in a) ii) above, a single dwelling may be permitted on an existing lot of record with a minimum size of 10 hectares (25 acres) in accordance with the Development Criteria of this Plan.
- d) Notwithstanding the provisions set out in a) i) and ii) above, the following uses may be permitted for the property located at 1810 Highway 6 (325 Old Guelph Road) in accordance with the Development Criteria of this Plan:

The manufacturing of candles, a mini-storage facility and light industrial manufacturing, together with related administration and business

offices, research and development, scientific laboratory, warehousing and repair and ancillary sales, subject to the following:

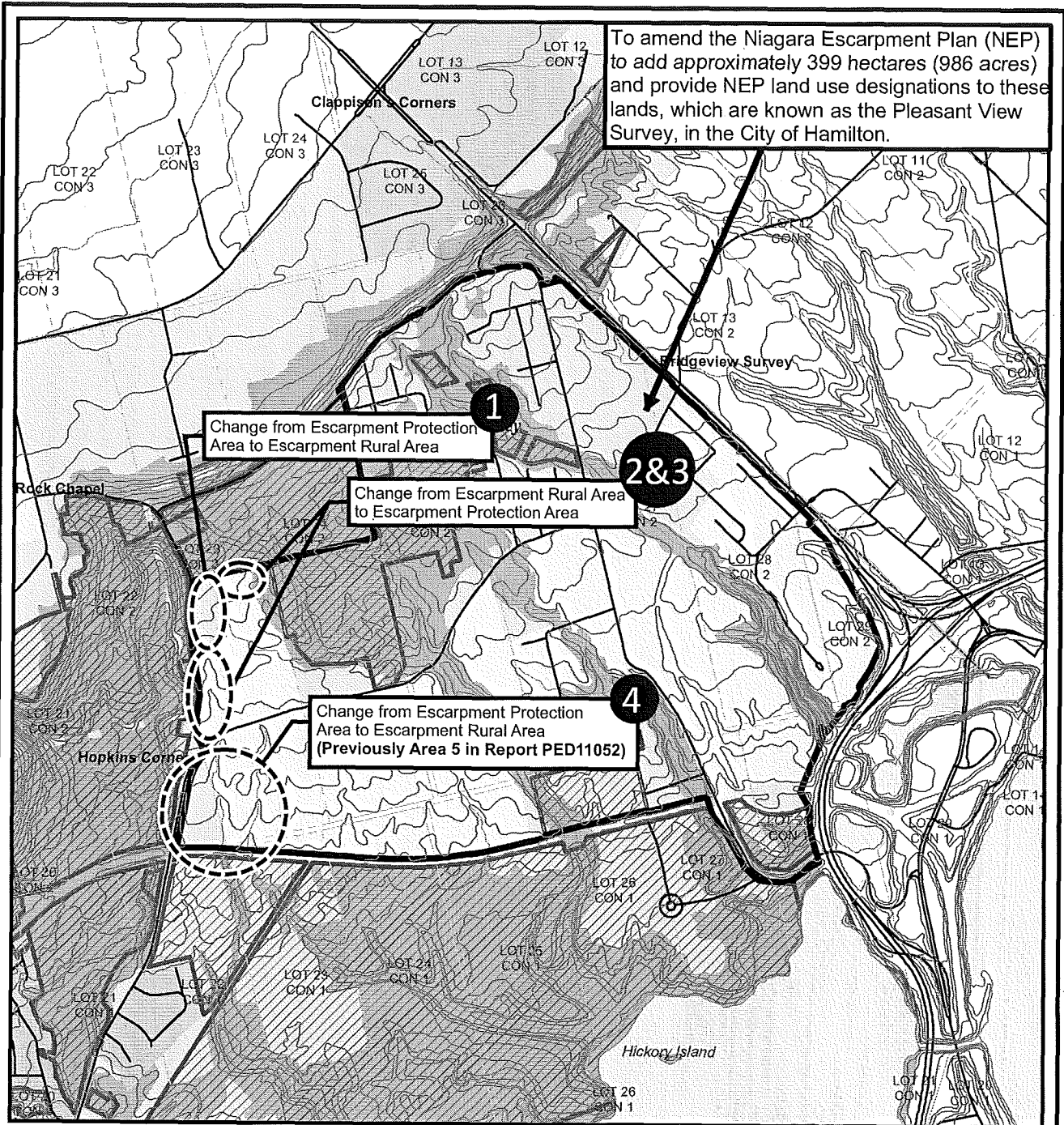
- i. for the purposes of these uses, light industrial uses are to be small scale, wholly enclosed operations, including the production and storage of goods;
 - ii. operations shall have infrequent truck movement of products and/or heavy truck traffic; low movements of truck traffic; limited amounts of outdoor storage; limited fugitive emissions, and use small amounts of water in the manufacture and processing of goods;
 - iii. access onto Old Guelph Road by way of tractor-trailer/semi-trucks will not be permitted, and no truck access is allowed, excepting nothing will prevent access of vehicles which typically serve a residential neighbourhood on an infrequent basis such as moving vans, and;
 - iv. no authorization, permit or approval shall be issued until such time as the owner/operator receives site plan approval from the City of Hamilton to set out the location of and signage for the access and driveway unto Old Guelph Road.
- e) The existing institutional use and associated buildings and facilities on lands located at 574 Northcliffe Avenue consisting of approximately 19.6 hectares (48.45 acres) may be used for the following institutionally related uses, subject to the Development Criteria of this Plan:
- A convent and place of worship
 - A children's day nursery
 - An educational establishment
 - A school and related student lodging
 - A retirement home, including long term seniors' care facility
 - A hospital or health centre, including medical facilities, clinics and offices
 - A residential care facility, including group home

- f) Nothing in the Special Provisions for the Pleasant View Survey Lands, as set out in this Section, are intended to prevent the following uses of land:

Forest, wildlife and fisheries management; archaeological activities; public park and open space uses; trails (including the Bruce Trail); nature preserves and non-intensive recreational activities, and essential transportation and utility facilities, provided such uses meet

the Objectives of the applicable designation and Development Criteria of this Plan.

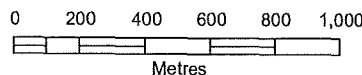
5. The Niagara Escarpment Plan, Parts 1.3, 1.4 and 1.5, is amended by adding the following permitted use to the Escarpment Natural Area, Escarpment Protection Area and Escarpment Rural Area:
 - Those uses as set out in the Special Provisions for the Pleasant View Survey Lands as set out in Part 2.2 of this Plan.
6. The Niagara Escarpment Plan, Part 2.6, New Development Affecting Water Resources is amended by replacing the following sub-sections of Part 2.6 and modifying them to read:
 - 7h. Development should be appropriately timed to minimize impacts on fish and wildlife habitat where construction could affect a watercourse or a wetland.
 10. Development shall locate outside of wetlands, unless the development has been determined to be an essential public transportation or utility facility in accordance with the policies and definitions of this Plan.



SCHEDULE A
MAP SHOWING AMENDMENT PW 179 10



- | | | | | | |
|--|--|--|----------------------------|--|-----------------------|
| | Amendment Boundary | | Escarpment Natural Area | | Escarpment Rural Area |
| | Niagara Escarpment Parks and Open Space System | | Escarpment Protection Area | | Urban Area |



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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January 17, 2013

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



Hamilton

CITY OF HAMILTON

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

TO: Chair and Members of the Planning Committee	WARD(S) AFFECTED: WARD 13
COMMITTEE DATE: April 5, 2011	
SUBJECT/REPORT NO: Niagara Escarpment Plan Amendment No. 179-Pleasantview Lands (Dundas) (PED11052)(Ward 13)	
SUBMITTED BY: Tim McCabe, General Manager Planning & Economic Development Department	PREPARED BY: Joanne Hickey-Evans (905) 546-2424 ext.1282
SIGNATURE: 	

RECOMMENDATION:

- (a) That the City of Hamilton supports the proposed Niagara Escarpment Plan (NEP) designations of "Escarpment Natural", "Escarpment Protection" and "Escarpment Rural" and the inclusion of the lands within the Niagara Escarpment Parks and Open Space System (NEPOSS), for the Pleasantview lands, generally bounded by Valley Road, Patterson Road, Highway 6 and the Canadian National Railway (CNR Line)/Royal Botanical Gardens and Highway 403, identified in Amendment No.179, shown on the attached Appendix "A" to Report PED10228, provided the following designation changes and additional special provisions are incorporated:
 - (i) The lands identified as Areas #1, #2 and #3, as shown on Appendix "A", should be designated Escarpment Protection instead of Escarpment Natural, as proposed by the Niagara Escarpment Commission (NEC).
 - (ii) The lands identified as Areas #4 and #5, as shown on Appendix "A", should be designated Escarpment Rural instead of Escarpment Protection, as proposed by the Niagara Escarpment Commission.

**SUBJECT: Niagara Escarpment Plan Amendment No. 179 - Pleasantview Lands
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- (iii) The following special provisions apply to the lands identified as Pleasantview designated Escarpment Protection on Map 2 of the NEP:
- (1) The definition of existing lot of record shall not apply.
 - (2) Only uses, except for single detached dwellings, that existed on or before February 16, 1993 shall be permitted.
 - (3) Only single detached dwellings that existed on or before August 14, 1998 shall be permitted.
 - (4) Notwithstanding the permitted uses of Part 1.4, the following uses shall be permitted for the property located at 1810 Highway (325 Old Guelph Road).
 - (aa) Manufacturing of candles, a mini storage facility and light industrial manufacturing together with related administration and business offices, research and development, scientific laboratory, warehousing and repair and ancillary sales.
 - (bb) For the purposes of this policy, light industrial uses are to be small scale, wholly enclosed operations, including the production and storage of goods; and,
 - (cc) Operations shall have infrequent movements of products and/or heavy trucks; low movements of truck traffic; limited amounts of outdoor storage; limited fugitive emissions and use small amounts of water in the manufacture and processing of goods.
 - (dd) No development permit shall be issued until such time as the owner receives site plan approval from the City of Hamilton to set out the location and appropriate signage for the access and driveway on Old Guelph Road.
- (iv) The following special provisions apply to the lands identified as Pleasantview designated Escarpment Rural on Map 2 of the NEP:
- (1) The definition of existing lot of record shall not apply.
 - (2) Only uses, except for single detached dwellings, that existed on or before February 16, 1993 shall be permitted.

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- (3) Only single detached dwellings that existed on or before August 14, 1998 shall be permitted.
- (b) That the City Clerk be requested to forward the staff report to the Niagara Escarpment Commission.
- (c) That staff investigate the divesting of four City owned properties, with the exception of Nigel Charlong Community Centre (Old Guelph Road), and the unopened road allowances, as shown on Appendix "B" to Report PED11052 and report back to Council in future regarding disposition of said properties.

EXECUTIVE SUMMARY

The Niagara Escarpment Commission (NEC), through Amendment No. 179—Pleasantview lands, is proposing to designate the lands, generally bounded by Valley Road, Patterson Road, Highway 6 and the Canadian National Railway (CNR Line)/Royal Botanical Gardens and Highway 403, as "Escarpment Natural", "Escarpment Protection" and "Escarpment Rural", as shown on Appendix "A". These lands, as well as other City lands (i.e. Cootes Paradise link), were added to the Niagara Escarpment Plan Planning area through an Order in Council in June 2010. In addition, the lands are also within both the Parkway Belt West Plan (PWBP) and the Greenbelt Plan (GBP).

The NEC has requested comments on the proposed designations. Staff have reviewed the Amendment and support the designations and the inclusion of the lands within the Niagara Escarpment Parks and Open Space System (NEPOSS) provided the following designation changes and additional provisions are incorporated into the Amendment:

- (i) The lands identified as Areas #1, #2 and #3, as shown on Appendix "A" should be designated Escarpment Protection instead of Escarpment Natural, as proposed by the Niagara Escarpment Commission .
- (ii) The lands identified as Areas #4, and #5, as shown on Appendix "A" should be designated Escarpment Rural instead of Escarpment Protection, as proposed by the Niagara Escarpment Commission .
- (iii) In accordance with the existing official plan policies and zoning, the following special provisions apply to the lands identified as Pleasantview designated Escarpment Protection on Map 2:

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- (1) The definition of existing lot of record shall not apply.
 - (2) Only uses, except for single detached dwellings, that existed on or before February 16, 1993 shall be permitted.
 - (3) Only single detached dwellings that existed on or before August 14, 1998 shall be permitted.
 - (4) Notwithstanding the permitted uses of Part 1.4, the following uses shall be permitted for the property located at 1810 Highway No. (325 Old Guelph Road).
 - (aa) Manufacturing of candles, a mini storage facility and light industrial manufacturing together with related administration and business offices, research and development, scientific laboratory, warehousing and repair and ancillary sales.
 - (bb) For the purposes of this policy, light industrial uses are to be small scale, wholly enclosed operations, including the production and storage of goods;
 - (cc) Operations shall have infrequent movements of products and/or heavy trucks; low movements of truck traffic; limited amounts of outdoor storage; limited fugitive emissions and use small amounts of water in the manufacture and processing of goods; and,
 - (dd) No development permit shall be issued until such time as the owner receives site plan approval from the City of Hamilton to set out the location and appropriate signage for the access and driveway on Old Guelph Road.
- (iv) In accordance with the existing official plan policies and zoning, the following special provisions apply to the lands identified as Pleasantview designated Escarpment Rural on Map 2 of the NEP:
- (1) The definition of existing lot of record shall not apply.
 - (2) Only uses, except for single detached dwellings, that existed on or before February 16, 1993 shall be permitted.
 - (3) Only single detached dwellings that existed on or before August 14, 1998 shall be permitted.

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The City owns five properties, one of which is the Valley Community Centre. The other lands are essentially land locked and have no development potential. In addition, there are a number of road allowances that were established through the Pleasantview survey in 1914. Therefore, the staff should investigate the divesting of four City owned properties, with the exception of Valley Community Centre (Old Guelph Road) and unopened road allowances, as shown on Appendix "B".

Alternatives for Consideration – See Page 17

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

Financial: None

Staffing: None

Legal: None

HISTORICAL BACKGROUND (Chronology of events)

**1.0 Purpose and Process for the Niagara Escarpment Plan Amendment 179
(NEPA 179)**

The purpose of this Amendment is to identify the appropriate designations for the Pleasantview lands that were added to the Niagara Escarpment Plan Planning area by an Order in Council dated June 14, 2010. The lands encompassed by this Amendment are comprised of approximately 399 ha (986 ac.) located generally bounded by Valley Road, Patterson Road, Highway 6 and the Canadian National Railway (CNR Line)/Royal Botanical Gardens and Highway 403. The lands are proposed to be designated "Escarpment Natural", "Escarpment Protection" and "Escarpment Rural" as illustrated in Appendix "A".

In addition, a portion of these lands are to be incorporated as part of the NEPOSS as a Natural Environment Park. This overlay identifies public lands which are encompassed as part of a larger open space/parks network "which are to protect distinctive features and significant areas along the escarpment". In addition, this system "is a framework for the establishment and coordination of a system of publicly owned lands on the Escarpment, as well as the Bruce trail (excerpt from Section 3 of the Niagara Escarpment Plan).

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The process for adding additional lands is a two step process.

- Step One

Under the Niagara Escarpment Planning and Development Act, Lieutenant Governor in Council issues an Order in Council to add the lands to the Planning area. On May 7, 2007, the notice to add these lands to the Planning area was posted on the Environmental Bill of Rights (EBR). The City commented on this posting, only as it relates to Pleasantview. A previous motion, relating to a similar issue, was re-sent to the Province in response to the EBR posting.

MOTION for April 25th 2007 City Council meeting

Moved by: Councillor Powers.
Seconded by: Councillor McHattie

THAT:

- Hamilton City Council request the Hon. David Ramsay and the Hon. John Gerretsen, Ministers of Natural Resources and Municipal Affairs/Housing to enter into discussion with the City to determine the appropriate provincial legislation that should govern the Pleasantview lands situated in the former Town of Dundas and to determine the applicable land planning designation for this area and further;
- the Province of Ontario give consideration to the purchase of appropriate lands in that area for the creation of a Provincial and/or National Park including and surrounding Cootes Paradise and further;
- the relevant M.P.P., M.P., agencies and organizations including the Royal Botanical Gardens, Conservation Halton, Hamilton Conservation Authority, Valley Ratepayers Association amongst others be so advised.

Prior to the approval of the Order in Council, staff from the Ministry of Natural Resources (MNR) spoke with City staff, in which the MNR staff person, indicated that by approving this Order in Council, the City still has the right to request these lands to be excluded from the NEP. The Order in Council was finalized on June 14, 2010.

- Step Two

The second step in the process is for the NEC to determine the appropriate designations for the newly added lands. Proposed Amendment No. 179, which is the subject of this Report, identifies the proposed designations in the NEP for a portion

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of the lands added through the recent Order of Cabinet. A separate amendment will be initiated for the remaining lands sometime in the future.

Part of this process includes consultations with stakeholders, including the municipality. Comments are due by April 1, 2011. On March 4, 2011, staff requested an extension to this date. Formal comments to the NEC are part of step 2.

2.0 Existing Provincial and Municipal Planning Policy

The planning regime in this area is very complex with different provincial and municipal planning policies and regulations.

2.1 Provincial Plans

The majority of the lands are regulated by the PWBP as Special Complementary Use Area. In addition, the lands are also identified as Protected Countryside with a natural heritage system overlay in the Greenbelt Plan. From a policy perspective, the Special Complementary Use Area provisions of the PWBP apply coupled with the natural heritage system policies of the Greenbelt Plan.

Given the multiple plans at the provincial level, Council requested the Province enter into discussions with the City to determine the appropriate provincial document that should guide development in this area. However, before such a discussion took place, the Order in Council (June 14, 2010) was introduced to include the lands within the Niagara Escarpment Planning Area. As part of this process, the NEC staff have prepared Niagara Escarpment Plan Amendment No. 179.

2.2 Municipal Official Plans

2.2.1 Region of Hamilton-Wentworth OP

The lands are identified as PWBP in the existing Region of Hamilton Wentworth Official Plan (OP).

2.2.2 Town of Dundas OP

The lands are designated Rural and Open Space in the 1992 Town of Dundas OP. A 1995 Ontario Municipal Board (OMB) decision amended the Rural policies to allow one house for every 25 acres of land. The designations for these lands were excluded from the 1999 OP and designated Rural with a site specific policy in the Dundas OP.

With specific regard to the subject lands, an amendment to the Town of Dundas OP (OPA 13) was adopted in May, 1987, by the Town of Dundas, to permit development within the Pleasantview area, with a minimum lot size of 1 acre. A further amendment to the Dundas Official Plan in 1994, which sought to require a minimum 2 acre lot size in response to health concerns over septic systems, was appealed to the OMB.

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The hearing resulted in a decision in 1995, which modified the minimum lot size from 0.4 ha. (1 ac.) to 10 ha. (25 ac.). These density provisions currently remain in effect.

2.2.3 Rural Hamilton Official Plan (currently under appeal)

- Land Use Designations

The lands are designated "Rural" and "Open Space" on Schedule D - Rural Land Use Designations. The permitted land uses in the Rural designation include agricultural uses, resource based commercial and industrial uses, resource based recreation/tourism, rural institutional and other similar uses. These uses may be permitted provided a number of conditions are met. Appendix "D" is a comparison of the permitted uses under the NEP and uses that are permitted in the Rural Hamilton

OP. There is general alignment between the uses proposed by the NEP and the Rural Hamilton OP.

- Natural Heritage System

The OP identifies several different natural heritage and hydrologic features (collectively referred to as core areas) as well as linkages. These features and linkages are identified on a series of Schedule B's within the Plan. These features are used as overlay and work in conjunction with the land use designations on Schedule "D" - Rural Land Use Designations. The most significant features are designated as Open Space. The City does not 'designate' environmentally significant areas.

- Special Policy Area

In addition, to the designations and natural heritage system overlays, the lands are located within Special Policy Area A (SPA A) as follows:

1.0 SPA A - PLEASANTVIEW

Lands generally located between the eastern limits of the former Town of Dundas urban area, Cootes Paradise, Highway No. 6 and Old Guelph Road.

1.1 Notwithstanding Section C.1.3.1 or any other applicable policies in Volume 1 of this Plan, the lands identified as Special Policy Area A on Map A - Special Policy Areas, remain subject to provisions of the Official Plan of the former Town of Dundas as set out by the Ontario Municipal Board Decision (dated June 28, 1995). Following completion of a comprehensive growth management study known as GRIDS (Growth Related Integrated Development Strategy), Council has approved SPA A to remain as a part of the Rural Area. To reflect the unique circumstances of these lands and permanently resolve their status under the Provincial Parkway Belt West Plan and ensure Greenbelt Plan conformity [Mod 45], the City shall conduct future studies, prepare Secondary Plan policies and

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undertake community consultation to adopt a future amendment to this Plan for SPA A in conformity with applicable provincial plans and policies.

There are no capital budget plans to undertake additional work in this area.

The Rural Hamilton OP does not allow for residential severances¹, with the exception of surplus farm severances, provided certain conditions are met. Staff are unaware of any potential severances for surplus farm dwellings in the Pleasantview area.

3.0 Town of Dundas Zoning By-law

The original Zoning By-law No. 4066-93 was passed in 1993 and was considered at the 1995 OMB hearing for the lands. The by-law was further amended in 1998. There are a number of different zoning districts that apply in this area:

- "RU" (Rural) Zone;
- "OS" (Open Space – Conservation) Zone;
- "U" (Public Utilities) Zone;
- "PPS" (Public and Private Service) Zone;
- "PR1" (Park and Recreation) Zone;
- "IL"-Light Industrial Zone; and,
- "C-H" (Highway Commercial) Zone.

The by-law also contains both general and site specific provisions, the majority of which only permit uses as of the date of the Zoning By-law (February 15, 1993 or August 14, 1998 - single detached dwellings only). Three zones ("PPS", "C-H" and "I-IL") permit additional uses provided they are similar to those uses which were permitted in 1993.

Traditionally, Zoning By-laws allow for existing lots of record to contain certain uses provided they meet setback requirements. In the Pleasantview area, the existing lot of record definition does not apply. The effect of this restriction is to ensure that no new buildings or structures are built on these lots. This provision was put in place because of the large number of small lots of record which could not accommodate septic systems.

On August 12, 1998, Dundas Council amended the by-law to further restrict the permitted uses, as a result of the 1995 OMB hearing which required future development to be accommodated on 25 acres.

In 2002, an OMB decision for the lands at 1810 Highway No. 6 (325 Old Guelph Road) permitted a variety of light industrial uses. (See Section 3.3 of Analysis/Rationale for Recommendation)

¹ The severance policies in the Rural Hamilton Official Plan are under appeal at the present time.

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4.0 Recent Planning Act Applications

4.1 York Road at Valley Road,

In 2008, an OPA application was submitted to permit a lifestyle retirement community complex, comprising of 100 single detached dwellings, 150 townhouse units, 360 units within low-rise apartments, a nursing home of a 150 units, and a wellness centre. The site was located on York Road at Valley Road, in an area of Dundas known as Pleasantview.

The development required an amendment to the PWBP. In June 2010, Ministry of Municipal Affairs and Housing (MMAH) denied the Amendment. The applicants have withdrawn their application.

4.2 154 and 574 Northcliffe Avenue (Sisters of St. Joseph Convent) (DN/A-11:08)

The Sisters of St. Joseph applied to the Committee of Adjustment (C of A) for a minor variance to permit a dormitory together with teaching facilities for a commercial school (Columbia International College of Canada) in conjunction with the existing Convent. At the February 10, 2011, the C of A approved the application. Staff will be bringing a separate report forward to address this Committee's decision which was contrary to staff's recommendation for denial.

4.0 Existing Land uses, Current OP and Proposed Niagara Escarpment Plan Designations

The NEPA 179 encompasses 399 ha of lands. The table below highlights existing land uses, parcel(s) sizes, OP and NEPP designations by land ownership. Appendix "B" maps the land ownership.

Land Ownership	Existing Land Uses	Designations in Rural Hamilton Official Plan	Proposed designations in the NEP
City	Nigel Charlong Community Centre./Park (4.2 ha)	Open space SPA "A" Community Park	Escarpment Protection
	Vacant (3 parcels north of York Rd (0.35 ha)	Open space	Escarpment Protection
	Vacant (one Parcel south of York Rd (0.65 ha)	Open space	Escarpment Protection
	Road allowances (43 ha)	Open space and Rural	Escarpment Natural, Protection and Rural
Conservation Halton	Open Space (34 ha)	Open space	Escarpment Natural, and Protection

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Land Ownership	Existing Land Uses	Designations in Rural Hamilton Official Plan	Proposed designations in the NEP
Royal Botanical Gardens	Open Space (9 ha)	Open space	Escarpment Natural, Protection and Rural
Province	Vacant (12 ha)	Open space and Rural	Escarpment Natural, Protection and Rural
CN and CP Rail	rail lines (7.7 ha)	Rural	Escarpment Natural, Protection and Rural
Hydro One	Hydro lines (21.4 ha)	Rural	Escarpment Natural, Protection and Rural
Trans Canada and Union Gas	Pipelines (0.4 ha)	Rural	Escarpment Protection
Private Ownership	Residential (existing)(67 ha)	Rural	Escarpment Protection and Rural
	St. Joseph's Convent (19.7 ha)	Rural	Escarpment Rural
	Other Institutional-2 parcels (1.4 ha)	Rural	Escarpment Rural Escarpment Protection
	Other Uses (79 ha)	Open space and Rural	Escarpment Rural Escarpment Protection
	Vacant (100.4 ha)	Open space and Rural	Escarpment Rural Escarpment Protection

In the 1900's, two separate plans of subdivision were established in the 1914 Pleasant View Area (Pleasantview survey - lands west of Highway 6, north of York Road) and the 1934 Highland Survey (west of Old Guelph Road and south of York Road.). Over the years, some of these lands have been developed, through the lot fabric as established by the plans of subdivision, combining two or more small lots and the subdivision of large lots.

POLICY IMPLICATIONS

Official Plans

Many of the elements of the Rural Hamilton OP would continue so it can regulate matters that are generally not addressed through the NEP. Examples of such policies include the detail for the natural heritage system overlays, severance policies, and infrastructure requirements. Policy C.1.1.1 of the Rural Hamilton OP indicates where there are areas of conflict between the Plans, the more restrictive policies apply.

"Any development within the Niagara Escarpment Plan Area, as shown on Schedule A – Provincial Plans, shall meet the requirements of this Plan and the Niagara Escarpment Plan, and the Parkland, Open Space and

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Trails policies of the Greenbelt Plan [Mod 6(b)]. Where there is discrepancy between this Plan and the Niagara Escarpment Plan, and the Parkland, Open Space and Trails policies of the Greenbelt Plan [Mod 6(b)], the most restrictive policies will prevail.”

Once the NEPA is completed, staff would amend the OP's to bring them into conformity with Provincial Plans, either as a stand alone amendment or through a five year review process. Any OP policies that are more restrictive and are not in conflict with the NEP would remain in effect.

NEC Development Control Permit vs Zoning

A development permit from the NEC is required for any lands that are designated Escarpment Rural, Escarpment Protection or Escarpment Natural in the NEP. Therefore, the City's Zoning By-law would no longer apply.

However, for the purposes of providing context and regulations to be used as part of the NEC development permit, it would be advisable for the City to retain the zoning on the lands which would only be used for the purposes of background information. When development control was introduced in the former City of Hamilton, the zoning remained as an underlay for the purposes of information when processing development permits.

RELEVANT CONSULTATION

- Staff met with NEC staff on March 4, 2011 to review NEPA 179. NEC staff will review the City's comments, as submitted through the formal Council process.
- Community Services have no concerns with the Escarpment Protection designation. There are no plans for redevelopment of the Nigel Charlong Community Centre.

ANALYSIS / RATIONALE FOR RECOMMENDATION

(include Performance Measurement/Benchmarking Data, if applicable)

1.0 Niagara Escarpment Plan Designations

Staff generally support the proposed designations of Escarpment Natural, Escarpment Protection, Escarpment Rural and the Niagara Escarpment Parks and Open Space System provided certain designation changes are made and additional policy direction is incorporated into the designations, as identified below, and is consistent with our existing policies and regulations.

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The evaluation of the NEP criteria for the designations along with OP and the Zoning By-law form the basis of the recommended changes. Appendix "C" identifies the criteria the NEC uses to establish the various designations within the NEP.

1.1 Escarpment Natural Area Designation

There appears to be some inconsistencies between the proposed designations and the criteria of establishing the designation. The designation criteria for Escarpment Natural

is to designate "*the most significant stream valleys and wetlands associated with the Escarpment.*" There are 3 areas, shown on Appendix "A", which do not appear to meet the criteria of the designation.

- Areas #1 (lands east of Highway 6, north of York Road) and #2 (lands north of the CNR railway and east of the RBG lands) are small streams and are not identified as wetlands, lakes, or littoral zones, but are identified as streams in the City's OP. The City does not have mapping for significant valley lands.
- Area #3 (north of Home Street) is an isolated woodlot.

The more appropriate designation for these three areas is Escarpment Protection.

1.2 Escarpment Protection

One of the criteria for designating lands as Escarpment Protection is the "*area is designated as environmentally sensitive by municipalities ...*". As noted in the background section of this Report, the City does not designate lands "environmentally sensitive". Only those lands that have significant features are designated Open Space.

- Area #4 (lands south of York Road, west of Newman) on Appendix "A" has been identified on Schedule "B" as an Environmentally Significant Area and partially as a Significant Woodland; however, the lands are not designated open space.
- Area #5 (lands west of York Road) has no natural heritage or hydrologic features, according to the City's OP nor is zoned open space.

Therefore, these areas should be designated as Escarpment Rural.

2.0 Rural Hamilton Official Plan

Development permits must comply with the provisions of the Rural Hamilton OP.

2.1 Land Use Designations

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Appendix "D" compares the permitted uses in the Rural designation and the Escarpment Protection and Rural designations of the Niagara Escarpment Plan. There is a general alignment between the two documents; however, the range of permitted use by the NEP north of York Road and lands south of York Road will be different since the Escarpment Protection designation is more restrictive than Escarpment Rural designation.

The Open Space designation is more restrictive than the Escarpment Natural Designation and only permits uses such as parks and conservation uses, whereas the Niagara Escarpment Plan allows single detached dwellings, bed and breakfasts, farm vacation homes, etc.

3.0 Zoning By-law Regulations

There are some key regulations contained within By-law No. 4066-93, as amended, which are important to retain under a provincial planning regime.

3.1 Permitted Uses:

The uses permitted within the various zones are restricted to those uses that existed as of February 1993 for all uses, except single detached dwellings which have an existing date of August 14, 1998. This restriction should continue.

3.2 Existing Lots of Record

As noted in the background section of the report, the current Zoning By-law does not recognize existing lots of record within the Pleasantview area.

The NEP defines "Existing Lot of Record" as:

- "i) A lot held under distinct and separate ownership from all abutting lots as shown by a registered conveyance in the records of the Land

Registry office at the date of approval of the Niagara Escarpment Plan on June 12, 1985 by the Government of Ontario; or

- ii) Any new lot created in conformity with the provisions of the Niagara Escarpment Plan since June 12, 1985; or

- iii) **Where lands have been added to the Niagara Escarpment Plan;**

- a) **A lot held under distinct and separate ownership from all abutting lots as shown by a registered conveyance in the records of the Land Registry Office at the date of approval of the amendment to the Plan adding the lands to the Plan; or**

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b) Any new lot created in conformity with the Plan provisions after the date of approval of the amendment to the Plan adding the lands to the Plan."

Based on the bolded part of the definition above, there are several existing lots of record within the Pleasantview area. Once the development permit comes into effect, and based on the definition in the NEP, development would be permitted on a number of small substandard sized lots. Therefore, it is critical that the NEP definition of existing lots of record must not apply to the Pleasantview lands.

3.3 1810 Highway 6 (325 Old Guelph Road)

In 2002, the OMB issued a decision to allow a variety of light industrial uses on the above noted property. These uses were recognized both through OPA 2 to the former Town of Dundas and through a Zoning By-law amendment. The uses include: light manufacturing uses requiring small amounts of water and limited truck access together with related administration and business offices, research and development facilities, scientific laboratory, warehouse, repair and ancillary sales. The 'H' holding zone has not been removed to date; therefore, it is appropriate to include a policy in the NEPA which will ensure this condition is not lost.

The NEP should recognize the permitted uses for this property.

4.0 Other Matters-City Owned Lands and Unopened Road allowances

The City owns five parcels of land, including the Nigel Charlong Community Centre on Old Guelph Road, and unopened road allowances in the Pleasant View area, as identified as Appendix "B".

Four of the parcels are land locked, have no development potential and are contiguous to large properties owned by public agencies (Royal Botanical Gardens and Halton Conservation Authority). Given this situation, staff should investigate divesting the City of these properties.

As part of the 1914 Pleasantview Survey, there were a number of roads that were created. Today many of these roads are unopened road allowances (as shown as white on Appendix "B"). Similar to the parcels, these road allowances are landlocked, do not provide for future development potential and are surrounded by lands owned by Conservation Halton.

5.0 Conclusions and Recommendations

5.1 NEPA-Designations

Based on the above, the City is generally in support of the Escarpment Natural, Protection and Rural designations provided the following designation changes are made which more closely align with the NEP criteria for designation:

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- | |
|--|
| <p>a. The lands identified as Areas #1, #2 and #3, as shown on Appendix "A" to should be designated Escarpment Protection instead of Escarpment Natural, as proposed by the Niagara Escarpment Commission .</p> <p>b. The lands identified as Areas #4 and #5, as shown on Appendix "A" should be designated Escarpment Rural instead of Escarpment Protection, as proposed by the Niagara Escarpment Commission .</p> |
|--|

4.2 NEPA-Special Provisions

The proposed NEPA 179 should be amended to add two special provisions to recognize existing land use restrictions and permissions as follows:

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a. Escarpment Protection:

The following special provisions apply to the lands identified as Pleasantview designated Escarpment Protection on Map 2 of the NEP:

1. The definition of existing lot of record shall not apply.
2. Only uses, except for single detached dwellings, that existed on or before February 16, 1993 shall be permitted.
3. Only single detached dwellings that existed on or before August 14, 1998 shall be permitted.
4. Notwithstanding the permitted uses of Part 1.4, the following uses shall be permitted for the property located at 1810 Highway No. (325 Old Guelph Road):
 - i) Manufacturing of candles, a mini storage facility and light industrial manufacturing together with related administration and business offices, research and development, scientific laboratory, warehousing and repair and ancillary sales;
 - ii) For the purposes of this policy light industrial uses are to be small scale, wholly enclosed operations, including the production and storage of goods;
 - iii) Operations shall have infrequent movements of products and/or heavy trucks; low movements of truck traffic; limited amounts of outdoor storage; limited fugitive emissions and use small amounts of water in the manufacture and processing of goods; and,
 - iv) No development permit shall be issued until such time as the owner receives site plan approval from the City of Hamilton to set out the location and appropriate signage for the access and driveway on Old Guelph Road.

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b. Escarpment Rural:

The following special provisions apply to the lands identified as Pleasantview designated Escarpment Rural on Map 2 of the Niagara Escarpment Plan:

1. The definition of existing lot of record shall not apply.
2. Only uses, except for single detached dwellings, that existed on or before February 16, 1993 shall be permitted.
3. Only single detached dwellings that existed on or before August 14, 1998 shall be permitted.

4.3 Other matters

That staff should investigate divesting itself of the City owned properties and unopened road allowances, with the exception of Nigel Charlong Community Centre (Old Guelph Road), as shown on Appendix "B".

ALTERNATIVES FOR CONSIDERATION:

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

Option 1: Support the proposed Designations in NEPA 179 with no changes

An alternative consideration is to accept the designations proposed through NEPA 179 without any designation changes or additional provisions. The disadvantages of this Option are:

1. The designations proposed do not reflect the criteria for designation, as established through the NEP; and,
2. To exclude special provisions would allow for additional development in areas where the City does not permit it under the existing planning policy and regulations.

**SUBJECT: Niagara Escarpment Plan Amendment No. 179 - Pleasantview Lands
(Dundas) (PED11052) (Ward 13) - Page 19 of 19**

CORPORATE STRATEGIC PLAN (Linkage to Desired End Results)

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

Environmental Stewardship

- ◆ Natural resources are protected and enhanced

Healthy Community

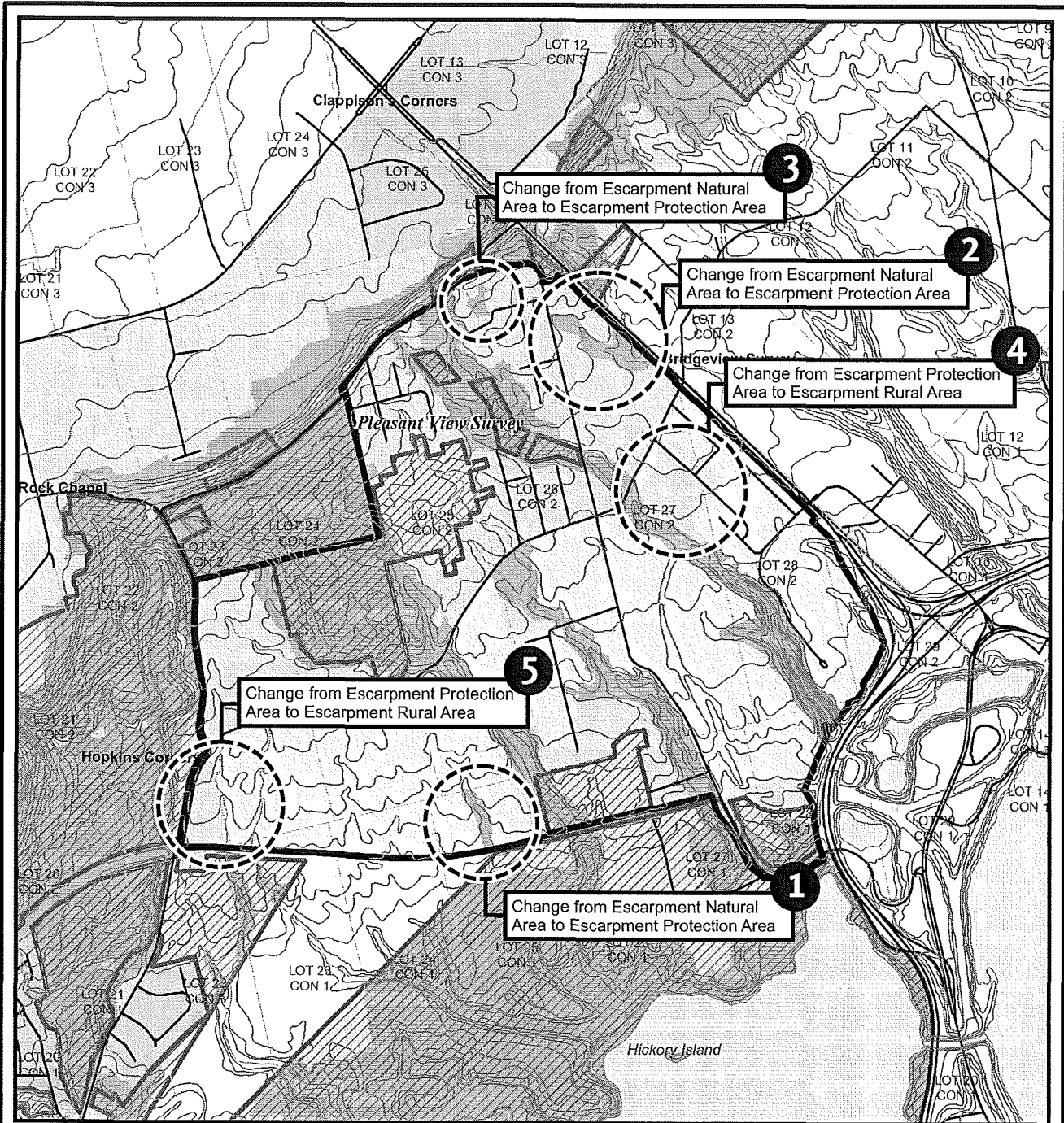
- ◆ Plan and manage the built environment

APPENDICES / SCHEDULES

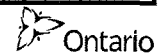
- Appendix "A" Proposed Niagara Escarpment Plan Designations and Recommended Designation Changes
- Appendix "B" Land ownership in Pleasantview
- Appendix "C" Excerpts of Policies from Niagara Escarpment Plan
- Appendix "D" Comparison of Permitted Uses within the Niagara Escarpment Plan and the Rural Hamilton Official Plan

JHE/ra
Attachs. (4)

Proposed NEPA 179 Designations and Designation Changes Recommended



SCHEDULE A
MAP SHOWING AMENDMENT PW 179 10

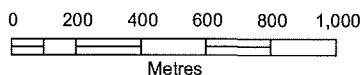


- | | | |
|--|----------------------------|-----------------------|
| Amendment Boundary | Plan Designations | Escarpment Rural Area |
| Public Land (in Parks and Open Space System) | Escarpment Natural Area | Urban Area |
| | Escarpment Protection Area | |

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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January 20, 2011

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 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