

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
(Dundas) (PED11052) (Ward 13) - Page 2 of 19**

- (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.

**SUBJECT: Niagara Escarpment Plan Amendment No. 179 - Pleasantview Lands
(Dundas) (PED11052) (Ward 13) - Page 3 of 19**

- (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:

**SUBJECT: Niagara Escarpment Plan Amendment No. 179 - Pleasantview Lands
(Dundas) (PED11052) (Ward 13) - Page 4 of 19**

- (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.

**SUBJECT: Niagara Escarpment Plan Amendment No. 179 - Pleasantview Lands
(Dundas) (PED11052) (Ward 13) - Page 5 of 19**

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).

**SUBJECT: Niagara Escarpment Plan Amendment No. 179 - Pleasantview Lands
(Dundas) (PED11052) (Ward 13) - Page 6 of 19**

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

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.

**SUBJECT: Niagara Escarpment Plan Amendment No. 179 - Pleasantview Lands
(Dundas) (PED11052) (Ward 13) - Page 8 of 19**

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

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.

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

**SUBJECT: Niagara Escarpment Plan Amendment No. 179 - Pleasantview Lands
(Dundas) (PED11052) (Ward 13) - Page 11 of 19**

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

**SUBJECT: Niagara Escarpment Plan Amendment No. 179 - Pleasantview Lands
(Dundas) (PED11052) (Ward 13) - Page 12 of 19**

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.

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

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

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

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:

- 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 .
- 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 .

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:

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.

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

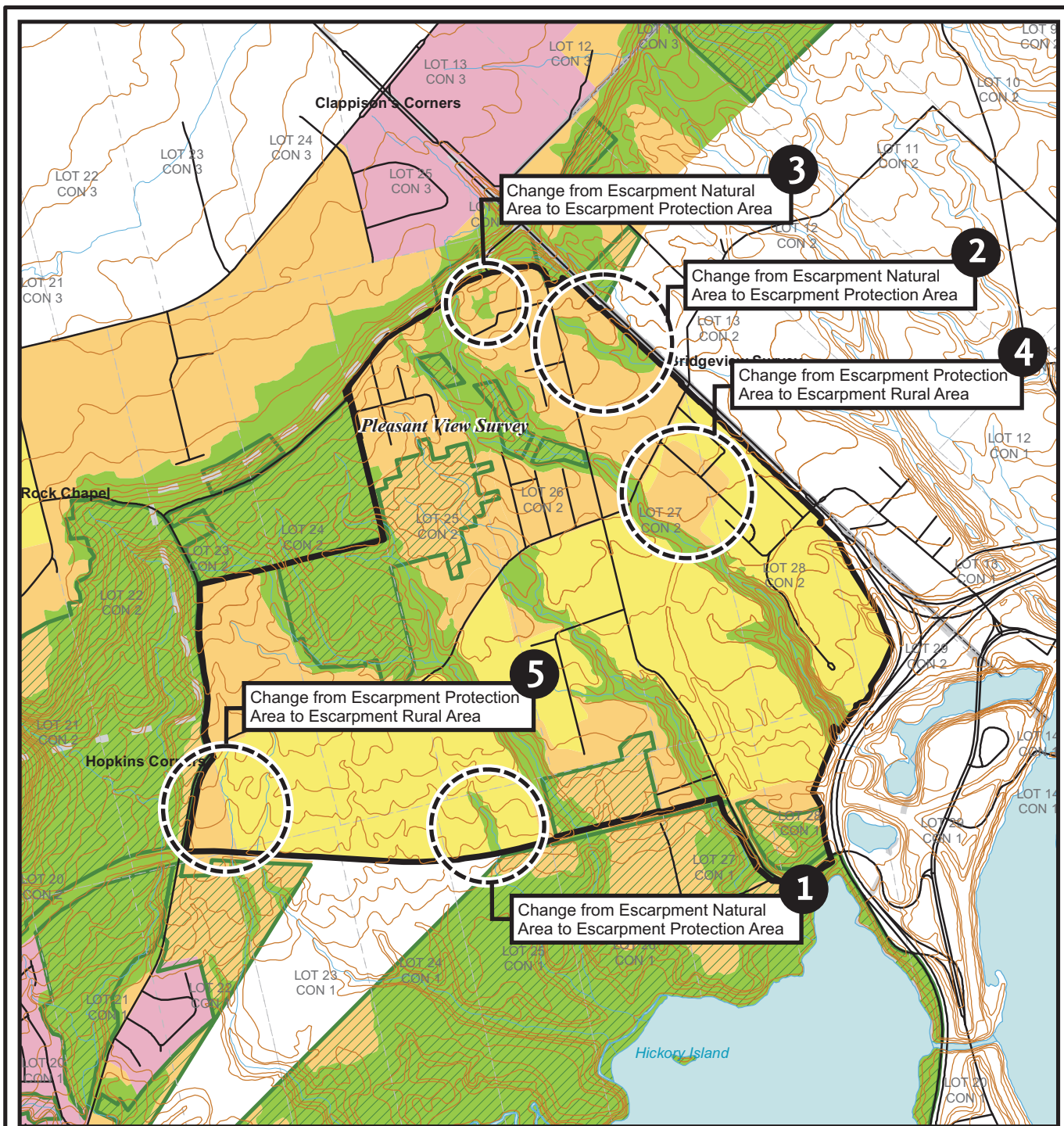
Appendix "B" Land ownership in Pleasantview

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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0 200 400 600 800 1,000



Metres

January 20, 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

Map 6 Land Ownership

Amendment No. PW 179 09
Pleasantview Survey

- Amendment Boundary
- Niagara Escarpment Plan Area
- Land Ownership**
- Conservation Authority
- Institutional
- Private - Individual
- Public - City of Hamilton
- Public - Royal Botanical Gardens
- Public - Management Board
- Secretariat
- Public - Ministry of Transportation
- Corporation - Other
- Corporation - Canadian National
- Railway
- Corporation - Canadian Pacific
- Railway
- Corporation - Hydro One
- Network Inc.
- Corporation - Transcanada
- Pipelines Ltd.
- Corporation - Union Gas Ltd.

NOTE: The Niagara Escarpment Plan maps are approved at 1:50,000 scale, and that is the scale at which this data should be interpreted.
Ownership Data Source: Municipal Property Assessment Corporation, 2010

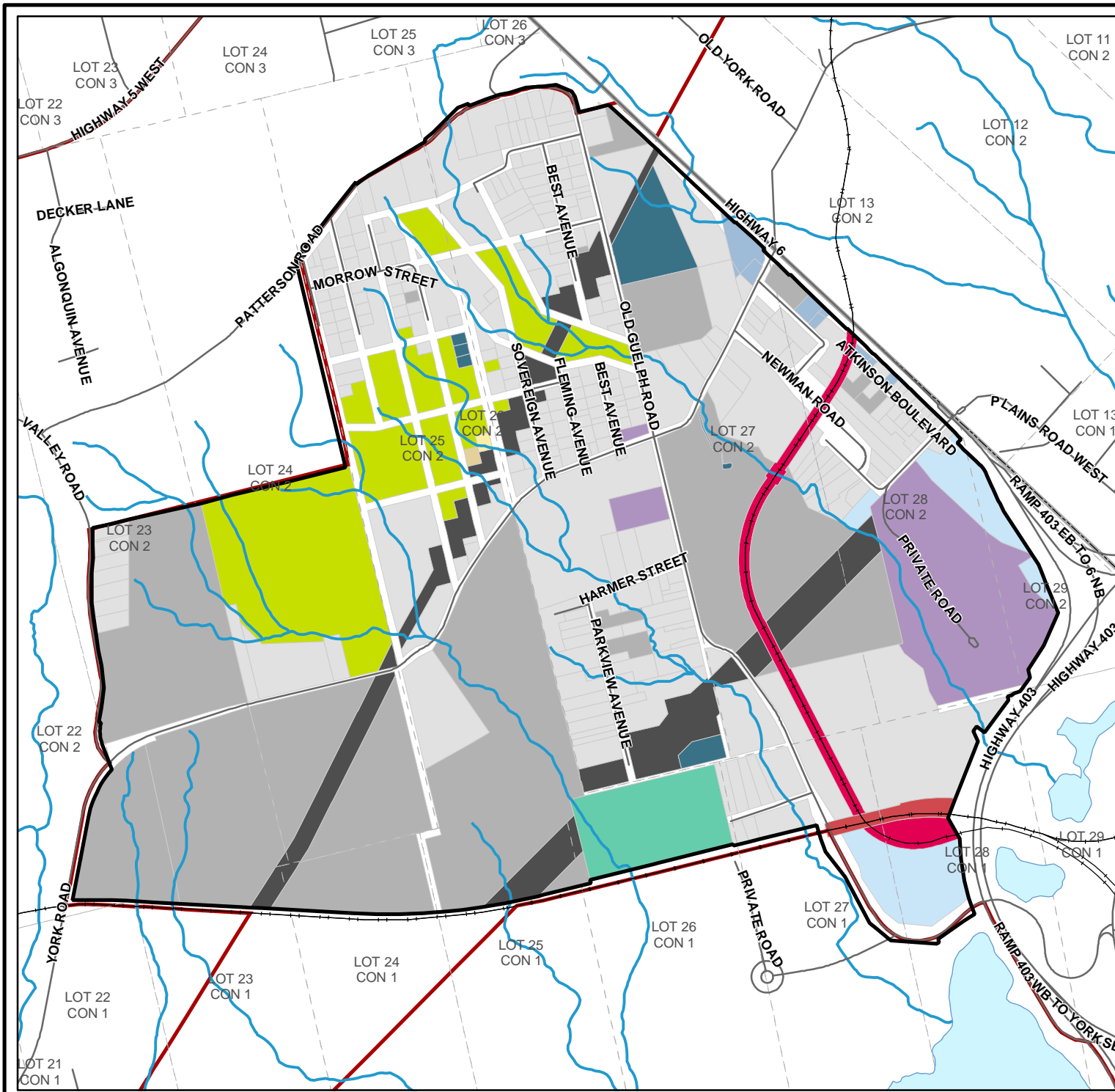
LAND OWNERSHIP TYPE	HECTARES	PERCENT
Conservation Authority	33.83	8.48%
Institutional	20.83	5.26%
Private - Individual	127.65	32.06%
Public - City of Hamilton	5.24	1.31%
Public - Royal Botanical Gardens	8.93	2.24%
Public - Management Board Secretariat	9.83	2.46%
Public - Ministry of Transportation	1.95	0.49%
Corporation - Other	117.58	29.48%
Corporation - Canadian National Railway	1.50	0.38%
Corporation - Canadian Pacific Railway	6.20	1.55%
Corporation - Hydro One Network Inc.	21.41	5.37%
Corporation - Transcanada Pipelines Ltd.	0.18	0.04%
Corporation - Union Gas Ltd.	0.18	0.04%
Unknown	0.20	0.05%
Road Allowances	42.98	10.78%
TOTAL	398.80	100.00%

0 150 300 450 600

Metres

Printed on December 15, 2010
Map Created by Daniel Ventresca

This map is illustrative only. Do not rely on it as being a precise indicator of routes, location of features, nor as a guide to navigation. Base derived from the Ontario Digital Topographic Database, Scale 1:10,000
Map compiled and produced by the Geographic Information Systems (GIS) Department of the Niagara Escarpment Commission, Ministry of Natural Resources



Excerpts from the Niagara Escarpment Plan (2005)

Escarpment Natural Area

Escarpment features which are in a relatively natural state and associated stream valleys, wetlands and forests which are relatively undisturbed are included within this designation. These contain important plant and animal habitats and geological features and cultural heritage features and are the most significant natural and scenic areas of the Escarpment. The policy aims to maintain these natural areas.

Objectives

1. To maintain the most natural Escarpment features, stream valleys, wetlands and related significant natural areas and associated cultural heritage features.
2. To encourage compatible recreation, conservation and educational activities.
3. To maintain and enhance the landscape quality of Escarpment features.

Criteria for Designation

1. Escarpment slopes and related landforms associated with the underlying bedrock which are in a relatively natural state.
4. The most significant stream valleys and wetlands associated with the Escarpment.

Escarpment Protection Area

Escarpment Protection Areas are important because of their visual prominence and their environmental significance. They are often more visually prominent than Escarpment Natural Areas. Included in this designation are Escarpment features that have been significantly modified by land use activities such as agriculture or residential development, land needed to buffer prominent Escarpment Natural Areas, and natural areas of regional significance.

The policy aims to maintain the remaining natural features and the open, rural landscape character of the Escarpment and lands in its vicinity.

Objectives

1. To maintain and enhance the open landscape character of Escarpment features.
2. To provide a buffer to prominent Escarpment features.
3. To maintain natural areas of regional significance and cultural heritage.
4. To encourage agriculture, forestry and recreation.

Criteria for Designation

1. Escarpment slopes and related landforms where existing land uses have significantly altered the natural environment (e.g. agricultural lands or residential development).
2. Areas in close proximity to Escarpment slopes which visually are part of the landscape unit.
3. Areas designated as environmentally sensitive by municipalities or conservation authorities.

Escarpment Rural Area

This designation identifies Rural Areas that are an essential component of the Escarpment corridor, including portions of the escarpment and lands in its vicinity. The Escarpment Rural Areas provide a buffer to the more ecologically sensitive areas of the Escarpment.

Objective

- i. To maintain scenic values of lands in the vicinity of the Escarpment.
- ii. To maintain open landscape character by encouraging the conservation of the traditional cultural landscape and cultural heritage features.
- iii. To encourage agriculture and forestry and to provide for compatible rural land uses.
- iv. To provide a buffer for the more ecologically sensitive areas of the Escarpment.
- v. To provide for the designation of new Mineral Resource Extraction Areas which can be accommodated by an amendment to the Niagara Escarpment Plan.

Criterion for Designation

1. Minor Escarpment slopes and landforms.
2. Lands in the vicinity of the Escarpment necessary to provide an open landscape, and/or are of ecological importance to the environment of the Escarpment.

The Niagara Escarpment Parks and Open Space System

The Niagara Escarpment Parks and Open Space System policies act as a framework for the establishment and coordination of a system of publicly owned lands on the Escarpment as well as the Bruce Trail.

Objectives

The objectives of the Niagara Escarpment Parks and Open Space System:

1. To protect unique ecological and historical areas;
2. To provide adequate opportunities for outdoor education and recreation;
3. To provide for adequate public access to the Niagara Escarpment;
4. To complete a public system of major parks and open space through additional land acquisition and park and open space planning;
5. To secure a route for the Bruce Trail;
6. To maintain and enhance the natural environment of the Niagara Escarpment.....

Parks and Open Space Classification Policy

Parks and open space in the Niagara Escarpment Parks and Open Space System will be assigned a classification, based on the predominant characteristics of the property. The classifications will serve as a guide to management and use of the park or open space area and will be subject to confirmation at the time Park or Open Space Master/Management Plans are prepared or revised.

Classifications will ensure the maintenance of the variety and diversity intended in the System. It is recognized that some existing uses within parks or open space areas may not conform exactly to the policies of their assigned classification. In this regard, a

building, structure or facility (e.g. existing ski area) may expand, change in use, be replaced or be upgraded when it can be sufficiently demonstrated that the Objectives of the applicable Niagara Escarpment Plan designation in Part 1, the requirements of Part 2.3 of the Plan and the objectives of the Niagara Escarpment Parks and Open Space System in Part 3.1.1. can be met. The preparation or revision of any Park Master/Management Plan shall address any proposed expansion of existing uses.

Managing agencies will be encouraged to bring parks or open space areas into conformity over a number of years, especially where monitoring shows that existing uses have exceeded the carrying capacity of the site or area. It is also recognized that some parks or open space areas may be managed in pursuit of objectives such as flood control and resource production, in addition to those presented in Part 3.1.1. Where that is the case, habitat protection and scenic values, as well as the Objectives of Part 3 of this Plan, will be taken into account in the Park Master/Management Plan or management of the area.

There are six park and open space classes:

- Nature Reserve
- Natural Environment
- Recreation
- Historical
- Escarpment Access
- Resource Management Area

Natural Environment

These lands are characterized by the variety and combination of outstanding natural features, historical resources and outstanding landscape. Natural Environment areas provide opportunities for the protection of important natural and cultural features. Activities may range from backcountry hiking in the interior of these areas to car-camping and day use activities in the more developed or accessible areas.

PERMITTED USES MATRIX: NIAGARA ESCARPMENT PLAN AND RURAL HAMILTON OFFICIAL PLAN

Permitted Uses within the Rural Hamilton Official Plan and the Niagara Escarpment Plan		Rural Hamilton OP	Niagara Escarpment Plan	
		Rural Designation (as modified by MMAH)	Escarpment Protection Designation (subject to Part 2 of NEP)	Escarpment Rural Designation (subject to Part 2 of NEP)
Existing uses		X	X	X
Rural Area General Provisions		X		
Conservation Uses		X		
	Forest	X	X	X
	Wildlife and fisheries management (with conditions)	X	X	X
Transportation facilities and existing electrical facilities used for generation and distribution (with conditions)		X	X	X (only linear facilities may be permitted in prime ag. areas)
Municipal infrastructure: water system facilities and sanitary and storm water facilities (with conditions)		X	X	X
Mineral Aggregate resource operations (by amendment to this plan, with conditions)		X		
	Exploration and extraction of petroleum resources (with conditions)	X		
Home Business (with conditions)		X	X	X
Bed and Breakfast Establishment (with conditions)		X	X	X
Small scale Residential Care Facility (with conditions)		X		
Dwelling max one per lot (with conditions)		X	X (single dwellings)	X (single dwellings)
	Second home temporary basis (with conditions)	X	X (mobile/portable dwelling units accessory to an ag. operation)	X (mobile/portable dwelling units accessory to ag. operation)
	Garden suites (with conditions)	X		

Permitted Uses within the Rural Hamilton Official Plan and the Niagara Escarpment Plan		Rural Hamilton OP	Niagara Escarpment Plan	
		Rural Designation (as modified by MMAH)	Escarpment Protection Designation (subject to Part 2 of NEP)	Escarpment Rural Designation (subject to Part 2 of NEP)
Agricultural Uses		X	X	X
	Mushroom operations (growing, harvesting, shipping)	X	X	X
	Tree farms limited to small scale retailing of products produced on-site (with conditions)	X		
	Farm green houses (with conditions)	X	X	X
	Farm labour residence (with conditions)	X	X (Mobile or portable dwelling units accessory to an agricultural operation)	X (Mobile or portable dwelling units accessory to agricultural operation)
Agriculture-Related Uses (with conditions)		X		
	Farm-related commercial uses that are small scale (with conditions)	X	X	X
	Farm-related industrial uses that are small scale (with conditions)	X		
On-Farm Secondary Uses (with conditions)		X		
	Agri-tourism uses (with conditions)	X		
	Farm vacation homes (with conditions)	X	X	X
	Home industries (with conditions)	X	X	X
	Kennels (with conditions)	X	X (in conjunction with a single dwelling)	X (in conjunction with a single dwelling)
	Small scale retailing of agriculture products (with conditions)	X		
Rural Uses		X		
	Resourced-based commercial and industrial (with conditions)	X		X (small scale in non-ag. areas servicing the ag. and rural community)
	Commercial tree farms	X		
	Retail greenhouses and nurseries	X		
	Cement/concrete production	X		
	Commercial water-taking	X		

**Appendix “D” to Report PED11052
Page 3 of 4**

Permitted Uses within the Rural Hamilton Official Plan and the Niagara Escarpment Plan		Rural Hamilton OP	Niagara Escarpment Plan	
		Rural Designation (as modified by MMAH)	Escarpment Protection Designation (subject to Part 2 of NEP)	Escarpment Rural Designation (subject to Part 2 of NEP)
	Sawmills	X		
	Resource-based recreation and tourism uses (campgrounds, golf courses, trailer parks)	X		
Agricultural Fairgrounds (with conditions)		X		
Small-scale institutional uses		X (with conditions)	X (in non-ag. areas)	X (in non-ag. areas)
Small scale recycling depots for paper, glass and cans, etc. serving the local community			X	X
Archaeological activities			X	X
Accessory buildings, structures and facilities, signs, not used for human habitation and the site modifications required to accommodate them			X	X
Incidental uses (i.e. swimming pools) normally accessory to but not an essential part of an existing use located on same lot but doesn't include a sign and as long as there is minimal impact on natural environment			X	X
Veterinary clinics			X	X
Winery and winery incidental uses, subject to Part 2.2.14			X	X
Bruce Trail Corridor including paths, bridges, boardwalks			X	X
Conservation				
	Nature preserves owned and managed by an approved conservation organization		X	X
	Watershed management and flood and erosion control projects by a public agency		X	X
	Uses permitted in open space master/management plans which are not in conflict with the NEC plan		X	X
Recreation				
	Non-agriculture areas, recreation uses oriented towards the land which requires minimal modification of the existing natural, topographic and landscape features and which do not require the building of major structures (e.g. Picnic sites, day use sites, unserviced camp sites, trail uses). Golf courses are not permitted.		X	X

Permitted Uses within the Rural Hamilton Official Plan and the Niagara Escarpment Plan		Rural Hamilton OP	Niagara Escarpment Plan	
		Rural Designation (as modified by MMAH)	Escarpment Protection Designation (subject to Part 2 of NEP)	Escarpment Rural Designation (subject to Part 2 of NEP)
	Non-agriculture areas, recreational uses, such as campgrounds, golf courses and associated golf course country clubs and trail uses provided that any detrimental impact of these uses on the Escarpment scenic qualities and natural environment is kept to a minimum.			X
Aggregates				
	New licensed pits or quarries producing less than 20,000 tonnes annually, development permit required			X
	New licensed pits or quarries producing more than 20,000 tonnes annually, NEPA required			X
	Wayside pits or wayside quarries with conditions, development permit required			X
	Limited expansion of existing small sandstone quarries, development permit required		X	X
	A second dwelling on an existing lot of record where there is an existing single dwelling designated and an easement agreement registered under the Ontario Heritage Act, or such a dwelling is considered to be of provincial or national heritage value or interest.		X	X