

UNAEEES Map 2005



UNF Strategy Update Map 2013

Urban Natural Features Strategy Update

Presentation to Planning Committee

Faith Blacquiere
Glen Cairn
8 Oct 2013

NHS Components Need Coordination and Consistent Policies

	Schedules	Purpose	Evaluated by
2.4 Maintaining Environmental Integrity 2.4.2 – Natural Features and Functions	Schedules A, B, L1, L2 & L3	Policy 1 The natural heritage system in Ottawa comprises the following significant features and the natural functions they perform Has 12 NHS “categories”	Policies in this section
3.2 Natural Environment		[Preamble relates to the Natural Heritage System and designations in Section 3]	
3.2.1 Significant Wetlands (PSW)	Schedules A & B	Policy 1 Protect these sensitive areas and support their natural functions	Evaluated against provincial criteria by the OMNR Policy 1 refers to “any <i>Planning Act</i> process applicable to the property identified by the Ministry of Natural Resources” and <i>Aggregate Resources Act</i> <i>Ontario Regulation 174/06, Ontario Regulation 153/06 Ontario Regulation 170/06</i>
3.2.2 Natural Environment Area (NEA)	Schedules A & B	Policy 1 Ensure that the natural features and functions inherent in each area are protected and preserved	Assessed through federal, provincial and municipal studies Policy 5 refers to EIS [have Management Plans for restoration and enhancement of natural features and functions]
3.2.3 Urban Natural Features (UNF)	Schedule B	Policy 1 Preserve natural features that are currently managed for conservation or passive leisure purposes	<i>Urban Natural Areas Environmental Evaluation Study</i> (March 2005) and Addendum Report (March 2006) Urban Natural Features Strategy Policy 3 refers to the <i>Forestry Act</i> Policy 5 refers to EIS
3.2.4 Rural Natural Features (RNF)	Schedule A	Policy 1 Protect locally-significant natural areas and the City’s tree cover	Natural Environment Systems Strategy in the 1990s Policy 3 refers to the <i>Forestry Act</i> . Policy 7 refers to EIS

The OP and EIS Focus on Biodiversity and Ecological Functions Does Not Adequately Protect NHS Components

OMB Decision PL041188 11 Jan 2008 Town of Oakville

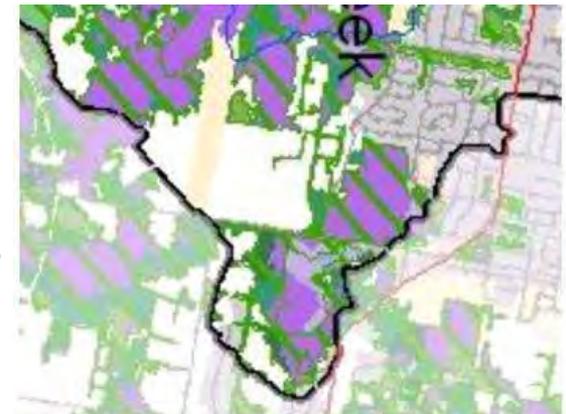
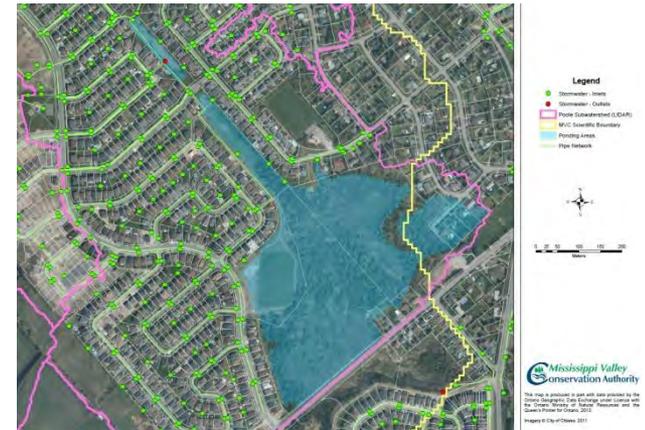
The Board is satisfied ... that the boundaries of the NHS were established based on work done in the areas of wildlife biology, fisheries biology, plant biology, **water quality, hydrogeology, hydrology and fluvial geomorphology**

The Board finds ... That not only is a systems approach an appropriate approach to determining the boundaries of a NHS in a developing urban area, it is the best approach ... No longer can society afford to look at the “natural environment” as isolated pockets of green which have been fortunate enough to have survived in an urban landscape. The Board is convinced ... that for the natural environment to have a chance of sustainability in developing urban areas, a systems approach must be taken to delineating boundaries



Lands with “Development Constraints” Need Stronger Policies

- Most Constrained Lands are omitted from consideration in the UNFS Update
 - UNAs are primarily woodlands
 - Not distinguishing those with wetlands
 - Acquisition focuses on saving woodlands
- Different treatment for new urban lands
- Development Constraints policy not in one place
- Development may occur on Constrained Lands due to weak or unenforced OP Policy and Regulatory Mechanisms
- Fernbank Wetlands UNA 132 has major development constraints (wetlands) yet is only partially designated UNF for conservation purposes
- The 6279 Fernbank part of UNA 132 has major constraints
- Why are some “non-developable” lands being given conservation easements?



Map 12B Land Cover - Carp River, Lower Mississippi and Ottawa West 200901 [purple = swamp]

The City Does Not Have to Acquire the Land When it is in the Public Interest to Protect It

Township Of Nepean Restricted Area By-law 73-76 (1979), 9 O.M.B.R. 36
Long-standing OMB Precedent requiring acquisition

20 Apr 2005 Report to PEC and Council Greenspace Appeals

... acquisition policies in the Official Plan ... do not reflect ... previous OMB decisions that established the City's obligation to acquire lands

Rodrigues Decision of 21 Aug 2006 Upheld by Court of Appeal Overturned the Township of Nepean Precedent, as described in 11 Jan 2008 Town of Oakville OMB Decision:

In *Rodriguez Holding Corp. v. Vaughan (City)*, (2006) 25 MPLR (4th) 100, the Divisional Court said, **“there is a well-recognized line of legal precedent standing for the proposition that, absent any bad faith on the part of the municipality or other statutory authority...a statutory authority can enact a by-law which will effectively freeze the uses to which an owner's lands may be put provided that the action taken by the statutory authority is pursuant to a legitimate and valid land use planning purpose”**. The Court of Appeal upheld this decision, finding that an open space by-law did not effect a *“de facto expropriation”*.

Why is the City compensating developers just because they request it?

Does OMB have the jurisdiction to require the City to spend money?

Council Is being Asked

- To fragment the NHS policies and NHS components
- To allow development on Constrained Lands
- To ignore UNAs which have development applications
- To approve 3 previously committed UNAs (why were these committed?)
- To discontinue an Acquisition Program which may now not be necessary

There is no rush for approval of this Strategy because the 3 “Committed Acquisitions” are being deferred to the next Council

Recommendations

Staff should be directed to review all of the NHS policies and evaluation criteria (including the Cultural Heritage natural areas) using the “systems approach” recommended by OMB, for consistency to ensure:

- that the Official Plan has clear, consistent policies
- that the evaluation criteria and numeric scores are made public
- that all the highest-scoring NHS Components are protected
- that landowners are treated fairly and know what to expect
- that the public are not adversely impacted by development on Constrained Lands

Reconsider the requirement for an Acquisition Program

Revise the EP Category in the CZBL 2008-250 which only provides zoning for PSW, NEA and UNF – there is no zone for RNF or other NHS Components