To: Chair and Members Economic Development and Planning Committee

WARD(S) AFFECTED: CITY WIDE

Committee Date: October 5, 2010

Subject/Report No: Airport Employment Growth District Secondary Plan, Zoning By-law and Infrastructure Master Plans (PED10153b) (City Wide)

Submitted By: Tim McCabe General Manager Planning and Economic Development Department

Prepared By: Guy Paparella 905-546-2424 Ext. 5807

Recommendation

That the land holdings of Solomon and Marvin Wasserman located at No. 2876 Upper James Street as shown on Appendix “A” to Report PED10153b be deferred from the Airport Employment Growth District Secondary Plan and the implementing zoning by-law as recommended in Report PED10153a/FCS10062a/PW10080 and that staff be directed to initiate the acquisition of these lands for the future expansion of the John C. Munro Hamilton International Airport.

Executive Summary

At the September 30, 2010 Special meeting of the Economic Development and Planning Committee, the Committee deferred decision on Report PED10153a/FCS10062a/PW10080 to a meeting on October 5, 2010, and directed staff to report back on several issues and submissions by various delegations. Among the submissions, staff received a written submission from Stephen Waque and a verbal submission from J. Pitman Patterson, Solicitors for Solomon and Marvin Wasserman, owners of lands located at No. 2876 Upper James Street as shown on Appendix “A” to Report PED10153b, expressing their concern with the proposal to redesignate and
rezone these lands to “Airport Reserve” to implement the Airport Employment Growth District Secondary Plan (AEGD). In consideration of the arguments put forth by Messrs. Waque and Patterson, it would be appropriate to defer their clients’ lands from the Airport Employment Growth District Secondary Plan and Zoning By-law and directed staff to initiate the acquisition of their property.

Alternatives for Consideration – See Page 15

The decision not to delete the lands of Solomon and Marvin Wasserman could result in an appeal of the Airport Employment Growth District Secondary Plan and Zoning By-law to the Ontario Municipal Board based on a precedent setting decision referred to as the “Nepean Principle” which considers the down-zoning of lands proposed to be acquired by a public agency as inappropriate.

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

**Financial:** There are no financial implications with this recommendation. However, if Council supports any of the requests to include additional lands to the recommended Urban Area boundary, there is a need to make substantial changes to the planning and Master Plan documents prior to Council’s adoption of the Official Plan Amendments and endorsement of the Infrastructure Master Plans.

**Staffing:** There are no staffing implications with this recommendation. However, if Council supports any of the requests to include additional lands to the recommended Urban Area boundary, there is a need to make substantial changes to the planning and Master Plan documents prior to Council’s adoption of the Official Plan Amendments and endorsement of the Infrastructure Master Plans.

**Legal:** Unless recommendation is not supported by Council, there are no legal implications with this recommendation.

**HISTORICAL BACKGROUND** (Chronology of events)

A Special Meeting of the Economic Development and Planning Committee was held on September 30, 2010 to consider the Airport Employment Growth District Secondary Plan, Zoning By-law and Infrastructure Master Plans. During the public delegation part of the meeting, a number of issues and submissions were made. At the direction of Committee, staff was asked to respond to the following:
1. Whether there is a need for Niagara Peninsula Conservation Authority to concur with Subwatershed Study and Stormwater Management Master Plan;

2. Request from Ed Fothergill, resident to include the entire Airport Employment Growth District Secondary Plan study area into Urban Area boundary;

3. Request by the Ancaster Christian Reformed Church to include their lands in the Urban Area boundary;

4. Request by Peter Pickfield, Solicitor for “Lea Investment Investments Limited” to include their lands west of Highway 6 into the Urban Area boundary and designate lands bounded by Garner Road East, Southcote Road, Hydro Corridor and Fiddler’s Green Road as Special Policy Areas 1 and lands bounded by Garner Road East, Southcote Road, Hydro Corridor and Glancaster Road as Special Policy Area 2;

5. Request from Nancy Frieday, Planner for Craig and Nancy Smith to include their lands into the Urban Area boundary;

6. Request by Fred Rudolph, Solicitor for “Freeland Developments Limited” to include their lands into the Urban Area boundary;

7. Request from Peter Pickfield, Solicitor for Alex Milojевич to recognize a future residential dwelling as “legal conforming” within a Natural Open Space designation;

8. Request from Joel Farber, Solicitor for certain landowners on south side of Twenty Road West to designate a portion of their lands for residential purposes;

9. Request from Stephen Waqui, Solicitor for Solomon and Marvin Wasserman to object to the rezoning of their lands to Airport Reserve Zone;

10. Request from Don McLean, resident for clarification on size of Urban Area boundary expansion and whether it includes lands proposed to be designated and zoned as Airport Reserve; and,

11. Request from Councillor Clark regarding the inconsistency of the prohibited uses within Section 9.8 - Airport Related Business (M8) Zone, Section 9.9 - Airport Reserve (M9) Zone, Section 9.10 - Airport Industrial (M10) as well as the issue of Waste Management Facilities. There was also a question regarding the Private Power Generation use related to Green Energy Act.

POLICY IMPLICATIONS

There are no policy implications with this recommendation. However, if Council supports any of the requests to include additional lands to the recommended Urban Area boundary, the proposal may be deemed to conflict with the Provincial Policy Statement and the Province’s Places to Grow legislation.
RELEVANT CONSULTATION

Staff has consulted with the Legal Services Division of the City Manager’s Office regarding the “Nepean Principle” which was referred to in the “Wasserman” submission.

ANALYSIS / RATIONALE FOR RECOMMENDATION

(include Performance Measurement/Benchmarking Data, if applicable)

The Planning and Economic Development Department staff has reviewed the issues as outlined in the Historical Background and have the following comments:

1. Whether there is a need for Niagara Peninsula Conservation Authority to concur with Subwatershed Study and Stormwater Management Master Plan

   **Comment:**

   The Stormwater Management Master Plan will be subject to the 30 day public and agency review under the MEA Class EA process. The NPCA would be within their rights to request a Part II Order (“bump up”) if they are not in concurrence with the plan.

   Staff believes that the issues identified by the NPCA can be resolved and that their concurrence with the plan is achievable. Our consultant team and staff have consulted with NPCA throughout the process, provided them with documentation to review and they are supportive of the project. To resolve their concerns, Appendix ‘B’ to Report PED10153b details the specific matters on which staff will seek NPCA’s concurrence.

   The NPCA has commented on airport operations; however, the study area does not include the airport. We wish to note that issues associated with the airport are being addressed, as follows:

   - The Subwatershed and Stormwater Management Master Plan recommends that the airport be encouraged to: adopt a similar approach to the recommended Stormwater Management Master Plan for the AEGD; and, implement an Environmental Management System and a Groundwater Monitoring Program be to further reduce potential groundwater impacts; and,

   - Under its Certificate of Approval requirement and as required by MOE, a year-long surface water quality monitoring program was recently completed (July 2010) and the draft report is currently under review by the airport and MOE. MOE has also required the Airport to develop an environmental management strategy to address the potential for its
operations to affect surface and groundwater resources. It is anticipated that these actions, which are under review by MOE, will address the NPCA concerns regarding airport impacts.

2. Request from Ed Fothergill, resident to include the entire Airport Employment Growth District Secondary Plan study area into Urban Area boundary;

Comment:
The letter from the Ministry of Municipal Affairs and Housing acknowledges that “the proposed urban expansion to facilitate … the AEGD to the 2031 planning horizon now comprises 830 gross ha.”

It is in the public interest to proceed with the AEGD comprising 830 gross ha and not include any additional lands.

3. Request by the Ancaster Christian Reformed Church to include their lands in the Urban Area boundary;

Comment:
The letter from the Ministry of Municipal Affairs and Housing dated April 9, 2010 to Guy Paparella, acknowledges that “the proposed urban expansion to facilitate … the AEGD to the 2031 planning horizon now comprises 830 gross ha…. and the ministries are supportive of the changes to the City’s revised employment area land budget.” In this letter they also reject the designation of an Employment Reserve constituting acreage beyond the 830 ha land budget.

It is in the public interest to proceed with the AEGD comprising 830 gross ha and not include any additional lands.

4. Request by Peter Pickfield, Solicitor for “Lea Silvestri Investments Limited” to include their lands west of Highway 6 into the Urban Area boundary and designate lands bounded by Garner Road East, Southcote Road, Hydro Corridor and Fiddler’s Green Road as Special Policy Areas 1 and lands bounded by Garner Road East, Southcote Road, Hydro Corridor and Glancaster Road as Special Policy Area 2;

Comment:
Any addition of proposed residential lands in the AEGD study area does not comply with the OMB Decision dated November 2, 2006 # 3080. The wording quoted below was requested by the OMB in this decision (Sec. 1.5 (3.1.4.7)) and these changes were made and approved by council for both the former Hamilton-Wentworth Official Plan and the new Rural Official Plan adopted by Council. The actual change to the regional official plan is (emphasis added):

“1.5 Section C.3.1.4 be amended by adding the following new olicies…3.1.4.7 It is recognized that portions of SPA 9 contain concentrations of existing
residential and other land uses incompatible with the industrial, business service and other essential uses associated with an airport employment growth district. In planning for the proposed Airport Employment Growth District, the City shall prohibit all new residential, retail commercial or other forms of development that are incompatible with future industrial and employment development objectives for this area.”

It is in the public interest to proceed with the urban boundary and configuration of land uses as shown in the Draft Secondary Plan, and not reconfigure the urban boundary or the land uses. In accordance with OMB Direction, Council has adopted Official Plan policy excluding residential uses from the AEGD Secondary plan area.

**Option ‘A’ – Employment Lands as Configured in the Draft Secondary Plan**

The urban boundary and confirmation of employment lands as shown in the Draft Secondary Plan have emerged through extensive research, analysis, evaluation, and public consultation.

**Option ‘A’ Considers Market and Balances a Wide Range of Other Factors**

Thorough analysis has been undertaken of: the total volume of lands acceptable to the Province as well as market criteria including:

- Access to the airport;
- Growth of the Hamilton International Airport;
- Good transportation access near to Highway 6 without conflicts from residences or other conflicting uses;
- Good visibility to an adequate stretch of Highway 6;
- How to provide a range of parcel sizes and designations to appeal to a range of potential businesses and markets;
- The most cost-effective servicing approach;
- Supportive of the goal of 12 % transit modal share
- The adequate amounts of each type of land use based on market analysis;
- An appropriate configuration of Prestige Business and Light Industrial;
- The inclusion of airport-related business uses to the south of the airport in adequate amounts; and,
- The inclusion of a unique Airside Industrial designation to serve interrelationships between certain businesses and the airport.
No specific criterion was the overriding criteria (based on our extensive research and knowledge), with the intention to provide a degree of flexibility that maximizes the economic development and job creation opportunities offered by the AEGD.

In particular, highway visibility and access is only one of the prevailing factor for success. To address this, Option ‘A’ takes advantage of exposure along the east side of Highway 6 and potential multi-modal connections.

**The Option ‘A’ Configuration Achieves the Broader Benefits**

The configuration offers:

- Approximately 1445 metres of frontage on Highway 6 (including approximately 475 metres of natural open space and hydro corridor). This is consistent with the majority of successful employment parks in the GTA that have single side access to highway visibility;
- Suitable proportions and volumes of land for Prestige Business, Light Industrial, Airport-Related Business, and Airside Industrial;
- A servicing scheme that optimizes the volume of land which can be immediately serviced in Phase 1;
- A land use configuration that the Water and Wastewater Master Plan demonstrates can be efficiently and cost-effectively serviced for the entire development area; and,
- A land use configuration that the Transportation Master Plan demonstrates is an efficient transportation system for both vehicle movement and transit ridership.

The configuration is also responsive to the public consultation undertaken throughout the project and the landowners that have participated in the process.

The current configuration best optimizes the opportunities to market the lands, to get an appropriate mix of land use designations, to optimize servicing and reduce costs to the developers, and to provide profile and visibility through adequate highway access.

It is in the public interest to proceed with the urban boundary and configuration of land uses as shown in the Draft Secondary Plan, and not reconfigure the urban boundary or the land uses. The statement that the AEGD is doomed to failure if frontage on both sides of Highway 6 is not included is a gross exaggeration. The success of the AEGD will not hinge
Option B – Urban Employment Lands West of Highway 6 in Exchange for Lands East of Southcote Road

Option B of additional employment lands proposed west of Highway 6 in exchange for retaining lands east of Southcote Road as rural is less desirable than Option ‘A’ given the following concerns:

Employment Lands West of Highway 6 Will Create a Disjointed Land Use Pattern

The proposed secondary plan provides a cohesive and contiguous development area with a well laid-out pattern of land use. Building on synergies from adjacent and contiguous businesses is a key factor in the success of an eco-industrial development.

If the lands west of Highway 6 are added and lands to the east (or elsewhere) are designated rural, then appropriate proportions of the different employment land use designations have to be reduced to compensate for the new lands west of Highway 6. Doing this will create a “hole in the donut” and a disjointed and non-contiguous urban boundary and pattern of land use. It is likely that the mix of land use designations which is geared to the expected market will be lost. This is contrary to good planning.

The AEGD is Not Solely Planned Around Highway 6

The AEGD is intended to be a business park that takes advantage of multimodal transportation opportunities; it is neither fully dependant on the airport or frontage on Highway 6, but a combination of both of these factors. The proposed Option B may disrupt transportation patterns to reduce the effectiveness of a multi-modal system. There is limited east-west connectivity with this option. Highway 6 splits the AEGD, access from the east side to the west side of Highway 6 can only occur at Book Road and Garner Road. This will be an impediment to transit operation and may affect ridership.

The Lands West of Highway 6 are Not Readily Accessible from Highway 6

There is no direct access from these lands to Highway 6 and there is incomplete access from Garner Road to the Highway 403. To obtain full 403 access, traffic from these lands will have to utilize either Book Road to Highway 6 or go westerly to Fiddlers Green. The location of the lands at the corner of Highway 6...
and Garner Road do not have an advantage over other areas in the AEGD for connectivity to Highway 403.

The land adjacent to the west side of Highway 6 that are being touted as having Highway visibility are owned by 3 separate parties; MTO, a private residence lot and Freeland Developments. The potential for development of the MTO lands and the private lot are unknown.

The Lands West of Highway 6 are not as Serviceable as the Lands East of Highway 6

The lands identified as the development area for the AEGD were selected because they were contiguous and had ideal proximity to existing and future wastewater infrastructure. The area east of Highway 6 and north of the hydro corridor can be serviced immediately with existing gravity sewers across Garner Road. The balance of the area can be serviced ultimately through the new gravity sewer along Dickenson Road. This configuration is very efficient as it minimizes the need for pumping stations and relies primarily on gravity flow.

Similarly, from a servicing perspective it makes strong engineering sense to service as much of the lands west of Highway 6 as one cohesive block. In the future, it is proposed to service this area through a gravity system parallel to Highway 6, flowing south by gravity to Upper James Street by the airport. While there may be potential for a portion of the area north of the hydro corridor and west of Highway 6 to flow north to existing sewers in Ancaster, the current wastewater flows and capacity of this existing system needs to be verified and will likely require significant upgrades to service all or a portion of this block. Potential upgrades include the addition of a third pump at the Calvin Street Sewage Pumping Station, twinning of the Calvin Street forcemain, and replacement of the gravity sewers crossing Highway 403 and along Fiddler’s Green with larger diameter sewers. These improvements have not been considered in any of the AEGD work to date, have not been costed and are not included in any of the AEGD financial information.

Adding Lands West of Highway 6 Will Necessitate Re-Doing the Master Plans

The AEGD is a co-ordinated project. If the land use configuration is modified, then all of the supporting Master Plans will have to be updated. As well, the financial exercise, zoning by-law, secondary plan and justification reports will have to be changed. Additional public consultation will be required for the infrastructure master plans, as well as, another Public Meeting under the Planning Act. The additional delay caused by having to update the
documentation is additional time lost during a period when Hamilton needs to bring viable greenfield industrial land to market as soon as possible.

**Landowners East of Southcote Road have a Strong Basis for an Appeal**

Option ‘A’ is based on extensive background analysis and planning justification and the concept has been in the public domain numerous times. If Option ‘B’ is accepted, then landowners east of Southcote Road (or elsewhere in the AEGD) are expected to be suspicious about this last-minute change, and there is the likelihood that they could file an appeal. If they file an appeal, then the extensive background analysis and planning justification produced in support of Option ‘A’ could be easily used during the appeal process as the counterargument for Option ‘B’.

Option ‘B’ has been presented, albeit with a less desirable urban boundary configuration, land use pattern, and servicing scheme.

5. Request from Nancy Frieday, Planner for Craig and Nancy Smith to include their west farm lands into the Urban Area boundary;

**Comment:**

The letter from the Ministry of Municipal Affairs and Housing dated April 9, 2010 to Guy Paparella, acknowledges that “the proposed urban expansion to facilitate … the AEGD to the 2031 planning horizon now comprises 830 gross ha…. and the ministries are supportive of the changes to the City’s revised employment area land budget.” In this letter they also reject the designation of an Employment Reserve constituting acreage beyond the 830 ha land budget.

It is in the public interest to proceed with the AEGD comprising 830 gross ha and not include any additional lands.

6. Request by Fred Rudolph, Solicitor for “Freeland Developments Limited” to include their lands into the Urban Area boundary;

**Comment:**

The letter from the Ministry of Municipal Affairs and Housing dated April 9, 2010 to Guy Paparella, acknowledges that “the proposed urban expansion to facilitate … the AEGD to the 2031 planning horizon now comprises 830 gross ha…. and the ministries are supportive of the changes to the City’s revised employment area land budget.” In this letter they also reject the designation of an Employment Reserve constituting acreage beyond the 830 ha land budget.

It is in the public interest to proceed with the AEGD comprising 830 gross ha and not include any additional lands.
7. Request from Peter Pickfield, Solicitor for Alex Milojevich to recognize a future residential dwelling as “legal conforming” within a Natural Open Space designation;

Comment:
The owner of the lands at 550 Glencaster Road purchased the property for the purposes of constructing a single detached dwelling. The Building Division issued a permit for the construction of house on September 10, 2010. As of October 1, the house has not been built, nor is it under construction. The requirement of the Building permit is that it has to be constructed within 6 months from the date of issuance; if not, the permit lapses and can be revoked by the City.

The subject site has been identified as a core area, in particular, significant woodland in the Rural Hamilton Official Plan. This natural heritage feature has been incorporated into the Urban Hamilton Official Plan on Schedule’s B-Natural Heritage System and B-2 Significant Woodlands as well as being designated Natural Open Space on the Airport Employment Growth District Secondary Plan and Open space on the other land use schedules.

The owner has requested the City to zone his lands to recognize the existing house. Staff cannot support this request for the following reasons:

1. The lands are proposed to be designated Open Space on the land use schedules (Town of Ancaster and E-1-Urban OP) and Natural Open on Map 1 of the Secondary Plan.

2. The Open Space designation does not allow residential uses;

3. The lands are identified as a Core area; Policy C.2.51 of Volume 1-Urban Hamilton Official Plan states:

Permitted uses within Core Areas as identified on Schedule B – Natural Heritage System are established through the designs and policies of Chapter E – Urban Systems and Designations and Volume 3 of this Plan. Boundaries of Core Areas and associated vegetation protection zones may be further refined by completion of an Environmental Impact Statement. Generally, permitted uses in Core Areas shall include [Mod 10j: Provincial Mod]:

Vision: To be the best place in Canada to raise a child, promote innovation, engage citizens and provide diverse economic opportunities.
Values: Honesty, Accountability, Innovation, Leadership, Respect, Excellence, Teamwork
Vision: To be the best place in Canada to raise a child, promote innovation, engage citizens and provide diverse economic opportunities.
Values: Honesty, Accountability, Innovation, Leadership, Respect, Excellence, Teamwork

... existing uses, in accordance with Section F.1.12 - Existing, Non-Complying and Non-Conforming Uses, and according to the requirements in Section C.2.6 – Environmental Impact Statements;

Since the house is not built it is not considered an existing use. Therefore the policy would not apply.

8. Request from Joel Farber, Solicitor for certain landowners on south side of Twenty Road West to designate a portion of their lands for residential purposes;
   Comment:
   Any addition of proposed residential lands in the AEGD study area does not comply with the Ontario Municipal Board Decision (No. 3080) dated November 2, 2006 and the City’s Municipal Comprehensive Review for the Urban Official Plan which concluded that no additional residential lands are required.

   It is in the public interest to proceed with the configuration of land uses as shown in the Draft Secondary Plan, and not reconfigure the land uses.

9. Request from Stephen Waqui, Solicitor for Solomon and Marvin Wasserman to object to the resignation and rezoning of their lands to Airport Reserve Zone;
   Comment:
   The owner’s solicitor is relying on case law at the Ontario Municipal Board commonly referred to as the “Nepean Principle” which dealt with the appropriateness of down-zoning lands for public purposes. Under the Nepean Principle, the municipality must either acquire the lands or abandon the rezoning. In this case, Council has not been provided an opportunity to consider the future acquisition of these properties for future airport purposes. However, to ensure that these lands are immediately protected for future airport purposes, staff should be directed to defer the lands from the AEGD Secondary Plan and rezoning and initiate the acquisition of these lands for the future expansion of the John C. Munro Hamilton International Airport.

10. Request from Don McLean, resident for clarification on size of Urban Area boundary expansion and whether it includes lands proposed to be designated and zoned as Airport Reserve; and

---

1 Existing: when used in reference to a use, lot, building or structure, means any use, lot, building or structure legally established or created prior to the day of approval of this Official Plan.

Structure: means any structure that requires a building permit under the Building Code.
Comment:
The size of new urban employment lands proposed is 830 gross hectares.

This does not include lands proposed to be designated and zoned Airport Reserve, since these lands do not contribute to the employment district’s supply of employment land but intended for airport storage, maintenance and operation facilities.

This land budget has been supported in writing by the Ministry of Municipal Affairs Housing.

11. Request from Councillor Clark regarding the inconsistency of the prohibited uses within Section 9.8 - Airport Related Business (M8) Zone, Section 9.9 - Airport Reserve (M9) Zone, Section 9.10 - Airport Industrial (M10) as well as the issue of Waste Management Facilities. There was also a question regarding the Private Power Generation use related to Green Energy Act.

Comment:
The Secondary Plan establishes the policy direction related to prohibited uses:

**Airport Related Business Designation**

Policy 8.4.8.1 sets out the permitted uses within the Airport Related Business designation. Based on the recently approved new Industrial Zones, the Airport Related Business (M8) Zone utilizes the approved uses to provide a list of permitted uses. The two prohibited uses are provided to limit outdoor storage which is consistent with the Urban Design Guidelines related to the built form proposed for this designated area. The Greenhouse prohibition is as it relates to the primary use of a greenhouse not being permitted where as urban agriculture is permitted only as an accessory use to a primary use.

**Airport Reserve Designation**

Policy 8.7 specifically limits the uses permitted in this designation to existing land uses and airport storage, maintenance and operation facilities. The intent of this designation is to protect the area for future airport use and as such the permitted uses are limited. As such, the only new uses permitted are those directly related to the airport. There is no definition provided to allow some flexibility not knowing the range of airport related types of uses that may be proposed.

It is the intent that these lands will form part of the airport in the future and once part of the airport, zoning will not apply as the use of the airport lands proper is regulated by Transport Canada.
Light Industrial Designation

Based on the permitted uses under Policy 8.4.6.1 and the directions of the Urban Design Guidelines, the Light Industrial Designation lands are intended to offer the greatest range of industrial-type uses within the AEGD while not permitting the range of heavy industrial uses.

The Airport Industrial (M10) Zone implements the policy directions above. The new industrial zones propose broader definitions to allow flexibility for new use to develop, such as “manufacturing”. However, with a broad definition, not all uses may be appropriate within the AEGD based on the vision for the Business Park and as such, a list of prohibited uses have been provided that will limit both the most noxious uses as a primary use.

Prestige Business Designation

Policy 8.4.5.1 c) - “Outdoor storage, salvage yards, waste processing facilities, waste transfer facilities, and other uses which are unsightly or otherwise incompatible with the design policies and image for the Prestige Business designation shall be prohibited.”

Based on this policy, the Airport Prestige Business Park (M11) Zone was created. The prohibited uses directly implement Policy 8.4.5.1 c) including the prohibition of waste processing and waste transfer facilities.

Waste facilities are only permitted within the Airside Industrial (M7) Zone however they must be airport related waste uses.

Green Energy Act

The Green Energy Act removed the municipality’s ability to regulate any use where waste is turned into power or power generation from renewable resources, such as solar and wind. However, there have been inquiries related to private power generation uses which do not fall within the regulation of the Green Energy Act, such as connection to a gas pipeline running through a Business Park that runs a generator creating power. These uses are encouraged as well and would help support the Eco-Industrial Park vision.

ALTERNATIVES FOR CONSIDERATION
The decision not to delete the lands of Solomon and Marvin Wasserman could result in an appeal of the Airport Employment Growth District Secondary Plan and Zoning By-law to the Ontario Municipal Board based on a precedent setting decision referred to as the “Nepean Principle” which considers the down-zoning of lands proposed to be acquired by a public agency as inappropriate.

**CORPORATE STRATEGIC PLAN**  (Linkage to Desired End Results)


**Financial Sustainability**
- Financially Sustainable City by 2020
- Effective and sustainable Growth Management
- Delivery of municipal services and management capital assets/liabilities in a sustainable, innovative and cost effective manner
- Full life-cycle costing for capital
- Generate assessment growth/non-tax revenues

**Intergovernmental Relationships**
- Maintain effective relationships with other public agencies

**Growing Our Economy**
- Newly created or revitalized employment sites
- Competitive business environment
- A visitor and convention destination

**Environmental Stewardship**
- Natural resources are protected and enhanced
- Reduce the impact of Hamilton's industrial, commercial Private and Public operations on the environment
- Aspiring to the highest environmental standards

**Healthy Community**

Vision: To be the best place in Canada to raise a child, promote innovation, engage citizens and provide diverse economic opportunities.

Values: Honesty, Accountability, Innovation, Leadership, Respect, Excellence, Teamwork
Vision: To be the best place in Canada to raise a child, promote innovation, engage citizens and provide diverse economic opportunities.

Values: Honesty, Accountability, Innovation, Leadership, Respect, Excellence, Teamwork
APPENDIX ‘B’: SPECIFIC FEEDBACK TO NIAGARA PENINSULA CONSERVATION AUTHORITIES COMMENTS FOR THEIR CONCURRENCE

COMMENT

Policy 8.3.5 - General Policies

The policy states:"...avoid where possible impacts on natural features,..."The PPS Section 2.1.6 does not permit development and site alterations on natural features or adjacent lands unless it has been demonstrated that there are no negative impacts on the natural features or on their ecological function.

RESPONSE

This is a general policy; please refer to Policy 8.11 which notes that the “policies of the Urban Hamilton Official Plan in Section C.2.0 apply, with the exception of Section C.2.4” to wetlands, streams, woodlands, meadows, successional areas and hedgerows. By way of this cross-reference, development and site alteration of natural features and adjacent lands are subject to an EIS to demonstrate that there are no negative impacts on the natural features or their ecological function in accordance with the PPS.

COMMENT

Policy 8.4.6.1 Light Industrial Permitted Uses

The City should consider site specific light industrial policies for the area bounded by Garner Road East, Smith Road, the Airport and Glancaster Road to address the vulnerable groundwater area previously identified here by the NPCA. This may include a shorter list of permitted uses to prohibit land uses that are at high risk for groundwater contamination or including requirements for containment management plans (see Provincial Oak Ridges Moraine Plan).

RESPONSE

The City will refine the land use permissions to conform to land use restrictions imposed by a Source Protection Plan as soon as a Source Protection Plan is approved.

We will add the following:
“8.8.9 A Groundwater Contamination Risk Management Plan shall be required for proposed development that may pose a high risk for groundwater contamination in the vulnerable groundwater area identified by the Niagara Peninsula Conservation Authority.”

COMMENT

Policy 8.4.7.1

The City should consider site specific Airside Industrial policies for the area bounded by Garner Road East, Smith Road, the Airport and Glancaster Road to address the vulnerable groundwater area previously identified here by the NPCA. This may include a shorter list of permitted uses to prohibit land uses that are at high risk for groundwater contamination or including requirements for containment management plans (see Provincial Oak Ridges Moraine Plan).

RESPONSE

Same response immediately above applies.

COMMENT

Policy 8.5 Natural Open Space

While this policy recognizes, preserves and protects natural heritage features, it does not address natural heritage systems (PPS 2.1.2) and the linkages to watercourses.

RESPONSE

The policy cross-references Section C.2 – Natural Heritage System in the new Hamilton Official Plan which contains extensive policies addressing natural heritage systems and watercourses.

COMMENT

Policy 8.8 Water Resources and Stormwater Management

This policy indicates that important groundwater features identified in the Subwatershed Plan will be protected. The secondary plan should map where these are located and include site specific policies (e.g. see comments on Policy 8.4.6.1)

Previous NPCA comments (July 29, 2010) suggested the inclusion of a policy requiring the implementation of up to-date stormwater management facilities on the airport
property itself as an opportunity for the City to demonstrate their commitment to an eco-industrial park concept. Water Quality problems resulting from de-icing activities at the airport have been documented for more than 10 years.

**RESPONSE**

Same response applies regarding the addition of a new Policy 8.8.9, with respect to groundwater protection.

The Hamilton International Airport is not the subject of the Secondary Plan. Policy related to development on airport lands are outside the scope of this Secondary Plan.

**COMMENT**

Policy 8.11.2 Natural Heritage System

The wording should be revised to include the determination of the extent of the vegetative buffer associated with the watercourse.

**RESPONSE**

The policy reference to an EIS triggers the policy requirement in Section C.2 – Natural Heritage System of the new Hamilton Official Plan, which requires that vegetative buffer zones be addressed through an EIS.

We will revise the policy as follows:

“8.11.2 Streams are mapped in Map B.8-2 – Airport Employment Growth District Natural Heritage System. If the stream has not been classified as part of an EIS, subwatershed study, or other study, a scoped EIS is required to determine the classification. The policies of the Urban Hamilton Official Plan in Section C.2.0 apply to all streams, with the exception of Section C.2.4.”

**COMMENT**

Policy 8.15 Implementation/Development Phasing

The implementation section should include provisions for the implementation of the AEGD Subwatershed Study. The Secondary Plan currently does not provide a mechanism to implement the recommendations of the subwatershed study.

Previous NPCA comments (July 29, 2010) suggested the inclusion of a
policy requiring the implementation of up-to-date stormwater management facilities on the airport property itself prior to airport expansion into the "Airport Reserve" designation. This would be an opportunity for the city to set an example for others developing in the AEGD of the commitment to an eco-industrial park and improving surface water quality.

Previous NPCA comments (July 29, 2010) suggested the inclusion of a phasing policy to require the city to obtain an easement to access the St. Elizabeth Village stormwater management ponds prior to any new development contributing flows to the ponds. The City's August 17, 2010 letter indicated that a phasing policy to address this issue would be included in the secondary plan. This would be the appropriate place in the Secondary Plan to include such a policy.

RESPONSE

We will add a new policy as follows:

“8.3.9 Development shall be guided by the recommendations of the Transportation Master Plan, Water and Waste Water Master Plan, and Subwatershed and Stormwater Master Plans.”

Policy 8.8.1 will be revised as follows:

“The recommendations of the Subwatershed Plan shall be implemented and the important ground water features identified in the Subwatershed Plan for the Airport Employment Growth District shall be protected including recharge and discharge areas, water balance, and existing private and public wells.”

Regarding development of the airport once it is expanded into the Airport Reserve, the Hamilton International Airport is not the subject of the Secondary Plan and policy related to development on airport lands are outside the scope of this Secondary Plan.

We will add the following:

“8.8.10 The lands within the AEGD are part of an important source water protection area and a number of specific requirements may be to protect groundwater resources, including but not limited to, well decommissioning, contaminant management plans for high risk land uses, use of low impact development stormwater management facilities, and maintenance of predevelopment water budgets through the preparation of stormwater management plans.”

“8.8.11 Where stormwater management facilities proposed as part of the development of the AEGD lands may impact existing facilities downstream,
the City shall ensure that such facilities are either in public ownership, or if in private ownership, then the City has the necessary legal easements for inspection, maintenance and upgrade.”

COMMENT

ZONING BY-LAW
4.23 (d) Special Setbacks from Conservation/Hazard Land (P5)

Since the consultants preparing the Subwatershed Plan were not able to access the many of the watercourses to evaluate them and the appropriate vegetative buffer zones won't be determined until the time of planning application, this makes it very difficult to put zoning in place now. It's not clear what mapping was used to establish the zoning maps and if it includes any setbacks (e.g. the NPCA regulates 15 m on each side of a watercourse). Depending on what mapping was used to establish the zoning maps, they may give the landowner a false sense of what land is available for development.

RESPONSE

In preparing the zoning maps, staff zoned the hazard P5 and then put the buffer around it. The base mapping used by staff was from the Conservation Authority.

Furthermore, policy 2.2.8 in the new Hamilton Official Plan applies to the Secondary Plan area, which states “All natural features, required vegetation protection zones, and enhancement or restoration areas on a property shall be placed under appropriate zoning in the zoning by-law and/or protected through a conservation easement to the satisfaction of the City or the relevant Conservation Authority, or deeded to a public authority.” By virtue of this policy, vegetative buffer zones determined at the time of planning applications would be implemented through site-specific zoning.

COMMENT

ZONING BY-LAW
Site Specific Zoning

Please consider site specific zoning for the lands designated in the Secondary Plan as "Light Industrial" and "Airside Industrial" in the area bounded by Garner Road East, Smith Road, the Airport and Glancaster Road to address the vulnerable groundwater area previously identified here by the NPCA. This may include a shorter list of permitted uses to prohibit land uses that are at high risk for groundwater
contamination or including requirements for containment management plans (see Provincial Oak Ridges Moraine Plan).

RESPONSE

The City will refine the land use permissions to conform to land use restrictions imposed by a Source Protection Plan as soon as a Source Protection Plan is approved.