

TO:	CHAIR AND MEMBERS PLANNING & ENVIRONMENT COMMITTEE MEETING ON SEPTEMBER 24, 2013
FROM:	J. M. FLEMING MANAGING DIRECTOR, PLANNING AND CITY PLANNER
SUBJECT:	ENVIRONMENTAL REVIEW LANDS STUDY– NEXT STEPS INFORMATION REPORT

RECOMMENDATION

That, on the recommendation of the Managing Director, Planning and City Planner, the following is an information report to **BE RECEIVED** for information.

PREVIOUS REPORTS PERTINENT TO THIS MATTER

- June 13, 2011

Built and Natural Environment report from the City Solicitor’s office regarding the Judgment of the Supreme Court of Canada dismissing the Application for Leave to Appeal by the London Development Institute to the Supreme Court of Canada regarding Official Plan Amendment 403 which established within the Official Plan a threshold policy for determining when lands are "significant woodlands".
- November 10, 2008

Planning Committee report recommending that the final report of the Environmental Review Lands Study, entitled “Inventory and Evaluation of Woodlands, City of London” prepared by North-South Environmental Inc., be received and circulated for review and comment by December 19, 2008.

PURPOSE

The purpose of this information report is to provide an update to Municipal Council regarding the status of the Environmental Review Lands Study and the next steps in implementing the recommendations of the Study.

BACKGROUND

The City of London Subwatershed Planning Studies were completed in 1995 and adopted by Municipal Council as a guideline document to assist with the implementation of environmental and water resource aspects of the Official Plan. They were approved by the Ontario Municipal Board Order No. 2314 on December 23, 1999 as part of the OPA-88 appeals.

The Subwatershed Studies identified the Natural Heritage System of the study area based on general landscape criteria such as the percent vegetation cover in the planning area, size of vegetation patches, and existing information on rare species populations and critical habitat. Within the landscape context of London and Middlesex County where woodlands cover 5% to 15% of the land, an initial cut-off size of 4 ha was determined to be a minimal size for functional woodland (Riley & Mohr 1994; OMNR 1999). All patches 4 ha and greater were mapped as well as some smaller patches if they were within 100 m of another

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patch. All patches were assigned a number; the first two digits corresponding to the numerical code assigned each of the 13 subwatersheds.

As part of the resolution of appeals to OPA-88, all woodlands (identified as unevaluated vegetation patches on Schedule ‘B-1’ of the Official Plan) were placed in the Environmental Review (ER) designation on Land Use Schedule ‘A’ (rather than Open Space) for further study. It was intended that the interim use of ER designated lands shall be directed toward the following objective:

protect natural features and ecological functions until their significance is determined through detailed environmental studies. Policy 8.8.3 iii) of Section 8 of the City's Official Plan requires that the City carry out a study of all lands designated ER outside the Urban Growth Boundary to provide a degree of certainty to land owners in the annexed area regarding the significance of environmental features on their lands.

To assist with the interpretation and implementation of this policy, the City developed and approved a detailed scientific scoring system and comprehensive approach for determining the ecological significance of woodlands. The Guideline Document for the Evaluation of Ecologically Significant Woodlands was adopted by Council and added to Section 19 of the Official Plan in 2006. There were no appeals to this process. North-South Environmental Inc. was hired to carry out the assessment of 129 terrestrial vegetation patches to determine their significance in accordance with Council approved policies and guidelines. The final report of the Environmental Review Lands Study was received September 19, 2008 and circulated to all interested stakeholders for review. Circulated stakeholders included: London Development Institute; Urban League London; Advisory Committee Environment; Environmental Ecological Planning Advisory Committee; Agricultural Advisory Committee; Thames Region Ecological Association; Ministry of Natural Resources; Ministry of Municipal Affairs and Housing; Upper Thames River Conservation Authority; Kettle Creek Conservation Authority; McIlwraith Field Naturalists (Nature London) Earth Tech Canada Inc.; Stantec Consulting Ltd.; BioLogic Consultants; Dillon Consulting. Comments were received up until January 9, 2009 from the Nature London, EEPAC and AAC and incorporated into the final study as appropriate.

During this study process, the threshold at which a woodland is classified as "significant" in London was reviewed and updated through a public process to suit changes in the 2005 Provincial Policy Statement, to reflect Official Plan environmental strategies that speak to protecting and enhancing our natural heritage system and to respond to an increasing value that the community places on trees and woodlands in the Forest City.

This policy was appealed by the London Development Institute and others to the OMB in October 2006 and the hearing took place in January 2008. The City of London Official Plan policy introduced in OPA 403 policy was upheld by the OMB Decision of July 24, 2008:

15.4.5.1 The woodland would be considered "Significant" if it achieves a minimum of one high or five medium scores as determined by the application of the Guideline for the Determination of Ecologically Significant Woodlands (March 2006) as listed in section 19.2.2. A Significant Woodland will be designated as Open Space on Schedule A and delineated as a Significant Woodland on Schedule B.

Subsequently it was appealed through the courts to the Supreme Court of Canada. These lengthy planning and legal processes came during the course of the ER Lands Study and caused delays in its implementation. The final decision of the Supreme Court was made on May 19, 2011 in the City’s favour.

The City is now resuming the implementation of the findings of the ER Lands Study as described below.

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CONCLUSIONS FROM THE PLANNING PROCESS AND ER LANDS STUDY

1. The Guideline Document for the Evaluation of Ecologically Significant Woodlands 2006, as reviewed by North-South Environmental Inc., is one of the most detailed, science-based evaluation documents in the Province and has been endorsed by the OMB.
2. Of the 129 unevaluated vegetation patches (ER) in the Agriculture designated lands of the City of London, 103 were evaluated as potential “Significant Woodlands”. The other ER patches are identified as potential ESAs or unevaluated stream corridors, to be evaluated using other criteria of the Official Plan.
3. All patches evaluated using the Guideline Document for the Evaluation of Ecologically Significant Woodlands 2006, met one or more criteria for significance. For many of the patches, only “landscape level” data was used in the assessment. As such, a final determination of significance may change the scoring based on the completion of field studies that provide the information needed to assess community and species level criteria.
4. Within the ER patch vegetation communities, locally, provincially and nationally rare plant species were discovered.
5. Within the ER vegetation patches, locally, provincially, and nationally significant animal species were found.
6. For ER patches where no field data has been collected, it is possible to apply a sub-set of the many community and species evaluation factors to focus data collection to assist in the determination of ER patch significance.
7. The results of the ER lands study support the findings of the original sub-watershed studies that recommended the protection and enhancement of all patches greater than 4 ha in size, as components of the Natural Heritage System.
8. Given the limited amount of forest cover in London and area, the study determined that almost all remaining vegetation patches should be considered significant and protected.
9. Protection of these significant woodlands supports Official Plan Goals and Strategies of protecting and enhancing the City’s Natural Heritage System and reflects Londoner's desires to protect remaining natural features.
10. A good portion of these patches are owned privately, primarily by farmers outside the Urban Growth Boundary, and the City should acknowledge these Londoners for their continued protection and long term managed use of these woodlands.

NEXT STEPS

In mid-Septmeber 2013, staff will be presenting the outcome of the Study to the Agricultural Advisory Committee and the Environmental and Ecological Planning Advisory Committee as an update.

Further communication with the affected landowners will take place over the next two months to ensure that they are appraised of and understand the technical findings of the ER Lands Study, and what it means to the designation of their lands in the Official Plan. Landowners will receive a letter that conveys the results of the evaluation, a map showing

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the boundaries of the significant woodland patch, a site description of the key features and functions of the woodland, and a resource materials page for reference to assist their ongoing stewardship and forest management practices. Following circulation of this material, landowner meetings may be required to discuss and resolve outstanding issues.

Staff in the graphics section of Planning Services will be preparing maps and by-laws to support the recommended Official Plan (OPA) and Zoning By-law (ZBA) Amendments.

Along with the appropriate mapping updates, the final report and recommendations for the re-designation of ER lands to Open Space to reflect the findings of the Report will be brought forward to Planning Environment Committee through the required public notification process for approval. Staff is targeting the report to come forward at a January 2014 meeting of PEC.

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September 9, 2013
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