BE DEFERRED to a future meeting of Council
to allow Administration to provide additional information
as adopted by Council at its meeting held **May 22, 2012 [M253-2012]**
/AA
Windsor, Ontario May 22, 2012

REPORT NO. 51 of the
ENVIRONMENT & TRANSPORTATION STANDING COMMITTEE
of its meeting held April 25, 2012

Present: **Councillor Hatfield, Chair**
Councillor Sleiman
Councillor Halberstadt
Councillor Valentinis

Regrets: **Councillor Payne**

That the following recommendations of the Environment and Transportation Standing Committee **BE APPROVED:**

Moved by Councillor Valentinis, seconded by Councillor Sleiman
THAT the report of the City Planner dated February 3, 2012 entitled "Candidate Natural Heritage Site No. 37 – Supplemental Information" **BE RECEIVED** for information; and further
THAT the City **PURSUE** further discussion with the Federal Government regarding the environmental benefits and cost savings associated with the preservation of the Ojibway Shores lands as natural heritage.
Carried.
Councillor Halberstadt voting nay.

Clerk's Note: The administrative report by the City Planner dated February 3, 2012 entitled "Candidate Natural Heritage Site No. 37 – Supplemental Information" is ***attached*** as background information.

LIVELINK #15737 ZO/6382

CHAIRPERSON

DEPUTY CLERK

NOTIFICATION:				
Name	Address	Email Address	Telephone	FAX
Windsor Essex County Environment Committee				
Windsor Port Authority	251 Goyeau Street, Suite 502 Windsor, ON N9A 6V2	wpa@portwindsor.com cpare@portwindsor.com		
Detroit River Cleanup	311-360 Fairview Ave W Essex, ON N8M 1Y6	postmaster@detroitriver.ca		
Essex County Field Naturalists' Club	Devonshire Mall P O Box 23011 Windsor, ON N8X 5B5			
Citizens Environment Alliance	1950 Ottawa Street Windsor, ON N8Y 1R7	ceaadmin@cogeco.net		
Essex Terminal Railway Company	1601 Lincoln Road P O Box 24025 Windsor, ON N8Y 4Y9	tjb@etr.ca		
Essex Region Conservation Authority	360 Fairview Ave West Suit 311 Essex, ON N8M 1Y6	dlebedyk@erca.org mchild@erca.org		

Item No. 2

THE CORPORATION OF THE CITY OF WINDSOR
Environment & Transportation Standing Committee - Administrative Report

MISSION STATEMENT:
"The City of Windsor, with the involvement of its citizens, will deliver effective and responsive municipal services, and will mobilize innovative community partnerships"

LiveLink REPORT #: 15737 ZO/6382	**Report Date: February 3, 2012**
Author's Name: Greg Atkinson	**Date to Standing Committee: April 25, 2012**
Author's Phone: 519-255-6543 ext. 6582	**Classification #:**
Author's E-mail: gatkinson@city.windsor.on.ca	

To: **Environment & Transportation Standing Committee**

Subject: **Candidate Natural Heritage Site No. 37 – Supplemental Information**

---

1. RECOMMENDATION: City Wide: _____ Ward(s): 1

That this report ***BE RECEIVED*** for information.

EXECUTIVE SUMMARY:

N/A

2. BACKGROUND:

The Environment and Transportation Standing Committee considered a report on Candidate Natural Heritage Site No. 37 at its January 25, 2012 meeting (LiveLink # 15690). After some discussion and hearing a number of delegations on the matter the Committee passed the following motion:

> *That the City Planner **BE REQUESTED** to provide additional information to the Environment and Transportation Standing Committee regarding the environmental significance of Candidate Natural Heritage Site No. 37 as a linkage from the Detroit River to the adjacent City and Provincially owned natural heritage areas to the east (i.e. Black Oak Prairie Heritage Park, Ojibway Park/Tom Joy Woods, Ojibway Prairie Provincial Nature Reserve, and the Spring Garden ANSI); and*
>
> *That the City Planner **BE REQUESTED** to provide a summary of the City's long-term employment land supply noting those properties with water access; and*
>
> *That the City Solicitor **BE REQUESTED** to provide a legal opinion as to the validity of the June 1992 Agreement between the Windsor Harbour Commission and the Corporation of the City of Windsor; and further*
>
> *That the City pursue further discussion with the Federal Government regarding the environmental benefits and cost savings associated with the preservation of the Ojibway Shores lands as natural heritage.*

3. DISCUSSION:

Significance of Candidate Natural Heritage Site No. 37 as a Linkage

CNHS No. 37 was identified in the 1992 City of Windsor Candidate Natural Heritage Site Biological Inventory (Map 1) because it met four out of the eight evaluation criteria used by the study authors to objectively evaluate natural areas. The following is an excerpt from Page 190 of the 1992 Report:

> ***"Criterion 1: Significant Ecological Function:***
>
> *This site functions as a linkage with these other areas of the Ojibway region, such as the Black Oak Heritage Park, as well as linking these areas with the Detroit River."*

Further study of CNHS No .37 was undertaken by Gerry Waldron, Consulting Ecologist in 1994 following the initiation of a three-way property transaction between the City, Windsor Harbour Commission, and Mady Development Corporation. Mr. Waldron's report recommended the size of CNHS No. 37 be reduced to approximately 30 metres (100 feet) adjacent to the Broadway Drain. The recommendation was implemented at part of Official Plan Amendment No. 166, which was approved by Council in 1995 and is reflected in the current Official Plan (Map 2) as a narrow strip of natural heritage. An updated biological inventory of the original CNHS No. 37 area was also prepared by Mr. Waldron in 2001.

As discussed in the January 25, 2012 Environment and Transportation Report there have been have been a number changes to municipal and Provincial environmental policy since 1995. These changes include the identification of CNHS No. 37 in 1995 as a Provincially significant ANSI (i.e. area of natural and scientific interest) and the establishment of the Provincially Policy Statement (1997), which stresses the importance of maintaining connections among natural heritage features.

Essex Region Conservation Authority (ERCA) staff indicated that the City did not consult with the Conservation Authority in the preparation of Mr. Waldron's 1994 report or as part of the Council decision to reduce the size of CNHS No. 37. ERCA staff suggests that the 1994 report and updated 2001 biological inventory prepared by Mr. Waldron contained insufficient information relating to the significance of CNHS No. 37 as a linkage to the adjacent natural heritage areas, stopover for migratory birds, and its status as a Provincially significant ANSI. These inventories did not include data or analysis from the peak spring and breeding seasons or an assessment of the natural shoreline as fish habitat.

In a memo dated August 21, 2001, ERCA staff suggest that the property possesses a significant ecological function as a linkage and migratory corridor from the Detroit River inland to the adjacent City and Provincially owned natural heritage areas to the east (i.e. Black Oak Prairie Heritage Park, Ojibway Park/Tom Joy Woods, Ojibway Prairie Provincial Nature Reserve, Spring Garden ANSI, and Oakwood Park as shown on Map 2). However, according to ERCA, the site's full significance cannot be assessed at this time due to the lack of complete biological data. It was also suggested by ERCA staff that the site should be thoroughly investigated for the applicability of Federal and Provincial Species at Risk legislation, as there may be both floral and faunal Species at Risk within the general area of CNHS No. 37.

Approximate Timeline of City and Provincial Natural Heritage Acquisitions

1957 Ojibway Park was acquired by the City of Windsor in 1957 from the Canadian Salt Company in exchange for mineral rights beneath the Malden landfill site.

1973 Acquisition for the Ojibway Prairie Provincial Nature Reserve began in 1973 with the purchase of 70 hectares (174.3acres) from the Morton Salt Co. of Canada. A 65 ha portion was legislated under the *Provincial Parks Act* on August 30th, 1977. An additional 40 hectares will be acquired for future expansion of the reserve. The Nature Conservancy of Canada assisted in the purchasing of lands for the Nature Reserve.

1987 Black Oak Prairie Heritage Park was acquired as part of City of Windsor's much larger purchase of lands from the Canadian Salt Company. The portion of the land which included the most significant woodland was set aside for parkland.

1991 Ojibway Park was expanded to include an adjacent 20 hectares of oak woodland formerly owned by the Windsor Raceway. Funding for the "Joy Woods" acquisition was provided by the Nature Conservancy of Canada. The park now totals 66 hectares (164 acres) in size. Tallgrass Prairie Heritage Park dedication was also about this time.

1999 The City of Windsor announced a plan to acquire Spring Garden Natural Area, a large unprotected portion of the Ojibway Prairie Remnants ANSI. An additional 40 hectares (99 acres) of land has been added to the Ojibway Prairie Provincial Nature Reserve over time. The Nature Conservancy of Canada assisted the purchasing of lands for the Nature Reserve.

1999 The City purchased the Oakwood Woodlot. Approximately 18 hectares (45 acres) east of Huron Church Road and south of Pulford Street

2008 The last block of the 121 hectare (300 acre) Spring Garden Natural Area was acquired by the city with assistance of funding from the Federal Habitat Stewardship Program.

Long-term Employment Land Supply

As part of the City's comprehensive Official Plan Review, the Planning Department prepared employment projections and an assessment of the land supply needed to accommodate projected employment growth within Windsor. The report, which was completed by EDP Consulting concluded that a more than adequate supply of employment lands is available to accommodate projected employment growth to the year 2026. Included in the analysis was the supply of vacant employment lands and future employment lands in the Sandwich South Area.

While the EDP report did not specify the supply or demand for employment land with water access, a 2009 Lands Needs Analysis Report prepared by Dillon Consulting mapped the location of vacant employment land (Map 3). Planning staff estimate that there is approximately 64 hectares (158 acres) of employment land with water access that is currently classified by the Municipal Property Assessment Corporation (MPAC) as 'Vacant Industrial' or is being offered for lease by the Windsor Port Authority (WPA). The WPA Ojibway Shores property, which is 11.92 hectares (29.42 acres) in size, is the largest vacant employment parcel with water access.

Validity of Servicing Agreement

Legal staff have advised that the June 1992 Agreement between the Windsor Harbour Commission (now Windsor Port Authority) and the Corporation of the City of Windsor regarding servicing remains valid.

4. RISK ANALYSIS:

Risk Analysis provided in the January 25, 2012 Report.

5. FINANCIAL MATTERS:

Financial matters discusses in the January 25, 2012 Report.

6. CONSULTATIONS:

Planning staff have consulted with internal City departments on this matter including the Engineering, Legal, and Parks Departments. Essex Region Conservation Authority staff were also consulted on this matter.

7. CONCLUSION:

The information contained within this report responds to motion passed at the January 25, 2012 Environment and Transportation Standing Committee meeting requesting additional information regarding CNHS No. 37. This report should be considered by the Committee in conjunction with the original staff report.

Greg Atkinson
Senior Planner – Local Economic Development

Thom Hunt
City Planner / Executive Director

Mario Sonego
City Engineer and Corporate Leader
Environmental Protection and Transportation

George Wilkki
for City Solicitor and Corporate Leader
Economic Development and Public Safety

GA/mf

APPENDICES:

Map 1: **Candidate Natural Heritage Site No. 37 (1992)**
Map 2: **Network of Natural Heritage Areas (Official Plan)**
Map 3: **Employment Land Supply (2008)**

DEPARTMENTS/OTHERS CONSULTED:

Name: Paul Pratt, City Naturalist
Phone #: 519- 966-5852

NOTIFICATION :

Name	Address	Email Address	Telephone	FAX
Windsor Essex County Environment Committee				
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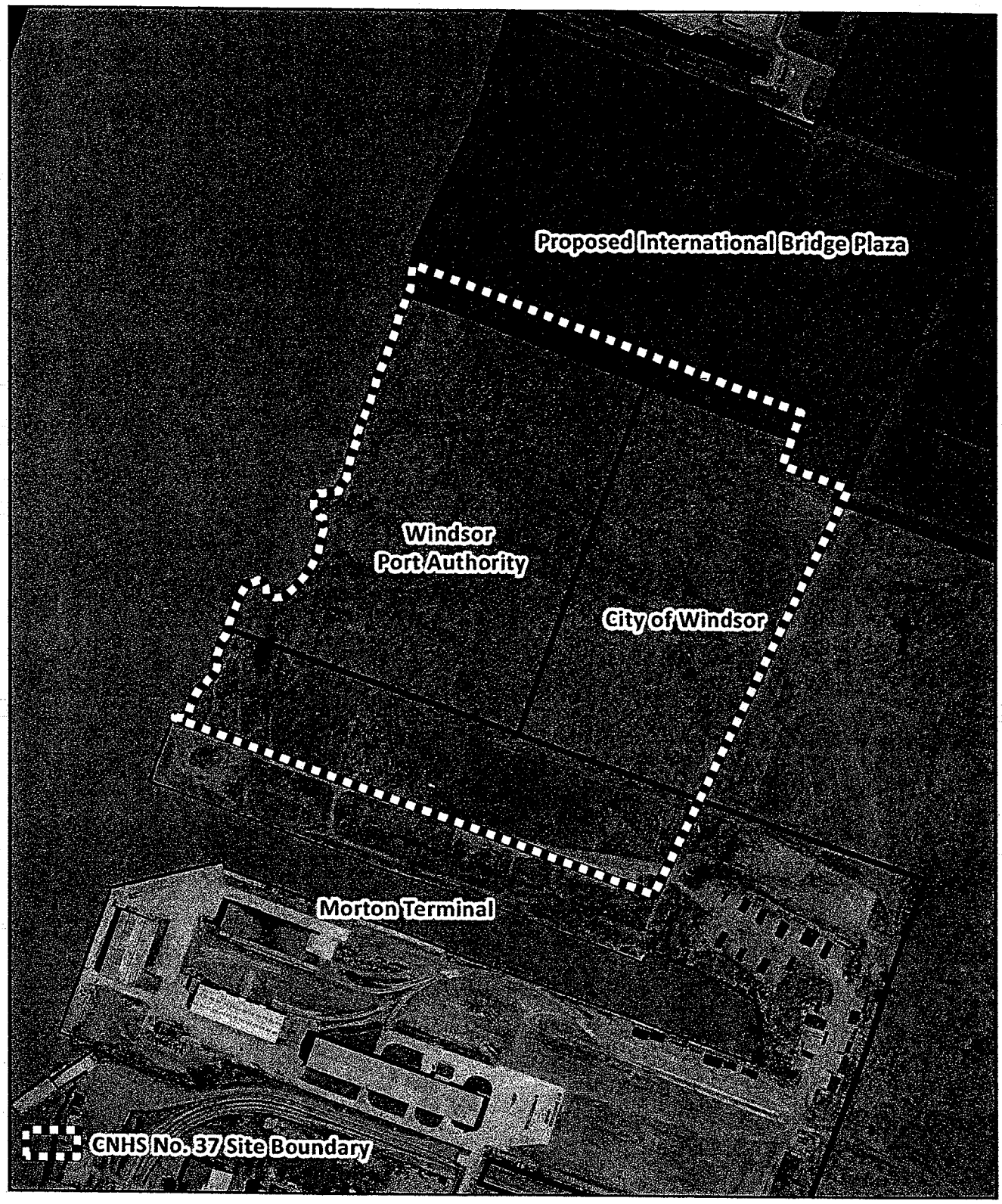
Detroit River Canadian Cleanup	311-360 Fairview Ave West, Essex ON N8M 1Y6	postmaster@detroitriver.ca	519-776-5209 ext. 356	
Essex County Field Naturalists' Club	Devonshire Mall P.O. Box 23011 Windsor, ON N8X 5B5		519-776-8315	—
Citizens Environment Alliance	1950 Ottawa St. Windsor, Ontario N8Y 1R7	ceaadmin@cogeco.net	519-973-1116	519-973-8360
Essex Terminal Railway Company	1601 Lincoln Rd., P.O. Box 24025 Windsor, ON N8Y 4Y9	tjb@etr.ca	519-973-8222	519-973-7234
Essex Region Conservation Authority	360 Fairview Avenue West, Suite 311 Essex, ON N8M 1Y6	DLebedyk@erca.org, MChild@erca.org	519-776-5209	519-776-8688

Map 1: Candidate Natural Heritage Site No. 37 (1992)



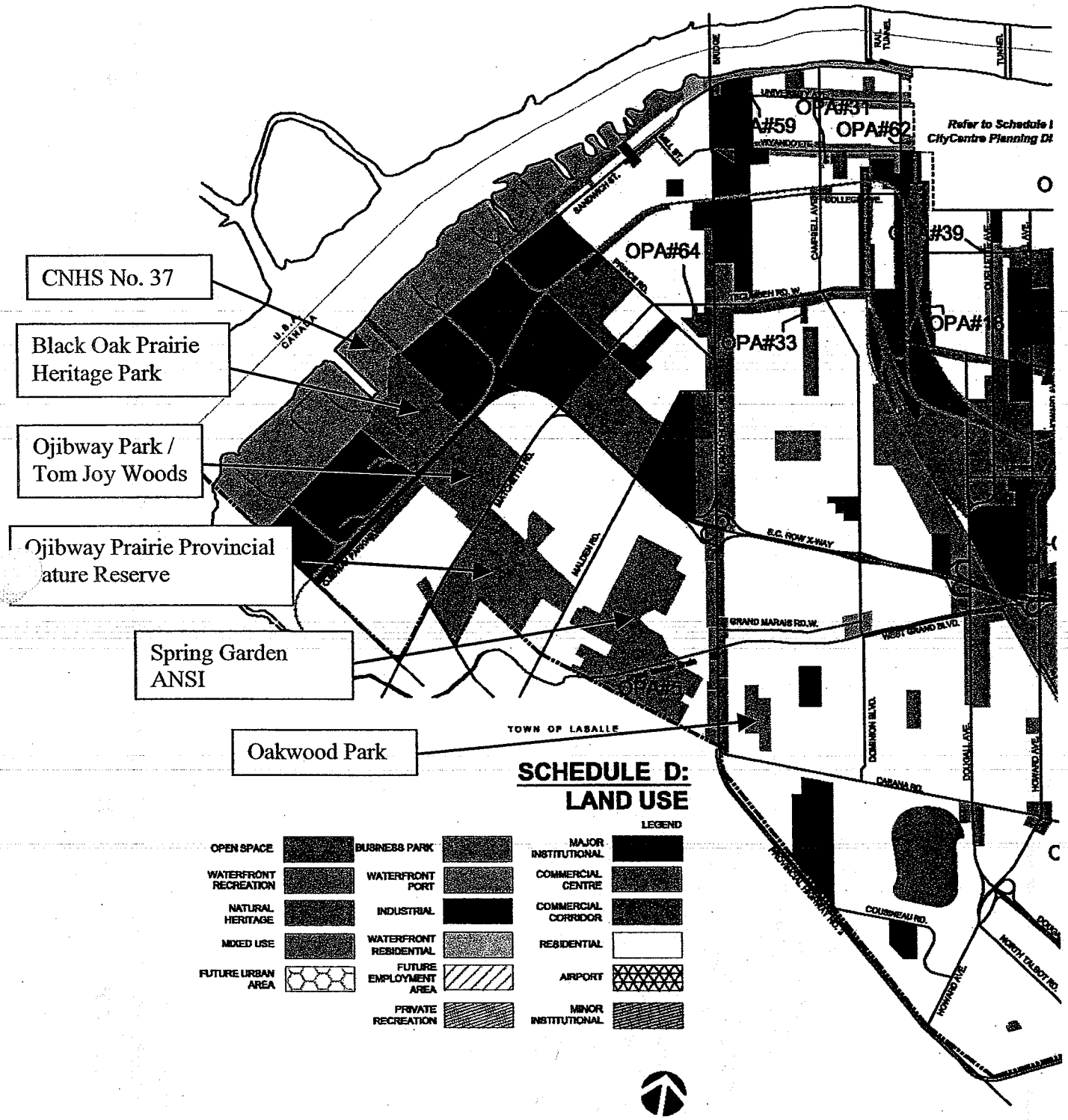
Ojibway Shores Area

Candidate Natural Heritage Site No. 37

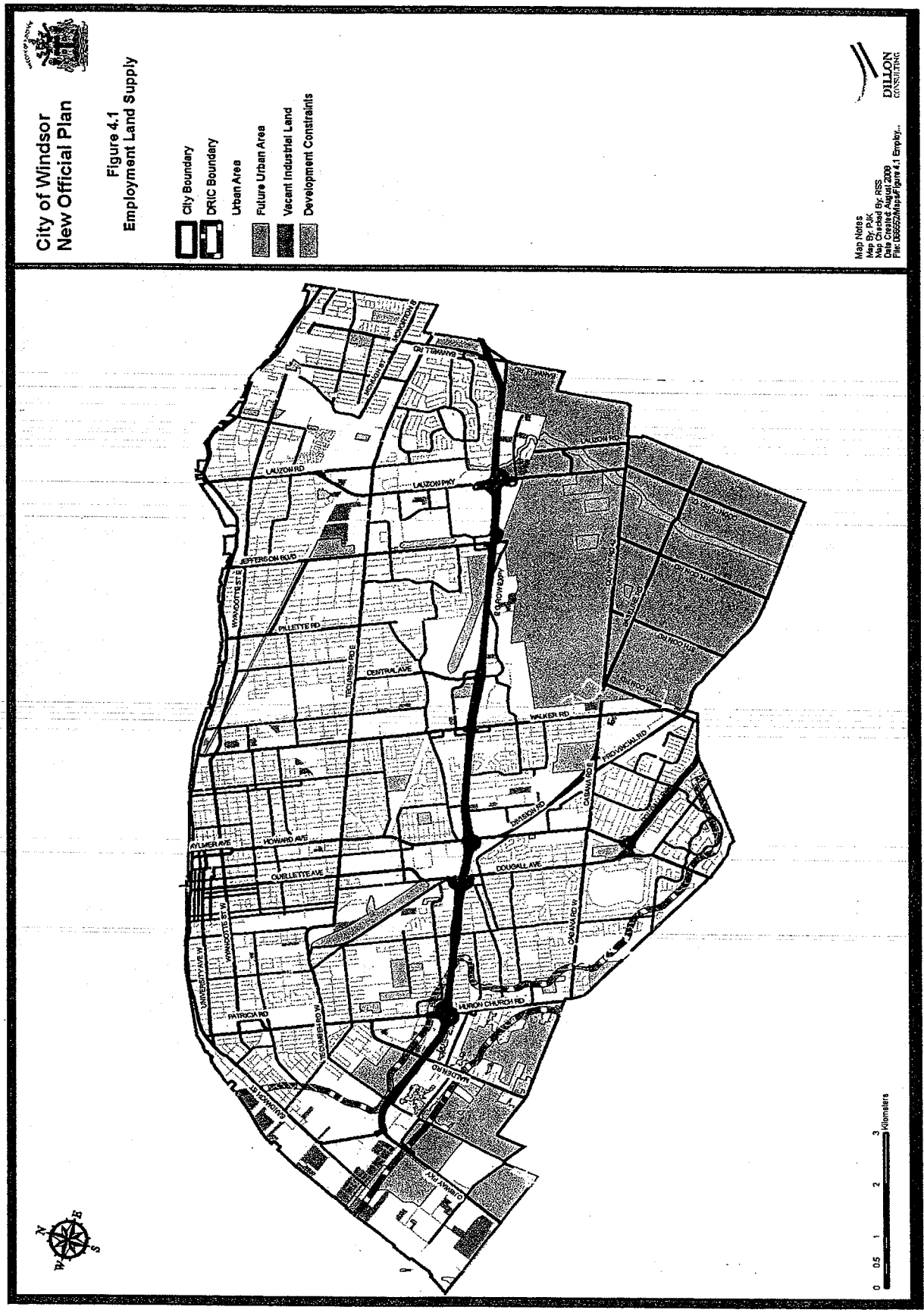
0 100 200 400
Meters

N

Map 2: Network of Natural Heritage Areas (Official Plan)



Map 3: Employment Land Supply (2008)



"BACKGROUND INFO"

THE CORPORATION OF THE CITY OF WINDSOR

Environment & Transportation Standing Committee - Administrative Report

MISSION STATEMENT:
"The City of Windsor, with the involvement of its citizens, will deliver effective and responsive municipal services, and will mobilize innovative community partnerships"

LiveLink REPORT #: 15690 ZO/6382	**Report Date: January 6, 2012**
Author's Name: Greg Atkinson	**Date to Standing Committee: January 25, 2012**
Author's Phone: 519 255-6543 ext. 6582	**Classification #:**
Author's E-mail: gatkinson@city.windsor.on.ca	

To: **Environment & Transportation Standing Committee**

Subject: **Candidate Natural Heritage Site No. 37**

1. RECOMMENDATION:

City Wide: _____ **Ward(s):** 1

THAT that the City pursue further discussion/negotiation with Federal Government regarding the environmental benefits and cost savings associated with the preservation of the Ojibway Shores lands as natural heritage.

EXECUTIVE SUMMARY:

N/A

2. BACKGROUND:

The City of Windsor owns an 85 hectare (209 acre) property west of Ojibway Parkway and immediately south of Broadway Street (Map 1). The majority of the property is comprised of Black Oak Heritage Park, which is designated 'Natural Heritage' in the Official Plan and 'Green District 1.4' in the City's Zoning By-law. Portions of the property west of Black Oak Heritage Park are designated 'Waterfront Port' in the Official Plan and 'Manufacturing District 2.5' in the City's Zoning By-law, which permits a wide range of industrial uses (Maps 2 and 3).

The property to the north is owned by the Federal Government and is proposed to accommodate the new international bridge crossing plaza. The property between the City lands and the Detroit River, known as Ojibway Shores, is also owned by the Federal Government and administered by the Windsor Port Authority (WPA).

The area south of Broadway Street, west of Sandwich Street, and North of the Morton Terminal (Map 4), was identified as a Candidate Natural Heritage Site (CNHS No. 37) as part of the Candidate Natural Heritage Site Biological Inventory—a study undertaken by the Essex Region

Conservation Authority in partnership with the City's Planning and Parks Departments in 1992. CNHS No. 37 was identified for its significant ecological function as a linkage between the Detroit River and other natural areas of the Ojibway-Black Oak Heritage Park Complex. Other CNHS study criteria fulfilled by this area included the presence of a number of significant species, significant size, and relatively natural condition.

The Ministry of Natural Resources has identified this area as a Provincially Significant Area of Natural and Scientific Interest (ANSI) and the Essex Region Conservation Area has identified it as an Environmentally Significant Area. Several local naturalists and environmental groups have also recognized the significance of this site as a linkage between the Detroit River and natural areas within the City (e.g. Black Oak Heritage Park, Ojibway Park, Ojibway Tall Grass Prairie, Ojibway Prairie Provincial Nature Reserve, and Spring Garden ANSI), and into Essex County.

The WPA came to own the property located between the Detroit River and the City-owned land as a result of a three-way property transaction between the City, WPA, and Mady Development Corporation in 1992 to facilitate development of Rendezvous Shores. As part of this transaction, the City agreed to provide services (i.e. roads, curbs, watermains, storm and sanitary sewers and streetlights) to the WPA property within six months of receiving such a request. An agreement to this effect remains in place. The WPA has been actively marketing its property for industrial purposes.

As a result of amendments to the *Canada Marine Act*, in 1999/2000 all real property owned by the WPA (previously the Windsor Harbour Commission) vested in the Federal Government and WPA became the administrator of these lands on behalf of the Federal Government.

The City has received correspondence from various local environmental organizations requesting the City amend the Official Plan and Zoning By-law for the City-owned portion of CNHS No. 37 from industrial to natural heritage to further connect this land to surrounding natural heritage areas and ensure it is not developed in the future. It has also been suggested that the preservation of this area could assist in mitigating the environmental impacts of the proposed bridge plaza and Windsor-Essex Parkway construction.

3. DISCUSSION:

Environmental Policy Context

The preservation of CNHS No. 37 is supported by a number of policy documents and legislation, including the:

- *Planning Act*, which directs municipalities to have regard to the protection of ecological systems including natural areas, features, and functions in carrying out its responsibilities;
- Provincial Policy Statement, 2005, which provides clear provincial policy direction regarding the protection of and connectivity of natural features and areas;
- City of Windsor Official Plan, which provides municipal policy direction with respect to environmental quality;
- City of Windsor Community Strategic Plan, which aims to preserve and enhance the natural environment; and
- City of Windsor Environmental Master Plan, which sets out actions to expand, enhance, and build linkages among Windsor's Greenway System.

Despite clear Provincial and municipal policy direction to preserve natural heritage areas such as CNHS No. 37, this area is currently zoned for industrial use. Appendix A provides a more detailed explanation of the environmental policy context.

Challenges and Opportunities

The preservation of the entire CNHS No. 37 as a linkage between the Detroit River and many of the City's natural areas represents a significant opportunity to ensure the connectivity and health of the City's natural environment for future generations. There are however challenges to preserving this area as natural heritage.

The Windsor Port Authority has indicated that it intends to lease the Ojibway Shores property for industrial purposes and expects the City to service the property as per the agreement. City staff understands that the acquisition of the property was an investment for the Port Authority (now the Federal Government) and it is not possible to write off such an asset.

The Federal Government is not bound by the provisions of the provincial *Planning Act* or policy documents, or municipal policy documents or by-laws. Depending on the nature of the future development of the Ojibway Shores property, the development may also not be subject to the provisions of the *Building Code Act* or the requirement for a building permit.

The City has been asked to amend the Official Plan and Zoning By-law for the City-owned portion of CNHS No. 37 from industrial to natural heritage to partially preserve this area. While the amendments are supported by City staff in principle, it would likely conflict with the City's obligation to provide services through the City-owned portion of CNHS No. 37 to the Ojibway Shores property in the future. For example, services—including a road—would not typically be permitted to cross an area designated as natural heritage. And similarly, servicing the Ojibway Shores land first would likely negate any natural heritage features currently associated with the City-owned portion of CNHS No. 37 and the associated ANSI.

Lastly, the proposed international bridge crossing plaza on the abutting property to the north may impact servicing of the Ojibway Shores property. City staff understand that to facilitate servicing of the Ojibway Shores property, the Federal Government would have to extend services through the bridge plaza (from the north) at significant cost. City staff has discussed (i.e. with the Port Authority and Transport Canada) the preservation of both the City-owned and Ojibway Shores lands, which would avoid the costs associated with servicing the lands. Neither party was interested in preserving the Ojibway shores lands at the time of the discussion.

Analysis of Options

The following is a range of potential options City staff have considered in arriving at the recommendation set out in this report. The options should not be viewed as an exhaustive list.

A. Status Quo

With the final approval of the proposed international bridge crossing outstanding, there may be issues relating to the development of the Ojibway Shores site that have yet to be addressed. Waiting for the approvals and detailed designs to be finalized may assist Council with how to move forward on this issue. However, Council should be aware that the Ojibway Shores property is currently zoned for industrial use and may be developed for such purposes.

B. Further Discussion/Negotiation with Federal Government

Further discussion/negotiation with Transport Canada may bring the environmental benefits and potential costs savings associated with the preservation of CNHS No. 37 to the attention of the appropriate decision-makers (e.g. by not servicing the Ojibway Shores land, Transport Canada may save as much money as the WPA may gain as a result of leasing /selling the property). Further discussion with Transport Canada and the WPA may also result in alternative development scenarios that are acceptable to all parties (e.g. that would see a portion of the Ojibway Shores property preserved and a portion of the City-owned property developed).

C. Amend the Official Plan and Zoning By-law to Recognize CNHS No. 37 as Natural Heritage

As mentioned above, Federal Government-owned lands are not subject to the City's policy documents and by-laws. The City can amend the Official Plan and Zoning By-law for its portion of CNHS No. 37, however, such action would likely be opposed by the Port Authority and conflict with the City's contractual obligation to service the Ojibway Shores land. Should Council direct the City Planner to prepare Official Plan and Zoning By-law amendments to this effect adjacent property owners would be notified (i.e. within 120 metres) and a statutory public meeting would be held for stakeholders and the public to provide input. Any Council decision on these amendments could be appealed to the Ontario Municipal Board. In addition there is potential for other related litigation, as council has been made aware on other planning matters in the west end of Windsor.

D. Purchase Port Authority Property

The most direct and effective way to ensure the preservation of CNHS No. 37 is to purchase the Ojibway Shores lands. Because the Ojibway Shores lands were acquired for the purpose of development and with the assurance that it would serviced—the purchase price would have to reflect the current assessed value and costs associated with servicing. As Council is aware, the City does not have the authority to expropriate lands owned by the Federal Government.

Recommended Action

It is recommended that City pursue **Option B**, further discussion/negotiation with Federal Government regarding the environmental benefits and cost savings associated with the preservation of the Ojibway Shores lands as natural heritage.

4. RISK ANALYSIS:

The development of the Ojibway Shores property would likely have a negative effect on connectivity of the City's natural environment. This property is currently zoned for industrial use, which would permit the development of the lands for such purposes.

Amending the Official Plan and Zoning By-law for the City-owned portion of CNHS No.37 may result in an appeal to the Ontario Municipal Board or other litigation.

Preservation of the Ojibway Shores land as natural heritage may preclude future assessment associated with development.

5. FINANCIAL MATTERS:

Option C (Amend the Official Plan and Zoning By-law to Recognize CNHS No. 37 as Natural Heritage) may result in staff resource costs associated with an Ontario Municipal Board hearing or other litigation.

Option D (purchase Port Authority property) would result financial costs associated with the purchase. The purchase price would have to reflect the existing agreement to service the land.

6. CONSULTATIONS:

Planning staff have consulted with internal City departments on this matter including the Engineering and Legal Departments.

The City has received correspondence from The Windsor Essex County Environment Committee and many other environmental organizations regarding the recognition of this area as natural heritage.

The City has had discussions with the Windsor Port Authority regarding the preservation of the Ojibway Shores area several years prior to the writing of this report

7. CONCLUSION:

Despite clear Provincial and municipal policy direction to preserve natural heritage areas such as CNHS No. 37, the City is unable to take the appropriate action as a result of its contractual obligation to service the Ojibway Shores lands and the fact that it is owned by the Federal Government. Because of these complicated circumstances it is recommended that the City pursue further discussion/negotiation with Federal Government regarding the environmental benefits and cost savings associated with the preservation of the Ojibway Shores lands as natural heritage.

Greg Atkinson
Senior Planner – Local Economic Development

Thom Hunt
City Planner / Executive Director

Mario Sonego
City Engineer and Corporate Leader
Environmental Protection and Transportation

George Wilkki
City Solicitor and Corporate Leader Economic Development and Public Safety

GA

APPENDICES:

Map 1:	**Context Map**
Map 2:	**Official Plan**
Map 3:	**Zoning**
Map 4:	**Candidate Natural Heritage Site No. 37**
Appendix A:	**Environmental Policy Context**

DEPARTMENTS/OTHERS CONSULTED:

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Mario Sonego, City Engineer
Phone #: 519 -255-6247 ext. 6356

Michael Cooke, Manager of Planning Policy
Phone #: 519 -255-6543 ext. 6102

NOTIFICATION :				
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Windsor Essex County Environment Committee				
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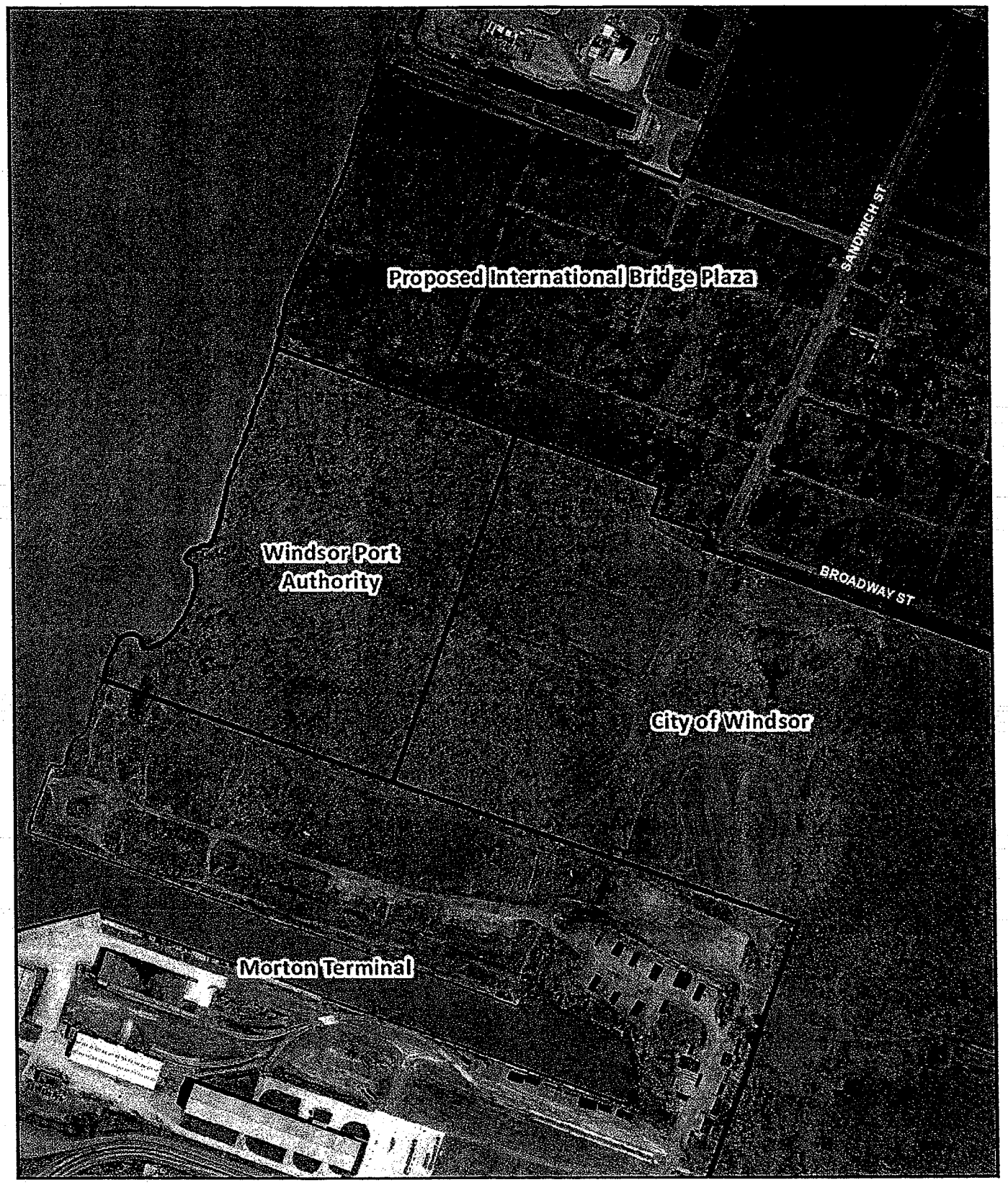
Detroit River Canadian Cleanup	311-360 Fairview Ave West, Essex ON N8M 1Y6	postmaster@detroitriver.ca	519-776-5209 ext. 356	
Essex County Field Naturalists' Club	Devonshire Mall P.O. Box 23011 Windsor, ON N8X 5B5		519-776-8315	
Citizens Environment Alliance	1950 Ottawa St. Windsor, Ontario N8Y 1R7	ceaadmin@cogeco.net	519-973-1116	519-973-8360
Essex Terminal Railway Company	1601 Lincoln Rd., P.O. Box 24025 Windsor, ON N8Y 4Y9	tjb@etr.ca	519-973-8222	519-973-7234
Essex Region Conservation Authority	360 Fairview Avenue West, Suite 311 Essex, ON N8M 1Y6	rbelanger@erca.org	519-776-5209	519-776-8688

Map 1: Context Map



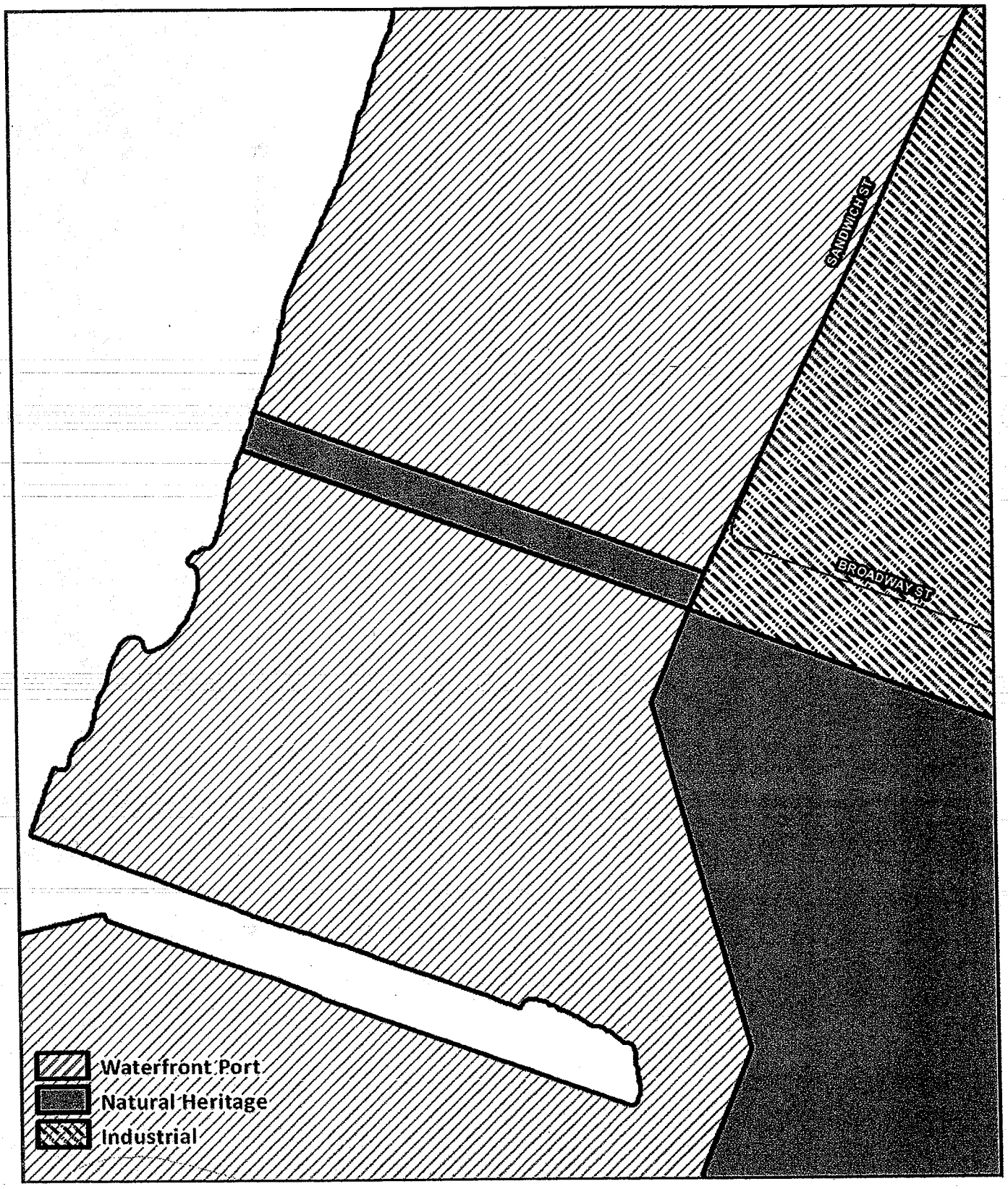
Ojibway Shores Area

Context Map

0 100 200 400
Meters

N

Map 2: Official Plan



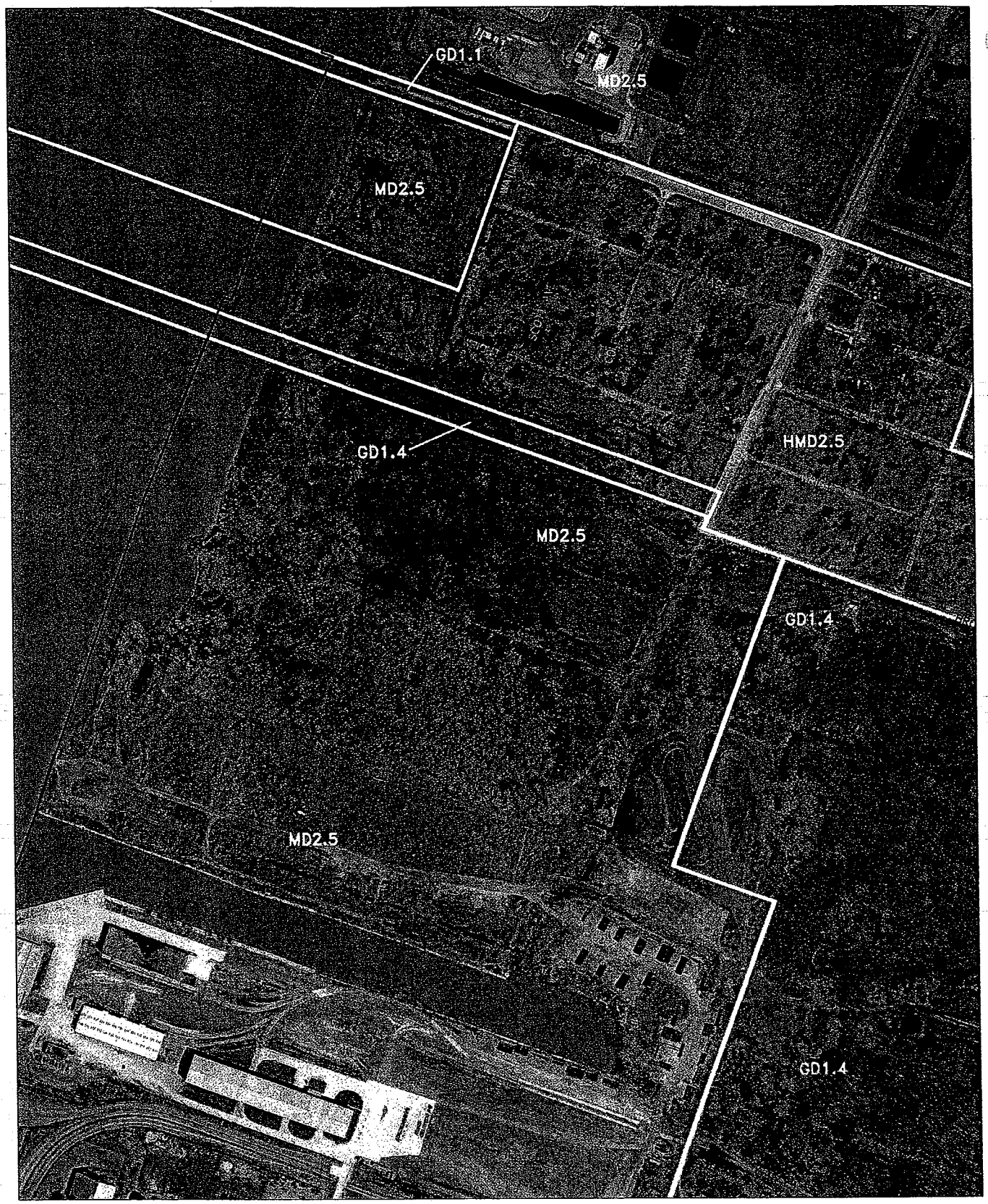
Ojibway Shores Area

Land Use Map

0 100 200 400 Meters

N

Map 3: Zoning



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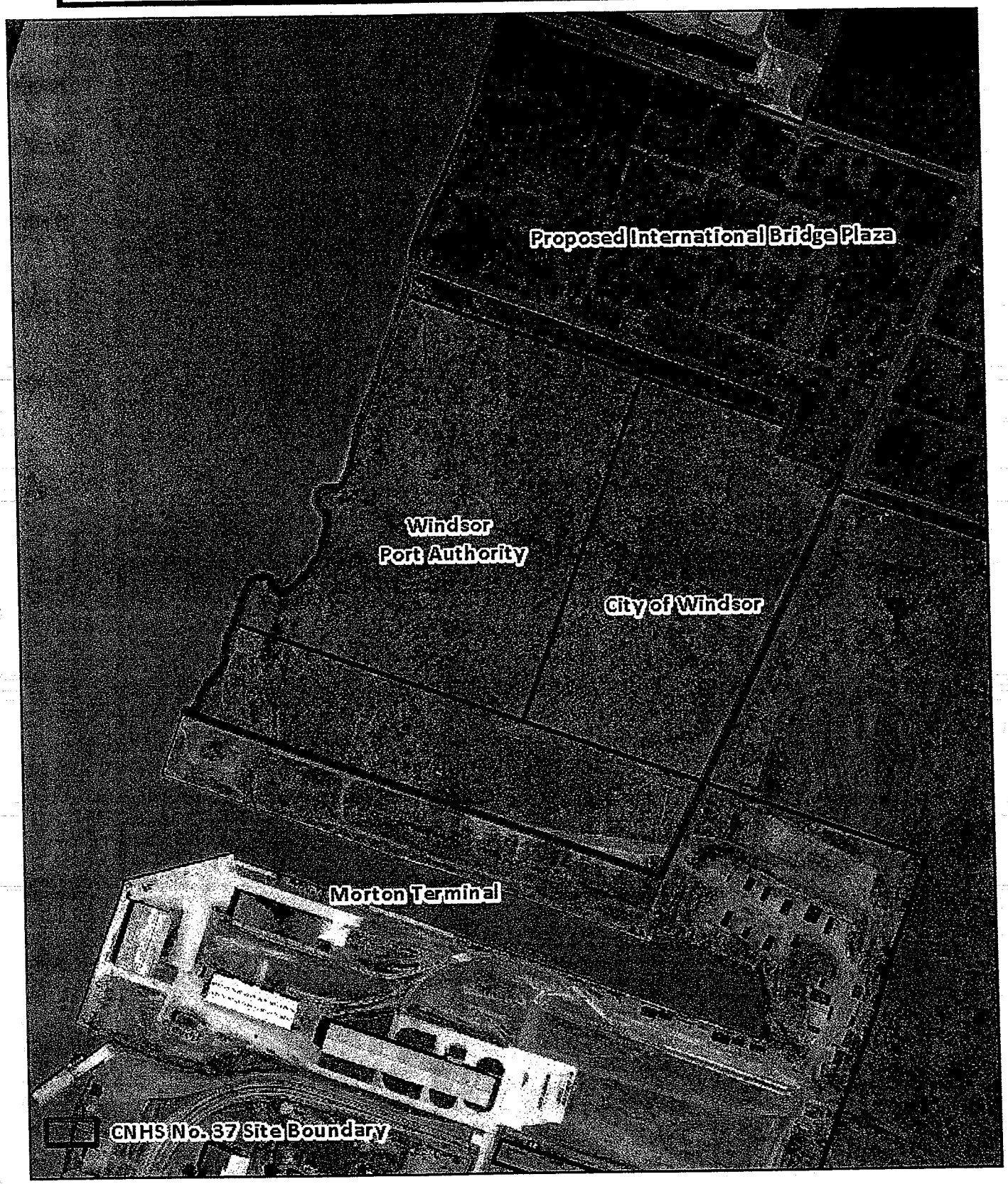
Ojibway Shores Area
Zoning Map

Map 4: Candidate Natural Heritage Site No. 37



Ojibway Shores Area

Candidate Natural Heritage Site No. 37

0 100 200 400
Meters

N

Appendix A: Environmental Policy Context

Provincial Policy Statement, 2005

The Provincial Policy Statement, 2005 (PPS) provides direction regarding the protection of natural features and areas. Most notably Section 2.1.2 speaks to recognizing, maintaining, restoring, and improving connectivity and linkages between and among natural heritage features and areas, including surface water features:

> *"2.1.2 The diversity and connectivity of natural features in an area, and the long-term ecological function and biodiversity of natural heritage systems, should be maintained, restored or, where possible, improved, recognizing linkages between and among natural heritage features and areas, surface water features and ground water features."*

Sections 2.1.4 and 2.1.6 of the PPS speak to development and site alteration within and adjacent to significant areas of natural and scientific interest (ANSI). All of the Windsor Port Authority property and part of the City-owned property has been identified by the Ministry of Natural Resources as a Provincial ANSI (Map 4) and are subject to the following Provincial policies:

> *"2.1.4 Development and site alteration shall not be permitted in:*
>
> *e. significant areas of natural and scientific interest*
>
> *unless it has been demonstrated that there will be no negative impacts on the natural features or their ecological functions."*

> *"2.1.6 Development and site alteration shall not be permitted on adjacent lands to the natural heritage features and areas identified in policies 2.1.3, 2.1.4 and 2.1.5 unless the ecological function of the adjacent lands has been evaluated and it has been demonstrated that there will be no negative impacts on the natural features or on their ecological functions."*

Planning Act

Section 2 of the *Planning Act* sets out matters of Provincial interest, which the Council of a municipality shall have regard to in carrying out their responsibilities. Among these matters is the protection of ecological systems, including natural areas, features and functions.

City of Windsor Official Plan

The City's Official Plan contains policy direction with respect to natural areas. Section 5.3 (Environmental Quality) contains the following objectives:

ECOSYSTEM HEALTH	*5.3.1.1*	*To provide a means to maintain and improve ecosystem functions and processes within an urban area.*
NATURAL RESOURCES	*5.3.1.2*	*To protect, conserve and improve the quality and quantity of Windsor's natural features and functions.*
LINKAGES	*5.3.1.7*	*To establish recreational and natural linkages between open space areas and natural areas.*

The Official Plan recognizes and protects natural areas within the City by the designating them as either a 'Candidate Natural Heritage Site', 'Environmental Policy Area', or 'Natural Heritage', each of which carries different restrictions and/or requirements related to development.

Community Strategic Plan

This matter directly relates to a major pillar of the City's Community Strategic Plan, '*Our Environment: Clean & Efficient*'. In particular, it relates to Community Strategic Plan Objective to, '*Preserve and enhance the natural environment and our urban green spaces.*'

Environmental Master Plan

The City's Environmental Master Plan contains the following objectives and actions:

Objective Ca: Expanding the Greenway System

Actions:

- Rehabilitate and naturalize derelict and underutilized lands to expand the Greenway System
- Acquire additional lands for integration into the Greenway System

Objective Cb: Enhancing the Greenway System

Actions:

- Enhance the quality and condition of the Greenway System
- Increase tree cover in the City by 5% by 2011

Objective Cc: Linking the Greenway System

Action:

- To increase connectivity within the Greenway system by 15% by the year 2011

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BY EMAIL AND DELIVERY

May 18, 2012

City of Windsor
Office of the City Clerk
2nd Floor, 350 City Hall Square
Windsor, Ontario

Attn: Ms. Valerie Critchley - City Clerk

Dear Ms. Critchley:

Re: City Council Agenda - May 22, 2012
Report No. 51 of the Environment and Transportation Standing Committee

We are solicitors for the Essex Terminal Railway Company and Morterm Limited. Our clients own lands which appear to be within and/or immediately South of the area described as Candidate Natural Heritage Site No.37, referred to in the Report #51 of the Environment and Transportation Standing Committee. We understand that this Report of the Committee is to be considered at the next Windsor City Council meeting.

The lands within CNHS #37 are currently designated as "Waterfront Port" in your Official Plan and zoned as Industrial Category MD2.5 in Bylaw 8600. Our clients strongly support the current planning designations of these lands for employment purposes and industrial uses. They object to any proposed change in planning or zoning status which would prevent or restrict use of these lands for employment and/or industrial uses.

These lands are ideally located and zoned to support Windsor's status as an international transportation hub including Great Lakes shipping, rail and other overland transportation modes. The Employment and Industrial designations of these lands are compatible with the existing uses of adjacent lands and also the proposed plaza for the new international bridge crossing, immediately to the North. Conversely, the existing and permitted heavy industrial uses are not compatible with a proposed natural heritage area.

The second recommendation of Report No. 51 is that the City pursue further discussions with the federal government regarding the "preservation" of the Ojibway shore lands as natural heritage. We note that these lands are not currently designated as natural heritage and this would require a zoning change. We have confirmed with the City administration that no planning reports currently exist to support an official plan amendment nor a zoning bylaw amendment of this nature. Accordingly, further discussions with the federal government are premature, to say the least. Our clients will object to any proposed official plan amendment or zoning bylaw amendment which would prohibit or further restrict existing permitted employment uses and industrial development in this area.

The President of the Essex Railway Company, Mr. Terry Berthiaume and the writer will be available for questions on Tuesday night.

Yours truly,

BARTLET & RICHARDES LLP

GERALD E. TROTTIER

cc: Mr. Terry Berthiaume