

## **CASE SYNOPSIS: PL180842**

### **A. APPELLANT'S NAME AND CONTACT INFORMATION:**

CAMPP Windsor Essex Residents Association

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### **B. SUMMARY OF THE APPLICATION**

The Appellant in this matter brings an application for an appeal of Windsor City Council's decision to approve Official Plan Amendment Number 120 for the entire lands described as the "County Road 42 Secondary Plan Area", located on the south side of County Rd 42, between 8th Concession Road and County Road 17, extending approximately 600m south of Baseline Road, on the grounds that the decision is inconsistent with the Provincial Policy Statement and fails to conform with Windsor's Official Plan.

OPA120 is a blueprint submitted by Windsor Regional Hospital to expand Windsor's developed footprint by 400 hectares on land designated for future growth. The development is to be anchored by a new hospital at County Road 42 and Concession 9.

Windsor Regional Hospital (WRH) determined that a new regional scale hospital is required for the Windsor-Essex County region and that there is a need to acquire at least 20 hectares of land to accommodate the future hospital. In 2015, WRH entered into an Agreement of Purchase and Sale for the land located at the southeast corner of the intersection of 9th Concession Road and County Road 42. The proposed hospital site is within the Sandwich South Planning District. This area is mostly undeveloped, predominantly zoned "Agricultural" and used for farming. The land is designated 'Future Urban Area' and 'Future Employment Area' on Schedule D (Land Use) of the OP Vol. 1.

Re-designation or development of lands within the 'Future Urban Area' and the 'Future Employment Area' requires completion of a Secondary Plan.

1. OPA120 disregards the principles of sustainable development embodied in Ontario's Planning Policy Statement and Windsor's Official Plan by relying on falling household sizes to justify the designation of additional lands.
2. OPA120 relies on decade-old reports, some based on data as old as 1996, to create an overly optimistic local population and job growth scenario. Key features:
  - **New houses for 7,134 people.** This represents 92% of all anticipated new future Windsor residents through 2036.
  - **Space for 6,880 new jobs,** even though the regional working age population is expected to decline through 2041.
  - **Canada's most distant hospital** relative to the city it serves.
3. For a community aging so rapidly that, by 2032, 33% of Windsor's adults will have reached retirement age, this is an inefficient and costly response to a demonstrated shortage of compact and accessible housing options in established neighbourhoods.
4. Key Issues:
  - Ignores the costs in perpetuity to taxpayers of developing and maintaining the new subdivision.
  - Increases commute distances and car dependency, when the community is more elderly and greater numbers of young people are choosing car-free lifestyles.
  - Neglects the environmental and financial consequences of developing productive farmland in an area that, if developed, will require expensive and extensive flood containment measures.
  - Risks escalating loss of population and businesses from established neighbourhoods to neighbouring municipalities with significantly lower development charges and property taxes.

## **C. STATEMENT OF THE DECISION MADE**

Windsor City Council approved Official Plan Amendment Number 120.

## **D. NATURE OF THE APPEAL AND LIST OF THE ISSUES**

### **Unresponsive Planning**

#### **No Consensus Built**

1. OPA120 does not conform with Section 3.2.4.1 of Windsor's OP because neither municipal staff nor hospital leadership built community consensus regarding concerns about the development of Sandwich South during the four years leading up to and including its August 13, 2018 Council meeting.

#### **Fiscally Irresponsible Planning**

2. OPA120 does not conform with Section 3.2.4.2 of Windsor's OP because by proceeding without full cost-benefit analysis, planning is fiscally irresponsible.

#### **Public Involvement in Planning and Development Initiatives not Encouraged**

3. OPA120 does not conform with Section 4.2.5.2 of Windsor's OP because since 2014, thousands of residents have been actively expressing concerns about the planned hospital location.

#### **Ineffective Communication**

4. OPA120 does not conform with Section 4.2.5.3 of Windsor's OP because public concerns around the sustainability of the development of Sandwich South have been consistently expressed, yet no public debate occurred prior to the nine-hour long August 13, 2018 Council meeting.

#### **No Consultation with First Nations**

5. OPA120 does not conform with Section 10.2.1.14 of Windsor's OP because no consultation occurred with First Nations communities.

## **No Coordination with Aboriginal Communities**

6. OPA120 is inconsistent with Section 1.2.2 of the Provincial Planning Statement, 2014, because no consultation occurred with Aboriginal communities.

## **Unwise Use of Resources**

### **Unjustified and Fiscally Irresponsible Expansion**

7. OPA120 is inconsistent with Section 1.1.3.2(a) of the Provincial Planning Statement, 2014, because it proposes the unjustified and fiscally irresponsible expansion of infrastructure and public service facilities in the face of a stalled (and potentially declining) population beyond 2031. It is an inefficient management of resources to demolish two urban acute care hospitals in the areas with the greatest population density and lowest car ownership rates.

### **Irresponsible Development Pattern**

8. OPA120 is inconsistent with Section 1.1.3 of the Provincial Planning Statement, 2014, because it proposes an irresponsible development pattern that builds infrastructure and public service facilities without consideration to the population density of the affected areas.

### **Long-term Availability and Use of Land and Resources not Optimized**

9. OPA120 is inconsistent with Section 1.7.1 of the Provincial Planning Statement, 2014, because it prematurely develops farmland; it removes two major anchor institutions from established neighbourhoods, and it does not address limited population growth projections and a declining working age population.

### **Agricultural Resources not Wisely Managed**

10. OPA120 is inconsistent with Section 2.0 of the Provincial Planning Statement, 2014, because it permanently removes agricultural land from use, while ignoring opportunities to add “missing middle” development in established neighbourhoods. Some of these neighbourhoods have experienced steady outmigration to more affluent wards and municipalities over many years, with only limited renewal investment. Greenfield development of productive farmland at a time of stagnating

population growth and without first developing available brownfield and infill land is an inefficient use of agricultural resources.

#### **Designation of Additional Lands Not Tied to Increased Population Growth**

11. OPA120 does not conform with Section 1-3 of Windsor's OP because it relies on falling household sizes and unsubstantiated, outdated employment land needs.

#### **Development Not Needed on the Basis of Population Growth**

12. OPA120 does not conform with Vol II Section 1.23 of Windsor's OP because it is based on the estimated creation of 21,000 new jobs despite this number being almost triple Windsor's total population growth projected in the Growth Management Analysis. In addition, by 2026, Windsor's population growth is expected to stall and the Ministry of Finance projects a decline in the regional working age population.

#### **Permanent and Premature Removal of Agricultural Land**

13. OPA120 does not conform with Section 5.1.1 of Windsor's OP because agricultural land will be permanently removed from use despite the existence of 275 hectares of available employment land.

#### **Environmentally Unsustainable Urban Development**

14. OPA120 does not conform with Section 6.1.2 of Windsor's OP because new housing in Sandwich South will accommodate almost all of the city's future growth, with an employment to population ratio of 1:1. This will not result in a more compact city. The prospect of a declining population beyond 2031 was not considered.

### **Unsustainable Land Use Patterns**

#### **Transportation Systems that are Not Appropriate to Address Needs**

15. OPA120 is inconsistent with Section 1.6.7.1 of the Provincial Planning Statement, 2014, because in the absence of significant population growth, adequate service level expansion will be difficult to finance in an already constrained system.

#### **Length and Number of Vehicle Trips Not Minimized**

16. OPA120 is inconsistent with Section 1.6.7.4 of the Provincial Planning Statement, 2014, because it increases, rather than decreases, vehicle trip lengths and the

number of trips. This is because of the distance of the proposed hospital from the city's most densely populated neighbourhoods.

#### **Transportation Planning Not Integrated**

17. OPA120 is inconsistent with Section 1.6.7.5 of the Provincial Planning Statement, 2014, because there is no evidence that decisions about routes, service frequency, costs, or regional transit have been made. In the absence of significant population growth, it will be difficult to finance adequate service level expansion.

#### **Opportunities for Walking, Cycling and Transit Will Be Reduced**

18. OPA120 does not conform with Section 3.2.3.1 of Windsor's OP because in the absence of significant population growth, Transit Windsor's already constrained financial resources will be stretched across an increased urban footprint.

#### **Institutions Will Not be Accessible**

19. OPA120 does not conform with Section 6.6.1 of Windsor's OP because the greenfield hospital location will not be easily accessible for those who do not drive.

#### **Pedestrian and Cycling Access Not Distinguishable, Safe or Convenient**

20. OPA120 does not conform with Section 6.6.2.5 of Windsor's OP because access to Sandwich South by bicycle or on foot from neighbourhoods north of EC Row is impeded by airport land which lies between, and access routes leading to Sandwich South, including the Expressway, are not engineered for safe active transportation.

#### **Unreasonable Walking or Cycling Distance**

21. OPA120 does not conform with Section 7.2.2.21(c) of Windsor's OP because Sandwich South lies more than 5 km from almost all existing Windsor neighbourhoods.

#### **Access to Public Transportation**

22. OPA120 does not conform with Section 7.2.5.2 of Windsor's OP because in the absence of significant population growth, Transit Windsor's already constrained financial resources will struggle to support the city's increased urban footprint.

## **Loss of Resilience**

### **Insufficient Consideration of Population Estimates**

23. OPA120 is inconsistent with Section 1.1.1(a) of the Provincial Planning Statement, 2014, because it proposes an irresponsible development and land use pattern that does not consider limited population growth, or the potential for a decline in population.

### **Increased Land Use Barriers for Persons with Disabilities and Older Persons**

24. OPA120 is inconsistent with Section 1.1.1(f) of the Provincial Planning Statement, 2014, because it fails to identify, prevent or remove land use barriers for persons with disabilities and older persons.

### **Substantial Growth in the 65 to 84 Age Group**

25. OPA120 does not conform with Section 1-5 of Windsor's OP because the projected 21,000 new jobs ignore the expansion of the retiree population and a declining working age population.

### **Loss of a Major Employer and Community Anchor from the Downtown Core**

26. OPA120 does not conform with Section 3.2.2.2 of Windsor's OP because the loss of Windsor Regional Hospital's Ouellette Campus will remove a major community anchor and more than 3,000 employees from the city centre, weakening downtown as a major economic centre and reducing health care workers' walkable access to employment.

### **Limited Mix of Housing Types and Services**

27. OPA120 does not conform with Section 4.2.1.5 of Windsor's OP because no high density housing is depicted in the Land Use Plan, contradicting the 70% low, 20% medium, 10% high density mix described in the Growth Management Analysis.

### **Health Care Services Moving Away from where People Live and Work**

28. OPA120 does not conform with Section 4.2.3.2 of Windsor's OP because the loss of two urban acute care hospitals will remove critical healthcare services from existing neighbourhoods.

### **Lack of Integration of All Residents into the Community**

29. OPA120 does not conform with Section 4.2.4.2 of Windsor's OP because the community will be divided rather than integrated: replacing two anchor institutions with one beyond the airport creates a physical barrier that impacts low income and vulnerable residents, especially those who do not drive.

### **Specialist Services Dispersing from Accessible Locations**

30. OPA120 does not conform with Section 4.2.3.5 of Windsor's OP because medical specialists who take call will have to migrate to offices closer to the proposed hospital, resulting in a loss of necessary specialist services in established neighbourhoods.

### **Institutions Not Integrated Within Neighbourhoods**

31. OPA120 does not conform with Section 6.1.6 of Windsor's OP because Sandwich South is currently an active agricultural area that is dislocated from existing neighbourhoods and physically separated by the Windsor Airport land. There are no surrounding neighbourhoods that the proposed hospital would be "integrated in".



## E. REVIEW OF THE FACTS

**Note:** Cross-references to the Official Plan Planning Justification Report (R1), are abbreviated to **O**. Cross-references to the Hospital Zoning Planning Justification Report (R2), are abbreviated to **Z**. Numbers refer to handwritten numbers in the top right corner of each page in the Municipal Record.

**Also:** The report CAMPP submitted to Windsor City Council before the August 13<sup>th</sup> 2018 meeting is included in the Municipal Record in R1 under Tab 9, Part 2, Pp.1482-1549. However, these pages were badly distorted during the municipal reproduction process. For this reason, a new copy is included in the Appeal Record. The equivalent page numbers are shown in ***bold italics***.

### **Unresponsive Planning**

#### **No Consensus Built**

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#### **Fiscally Irresponsible Planning**

- 2 OPA120 does not conform with Section 3.2.4.2 of Windsor's OP because by proceeding without full cost-benefit analysis, planning is fiscally irresponsible.

#### **Public Involvement in Planning and Development Initiatives not Encouraged**

- 3 OPA120 does not conform with Section 4.2.5.2 of Windsor's OP because since 2014, thousands of residents have been actively expressing concerns about the planned hospital location.

#### **Ineffective Communication**

- 4 OPA120 does not conform with Section 4.2.5.3 of Windsor's OP because public concerns around the sustainability of the development of Sandwich South have

been consistently expressed, yet no public debate occurred prior to the nine-hour long August 13, 2018 Council meeting.

#### **No Consultation with First Nations**

- 5 OPA120 does not conform with Section 10.2.1.14 of Windsor's OP because no consultation occurred with First Nations communities.

#### **No Coordination with Aboriginal Communities**

- 6 OPA120 is inconsistent with Section 1.2.2 of the Provincial Planning Statement, 2014, because no consultation occurred with Aboriginal communities.

### **Unwise Use of Resources**

#### **Unjustified and Fiscally Irresponsible Expansion**

- 7 OPA120 is inconsistent with Section 1.1.3.2(a) of the Provincial Planning Statement, 2014, because it proposes the unjustified and fiscally irresponsible expansion of infrastructure and public service facilities in the face of a stalled (and potentially declining) population beyond 2031. It is an inefficient management of resources to demolish two urban acute care hospitals in the areas with the greatest population density and lowest car ownership rates.

#### **Irresponsible Development Pattern**

- 8 OPA120 is inconsistent with Section 1.1.3 of the Provincial Planning Statement, 2014, because it proposes an irresponsible development pattern that builds infrastructure and public service facilities without consideration to the population density of the affected areas.

#### **Long-term Availability and Use of Land and Resources not Optimized**

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- 10 OPA120 is inconsistent with Section 2.0 of the Provincial Planning Statement, 2014, because it permanently removes agricultural land from use, while ignoring opportunities to add “missing middle” development in established neighbourhoods. Some of these neighbourhoods, which have experienced steady migration to outlying wards and municipalities over many years, have only had limited renewal investment. Greenfield development of productive farmland at a time of stagnating population growth and without first developing available brownfield and infill land is an inefficient use of agricultural resources.

**Designation of Additional Lands Not Tied to Increased Population Growth**

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**Environmentally Unsustainable Urban Development**

- 14 OPA120 does not conform with Section 6.1.2 of Windsor’s OP because new housing in Sandwich South will accommodate almost all of the city’s future growth, with an employment to population ratio of 1:1. This will not result in a more compact city. The prospect of a declining population beyond 2031 was not considered.

**Unsustainable Land Use Patterns**

### **Transportation Systems that are Not Appropriate to Address Needs**

- 15 OPA120 is inconsistent with Section 1.6.7.1 of the Provincial Planning Statement, 2014, because in the absence of significant population growth, adequate service level expansion will be difficult to finance in an already constrained system.

### **Length and Number of Vehicle Trips Not Minimized**

- 16 OPA120 is inconsistent with Section 1.6.7.4 of the Provincial Planning Statement, 2014, because it increases, rather than decreases, vehicle trip lengths and the number of trips. This is because of the distance of the proposed hospital from the city's most densely populated neighbourhoods.

### **Transportation Planning Not Integrated**

- 17 OPA120 is inconsistent with Section 1.6.7.5 of the Provincial Planning Statement, 2014, because there is no evidence that decisions about routes, service frequency, costs, or regional transit have been made. In the absence of significant population growth, it will be difficult to finance adequate service level expansion.

### **Opportunities for Walking, Cycling and Transit Will Be Reduced**

- 18 OPA120 does not conform with Section 3.2.3.1 of Windsor's OP because in the absence of significant population growth, Transit Windsor's already constrained financial resources will be stretched across an increased urban footprint.

### **Institutions Will Not be Accessible**

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Sandwich South, including the Expressway, are not engineered for safe active transportation.

### **Unreasonable Walking or Cycling Distance**

- 21 OPA120 does not conform with Section 7.2.2.21(c) of Windsor's OP because Sandwich South lies more than 5 km from almost all existing Windsor neighbourhoods.

### **Access to Public Transportation**

- 22 OPA120 does not conform with Section 7.2.5.2 of Windsor's OP because in the absence of significant population growth, Transit Windsor's already constrained financial resources will struggle to support the city's increased urban footprint.

## **Loss of Resilience**

### **Insufficient Consideration of Population Estimates**

- 23 OPA120 is inconsistent with Section 1.1.1(a) of the Provincial Planning Statement, 2014, because it proposes an irresponsible development and land use pattern that does not consider limited population growth, or the potential for a decline in population.

### **Increased Land Use Barriers for Persons with Disabilities and Older Persons**

- 24 OPA120 is inconsistent with Section 1.1.1(f) of the Provincial Planning Statement, 2014, because it fails to identify, prevent or remove land use barriers for persons with disabilities and older persons.

### **Substantial Growth in the 65 to 84 Age Group**

- 25 OPA120 does not conform with Section 1-5 of Windsor's OP because the projected 21,000 new jobs ignore the expansion of the retiree population and a declining working age population.

### **Loss of a Major Employer and Community Anchor from the Downtown Core**

- 26 OPA120 does not conform with Section 3.2.2.2 of Windsor's OP because the loss of Windsor Regional Hospital's Ouellette Campus will remove a major

community anchor and more than 3,000 employees from the city centre, weakening downtown as a major economic centre and reducing health care workers' walkable access to employment.

### **Limited Mix of Housing Types and Services**

- 27 OPA120 does not conform with Section 4.2.1.5 of Windsor's OP because no high density housing is depicted in the Land Use Plan, contradicting the 70% low, 20% medium, 10% high density mix described in the Growth Management Analysis.

### **Health Care Services Moving Away from where People Live and Work**

- 28 OPA120 does not conform with Section 4.2.3.2 of Windsor's OP because the loss of two urban acute care hospitals will remove critical healthcare services from existing neighbourhoods.

### **Lack of Integration of All Residents into the Community**

- 29 OPA120 does not conform with Section 4.2.4.2 of Windsor's OP because the community will be divided rather than integrated: replacing two anchor institutions with one beyond the airport creates a physical barrier that impacts low income and vulnerable residents, especially those who do not drive.

### **Specialist Services Dispersing from Accessible Locations**

- 30 OPA120 does not conform with Section 4.2.3.5 of Windsor's OP because medical specialists who take call will have to migrate to offices closer to the proposed hospital, resulting in a loss of necessary specialist services in established neighbourhoods.

### **Institutions Not Integrated Within Neighbourhoods**

- 31 OPA120 does not conform with Section 6.1.6 of Windsor's OP because Sandwich South is currently an active agricultural area that is dislocated from existing neighbourhoods and physically separated by the Windsor Airport land. There are no surrounding neighbourhoods that the proposed hospital would be "integrated in".

## **Unresponsive Planning**

### **No Consensus Built**

- 32 Since 2014, thousands of residents have been actively expressing concerns about the planned hospital location. However, elected officials claimed to have no influence on the decided location and declined opportunities to resolve the issues. Hospital leaders repeatedly claimed the location was a “done deal”. Concerns outlined in numerous reports, letters and emails sent to municipal leadership were never acknowledged. [O,T9,1525] [31].
- 33 No public debate occurred prior to the nine-hour long August 13, 2018 Council meeting. Very unusually, this meeting was a combination of both the Standing Committee and Council meetings. [O,T6,892].
- 34 Concerns explained in reports and letters by Windsor Regional Architects Association [O,T9,1355], Ontario Association of Architects [O,T9,1357], Congress for the New Urbanism (CNU) [O,T9,1418], Planner Ken Greenberg [O,T9,1422], and former City of Windsor transportation planner Stephen Kapusta [O,T9,1532] [37], have not been addressed.
- 35 At the August 13, 2018 Council meeting, 39 of 48 delegates disagreed [O,T3,836] with the motion to approve OPA120 [O,T9,1558]; the minority in favour of the motions included developers and the proponents, and only two residents.
- 36 There were 39 additional written submissions. Eight of the written submissions were omitted from the Enhanced Municipal Record [O,T9,1335-1556].

### **Fiscally Irresponsible Planning**

- 37 Future employment land needs are inconsistent with current Ministry of Finance population projections. The employment calculation is based on reports from 2008 that use 2006 Census data.
- 38 Future residential land needs did not take into account the success of the Downtown Windsor Community Improvement Plan.
- 39 Residential and Employment land needs are not supported by any current Residential Target Market Analysis or Retail Market Demand and Impact Analysis. [O,T9,1489] [6].

40 Windsor's most recent Official Plan Review is dated 2013.

### **Public Involvement in Planning and Development Initiatives not Encouraged**

41 Elected officials claimed to have no influence on the decided location and declined opportunities to resolve the issues [O,T9,1526] [32].

42 Hospital leaders repeatedly claimed the location was a “done deal”, repeatedly using name-calling and belittling language to disparage residents [O,T9,1525] [31].

43 Concerns outlined in numerous reports, letters and emails sent to municipal leadership were not resolved [O,T9,1526] [33].

### **Ineffective Communication**

44 No public debate occurred prior to the nine hour long August 13, 2018 Council meeting. This meeting was a combination of both the Standing Committee and Council meetings. [O,T6,892]

45 A Public Session held on July 5, 2017, at Roseland Golf Course [O,T8,1054] was difficult to access by active transportation from Wards 2,3,4 or 5.

46 The Consulting Engineer identified insufficient electricity capacity in Sandwich South to support a hospital; Hydro One does not appear to have been consulted [O,T8,1245].

### **No Consultation with First Nations**

47 Emails were sent to Walpole Island and Caldwell First Nation (one of which to a generic email address) but no dialogue occurred [O,T8,1244].



## Unwise Use of Resources

### Unsupported Employment Growth Projections

- 48 No current Residential Target Market Analysis or Retail Market Demand or Impact Analysis [O,T8,1029].were available at the time of Council's decision because underlying data from 1996-2008 was used [O,T8,1144].
- 49 The Ministry of Finance population projects a shrinking regional working age population and the majority of population growth amongst people of retirement age [O,T9,1491] [7].
- 50 The employment land needs calculation assumes growth of 21,141 new jobs [O,T,1199], including 4,545 manufacturing and 4,460 institutional jobs.
- 51 This is based on projections from 2008 that relied on 2006 Census data [O,T8,1200].
- 52 This was a time when population growth expectations were more robust than they are today [O,T8,1199].
- 53 Projected employment growth is triple the currently expected total population growth through 2031 [O,T8,1193].
- 54 275 ha of available employment land exists today [O,T8,1202].
- 55 6,880 of the 21,140 new jobs are earmarked for Sandwich South. [O,T,1200] The make-up of 14,261 jobs (21,141-6,880) in the rest of the city is not addressed.

### Inefficient Residential Development Pattern

- 56 1,968 Infill opportunities were identified in the [City of Windsor Residential Intensification Analysis, 2008](#).
- 57 The Growth Management Analysis identifies a projected demand for 6,900 residential units [O,T8,1196-1198]. It identifies 365 infill residential units and 1,650 greenfield units (beyond 1,605 already in development) potentially available through the next 20 years; this would leave a shortfall of 3,280 units [O,T8,1196-1198].
- 58 A [policy allowing second residential units](#) was developed through the summer 2018 and approved in November 2018.

- 59 Approximately 2,000 infill and brownfield units have already been announced, the majority under the Downtown Windsor Enhancement Strategy and Community Improvement Plan, 2017.
- 60 As of December 2018, this comprised half of the anticipated 6,900 dwelling units that are anticipated to be needed by 2036 [O,T8,1194]

### **No Higher Density Housing To Meet The Needs Of An Older Population**

- 61 No high density housing is depicted in the Land Use Plan to meet the needs of an older population who may wish to live close to the new hospital [O,T8,1023].
- 62 Yet the Planning Report describes a mix of 70% low, 20% medium, 10% high density for residential development [O,T8,1198].

### **Long-term Availability and Use of Land and Resources not Optimized**

- 63 Two community anchors employing more than 4,000 people (representing the city's second largest employer) will be removed from existing main streets and downtown.
- 64 Agricultural land [O,T8,1015] will be permanently removed from use despite the existence of 275 hectares of available employment land [O,T8,1202].
- 65 Opportunities to redevelop available brownfield land will not be used, leaving any environmental contamination in the ground at these sites.

### **Environmentally Unsustainable Urban Development**

- 66 The city will not be more compact: New housing in Sandwich South will accommodate almost all of the city's future growth [O,T8,1199], with an employment to population ratio of 1:1 [O,T8,1210].
- 67 The impact of a potentially declining population beyond 2031 [O,T8,1193] was not considered during the process of approving OPA 120.

## **Unsustainable Land Use Patterns**

### **Transit Planning Not Integrated**

- 68 Transit Windsor's Masterplan, which uses data from the 2001 Census, is now almost two decades old [O,T9,1499] [13].
- 69 Transit Windsor service is reduced at night, on weekends and holidays.
- 70 Active transportation opportunities will be reduced because of distance from the centre of population density and Transit Windsor's identified core users.
- 71 There is no evidence that decisions about routes, service frequency, costs, or regional transit have been made.
- 72 [MTO's Transit-Supportive Guideline 1.1.7 \(Pg. 21\)](#) recommends that new communities be designed with sufficient density to make transit feasible and efficient. The recommended figure is 50 people/jobs per ha.
- 73 While the hospital is expected to generate 120 jobs/ha., the overall employment density is expected to be just 25 jobs/ha. [O,T8,1202].

### **Length and Number of Vehicle Trips Not Minimized**

- 74 Vehicle trip lengths and numbers of trips will increase, rather than decrease, because of the distance from the city's most densely populated neighbourhoods. [O,T9,1539] [42].

### **Unreasonable Walking or Cycling Distance**

- 75 Access routes leading to Sandwich South, including the Expressway, are not engineered for safe active transportation. The distance from most existing Windsor neighbourhoods also prevents pedestrian and cycling access. [O,T9,1502] [15].
- 76 Sandwich South lies more than 5km from almost all existing Windsor neighbourhoods. This distance is beyond a reasonable walking or cycling distance for most people. [O,T9,1502] [15].
- 77 Access routes to Sandwich South along Walker Road and Lauzon Parkway have no safe bicycle or pedestrian infrastructures. E.C. Row Expressway is inaccessible to cyclists and pedestrians.

- 78 The distance from established neighbourhoods will force hospital and other workers who currently live within walking or cycling distance to drive to work.
- 79 Pedestrians and cyclists could be impacted by gale force wind scales projected across County Road 42 by jet engines at the airport [[Lauzon Parkway Improvements Environmental Study Report, 2014](#), Pg. 297], limiting the feasibility of active transportation on County Road 42.

### **Accessibility of Institutions for those with Impaired Mobility**

- 80 The greenfield hospital location will not be easily accessible for those who do not drive. The loss of access is most pronounced in Wards 2,3,4 and 5. [O,T9,1503] [16].
- 81 There is no evidence population density or the locational needs of seniors and persons with impaired mobility were considered while selecting the hospital site.
- 82 The only services planned for downtown are outpatient based and do not include treatment for life-threatening conditions, in spite of a large vulnerable population and demonstrated need. [Z,T11,136] [O,T9,1498] [12].

### **Loss of Resilience**

#### **Inefficient Land Use Patterns that do Not Sustain Financial Well-Being**

- 83 Ministry of Finance projections show working age population is declining [O,T9,1489] [6] while the majority of population growth is among those aged 75+, limiting taxpayers' ability or appetite to pay higher taxes for infrastructure maintenance and replacement.
- 84 Approximately 25% of the area will accommodate a complex stormwater management system/recreational area [O,T8,1213] and the remainder is expected to accommodate just 7,000 residents and employees respectively. [O,T9,1484] [2].

#### **Increased Land Use Barriers for Persons with Disabilities and Older Persons**

- 85 Land use barriers for persons with disabilities and older persons are not identified.

- 86 The greenfield hospital site is farther from the densely populated city core than hospitals in any other Canadian city, representing a land use barrier for persons with disabilities and older persons [O,T9,1514] [2].
- 87 The replacement of two anchor institutions with one beyond the airport creates a physical barrier that impacts low income and vulnerable residents, especially those who do not drive. [O,T9,1495] [10].

### **Loss of a Major Community Anchor from the Heart of Windsor**

- 88 Windsor Regional Hospital is Windsor's second largest employer after Fiat Chrysler.
- 89 Projections for 6,880 new jobs in Sandwich South [O,T8,1202] (during a time of manufacturing job loss) represent a major employment shift away from the city centre.

### **Community Services Not at Appropriate Locations throughout Windsor**

- 90 The replacement of two anchor institutions with one beyond the airport creates a physical barrier that impacts low income and vulnerable residents, especially those who do not drive. [O,T9,1495] [10].
- 91 The city's highest senior population density is in Wards 2,3,4 & 5. These neighbourhoods are 15-20km from Sandwich South. [O,T9,1497] [11].
- 92 More than 90% of medical offices are currently located north of EC Row Expressway [O,T9,1519] [26].
- 93 Sandwich South is currently an active agricultural area [O,T8,1015]. It is dislocated from existing neighbourhoods and physically separated by the Windsor Airport land.
- 94 Only outpatient services will remain in the centre of Windsor [Z,T11,172] [O,T9,1498] [12].
- 95 Medical specialists who take call will have to migrate to offices closer to the hospital, resulting in a loss of accessible services in established neighbourhoods [O,T9,1519] [26].

## **F. LISTING OF RELEVANT AUTHORITIES & ANALYSIS OF HOW AUTHORITIES INFORM THE ISSUES**

1. The Planning Act, R.S.O. 1990, c. P.13
2. The Provincial Policy Statement, 2014
3. Windsor's Official Plan ("OP"), 2013
4. Transit-Supportive Guidelines – Ontario Ministry of Transportation
5. EDP Consulting: City of Windsor Employment Projections & Employment Land Needs Analysis, 2008
6. LaPointe Consulting: Windsor-Essex and City of Windsor Population and Housing Projections 2006-2031 and Affordable Housing Targets, 2008
7. Windsor International Airport Master Plan, 2010
8. City of Windsor Brownfield Redevelopment Strategy, 2010
9. City of Windsor Climate Change Adaptation Plan, 2012
10. Lauzon Parkway Improvements Environmental Study Report, 2014
11. Downtown Windsor Enhancement Strategy and Community Improvement Plan, 2017
12. Windsor Environmental Master Plan, 2018
13. Hemson Development Charges Amendment Background Study for the Sandwich South Planning District, 2018
14. Hemson Development Charges Background Study, 2015
15. City of Windsor Annexed Area Master Plan Study, 2003 and 2006
16. City of Windsor Residential Intensification Analysis, 2008

The analysis of how these authorities inform the issues is found in Section D above and in the Appeal Record (See Excerpts)

## **G. EXCERPTED PROVISIONS OF PROVINCIAL PLANNING POLICIES, PLANNING INSTRUMENTS, STATUES, REGULATIONS OR BY-LAWS CITED**

### **Statutes, Case Law and Tribunal Cases**

*Planning Act*, RSO 1990, c. P13

3(5) A decision of the council of a municipality, a local board, a planning board, a minister of the Crown and a ministry, board, commission or agency of the government, including the Tribunal, in respect of the exercise of any authority that affects a planning matter,

- (a) shall be consistent with the policy statements issued under subsection (1) that are in effect on the date of the decision; and
- (b) shall conform with the provincial plans that are in effect on that date, or shall not conflict with them, as the case may be. 2006, c. 23, s. 5; 2017, c. 23, Sched. 5, s. 80.

### **The Provincial Policy Statement, 2014**

- 1.1.1(a) Healthy, liveable and safe communities are sustained by (a) promoting efficient development and land use patterns which sustain the financial well-being of the Province and municipalities over the long term
- 1.1.1(f) Healthy, liveable and safe communities are sustained by (f) improving accessibility for persons with disabilities and older persons by identifying, preventing and removing land use barriers which restrict their full participation in society
- 1.1.3.2(a) Land use patterns within settlement areas shall be based on (a) densities and a mix of land uses which efficiently use land and resources; are appropriate for, and efficiently use, the infrastructure and public service facilities which are planned or available, and avoid the need for their unjustified and/or uneconomical expansion.
- 1.1.3 It is in the interest of all communities to use land and resources wisely, to promote efficient development patterns, protect resources, promote

- green spaces, ensure effective use of infrastructure and public service facilities and minimize unnecessary public expenditures.
- 1.2.2 Planning authorities are encouraged to coordinate planning matters with Aboriginal communities.
- 1.6.7.1 Transportation systems should be provided which are ... appropriate to address projected needs.
- 1.6.7.4 A land use pattern, density and mix of uses should be promoted that minimize the length and number of vehicle trips and support current and future use of transit and active transportation.
- 1.6.7.5 Transportation and land use considerations shall be integrated at all stages of the planning process.
- 1.7.1 Long-term economic prosperity should be supported by:(b) optimizing the long-term availability and use of land, resources, infrastructure, electricity generation facilities and transmission and distribution systems, and public service facilities; (c) maintaining and, where possible, enhancing the vitality and viability of downtowns and main streets; (e) promoting the redevelopment of brownfield sites
- 2.0 Wise Use and Management of Resources: protecting natural heritage, water, agricultural, mineral and cultural heritage and archaeological resources for their economic, environmental and social benefits.

### **Windsor’s Official Plan (“OP”), 2013**

- 1-3 Designation of additional lands for residential and commercial uses will be tied to increased population growth. ...Windsor presently has a substantial oversupply of lands available for commercial development.
- 1-5 The numbers within [the20-44] age group are expected to decline by approximately 500 over the next 20 years which represents a decline as a percentage of the total population from 37% to 33% by 2026. This decline is anticipated because of the trend in lower fertility rates. There



will be substantial growth in the 65 to 84 age group between the years 2011 and 2026.

1-5 ... there will be an increase in the older population cohorts. An increase in this age group should result in continued household growth and demand for both “move up” and “move down” housing and housing suitable for seniors.

Vol II 1.23 It is important that these agricultural uses be able to continue and provide economic benefit to the residents and surrounding community until such time as development is needed and appropriate on the basis of population growth and servicing availability.

3.2.2.2 The City Centre will continue to be the major focus of cultural, social and economic activities. The City Centre is and will remain the heart of Windsor, serving as the visual symbol of the entire community. A diverse mixture of businesses, cultural venues, major government offices and entertainment destinations will strengthen downtown as a major economic centre. The heart of our community will also provide a liveable residential environment for a variety of people and be a welcoming arrival point for visitors.

3.2.3.1 Windsor will work toward achieving a sustainable transportation system where all modes of transportation can play a more balanced role. The creation of mixed use and employment centres will allow businesses and services to be closer to homes and allow greater opportunities for walking, cycling and transit.

3.2.4.1 People will be involved in the municipal processes that shape Windsor and its neighbourhoods. Residents will be encouraged to work with municipal staff to identify and resolve city-wide and neighbourhood issues. New ways will be found to build consensus within the community to ensure that Windsor advances toward its desired future.

3.2.4.2 Windsorites want a planning process that is responsive, effective and fiscally responsible. Planning services will be efficiently delivered and carefully targeted to achieve the community vision.

- 4.2.1.5 To encourage a mix of housing types and services to allow people to remain in their neighbourhoods as they age.
- 4.2.3.2 To encourage the location of basic goods and services ... where people live and work.
- 4.2.4.2 To encourage development that fosters the integration of all residents into the community.
- 4.2.5.2 To encourage and facilitate public involvement in planning and development initiatives.
- 4.2.5.3 To ensure effective public information and communication on planning and development initiatives.
- 4.2.3.5 To encourage community services at appropriate locations throughout Windsor.
- 5.1.1 Council's environment goals are to achieve: A healthy and sustainable natural environment
- 6.1.2 Council's environment goals are to achieve: Environmentally sustainable urban development
- 6.1.6 An integration of institutions within Windsor's neighbourhoods
- 6.6.1.2 To ensure all institutional uses are strategically located within Windsor to be both accessible and act as neighbourhood focal points
- 6.6.2.5 The following guidelines shall be considered when evaluating the proposed design of a Major Institutional development: (d) pedestrian and cycling access is accommodated in a manner that is distinguishable from the access provided to motorized vehicles and is safe and convenient (e) the development design facilitates access via public transportation
- 7.2.2.21(c) Council shall implement land use patterns that promote sustainable travel by locating land uses within reasonable walking or cycling distance.

7.2.5.2 Council shall require that the design of development proposals and infrastructure undertakings facilitate easy access to public transportation.

10.2.1.14 Consultation with First Nations will take place as part of a development application or detailed planning study.

**4. Transit-Supportive Guidelines – Ontario Ministry of Transportation, 2012**

115-8 Ensure new communities are of sufficient density to make transit service feasible and efficient.

115-9 Establish minimum density thresholds where they currently do not exist at a level that is transit-supportive (Guideline 1.1.7). Generally, designated growth areas should accommodate a minimum of 50 people/jobs per hectare, with higher minimum densities in identified nodes and corridors.

## **H. RESOLUTION SOUGHT FROM THE TRIBUNAL**

That the matters under appeal be referred back to Windsor City Council for reconsideration, consistent with the Provincial Policy Statement, Official Plan and all other legal requirements, and

Such further and other relief as counsel may advise and this Honourable Tribunal may permit.

## **I. TIME ESTIMATE**

The appellant anticipates using the maximum 75 minutes allotted for oral submissions.

All of which is respectfully submitted,

January 30, 2019



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