

## **CASE SYNOPSIS: PL180843**

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

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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 zoning for a hospital on land located at the southeast corner of the intersection of County Road 42 and 9<sup>th</sup> Concession Road, municipally known as 0 9<sup>th</sup> Concession Road, on the grounds that the decision is inconsistent with the Provincial Policy Statement and fails to conform with Windsor's Official Plan.

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.

While it is planned as a regional hospital, it will be located far from the most densely populated neighbourhoods. It will be Canada's most distant hospital for the communities it is meant to serve.

## Summary of the Nature of the Appeal:

- Ignores responsibility for the impact on the city as a whole, and the increased costs in perpetuity to taxpayers of developing and maintaining the infrastructure for the site.
- Decreases access to hospital-based health care services, including treatment for acute life-threatening conditions, for the majority of Windsor's population.
- Risks escalating migration of population and businesses from established neighbourhoods, to adjacent municipalities that collect significantly lower development charges and property taxes.
- Overlooks transportation barriers for vulnerable residents and health care workers as well as additional costs for creating necessary transportation infrastructures.
- Multiplies commute distances and car dependency, at a time when the local population is becoming increasingly elderly and greater numbers of young people are choosing car-free lifestyles.
- Neglects the environmental and financial consequences of developing active farmland in a location that, if developed, will require expensive and extensive flood containment measures.

The key issues are organized as follows:

1. **Planning was Not Responsive or Fiscally Responsible:** Many residents formally voiced concerns about the planned construction of the region's only hospital on farmland adjacent to Windsor Airport. Consultations before finalization of decision making, while meeting minimum statutory requirements, were designed to limit resident access and participation. The Consulting Engineer's analysis was altered and other experts' warnings and advice were ignored.
2. **Unwise Use of Resources:** The choice to develop farmland for the hospital inadequately considered adaptive reuse opportunities for Windsor's vast brownfield land reserves, or impacts of extreme rainfall, already identified as the region's greatest climate change vulnerability. This is fiscally inefficient and environmentally ill-considered.

3. **Unsustainable Land Use Pattern:** Access to the new hospital will be overwhelmingly restricted to motor vehicle transportation because of existing physical barriers and the distance from fully developed neighbourhoods. The change in commute times and distances, number of vehicle trips and cost of public transit services have yet to be determined.
4. **Loss of Resilience:** The distance of the hospital location from Windsor's most densely populated neighbourhoods will create access barriers for older people and others with impaired mobility. Residents in neighbourhoods with low car ownership rates will also face greater time, distance and cost to access hospital-based health care services.

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

Windsor City Council approved the zoning application for the new hospital at the southeast corner of the intersection of 9<sup>th</sup> Concession Road and County Road 42.

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

#### **Planning that is Not Responsive or Fiscally Responsible**

##### **Consensus Was Not Built**

1. The hospital zoning does not conform with Section 3.2.4.1 of Windsor's OP because neither municipal staff nor hospital leadership [O,T9,1525] built community consensus regarding concerns about the development of Sandwich South during the four years leading up to and including its August 13, 2018 City Council meeting.

##### **Fiscally Irresponsible Planning**

2. The hospital zoning does not conform with Section 3.2.4.2 of Windsor's OP because the work of the Consulting Engineer for both shortlisted hospital sites was altered without consultation with him in order to favour the greenfield Sandwich South site that will require significantly more expensive external costs.

### **Ineffective Communication**

3. The hospital zoning 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 but not resolved. As late as the Summer of 2018, many people (including city workers and business owners) were so poorly informed about the hospital project that they believed the new hospital was to be a third hospital to serve the region.

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

4. The hospital zoning does not conform with Section 10.2.1.14 of Windsor's OP because no consultation occurred with Aboriginal communities in Windsor (e.g. CanAm Friendship Centre, Walpole Island and Caldwell First Nations).

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

5. The Hospital Zoning is inconsistent with Section 1.2.2 of the Provincial Planning Statement, 2014, because no consultation occurred with Aboriginal communities living in Windsor (e.g. CanAm Friendship Centre, Walpole Island and Caldwell First Nations).

### **Unwise Use of Resources**

#### **Adaptive Reuse Not Optimized**

6. The Hospital Zoning is inconsistent with Section 1.6.3 of the Provincial Planning Statement, 2014, because the hospital site selection criteria did not favour opportunities for adaptive re-use.

#### **Brownfield Sites Not Redeveloped**

7. The Hospital Zoning is inconsistent with Section 1.7.1 of the Provincial Planning Statement, 2014 because long-term economic prosperity will not be supported by greenfield development for the new hospital rather than already serviced available brownfield or infill land. The statement that "other growth opportunities will be met through infill and intensification in other built up areas of the City"

[Z,T11,161] illustrates a disturbing lack of responsibility for Windsor's overall wellbeing by those planning the new hospital.

### **Agricultural and Heritage Resources Not Protected**

8. The Hospital Zoning is inconsistent with Section 1.1.1(f) of the Provincial Planning Statement, 2014, because greenfield development of productive farmland [Z,T11,83] at a time of stagnant population growth [O,T8,1027], and without first developing available brownfield and infill land is not a wise use of agricultural resources.

### **Climate Change Impacts Insufficiently Considered**

9. The Hospital Zoning is inconsistent with Section 3.1.3 of the Provincial Planning Statement, 2014, because the hospital location increases the risk of loss of access to health care in the event of city-wide flooding, as experienced in August 2017, thus ignoring climate change impacts.

### **Institutional Development in Hazardous Lands**

10. The Hospital Zoning is inconsistent with Section 3.1.5 of the Provincial Planning Statement, 2014, because the hospital location lies within a floodplain development area and proximity to Windsor airport increases risk of air pollution from aircraft and, though small, catastrophic risk of collision.

### **Unwise Resource Management**

11. The Hospital Zoning is inconsistent with Part IV of the Provincial Planning Statement, 2014, because greenfield development of productive farmland [Z,T11,83] at a time of stalled population growth [O,T8,1027], and without first developing available brownfield and infill land is not a wise use of agricultural resources.

### **Oversupply of Land for Commercial Development**

12. The hospital zoning does not conform with Section 1-3 of Windsor's OP because viable land options within Windsor's developed footprint were not seriously

considered for the hospital, except the top-scoring “GEM” site. This site was ultimately rejected, ostensibly on the grounds of a \$1.8M land cost differential. However, this calculation overlooked the need for new road and hydro infrastructures on County Road 42, as well as significantly higher development and infrastructure maintenance costs in perpetuity.

### **Incompatible Adjacent Land Uses**

13. The Hospital Zoning is inconsistent with Section 6.6.1.4 of the Provincial Planning Statement, 2014, because while the planned hospital site lies beyond the NEF/NEP noise emission contours [Z,T11,51] today, future runway expansion on the southern part of the airport land could result in these contours overlapping onto hospital land.

### **Unsustainable Land Use Patterns**

#### **Energy Inefficient Transportation Systems**

14. The Hospital Zoning is inconsistent with Section 1.6.7.1 of the Provincial Planning Statement, 2014, because in the absence of robust population growth [O,T8,1027], adequate service level expansion will be difficult to finance in an already constrained system.

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

15. The Hospital Zoning is inconsistent with Section 1.6.7.4 of the Provincial Planning Statement, 2014, because there is no evidence that the hospital location decreases vehicle trip lengths and number because of its distance from the city’s most densely populated neighbourhoods.

#### **Transportation Planning Promised but Not Integrated**

16. The Hospital Zoning is inconsistent with Section 1.6.7.5 of the Provincial Planning Statement, 2014, because but planned public transit has not been integrated. Decisions about routes, service frequency, costs, or regional transit have not been made.

### **Commute Journeys Lengthened**

17. The Hospital Zoning is inconsistent with Section 1.8.1(e) of the Provincial Planning Statement, 2014, because commute journeys will increase for health care workers and patients accessing the hospital from Windsor most densely populated neighbourhoods north of Windsor Airport.

### **Unsustainable Transportation System: Fewer Opportunities for Walking, Cycling and Transit**

18. The hospital zoning does not conform with Section 3.2.3.1 of Windsor's OP because in the absence of significant population growth [O,T8,1027], Transit Windsor's already constrained financial resources will struggle to support the city's increased urban footprint, and hospital and other workers who currently live within walking or cycling distance to have to drive to work.

### **Insufficient Protection against Climate Change and its Effects**

19. The hospital zoning does not conform with Section 4.2.1.4 of Windsor's OP because the hospital location will force more people to drive to hospital rather than using carbon neutral options like walking and cycling. Landscaping will only partially mitigate the urban heat island effect on impervious surfaces like the planned surface parking lot.

### **Inaccessible Institutions**

20. The hospital zoning does not conform with Section 6.6.1.2 of Windsor's OP because the greenfield hospital location will be difficult to access for those who do not drive. This loss of access will be most pronounced in Wards 2, 3, 4 and 5. The site was selected without considering population density or the physical limitations of elderly people and others with impaired mobility.

### **Pedestrian and Cycling Access Not Safe or Convenient and Public Transportation Not Facilitated**

21. The hospital zoning 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 bisected by airport land which lies between [Z,T11,154]. 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.

22. While bicycle lanes and pedestrian will be added close to the hospital, the hospital location relative to where the overwhelming majority of hospital users without cars will be coming *from* has not been considered when evaluating the provision of this infrastructure.

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

23. The hospital zoning does not conform with Section 7.2.2.21 of Windsor's OP because the hospital location lies more than 5km from almost all existing Windsor neighbourhoods, a distance that is beyond a reasonable walking or cycling distance for most people.

### **Access to Public Transportation Not Facilitated**

24. The hospital zoning does not conform with Section 7.2.5.2 of Windsor's OP because in the absence of robust population growth [O,T8,1027], Transit Windsor's already constrained financial resources will struggle to support the city's increased urban footprint.

### **Barriers Created To Pedestrian Routes**

25. The hospital zoning does not conform with Section 8.4.1.1 of Windsor's OP because at 13 km from the centre of Windsor, access to the hospital site is complicated by the physical barrier of Windsor Airport [Z,T11,38].

### **Loss of Resilience**

#### **Development that may cause Environmental or Public Health and Safety Concerns**

26. Hospital Zoning is inconsistent with Section 1.1.1(c) of the Provincial Planning Statement, 2014, because the 15-20 km distance to hospital from Windsor's lowest income wards with highest transit dependency will prevent timely access



to an extensive range of health care services not available at an outpatient urgent care facility.

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

27. Hospital Zoning is inconsistent with Section 1.1.1(f) of the Provincial Planning Statement, 2014, because land use barriers for persons with disabilities and older persons have not been identified, prevented or removed in the Planning Report.

#### **Land Use Patterns that Disregard the Impacts of a Changing Climate**

28. Hospital Zoning is inconsistent with Section 1.1.1(h) of the Provincial Planning Statement, 2014, because extreme rainfall has been identified as the region's most significant climate change risk. The potential impact of catastrophic flooding and a changing climate were overlooked in the site selection evaluation. As well, the hospital's large surface parking lot will increase the urban heat island effect and rainwater runoff. which will only be partially mitigated by landscaping.

#### **Efficient and Resilient Communities Not Supported**

29. Hospital Zoning is inconsistent with Section 1.2.3 of the Provincial Planning Statement, 2014, because the planned construction of new satellite facilities in the centre of Windsor represents a net disinvestment in health care services. Demolition of both acute care hospitals, to be replaced with outpatient urgent care, reduces resilience in the most densely populated neighbourhoods. Residents will lose efficient 24/7 access to a full range of hospital services. Many doctors' offices will also be forced to migrate to be closer to the new hospital.

#### **Unjustified or Uneconomical Expansion of Infrastructure**

30. Hospital Zoning is inconsistent with Section 1.1.5.5 of the Provincial Planning Statement, 2014, because the site selection criteria did not allocate points for adaptive re-use.

### **Ineffective and Inefficient Delivery of Emergency Management Services**

31. Hospital Zoning is inconsistent with Section 1.6.4 of the Provincial Planning Statement, 2014, because the hospital location at the extreme south-east of the city, south of the Airport Land [Z,T11,38], is farthest from the lowest income wards with high public transit dependency located Downtown and west of Downtown,. Taxi fares to and from the planned County Road 42 hospital location for residents of the city's lowest income wards will be cost-prohibitive for those with limited incomes.

### **Not a Pedestrian Scale Neighbourhood**

32. The hospital zoning does not conform with Section 4.2.1.6 of Windsor's OP because pedestrian access is unfeasible from neighbourhoods outside Sandwich South. This is because of the distance from each Windsor ward to the planned hospital site and the physical barrier of Windsor Airport [Z,T11,38]. The loss of the existing hospitals will drive many medical offices to relocate, making them less accessible from established neighbourhoods where residents rely on them for their day-to-day needs. Development Charges in Sandwich South are four times higher than in neighbouring municipalities. There is a risk that businesses will migrate to these municipalities (with lower taxes and fewer services), creating further barriers to pedestrian-scale service delivery.

### **Health Care Services Moving Away from Established Neighbourhoods**

33. The hospital zoning does not conform with Section 4.2.3.2 of Windsor's OP because the loss of the existing hospitals from the centre of the city will drive many medical offices to relocate, making both less accessible from established neighbourhoods where people live and work. ***This is not addressed in the Planning Justification Report.***

### **Community Services at Inappropriate Locations throughout Windsor**

34. The hospital zoning does not conform with Section 4.2.3.5 of Windsor's OP because the Planning Justification Report describes the services remaining in downtown Windsor as an investment. Yet, where there is an acute care hospital

today, the only remaining downtown health care services will be outpatient-based and do not include treatment for life-threatening conditions, or a range of other services provided only in a hospital environment [Z,T11,172]. This is in spite of a large vulnerable population and demonstrated 24/7 need.

### **Development that Does Not Foster the Integration of All Residents into the Community**

35. The hospital zoning does not conform with Section 4.2.4.2 of Windsor's OP because demolishing and replacing two anchor institutions with one beyond the airport creates a physical barrier [Z,T11,38] that negatively impacts low income and vulnerable residents, especially those without access to cars.

### **Emergency Services Not in Close Proximity to Where People Live**

36. The hospital zoning does not conform with Section 4.2.7.3 of Windsor's OP because only outpatient services are planned for downtown Windsor [Z,T11,172]. They will not be accessible 24/7 and will not include treatment for life-threatening conditions, or other services provided only in a hospital environment, in spite of a large vulnerable population and demonstrated 24/7 need.

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

37. The hospital zoning does not conform with Section 6.1.6 of Windsor's OP because the greenfield hospital location is in an active agricultural area, physically dislocated from established neighbourhoods. There is no holistic integration. The planned services remaining in the downtown core are to be outpatient only [Z,T11,172].

## D. REVIEW OF THE FACTS

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

**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 Tab 9, Part 2, Pages 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.

### Planning that is Not Responsive or Fiscally Responsible

#### Consensus Was Not Built

1. Since 2014, thousands of residents have actively expressed concerns [O,T8,1191], about the planned hospital location.
2. Elected officials claimed to have no influence and declined opportunities to resolve the issues [O,T9,1526] [32].
3. Since the July 2015 location announcement, hospital leaders consistently claimed it was a “done deal”, repeatedly using name-calling and belittling language to disparage residents [O,T9,1525] [31].
4. Concerns outlined in numerous reports, letters and emails sent by residents to municipal leadership were not addressed [O,T9,1526] [33].
5. Specific written feedback submitted at the September 7, 2016 and July 5, 2017 public meetings was not made public [O,T9,1526] [33].
6. The public meeting held on July 5, 2017 at Roseland Golf Course was difficult to access by active transportation from Wards 2,3,4 or 5. [O,T8,1191]
7. At the August 13, 2018 City Council meeting [O,T9,1558], 39 of 48 delegates disagreed with the motion to approve OPA120; the minority in favour of the

motions included developers and the proponents, and only two residents.

[O,T7,900-914]

8. There were 39 additional written submissions. Eight of these were omitted from the Enhanced Municipal Record. [O,T9,1335-1556].
9. Physicians with hospital privileges (approx. 400) who had concerns about the remote hospital location were barred from publicly voicing their opinions [O,T9,1526] [32].
10. No formal public debate about the hospital project occurred prior to the August 13, 2018 City Council meeting. In spite of public outcry, unusually, this nine hour long meeting was a combination of both the Standing Committee and City Council meetings. [O,T6,892].
11. A motion to defer a decision on the zoning pending more thorough analysis failed to carry. [O,T3,835]

### **Fiscally Irresponsible Planning**

12. Concerns about fiscally irresponsible planning explained in reports and letters by Windsor Regional Architects Association [O 1355], Ontario Association of Architects [O,T9,1357], Congress for the New Urbanism (CNU) [O 1418], Planner Ken Greenberg [O,T9,1422], and former City of Windsor transportation planner Stephen Kapusta [O,T9,1532] [37], have not been resolved.
13. The work of the Consulting Engineer for both shortlisted hospital sites was altered without consultation with him in order to favour the greenfield Sandwich South site that will require significantly more expensive external costs.
14. External infrastructure costs and Development Charges were omitted from hospital site selection criteria. Site evaluation calculations overlooked the need for new road and hydro infrastructures on County Road 42 [O,T9,1512] [21].
15. Development and infrastructure maintenance costs in perpetuity were also not evaluated. [O,T9,1512] [22].
16. The Consulting Engineer identified insufficient electricity capacity in Sandwich South to support a hospital.

17. Many doctors' offices will be forced to migrate to be closer to the new hospital. A study of the impact of this migration has not been presented in the Planning Justification Report. [O,T9,1519] [26].

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

18. Emails were sent to Walpole Island and Caldwell First Nation (one of which to a generic email address) but there is no evidence that dialogue occurred [Z,T11,210].

### **Unwise Use of Resources**

#### **Adaptive Reuse or Brownfield Land Not Optimized**

19. Farmland will be developed for the proposed hospital rather than already serviced available brownfield or infill land. [Z,T11,83]
20. Greenfield development was explicitly preferred in both the 2009 Masterplan and the 2012 Windsor Hospitals Report. This plan would include demolition of the \$17M Regional Cancer Centre that opened in 2001, and \$192M in renovations to both hospital campuses that were completed in 2005. [O,T9,1484] [23].
21. There is sufficient brownfield and infill land available to support a hospital. 275 ha. of employment land has been identified and is available [O,T8,1202].
22. A redevelopment plan for Met Campus has not yet been made other than demolishing the entire site.
23. Planned renovations budgeted at \$670M were shelved in 2013 when the single site acute care project was announced.

#### **Agricultural and Heritage Resources Not Protected**

24. Ouellette Campus of Windsor Regional Hospital, a building listed on Windsor's Heritage Register, is to be demolished.

#### **Climate Change Impacts**

25. Extreme rainfall is identified a significant climate change risk for the Windsor-Essex Region [Windsor Climate Change Adaptation Plan, Page 12].

26. The potential impact of catastrophic flooding as a result of a changing climate was not considered during the process of approving zoning for the proposed hospital.
27. A major flood on August 31, 2017 severed access between the north-west and south-east parts of the city [O,T9,1521].
28. The hospital's large surface parking lot will increase the urban heat island effect and rainwater runoff, which will only be partially mitigated by landscaping. [Z, T11,212].
29. The proposed hospital location will force more people to drive to hospital rather than choosing carbon neutral options like walking and cycling [O,T9,1521] [15].

### **Institutional Development in Hazardous Lands**

30. The hospital location lies within a floodplain development area. [Z 151,183]
31. Proximity to Windsor airport increases risk of air pollution from aircraft and, though small, catastrophic risk of collision. [Z,T11,154]

### **Incompatible Adjacent Land Uses**

32. Many residents have expressed concerns [O,T8,1191] about a hospital immediately adjacent to the airport land [Z,T11,154].
33. Noise Emission Contours were updated in 1996 [Windsor's Official Plan, Schedule C].
34. Analysis of impact of airplane proximity on sensitive hospital equipment has yet to be presented.
35. Future runway expansion on the southern part of the airport land could result in NEF/NEP noise emission contours overlapping onto hospital land. [Z,T11,51]
36. The hospital's height would also preclude a second runway south of the existing runway.

## Unsustainable Land Use Patterns

### Number of Vehicle Trips Not Minimized, Commute Journeys Lengthened

37. There is no evidence is in the Planning Report to suggest that the proposed hospital location 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 [O,T9,1502] [15].
38. Commute journeys will increase for health care workers and patients accessing the hospital from Windsor neighbourhoods north of Windsor Airport, the region's most densely populated neighbourhoods [O,T9,1502] [15].
39. Most city inhabitants will be significantly farther from the planned County Road 42 hospital location than the current hospital campuses [O,T9,1502] [15].
40. There are limited access routes around Windsor Airport [Z,T11,154].
41. Taxi fares from Wards 2 and 3, the city's lowest income wards, will be cost-prohibitive for those on limited incomes. [O,T9,1500] [14].

### Transportation Planning Promised but Not Integrated

42. A transportation analysis by former Windsor Transit Planner Stephen Kapusta has not been addressed [O,T9,1532-34] [37-39].
43. Public transit to the hospital has been promised *but plans were not integrated*.
44. There is no evidence that decisions about routes, service frequency, costs, or regional transit have been made [Z,T11,49].
45. Transit Windsor service is reduced at night, on weekends and holidays.

### Unsustainable Transportation System: Fewer Opportunities for Walking, Cycling and Transit

46. In the absence of robust population growth [O,T8,1027], Transit Windsor's already constrained financial resources will struggle to support the city's increased urban footprint.



47. The distance from established neighbourhoods will force hospital and other workers who currently live within walking or cycling distance to drive to work [O,T9,1502] [15].
48. Windsor Regional Hospital is Windsor's second largest employer.
49. Medical offices and related businesses will relocate to be closer to the hospital site, which will be farther away from homes in the most densely populated neighbourhoods [O,T9,1519] [26].

### **Inaccessible Institutions**

50. The proposed greenfield hospital location located 12 km from Windsor's Downtown and up to 20 km from the West End will be difficult to access for those who do not drive. This loss of access will be most pronounced in Wards 2, 3, 4 and 5 [O,T9,1502] [16].
51. The site was selected without considering population density or the physical limitations of elderly people and others with impaired mobility. [O,T9,1495] [10].
52. The only health care services currently planned for downtown are outpatient-based (not 24/7, and not intended for life-threatening conditions) [Z,T11,172], [O,T9,1498] [12].
53. The statement that 70% of hospital patients will be within 12 km of the site is not supported by evidence [Z,T11,173]: a footnote on WRH's location announcement puts the source of this assertion on a [sample of inpatients during an undetermined period](#).
54. 12 km is almost triple the travel distance that is feasible for most pedestrians and cyclists [O,T9,1502] [15].
55. The Locational Analysis [Z,T11,188] describes seven Ontario regional hospital construction projects, but not Toronto's new Humber River Hospital (built in 2015). Windsor Regional Hospital has repeatedly used Humber, a brownfield project, as a shining example of Best-In-Class hospital development. All seven of these greenfield hospitals are less distant (median distance of 4.8 km) relative to the centre of the community they serve than the planned Windsor-Essex hospital site. [O,T9,1540-1548] [43-49].

## **Pedestrian and Cycling Access Not Safe or Convenient and Public Transportation Not Facilitated; Unreasonable Walking or Cycling Distance**

56. Access to Sandwich South by bicycle or on foot from neighbourhoods north of EC Row is impeded by the airport land which lies between. Access routes leading to Sandwich South, including the expressway, are not engineered for active transportation. [Z,T11,154].
57. While bicycle lanes and pedestrian will be added close to the hospital, the distance of the hospital location relative to where the overwhelming majority of hospital users without cars will be coming *from* has not been considered when evaluating the provision of this infrastructure [O,T9,1502] [15]
58. A multi-use trail running south of the hospital site [Z,T2,180] will not facilitate access from neighbourhoods that lie north of the intervening airport land.
59. At 13 km from the centre of Windsor, access to the hospital site is complicated by the physical barrier of Windsor Airport [Z,T11,38].
60. The hospital location lies more than 5km from almost all existing Windsor neighbourhoods, which is beyond a reasonable walking or cycling distance for most people [O,T9,1502] [15].
61. The access routes along Walker Road and Lauzon Parkway have no safe bicycle or pedestrian infrastructures.
62. E.C. Row Expressway is inaccessible to cyclists and pedestrians.

## **Loss of Resilience**

### **Development causing Environmental or Public Health and Safety Concerns**

63. The distance to hospital from Windsor's lowest income wards with highest transit dependency (a range of 13-20km) will negatively affect timely access to an extensive range of health care services not available at an outpatient urgent care facility. [O,T9,1498] [12].

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

64. Land use barriers for persons with disabilities and older persons have not been identified, prevented or removed in the Planning Report. [O,T9,1495] [10].
65. The greenfield hospital site is farther from Windsor's most densely populated neighbourhoods compared to hospitals in any other Canadian city [O,T9,1540] [43].
66. The distance restricts access via forms of transportation other than motor vehicles and therefore increases land use barriers [O,T9,1492] [8].

### **Unjustified or Uneconomical Expansion of Infrastructure**

67. Opportunities for adaptive re-use were not considered desirable in the hospital site selection criteria. Greenfield development was explicitly preferred in both the 2009 Masterplan and the 2012 Windsor Hospitals Report.
68. The \$17M Regional Cancer Centre that opened in 2001, and \$192M in renovations to both hospital campuses that were completed in 2005 are to be demolished. Further planned renovations budgeted at \$670M were shelved when the single site acute care project was announced [O,T9,1514] [23].

### **Ineffective and Inefficient Delivery of Emergency Management Services**

69. The hospital location at the extreme south-east of the city, south of the Airport Land [Z,T11,38], is farthest from the lowest income wards with highest public transit dependency. These are located Downtown and west of Downtown.
70. Taxi fares to and from the planned County Road 42 hospital location for those living in the city's lowest income wards will be cost-prohibitive for those with limited incomes. [O,T9,1500] [14].

### **Not a Pedestrian Scale Neighbourhood**

71. Pedestrian access is unfeasible from neighbourhoods outside Sandwich South, because of the distance from each Windsor ward to the planned hospital site and the physical barrier of Windsor Airport [Z,T11,38].

72. The loss of the existing hospitals will drive many medical offices to relocate, making them less accessible from established neighbourhoods where residents rely on them for their day-to-day needs [O,T9,1519] [26].
73. Most physicians with hospital privileges will have to move to new offices closer to the new hospital site [O,T9,1519] [26].
74. Development Charges in Sandwich South are four times higher than in neighbouring municipalities. There is a risk that businesses will migrate to these municipalities (with lower taxes and fewer services), creating further barriers to pedestrian-scale service delivery [O,T9,1512] [22].

### **Community Services at Inappropriate Locations throughout Windsor**

75. The Planning Justification Report describes the services remaining in downtown Windsor as an investment. Yet, where there is an acute care hospital today, the only remaining downtown health care services will be outpatient-based and do not include treatment for life-threatening conditions, or a range of other services provided only in a hospital environment. The planned construction of new satellite facilities in the centre of Windsor thus represents a net disinvestment in health care services. [Z,T11,172].
76. Residents will lose efficient 24/7 access to a full range of hospital services in the Downtown area. [O,T9,1498] [12].

### **Development that Does Not Foster the Integration of All Residents into the Community**

77. Two anchor institutions are to be demolished and replaced with one beyond the airport. This will create a physical barrier that will negatively impact low income and vulnerable residents, especially those without access to cars [Z,T11,38].
78. Two community anchors (representing the city's second largest employer) will be removed from existing main streets including downtown, affecting 3,000-4,000 health care workers [O,T9,1502] [15].

## Time Line

DATE	DETAILS
JUN 2009	Master plan, with greenfield site and demolition of Windsor Regional Hospital including Cancer Centre (2001) identified as preferred option
NOV 30, 2012	<a href="#">Windsor Hospitals Study Final Report released</a>
NOV 23, 2013	<a href="#">Stage 1A announced</a>
MAY 7, 2014	<a href="#">Public invited to apply for 4 of 10 positions on Site Selection Committee</a> . Deadline May 16 <sup>th</sup> .
MAY 20, 2014	<a href="#">Site Selection Committee announced</a> None of the members has a planning background.
MAY 25, 2014	<a href="#">Survey: Public invited to rank a predetermined set of site selection criteria</a> established by the Steering Committee
JUN 11, 2014	<a href="#">Site Selection criteria announced</a>
JUL 23, 2014	<a href="#">Land offers accepted</a>
JUL 16, 2015	<a href="#">County Road 42 site announcement</a>
NOV 11, 2015	<a href="#">The only downtown public meeting (hosted by DWBIA)</a>
DEC 21, 2015	<a href="#">Windsor City Council Levy Meeting</a> (Note also: " <a href="#">Levy, not Location</a> ")
DEC 22, 2015	<a href="#">Lawsuit launched against WRH by GEM Properties (later dropped)</a>
JAN 7, 2016	<a href="#">News release on site selection following CAMPP FOI request</a>
APR 20, 2016	<a href="#">County Council approves levy share</a>
APR 25, 2016	<a href="#">Windsor Council approves levy share</a>
MAY 24, 2016	<a href="#">Erie St. Clair Board Meeting in Windsor (set of questions presented by CAMPP to the Board)</a>
SEP 7, 2016	<a href="#">Public information meeting on Secondary Plan convened by Stantec (official response submitted by CAMPP)</a>
JUL 5, 2017	<a href="#">Public meeting convened by MHBC Consultants (official response submitted by CAMPP)</a>
DEC 1, 2017	<a href="#">Dr. Hoskins announces Stage 2: Adds that the re-use of Ouellette Campus instead of Grace Site will be investigated</a>
FEB 2, 2018	<a href="#">MHBC Background Plan submitted to City of Windsor</a>
AUG 13, 2018	<a href="#">Combined Planning and Council meeting to approve Secondary Plan Amendment and hospital zoning</a>
SEP 17, 2018	<a href="#">Council adoption of Secondary Plan Amendment and hospital zoning by-laws</a>

**E. 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

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

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

**1. 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.

**Tribunal Cases**

*Collins Bay Marina Inc. v Kingston (City)*, 2018 CanLII 84450 (ON LPAT)

**2. The Provincial Policy Statement, 2014**

1.1.1(c) Healthy, liveable and safe communities are sustained by (c) avoiding development and land use patterns which may cause environmental or public health and safety concerns

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

- 1.1.1(h) Healthy, liveable and safe communities are sustained by (h) promoting development and land use patterns that conserve biodiversity and consider the impacts of a changing climate
- 1.1.5.5 Development shall be appropriate to the infrastructure which is planned or available, and avoid the need for the unjustified and/or uneconomical expansion of this infrastructure.
- 1.2.2 Planning authorities are encouraged to coordinate planning matters with Aboriginal communities.
- 1.2.3 Planning authorities should coordinate emergency management and other economic, environmental and social planning considerations to support efficient and resilient communities
- 1.6.3 Before consideration is given to developing new infrastructure & public service facilities: (a) the use of existing infrastructure & public service facilities should be optimized (b) opportunities for adaptive re-use should be considered, wherever feasible
- 1.6.4 Infrastructure and public service facilities should be strategically located to support the effective and efficient delivery of emergency management services
- 1.6.7.1 Transportation systems should be provided which are safe, energy efficient, facilitate the movement of people and goods, and 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 (e) promoting the redevelopment of brownfield sites
- 1.8.1(e) Improve the mix of employment and housing uses to shorten commute journeys and decrease transportation congestion



- 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
- 3.1.3 Planning authorities shall consider the potential impacts of climate change that may increase the risk associated with natural hazards.
- 3.1.5 Development shall not be permitted to locate in hazardous lands and hazardous sites where the use is: an institutional use including hospitals
- Part IV The wise use and management of these resources over the long term is a key provincial interest.

### **3. Windsor's Official Plan ("OP"), 2013**

- 1-3 Windsor presently has a substantial oversupply of lands available for commercial development
- 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.
- 4.2.1.4 To protect against climate change and its possible adverse effects on human health, the physical environment, economy and quality of life.
- 4.2.1.6 To provide for pedestrian scale neighbourhood centres that serve the day-to-day needs of the local residents.
- 4.2.3.2 To encourage the location of basic goods and services where people live and work.
- 4.2.3.5 To encourage community services at appropriate locations throughout Windsor.
- 4.2.4.2 To encourage development that fosters the integration of all residents into the community.
- 4.2.5.3 To ensure effective public information and communication on planning and development initiatives.
- 4.2.7.3 To encourage emergency services in close proximity to where people live
- 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

- 6.6.1.4 To ensure that institutional uses are developed in a manner which are compatible with adjacent land uses
- 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 Council shall implement land use patterns that promote sustainable travel by locating land uses within reasonable walking or cycling distance by:  
(c) integrating land use and transportation planning decisions by ensuring each fit the context of each other's specific needs.
- 7.2.5.2 Council shall require that the design of development proposals and infrastructure undertakings facilitate easy access to public transportation.
- 8.4.1.1 To integrate barrier-free pedestrian routes in the design of urban spaces.
- 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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