

ISSUE DATE:

**June 13, 2013**



PL120552

Ontario  
Ontario Municipal Board  
Commission des affaires municipales de l'Ontario

IN THE MATTER OF subsection 17(36) of the *Planning Act*, R.S.O. 1990, c. P.13,  
as amended

Appellant: Sifton Properties Limited  
Appellant: Springer Ponds Development Inc.  
Appellant: Stanton Bros. Limited  
Appellant: Peter Vanderweg  
Subject: Proposed Official Plan Amendment No. OPA 28  
Municipality: Township of Middlesex Centre  
OMB Case No.: PL120552  
OMB File No.: PL120552

**APPEARANCES:**

**Parties**

**Counsel**

Sifton Properties Limited

B. Card

Municipality of Middlesex Centre

A. Wright  
P. Lombardi

County of Middlesex

W. Meagher

The University of Western Ontario

I. Lord

**DECISION DELIVERED BY BLAIR S. TAYLOR AND ORDER OF THE BOARD**

**INTRODUCTION**

[1] In 2010, the Municipality of Middlesex Centre ("Middlesex Centre") retained GSP Group Inc. to undertake a Comprehensive Review of the Middlesex Centre Official Plan and Secondary Plan for Komoka-Kilworth. The scope of the Comprehensive Review was broad and *inter alia* included an analysis of the amount and location of land designated for urban purposes in the Official Plan, a determination of the amount of anticipated growth, an assessment of the land then designated for urban purposes as to its appropriateness for future growth, the preparation and presentation of alternative

growth scenarios, and the recommendation of a growth strategy and Official Plan Amendment to Council.

[2] Sifton Properties Limited had sought a Residential designation for its lands in south west Ilderton. The lands were ultimately designated as Settlement Employment/Strategic Employment Area, which was appealed to the Board.

## **BACKGROUND AND CONTEXT**

[3] In the 1990s, there were three townships that abutted the City of London to the north west: London Township, Lobo Township, and Delaware Township. The City of London annexed from these townships, thousands of hectares of industrial, commercial, and other lands. In 1998, the Townships of London, Lobo, and Delaware amalgamated to become Middlesex Centre. However, before that amalgamation took place the former Township of London (which is of note for this hearing) had significant concerns about its assessment base, and pre-designated an equal area of land to match what had been lost through annexation to the City of London.

[4] This approach was formalized in the then Township of London's Official Plan in s. 5.3.1 which stated in part the following:

As a result of the 1993 annexation by the City of London, the Township lost 146.5 hectares (362 acres) of designated industrial lands which were concentrated in the Hyde Park vicinity, north to Highway 22.

...The number of businesses, both commercial and industrial in nature, that were lost due to annexation was 323 of 447. This translates into a 72% loss of business activity within the Township.

...Although Township Council recognizes that industrial sites within the City of London may be more attractive than locating in the Township due to the proximity to Highways 401 and 402, it is Council's desire to provide a mix of land use activity in appropriate locations to strengthen and blend its economic base. As such, Council has designated an equal area of land as to that which they had prior to annexation. The site is situated south of Ilderton to take advantage of the road, rail and municipal servicing available.

[5] Those designations from the Township of London Official Plan were largely carried forward to the 2000 Official Plan of the Municipality of Middlesex Centre.

[6] Thus, as the 2010 Comprehensive Review commenced, it was recognized that the land use designations originating from and carried forward from the three former townships were largely responsible for surplus land designations relative to the 20 year forecast for land requirements. These designations were regarded as “legacy designations”.

[7] Part of the Comprehensive Review involved a servicing analysis of existing and planned development strategies for each settlement area including water, sanitary sewers, storm sewers and transportation. Only two settlement areas had full municipal services: Komoka-Kilworth, and Ilderton.

[8] From the Comprehensive Review, five alternative growth scenarios were developed and evaluated.

[9] This led to the June 1<sup>st</sup> 2011 Preferred Growth Plan which proposed that the lands owned by Sifton Properties Limited (“Sifton”) be designated as Residential and included within an expanded Settlement Boundary.

[10] Subsequent thereto, comments were received from the Ministry of the Environment (“MOE”), and the Ministry of Municipal Affairs and Housing (“MMAH”).

[11] This resulted in meetings with agency officials and ultimately with the September 14<sup>th</sup> 2011 Preferred Growth Plan which was a further refinement of the June 1<sup>st</sup> 2011 Preferred Growth Plan, with the lands south of Ilderton owned by Sifton removed from Residential designation and moved to a Settlement Employment/Strategic Employment Area.

[12] The September 14<sup>th</sup> 2011 Preferred Growth Plan was adopted by Middlesex Centre as Official Plan Amendment 28 (“OPA 28”), forwarded to the County of Middlesex for approval, and the Notice of Decision was issued April 24, 2012, with modifications, none of which are at issue in this hearing.

[13] By letter dated May 17, 2012 Sifton appealed OPA 28 for its lands south of Ilderton, pleading that the lands were more properly to be designated as Residential.

## **THE SUBJECT LANDS**

[14] Ilderton is an urban settlement area in the Middlesex Centre, in the County of Middlesex. It has municipal water and sanitary sewers. It has a population of about 2,200. It is located north of London on Hyde Park Road being about 20 km to downtown London.

[15] Sifton became the owner of part of the south half of Lot 25, Concession 10, (the "Subject Lands") on April 11, 2012. Prior to that, the Subject Lands had been owned by Northwind Woods Limited, who also either directly or indirectly owned the vacant draft plan of subdivision to the north of the Subject Lands. The Subject Lands are about 19 ha in area, and located just outside the existing settlement boundary for Ilderton. The Subject Lands are irregular in shape, being somewhat triangular in nature. To the north, but within the settlement boundary, is the vacant residential draft plan of subdivision formerly owned by Northwind Woods Limited with about 145 to 150 m of interface to the Subject Lands (of which a third is protected woodland). To the west is agricultural land, to the south is the 10 Mile Road and more agricultural lands, and to the immediate west is a former railway line (30 m wide) now owned by Middlesex Centre forming the entire east boundary of the Subject Lands. Further east of the former rail line are lands owned by a numbered company but held for the benefit of the University of Western Ontario (the "UWO Lands"). The former rail line now owned by Middlesex Centre, forms a common boundary for the Subject Lands and the UWO Lands on a diagonal for some 681 m to 10 Mile Road, where the Subject Lands have 377 m of frontage on 10 Mile Road.

### **County of Middlesex Official Plan**

[16] The County of Middlesex Official Plan is an upper tier document and as in the usual case, it provides a broad policy overview. Ilderton is designated as a Settlement Area without any defined boundary, and development on full municipal services is supported.

### **Middlesex Centre Official Plan**

[17] The Subject Lands are located outside the existing Settlement Boundary for Ilderton. The Subject Lands (and the UWO Lands) are currently designated in two

parts: the largest portion to the south is designated "Rural Industrial" and for the northern portion that would abut the existing Settlement Boundary, the Subject Lands are designated "Rural Commercial" with a special policy provision in SPA 9. The Rural Industrial designation would allow dry industrial uses and research facilities; public facilities and recycling operations are also permitted. The Rural Commercial designation allows commercial uses with a strong orientation to vehicular traffic and single purpose shopping trips, including automobile sales, service stations, garages, lumber yards, motels and farm equipment and drive-in restaurants. The SPA 9 overlay would require adequate buffering to the adjacent residential development and permit office parks, research facilities and limited retail and personal services uses.

### **Middlesex Centre Zoning By-law**

[18] Corresponding to the Official Plan designations, in the south the Subject Lands are designated Light Industrial (M1), and in the north Office Park Commercial (C3).

[19] The M1 zone permits light industrial uses, laboratories, warehouse and accessory retail, office and open storage uses.

[20] The C3 zone permits clinics, laboratories, general offices, professional offices, personal service establishments, and convenience stores.

[21] Also of note is s. 16.2.1 that states if a public water system is not available, a light industrial use shall not be permitted in the Light Industrial (M1) Zone, unless it is a dry industrial use. Dry Industrial Use is defined to mean a light industrial use that does not directly consume water and the only discharge of water is from auxiliary facilities such as washrooms.

[22] The evidence before the Board was that the land use designations and zoning for the Subject Lands originated in the post annexation period and were carried through to the 2000 Middlesex Centre Official Plan, and hence commonly regarded as "legacy" designations.

### **Comprehensive Review**

[23] In 2010, Middlesex Centre commissioned the preparation of a Comprehensive Review of the Middlesex Official Plan with particular attention to evaluate the existing

vacant land inventory within the settlement area designations of the 2000 Official Plan, and where appropriate examine options to re-distribute designations from vacant land where development was constrained by lack of municipal servicing, environmental issues etc.

[24] The Comprehensive Review process included both a land use planning component and a servicing component for the whole of Middlesex Centre. The planning analysis included population and employment growth forecasts, residential and employment building forecasts, inventories of vacant land, intensification and infill potential within existing settlement areas, and a land supply and demand analysis.

[25] The planning analysis done for Middlesex Centre indicated that the Official Plan had already designated sufficient land to accommodate the total housing forecast to 2031 and beyond.

[26] From this review process, five development scenarios were developed in March of 2011.

[27] Scenario 1 was the status quo.

[28] Scenario 2 examined the retraction of large vacant designated parcels of land in community settlement areas and hamlets and the re-designation of those lands to Agriculture.

[29] Scenario 3 proposed to utilize the retracted areas from Scenario 2 and did so through three sub options: 3A, 3B, and 3C. Scenario 3A proposed to expand the settlement area boundary and add 25 ha of residential lands to Ilderton in the north eastern quadrant of the settlement area (other lands owned by Sifton). For the Subject Lands they remained outside the settlement area boundary and remained designated as Rural Industrial and Rural Commercial Spa 9.

[30] Scenario 3B for Ilderton proposed to expand the settlement boundary in a southerly direction to 10 Mile Road, convert 60 ha of Rural Industrial and Rural Commercial lands to Residential Lands, (mostly the Subject Lands and the UWO Lands) as well as add 24.49 ha of residential land on the east side of Hyde Park Road. For Employment Lands, Scenario 3B proposed to reallocate land uses in Komoka-

Kilworth and create a new 86 ha area of Employment land in near proximity to the 402 Highway.

[31] Finally, under Scenario 3C, 110 ha of Employment land would have been created in Delaware, with direct visibility from Highway 402. Under Scenario 3C, the Subject Lands would have been re-designated to Agriculture.

[32] As the norm for such Comprehensive Reviews, public consultation in the form of Open Houses was undertaken at which time the Scenarios were outlined and public input sought.

[33] By letter dated April 6, 2011 Zelinka Priamo Ltd wrote to Middlesex Centre on behalf of its then client Northwind Woods Limited being then the owner of some 57 ha of land at the South West quadrant of Ilderton, including the vacant draft plan of subdivision lands, and the Subject Lands. In that letter it was recommended that due to the servicing costs associated with development in the South West quadrant that the remaining Northwind Woods Limited lands (i.e. the Subject Lands) be re-designated as Residential and also the lands to the east of the former rail line (i.e. the UWO Lands) also be so re-designated.

[34] Similarly, by letter dated May 20, 2011, Weir Foulds LLP wrote to Middlesex Centre on behalf of its client 2174742 Ontario Inc. expressing concern about the possible re-designation of its lands (the UWO Lands) as they had been purchased in 2008 on the basis that they had been designated for commercial and industrial purposes.

### **THE JUNE 1<sup>st</sup> 2011 PREFERRED GROWTH PLAN**

[35] From the land use planning analysis, and the servicing analysis, the scenarios were reviewed based on a list of criteria, and the input received during the process. The evaluation resulted in a June 1<sup>st</sup> Preferred Growth Plan that utilized the retractions from Scenario 2 to enable additional residential and employment designations in Ilderton and Komoka-Kilworth. More specifically Komoka-Kilworth added in part 42 ha of Residential and 67 ha of Employment lands, the latter being close to the 402 Highway.

[36] For Ilderton, the June 1<sup>st</sup> Preferred Growth Plan expanded the settlement boundary of Ilderton, added 25 ha of Residential lands in the North East quadrant, and converted 82 h of Rural Commercial/Rural Industrial to 31 ha of Residential in the South West quadrant (including the Subject Lands) and Settlement Employment 40 ha (including the UWO Lands).

[37] Thus, for the Residential re-designation, this included 25 ha in the North East quadrant, 9.2 ha abutting the Northwind Woods Limited existing draft plan of subdivision, and the 19 ha of the Subject Lands were proposed.

[38] The vacant former rail line was proposed to be re-designated as Parks and Recreation but the balance of the lands to the east of the former rail line were proposed for Settlement Employment, with the removal of the SPA 9 for Rural Commercial.

[39] The release of the June 1<sup>st</sup> Preferred Growth Plan resulted in further public input. Weir Foulds LLP wrote on June 17, 2011 expressing their opposition to the proposed re-designation of their client's lands and the proposed re-designation of the Subject Lands to the west as Residential.

[40] On June 20, 2011 Zelinka Priamo Ltd wrote to Middlesex Centre on behalf of its client Northwind Woods Limited endorsing the proposed changes as an aid to the servicing costs for the vacant draft subdivision, as being appropriate for residential development, and that history had shown that the Subject Lands were not desirable for either commercial or industrial development.

[41] The Statutory Public Meeting was held before Middlesex Centre Council on June 22, 2011 with approximately 29 written submissions and 60 members of the public in attendance. Bill Green, on behalf of GSP Group Inc., made a presentation to the Council outlining the results to date of the Comprehensive Review, and that the Official Plan Amendment would be presented to Council for adoption in September, 2011.

[42] Following the release of the June 1<sup>st</sup> Preferred Growth Plan, and after the June 22, 2011 statutory meeting, agency comments were also received from the MOE and the MMAH. By letter dated July 6, 2011 the MOE stated in part the following:

Lastly, we are concerned that the separation of re-designated residential and settlement employment areas in Ilderton (Schedule A-1) by the width of a former



rail right-of-way opens the door to future land use conflicts which should be addressed in the amendment itself notwithstanding present OP 5.5.1 (c) and (d).

[43] By email dated July 7, 2011 the MMAH stated:

It appears that there is an overall addition of lands in the neighbourhood of 37 ha for residential and settlement employment (what uses does settlement employment include?)

It is not clear from the amendment how much yearly growth that encompasses and whether or not this addition of 37 ha results in a growth horizon beyond 20 years for the residential lands and commercial/industrial lands. This needs to be further clarified.

...There is approximately 107 ha of land being converted from various uses to various uses. There was no analysis of how this impacts the supply of Residential, Recreation, Industrial and Commercial lands within these areas. This analysis should be provided to ensure that the Municipality is not losing Industrial and commercial lands for future needs.

#### **THE SEPTEMBER 14<sup>th</sup> 2011 PREFERRED GROWTH PLAN**

[44] Following the June 1<sup>st</sup> Preferred Growth Plan, the Statutory Meeting, the public input and the agency comments, the Comprehensive Review team reviewed all the submissions and comments, held a meeting with its Middlesex Centre Steering Committee, and participated in an agency meeting facilitated by the County of Middlesex. In order to respond to the provincial agency comments, the Comprehensive Review team reviewed other additional possible retractions in non-municipally serviced settlement areas and, with direction from its Steering Committee, undertook a review of South Ilderton.

[45] This action resulted in the September 14<sup>th</sup> 2011 Preferred Growth Plan which for the Subject Lands was significantly different from the June 1<sup>st</sup> Preferred Growth Plan. To address the MMAH comments, additional hamlet retractions of designations were proposed and the introduction of Settlement Employment-Strategic Employment Areas in South Ilderton and Komoka-Kilworth to address the issue of possible loss of future employment lands. The September 14<sup>th</sup> 2011 Preferred Growth Plan proposed the re-designation of the Subject Lands to Settlement Employment-Strategic Employment Area, the re-designation of the vacant rail line as Settlement Employment-Strategic Employment, the removal of the SPA 9 Rural Commercial designation, the re-

designation of a municipal utility corridor north of the UWO Lands as Parks and Recreation, and the re-designation of the east side of Hyde Park Road to Settlement Employment-Strategic Employment Area. (The proposed re-designation of the 12 ha lands abutting the Northwind Woods Limited draft plan of subdivision and the 25 ha of Residential in the North East quadrant of Ilderton were continued).

[46] Again, input was received from the public including an October 12, 2011 letter from Zelinka Priamo Ltd. with regard to the Subject Lands, indicating their continued recommendation that the Subject Lands be re-designated to Residential as a logical extension to the existing draft plan of subdivision and that the additional residential lots would help offset the developer's costs associated with the upgrades needed to the municipal sanitary servicing system.

[47] The September 14<sup>th</sup> Preferred Growth Plan was considered by Middlesex Centre Council on October 19, at which appeared Richard Zelinka on behalf of Northwind Woods Limited and Gitta Kulczycki, Vice President of Resources and Operations for the University of Western Ontario. Mr. Zelinka advised Council that his client was supportive of the June 1<sup>st</sup> Preferred Growth Plan and recommended Council return to that plan. Ms. Kulczycki advised Council that 2174742 Ontario Inc. was a holding company for the benefit of the University of Western Ontario, and the University supported the September 14<sup>th</sup> Preferred Growth Plan for both the UWO Lands and the Subject Lands.

[48] Middlesex Centre Council adopted the September 14<sup>th</sup> 2011 Preferred Growth Plan, as OPA 28 and it was forwarded to the County of Middlesex as the approval authority.

[49] The County of Middlesex duly circulated OPA 28 and received agency comments including a December 20, 2011 submission from the MMAH, providing the "one window" response.

[50] The December 20, 2011 letter included comments from the MOE which provided in part the following:

The identified potential for land use conflict in the southerly part of Ilderton has been addressed by re-designating the lands west of the former rail right of way to Settlement and Strategic Employment Lands rather than Residential.

[51] The December 20 letter also included comments from the MMAH including the following:

MAH staff have reviewed the circulated Official Plan Amendment 28 for the Comprehensive Review of Settlement Area Designations and Komoka- Kilworth Secondary Plan Municipality of Middlesex Centre, Middlesex County (dated September 14, 2011) and support the Municipality and County's intention to review and reallocate lands, where necessary, for development in order to support their growth management policies.

MAH staff appreciates that these decisions can be difficult for a county and municipality to make, but are essential to ensure that long term growth within the municipality is not hand cuffed by legacy lands the municipality inherited during municipal amalgamations in 1998 of London, Lobo, and Delaware Townships.

MAH staff understand that based on the 2008 growth management issue paper, Middlesex Centre has enough residential land to accommodate growth for the next 32 years. As you are no doubt aware, Section 1.1.2 of the PPS requires municipalities to plan for projected needs for a time horizon of up to 20 years. Based on these facts, it appears that the municipality is correct in its assessment of the long term feasibility of existing growth areas within the municipality and where possible, the re-allocation of lands from unserviced hamlets to the fully serviced settlement areas of Komoka-Kilworth and Ilderton.

[52] OPA 28 was recommended for approval by the Manager of Planning for the County and was considered by the County of Middlesex committee of the Whole on April 10, 2012, and approved by County Council on April 24, 2012.

[53] The formal Notice of Decision was issued and on May 17, 2012. Zelinka Priamo Ltd., on behalf of Sifton Properties Limited, appealed OPA 28 as it related to the Subject Lands, noting that Sifton had purchased the lands of Northwind Woods Limited including the Subject Lands (as of April 11, 2012). The lands subject to appeal were only the Subject Lands and did not include the UWO Lands, nor the former rail right of way lands. The basis of the appeal was that the Subject Lands were suitable for residential use, that they would be a logical extension to the draft plan of subdivision abutting to the north, that residential designation would assist in the major infrastructure upgrades, that the Subject Lands were not as suitable for Settlement Employment/Strategic Employment Area and had little prospect of developing as such

and that the municipality's own planning consultants had recommended Residential designation.

## **THE HEARING**

[54] During the course of the hearing the Board heard expert evidence from five qualified land use planners and one representative of the University of Western Ontario.

[55] In support of the appeal, Sifton called Richard Zelinka. In support of OPA 28, as adopted by Middlesex Centre, Bill Green from the Comprehensive Review team was called, as was Marc Bancroft currently a senior planner with the County of Middlesex but during the relevant times was a land use planner with Middlesex Centre and part of the Middlesex Centre Steering Committee. Paul Stagl provided land use planning evidence on behalf of the University of Western Ontario, and Gitta Kulczycki also gave evidence. Finally, from the County of Middlesex came Durk Vanderwerff, Manager of Planning for the County of Middlesex.

## **THE ISSUES**

[56] The Procedural Order set out the three issues for this hearing and the Board will review each individually.

### **Issue 1**

[57] "Are the lands owned by Sifton Properties Limited located on part of the South Half of Lot 25, Concession 10, in the former Township of London, as shown on the attached schedule A, suitable for residential designation or, are the lands more appropriately designated Settlement Employment/Strategic Employment Area as set out in Official Plan 28?"

[58] Mr. Zelinka in his evidence placed great emphasis on the June 1<sup>st</sup> 2011 Preferred Growth Plan which would have designated the Subject Lands as Residential. He noted that the Comprehensive Review team had set out a list of Provincial Policy Statement, 2005 ("PPS") criteria with which to review the March 2011 development scenarios, and had prepared a summary of public consultation. In Exhibit 7 were found extracts of that document and at page 208 the Comprehensive Review team applied the PPS evaluation criteria to Scenario 3B (the Subject Lands and the UWO Lands as

Residential) and found that all the PPS evaluation criteria were met justifying the re-designation of the Subject Lands and UWO Lands to Residential, and the direction to Komoka- Kilworth for the employment lands, in close proximity to the 402 Highway.

[59] Mr. Zelinka noted that the June 1<sup>st</sup> 2011 Preferred Growth Plan had only carried forward the Residential designation for the Subject Lands and that the UWO Lands had been proposed for Settlement Employment/Strategic Employment Area but that the former rail right of way had been proposed as Parks and Recreation to provide a 30 m buffer between the Residential designation on the Subject Lands and the Employment Lands to the east. He noted that as of June 1 this was the preferred position for the draft OPA 28 that the Comprehensive Review team had arrived at, and that it presumably had taken into account the submissions by Weir Foulds LLP about its client's lands.

[60] Messrs. Green, Bancroft and Vanderwerff however all noted that the June 1<sup>st</sup> 2011 Preferred Growth Plan had been a draft, and that the draft had been prepared prior to the receipt of the agency comments noted above, from the MOE and the MMAH. They said that the MMAH was not satisfied as to the overall addition of 37 ha of land, and sought to be assured that the municipality was not losing industrial and commercial lands required for future needs. The MOE was more specific in its concerns with regard to the proposed "split" designation in the June 1<sup>st</sup> 2011 Preferred Growth Plan of the Subject Lands to Residential and the UWO Lands to Settlement Employment/Strategic Employment Area separated only by the former rail right of way and that this would open the door to future land use conflicts.

[61] The evidence of Messrs. Green and Bancroft was that these agency comments were unexpected and that they had to be dealt with, and thus necessitated a further examination of designations in community settlements and hamlets for possible further retractions, and when discussing these agency comments at a Municipal Steering Committee meeting, the Comprehensive Review team was directed to have another look at South Ilderton. Additionally, Mr. Vanderwerff at the County having also seen the agency comments facilitated an agency meeting on July 13 with the provincial agencies and the Comprehensive Review team all at the table.

[62] Mr. Green testified that over the balance of July and August the Comprehensive Review team considered the agency comments and examined other options including the further retraction of designated lands from community settlement areas and hamlets. Finally, in September 2011 this re-examination had resulted in some further hamlet retractions, the creation of “strategic” employment areas, and the re-designations in South Ilderton of the Subject Lands to Settlement Employment/Strategic Employment Area.

[63] Mr. Zelinka noted in his evidence that there did not appear to be any land use planning basis for this significant departure of the Comprehensive Review team from the June 1<sup>st</sup> 2011 Preferred Growth Plan to the September 14, 2011 Preferred Growth Plan and queried if the municipal knowledge of the numbered company as the holding company for the University of Western Ontario was the tipping point for that change, and whether that change was based on good land use planning or mere ownership?

[64] The Board prefers the evidence of Mr. Green and Mr. Bancroft, that the tipping point was the fact that in July 2011 post the release of the June 1<sup>st</sup> Preferred Growth Plan, the Comprehensive Review team had two provincial agencies off side, and that those agency concerns had to be dealt with. With those agencies off side, and the MOE concerned with the proposed Residential/Employment land interface in South Ilderton, it would have only been reasonable for the Municipal Steering Committee to suggest to the Comprehensive Review team to re-examine South Ilderton.

[65] The evidence is that there is a 681 m interface between proposed residential uses on the Subject Lands and Settlement Employment/Strategic Employment Area proposed for the UWO Lands in the June 1<sup>st</sup> 2011 Preferred Growth Plan, separated by the 30 m rail right of way. The Board agrees that such a designation would have had the potential for land use conflicts in the future.

[66] Moreover, the MOE itself acknowledged in December 2011 that its concerns of July 6, 2011 had been resolved through the re-designation of the Subject Lands.

[67] Thus, the Board notes the concerns raised by the MOE and finds that the more appropriate designation for the Subject Lands is Settlement Employment/Strategic Employment Area on the basis of a future significant potential land use conflict with the abutting Employment lands. Such a designation also contributes to a diversity of

designation, which will assist with the creation of a complete community for Ilderton, all as mandated by the PPS.

## **Issue 2**

[68] “Is the residential designation proposed by Sifton Properties Limited consistent with the PPS and is it in conformity with the County of Middlesex Official Plan?”

[69] The evidence from all the planners was that Middlesex Centre engaged in a Comprehensive Review for the entire municipality. It was described to the Board by some as being “fulsome”, a “remarkable effort to deal with legacy designations left over from the former townships”, and a “detailed review that is not often seen in Ontario”. The Comprehensive Review commenced with an apparent 32 year residential land supply, and with some of that supply in community settlements and hamlets where municipal servicing was not available and would not likely be available within the planning horizon.

[70] As part of the overall Comprehensive Review, Scenario 2 was an exercise to locate and assess that vacant designated land supply on a municipal wide basis both residential and employment. That done, Scenario 2 carried on to pose potential retractions of both designations back to Agriculture (2.3.1 of the PPS), which would make more efficient use of land and a more compact development pattern, and allow for “planned” employment designations and residential designations.

[71] The Appellant submits that the June 1<sup>st</sup> 2011 Preferred Growth Plan complied with the PPS, as it was a draft OPA, and the Comprehensive Review team had evaluated it as being in compliance with the PPS.

[72] Mr. Green and Mr. Bancroft testified that when the June 1<sup>st</sup> 2011 Preferred Growth Plan was prepared, the Comprehensive Review team did not have the agency comments from the MOE and MMAH. The first raised issues relating to land use compatibility (1.1.1. (c) of the PPS) and the second raised concerns with regard to the potential loss of industrial and commercial lands needed for the future (1.3.1. (c) of the PPS).

[73] With those agency comments outstanding, the Board finds that the June 1<sup>st</sup> 2011 Preferred Growth Plan simply became another scenario, and the Comprehensive Review team had to re-examine further possible retractions and address a possible land use incompatibility.

[74] This the Comprehensive Review team did, and through that process further retractions were made, and the Subject Lands proposed for Settlement Employment/Strategic Employment Area, all ultimately led to the satisfaction of both the MOE and MMAH.

[75] Thus, the Board finds that the proposed residential designation proposed by Sifton would not have been consistent with the PPS, as it did not avoid development and land use patterns which may cause environmental or public health and safety concerns, and did not protect and preserve an employment area for current and future uses.

### **Issue 3**

[76] “If the designation of the lands owned by Sifton Properties Limited as Settlement Employment/Strategic Employment Area is consistent with the PPS, is the designation preferable and in the public interest having regard for sound land use planning principles including compatibility and stormwater management aspects relating to adjacent lands?”

[77] The evidence heard by the Board was that following the April 11, 2012 purchase of the Subject Lands by Sifton, that the servicing issues and in particular the servicing costs associated with the vacant draft plan to the north had been resolved.

[78] In terms of the public interest, the Board finds that Middlesex Centre through its Comprehensive Review was seeking to focus growth in accordance with 1.1.3 of the PPS in settlement areas, to efficiently use land and available infrastructure to achieve a balanced and compact community and to provide for a mix of land uses that would enable a complete and revitalized community.

[79] As noted by Mr. Stagl, the interest advanced by Sifton is a private interest. Additionally, as highlighted by Mr. Green and Mr. Bancroft, Sifton as a result of the



approval of OPA 28, has had other lands in Ilderton added to the settlement area, and designated for residential purposes, including 29.5 ha in the North West quadrant of Ilderton and an additional 12 ha (gross) in the South West adjacent to its existing vacant plan of subdivision.

[80] Under cross-examination Mr. Bancroft testified that Ilderton has lost a number of its previous employers and OPA 28 provides a fairly large block of Employment land focused on Hyde Park Road, a matter of a few kilometers to the center of London.

[81] Messrs. Green, Bancroft, Stagl, and Vanderwerff all noted in their evidence that the Subject Lands had been designated as Rural Industrial and Rural Commercial and the PPS requires that a need be demonstrated that the land is not required for employment purposes over the long term and there is a need for conversion.

[82] The Appellant has not provided any independent study or report to challenge the results of the Comprehensive Review of Middlesex Centre, and the Board finds that the need to convert the Subject Lands from an employment designation to a residential designation has not been met, and it is incumbent on the Appellant to do so.

[83] Thus, the Board does not find that a residential designation for the Subject Lands would be consistent with the PPS, and neither would it be preferable or in the broader public interest.

## **DECISION**

[84] The Board is required by s. 3 of the *Planning Act* that its decision be consistent with the PPS. The Board is also required by s 2.1 to have regard to the decision made by a municipal council and the information and materials it had before it when making the decision.

[85] The Board has done so and the appeal of Sifton is dismissed.

## **NORTH INTERFACE**

[86] However, the Board is concerned with regard to the north interface between the Settlement Employment/Strategic Employment Area and the existing residential

development (both east and west of Hyde Park Road) and the as of yet vacant draft plan of subdivision to the north.

[87] For most of that northern interface there is an existing 30 m wide municipal utility corridor, an existing fire station and a wood lot on the UWO Lands, but there is no municipal utility corridor on the Subject Lands.

[88] This interface between existing residential and currently vacant residential with the Settlement Employment/Strategic Employment Area was not addressed by the MOE. The MOE raised concerns about a proposed similar interface between the Subject Lands and the UWO Lands. With the repeal of SPA 9, the Board has concerns about the potential for future land use incompatibilities at this northern interface.

**ORDER**

[89] Thus, the Board will withhold its order on this matter for six months to enable Middlesex Centre to develop and process an Official Plan policy to appropriately address that employment/residential interface both east and west of Hyde Park Road. If any difficulties are encountered in this regard, I shall remain seized and may be spoken to by teleconference.

“Blair S. Taylor”

BLAIR S. TAYLOR  
MEMBER