

**Ministry of
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February 26, 2015

Gregg Barrett
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**Re: Official Plan Amendments (O-8362/O-8014) to Permit an Urban Growth Boundary
Expansion for Future Industrial Land Uses
City of London, County of Middlesex**

Dear Mr. Barrett,

Thank you for your February 3, 2015, circulation of the above noted Official Plan amendment applications that seek to permit the expansion of the City's urban growth boundary to add approximately 300 hectares of land for future industrial land uses around the 401 corridor between Veterans Memorial Parkway and Highbury Avenue.

Under the "One Window" provincial planning system, the Ministry of Municipal Affairs and Housing (MAH) circulated this application to the Ministry of Agriculture, Food and Rural Affairs (OMAFRA), the Ministry of the Environment and Climate Change (MOECC), the Ministry of Natural Resources and Forestry (MNRF), and the Ministry of Transportation (MTO).

We are aware that the meeting that was scheduled for February 17, 2015, has now been cancelled, however, we would like to take this opportunity to comment on what was proposed, should these applications proceed at a later date. Should the proposal change in the future, the Ministry reserves the right to make further comment on those changes.

We provide the following comments for your consideration based on the Provincial Policy Statement (2014). Please note that we have also attached our previous comments that were provided on April 22, 2013, that spoke to the general justification and potential addition of 500 hectares of industrial land to the City's urban growth boundary. While the overall amount of land that is now being considered has decreased, the comments remain valid.

Ministry of Natural Resources and Forestry

MNRF has reviewed the application regarding adding industrial lands to the south end of the City of London and noted that they had previously provided comments in the April 2013 letter that is attached. In that letter, the proposed lands had not been identified, and the recent submission now identifies lands south of Exeter Road and other lands near the Highbury to Veterans Memorial Parkway interchanges along the 401.

The concerns identified by MNRF in April 2013 do not appear to have been addressed, and therefore are still relevant to the recent submission. MNRF reiterates that a more comprehensive study should be undertaken before determining what lands are appropriate for a potential industrial expansion.

Based on the mapping provided by the City of London, MNRF has done a high level, preliminary natural heritage feature screening. Attached are two maps showing that there are a number of natural heritage features in the area that should be considered in accordance with the Provincial Policy Statement (2014) and the City of London's Official Plan. Specifically MNRF has records of, Woodlands, Provincially Significant Wetlands, and Life Science ANSIs. All natural heritage features identified in section 2.1 of the PPS (2014) should be identified and considered early in the planning process. The Province does not have comprehensive data of all natural heritage features on these lands.

There are also known occurrences of Species at Risk and their habitat within and surrounding the lands for the proposed OPA. MNRF has not completed a detailed screening of this area based on the preliminary nature of the proposal, and requests that the City of London complete this before proceeding.

Again, MNRF recommends that the City of London conduct a Natural Heritage Information Centre, Biodiversity Explore screening of these lands to gain information on species at risk. Natural Heritage Information Centre (NHIC) compiles, maintains and distributes information on species at risk, natural species, plant communities and spaces of conservation concern in Ontario. This information is stored in a spatial database used for tracking this information and can be located: http://nhic.mnr.gov.on.ca/nhic_cfm. This is a web-based GIS map function that you can use to zoom in on the subject lands and download recorded information.

Ministry of Transportation

In addition to the MTO comments included in the April 22, 2013, letter, MTO emphasizes that the City should ensure that it has assessed whether the existing provincial highways and interchanges/intersections in the vicinity of the proposed urban growth boundary expansion are adequate to accommodate any planned or anticipated growth. Traffic generated from any development could have an impact on all nearby roads, including provincial highways. As such, the City is encouraged to ensure that good highway access management practices and principles are incorporated in its plans.

Since no traffic studies were circulated with the Official Plan amendment notice, it is unclear whether one was undertaken. As such, it would be beneficial for the City to engage in the preparation of a comprehensive Traffic Impact Study (following MTO guidelines) which would include the proposed subject sites/lands to be added and have regard for the adjacent/nearby intersections and interchanges, specifically the Highway 401 and Highbury Avenue, and Highway 401 and Veteran's Memorial Parkway interchanges. As with all developments impacting MTO highway infrastructure, developer driven highway improvements resulting from development of these lands will remain the responsibility of the developer.

Additionally, MTO wishes to identify that, while significant improvements are planned for the Veteran's Memorial Parkway and Highway 401 interchange, no direct access will be permitted/available on Veteran's Memorial Parkway between Highway 401 and Wilton Grove Road.

Ministry of Agriculture, Food and Rural Affairs

It should be noted that since OMAFRA's April 2013, correspondence, aside from the recent detailed discussion on Minimum Distance Separation (MDS) impacts, there has been no additional information provided by the City of London to demonstrate how this proposal is consistent with other policies of the PPS. More specifically, OMAFRA is concerned that the requirement to demonstrate the need for additional land as per section 1.1.3.8 (a) of the PPS has not been addressed.

To that end, it is understood that the City continues to have an oversupply of industrial land at this time. Further, it is understood that the City is still considering a 300 hectare Urban Growth Boundary (UGB) expansion on the belief that those existing industrially designated lands are not currently suitable for development. As per OMAFRA's previous comments in 2013, the City should undertake a broader strategic exercise to overcome those obstacles (e.g., acquire land, merge smaller parcels, provide adequate servicing, etc.) or re-evaluate the appropriateness of leaving those lands in an industrial designation over the long-term.

In the interim, the City will need to provide a planning report which demonstrates that this proposal is consistent with subsections 1.1.3.8 (c) and (e) of the PPS (2014). Subsection 1.1.3.8 (c) states that a planning authority may only allow the expansion of a settlement area boundary in a *prime agricultural area* where it has been demonstrated that:

1. the lands do not comprise specialty crop areas;
2. there are no reasonable alternatives which avoid prime agricultural areas; and
3. there are no reasonable alternatives on lower priority agricultural lands in prime agricultural areas.

Subsection 1.1.3.8 (e) requires that “impacts from new or expanding settlement areas on agricultural operations which are adjacent or close to the settlement area are mitigated to the extent feasible.” This includes, but is not limited to, impacts related to traffic (moving agriculture equipment), agricultural infrastructure (drainage, fencing, field access, etc.), minimizing farmland consumption (density of development), retaining agricultural character (urban design) and reducing potential conflict (visual buffers, physical setbacks, etc.). Until such a time that adequate information is provided by the City to satisfy the above policy requirements, it is unclear how a decision with respect to the proposed official plan amendments would be consistent with the PPS, as required by Section 3 of the *Planning Act*.

Finally, OMAFRA understands that the proposal to expand the UGB is also accompanied by a ‘complementary’ application to redesignate lands in the area of White Oak Road and Dingman Drive. OMAFRA has concerns with this approach as it appears as though these lands will remain in the settlement area and will not return to an agricultural designation. Accordingly, without the removal of this land from the settlement area, it is difficult to understand how the City can justify an expansion to the settlement area boundary elsewhere in the City. Moreover, even if the lands were proposed to return to an agricultural designation, the Ministry would expect that such a settlement boundary rationalization exercise would result in a balanced exchange of land, wherein those lands returning to an agricultural designation would be comprised of the same quantity (acreage) and quality as those being proposed for future urban development. In that regard, there has been no information provided by the City to adequately evaluate the merits of these applications for these specific lands. Further, based on cursory review, it appears as though the amount of land being proposed for the new industrial expansion is greater than that which is located at White Oak Road and Dingman Drive and which appear to be disturbed as a result of prior site grading and the deposit of fill, and therefore may no longer be suitable to agricultural production. In the absence of further evidence, OMAFRA staff is of the opinion that these lands would not comprise the same quantity or quality as those proposed to be added to the urban growth boundary in the Wilton Grove Road area.

Ministry of the Environment and Climate Change

MOECC is of the view that the comments that were previously provided in MAH’s letter of April 22nd, 2013 remain valid. MOECC is still unclear how the City intends to service these large parcels of land from a sanitary sewage, stormwater and potable water perspective. Is the City planning on undertaking a Master Servicing Plan for sanitary sewage, stormwater, potable water? If not, MOECC is of the view that the City should be considering such and the Environmental Assessment Act implications and timing of undertaking those projects. The Environmental Assessment process for municipal projects, depending upon what schedule they fall under, often calls for the preparation of a Class Environmental Assessment under the Municipal Engineers Association Municipal Class EA. This Municipal Class EA calls for a review of servicing alternatives, agency, public and First Nations consultation, the selection of a preferred alternative, followed by the opportunity for agencies, the public, First Nations to submit / appeal to the Minister of the Environment and Climate Change through the submission of Part II Order request(s) if they feel their concerns have not been adequately addressed.

It would also appear to be premature to designate / zone these lands for industrial development when decisions that need to be made through the requisite environmental assessment planning process do not appear to have been addressed as yet.

Also, these potential industries will likely require the disposal of waste. The City needs to confirm if the existing landfill has capacity to handle the waste that would be anticipated to be generated from developing these proposed industrial lands. The information provided in the notice does touch on land use compatibility to some extent, but does not provide a detailed presentation as to how MOE’s D-Series

Land Use Compatibility Guidelines will be addressed. It remains unclear as to what the noise implications will be from these potential industrial uses in the official plan amendments as currently proposed. Also, are there any concerns / issues with respect to existing and/or previous use of these lands? Does the provision of a Record of Site Condition come into play and has the City Planning Department looked into / considered these matters. Based on the lack of a comprehensive review of these lands, and that there are still many questions that need to be answered, MOECC is of the position that the Official Plan and Zoning By-law amendments are premature.

Ministry of Municipal Affairs and Housing

While MAH does acknowledge that the City has decreased the total area proposed for a settlement boundary expansion to accommodate new industrial uses from approximately 500 hectares in the original proposal to approximately 300 hectares now, the comments from our original April 22, 2013, still apply.

The previous letter that was provided to the City on April 22, 2013, brought forward many questions as to how the City intended to justify an urban growth boundary expansion given the existing over designation of industrial land uses. The City has proceeded to focus, not on the amount of land within the total land budget, but instead the availability of large industrial parcels within the City that met certain market criteria. The City was also of the position that, if the industrial lands that were removed from the Southwest Area Plan are taken into account as well as those that were proposed to be removed from the White Oaks Business Park area, there would be no net increase in the total amount of industrial lands within the City. We have not seen a demonstration that there is no net increase in the total amount of industrial land.

MAH, in the past, has requested through correspondence and at meetings, that the City undertake a comprehensive review for this proposal. This a requirement of the PPS as part of the justification process for any settlement boundary expansion and it ensures that all of the information is contained in a single document and is looked at in a holistic way. To date, the City has maintained that the Industrial Lands Development Strategy, the reports and rationale for removing industrial land from the Southwest Area Plan (SWAP), and the reports that were prepared for the White Oaks Business Park Area applications are the materials that the City intends to use to meet the requirements of the PPS for comprehensive review. Without a comprehensive review in a single document, it becomes a more difficult exercise to understand the justification because those individual reports and studies were undertaken for specific applications which may not have been directly related to this review and the justification or rationale has not been coherently consolidated.

A June 17, 2014, City Staff report was prepared in support of the urban growth boundary expansion for future industrial growth. In that report from the City, Planning staff acknowledged that, *“Given that the supply of vacant industrial lands (1,232 ha.) exceeds the 20-year projected demand for industrial lands (350 ha.), the reason for an expansion of the Urban Growth Boundary is based on the adequacy and suitability of the lands within the inventory, rather than the quantity of land in the inventory.”* The PPS does not distinguish between “quality” and “quantity” of land. If lands are not suited for specific land uses, then the City has the option of removing them from that particular designation.

In the City’s rationale of “quality” versus “quantity”, the City has expressed that the industrial lands that were removed as a part of the SWAP process should also be applied to the total land budget for the proposed settlement boundary expansion for industrial uses. This brought forward some concerns as the SWAP process occurred quite some time before the new proposed settlement boundary expansion for industrial lands, and the planning rationale used during that exercise is not directly transferable to this application given that they did not occur in tandem.

As it was further identified in the June 17, 2014, Staff report:

“Employment Area policies contained in Section 1.3.2 of the PPS provide the following criteria that must be met in order for a conversion of employment lands to be justified.

1. *The conversion may only be permitted through a comprehensive review;*
2. *It has to be demonstrated that the land is not required for employment purposes over the long term; and,*
3. *That there is a need for the conversion.”*

During the SWAP process, and addressed in the Staff report, justification was provided to remove 345 hectares of industrial land from the SWAP area to designate them for residential and commercial purposes. It would appear that the conclusion at that time was that the employment lands were not required for employment purposes over the long term. This conclusion brings into question whether or not the removal of those employment lands could then be applied to a future proposed expansion because the justification provided at that time did not contemplate any expansion or replacement of the lands removed. When the timeframe between SWAP and this new industrial boundary application is taken in to account, the appropriateness of now designating new lands to replace those previously designated employment lands raises additional concerns.

With respect to the White Oak Business Park application and the removal of employment lands for other uses, the June 17, 2014, Staff report further backed the findings of the Industrial Lands Study by indicating that *“the inventory of vacant industrial lands is quantitatively sufficient to accommodate the projected demand for industrial land over the 20-year planning period. Therefore, the subject lands are not required to meet the needs of future industrial growth”*. A subsequent September 9, 2014, Staff report that was prepared in support of the White Oak application also stated that, *“the inventory of vacant industrial lands is quantitatively sufficient to accommodate the projected demand for industrial land over the 20-year planning period”*. Again, the PPS does not differentiate between “quantity” and “quality” of employment lands. If the City is of the position that there are lands that do not meet market demands, are better suited for other uses, etc., it has the ability to remove those lands from employment uses.

Regarding the conversion of employment lands to non-employment uses, the PPS requires that such land is not required for employment purposes over the long term and that there is a need for the conversion. A number of Staff reports were completed at the time of the City of London’s Official Plan update, as was a review of whether additional lands would be required within the urban growth boundary for industrial, commercial, residential and institutional use. A June 18, 2013, Staff report that spoke directly to all land needs outside of industrial land uses (residential, commercial and institutional), concluded that the City had a sufficient supply of residential and non-residential lands to meet development needs in the 20-year time horizon provided by the PPS, and in some areas, there was an over designation of these types of uses. Given the conclusion in the Staff report, it is unclear as to how the City is demonstrating “need” for additional non-industrial lands within the City’s urban growth boundary.

Further, the City appears to be justifying the amount of industrial land that is to be added to the proposed expansion area along the 401 by utilizing the amount of industrial land that is to be removed from the White Oak Business Park and adding that same amount of land to the new expanded settlement area. While this raises concerns for the reasoning identified above, the proposed land use designations in the White Oak Business Park themselves bring in to question whether or not industrial lands are actually being removed at all.

From the public meeting notice, the Official Plan land use designations in the White Oak/Dingman study area are to change from “Light Industrial” and “General Industrial” to “Transitional Industrial” and “Commercial Industrial”, along with Urban Reserve – Community Growth, Open Space and Environmental Review. The “Transitional Industrial” designation would permit existing industrial uses to continue and provide opportunities for new light industrial uses. The “Commercial Industrial” designation would permit commercial uses that do not fit well within the context of the City’s commercial land use designation as they tend to be “quasi-industrial”. Given the description of these land use designations, it is unclear how “industrial” uses are being removed from the White Oak/Dingman study area when, for all intents and purposes, the changed land use designation still permit existing and new “industrial” uses to be developed.

It is for the reasons stated above that MAH has requested on a number of occasions that a comprehensive review be undertaken. The various reports that have been prepared by the City throughout the process have attempted to rationalize the need for additional industrial lands but have not demonstrated it through a comprehensive review. It is also apparent in the comments that were provided by the partner ministries that, servicing, natural heritage, agricultural, and transportation issues would be addressed through that review process. As such, given the lack of justification, any decision on these applications would appear to be premature.

MMAH staff appreciates the opportunity to comment on this document. If you have any questions or comments, please do not hesitate to call me at 519-873-4768 or through email at kevin.mcclure@ontario.ca.

Regards,

Kevin McClure MCIP, RPP
Planner – MSO-West

cc. Andrea Fleischhauer, MNRF
John Morrissey, MTO
Drew Crinklaw, OMAFRA
Craig Newton, MOE

- encl. 1) Industrial Lands Development Strategy and Possible Urban Growth Boundary Expansion comments – April 22, 2013
2) 2015-02-15 LondonOPA-IndustriaExp-InernalMap-Features-ExeterRdArea – MNRF Mapping
3) 2015-02-15 LondonOPA-IndustriaExp-InernalMap-Features-Highbury-401Area – MNRF Mapping