

Adopted by Council at its meeting held June 17, 2013 [M254-2013]

/AA

Windsor, Ontario June 17, 2013

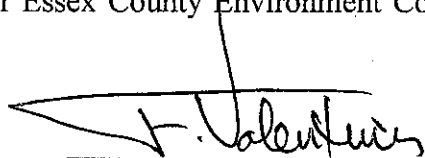
**REPORT NO. 140** of the  
**ENVIRONMENT, TRANSPORTATION & PUBLIC SAFETY**  
**STANDING COMMITTEE**  
of its meeting held May 22, 2013


**Present:**  
**Councillor J. Gignac**  
**Councillor A. Halberstadt**  
**Councillor R. Jones,**  
**Councillor H. Payne**  
**Councillor F. Valentinis, Chair**

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

Moved by Councillor Jones, seconded by Councillor Gignac,  
**THAT** Report No. 71 of the Windsor Essex County Environment Committee (1223244 Ontario Ltd., Sprucewood Avenue between Ojibway Parkway & Matchette Road) **BE NOTED AND FILED** and that no further action be taken on this matter as it is currently before the OMB.  
Carried.

Clerk's Note: Report No. 71 of the Windsor Essex County Environment Committee is attached as background information.

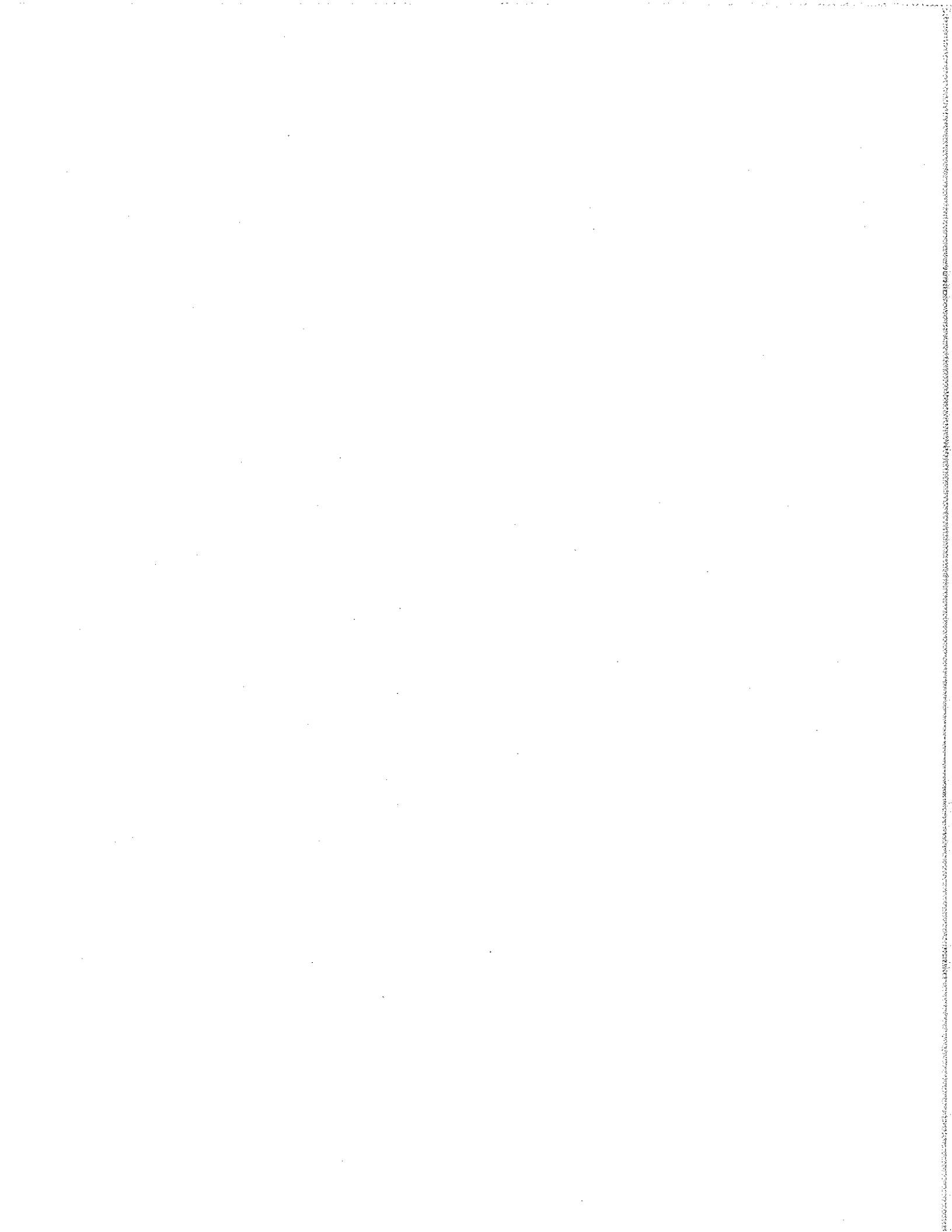
  
CHAIRPERSON

  
DEPUTY CLERK

NOTIFICATION:				
Name	Address	Email Address	Telephone	FAX
WECEC Committee including resource personnel	On file			
Nancy Pancheshan – Save Ojibway		<a href="mailto:Nancy.pancheshan@gmail.com">Nancy.pancheshan@gmail.com</a>		
Johanna Shapira, Solicitor Wood Bull LLP		<a href="mailto:jshapira@woodbull.ca">jshapira@woodbull.ca</a>		
Wira Vendrasco, Solicitor, City of Windsor		<a href="mailto:wvendrasco@city.windsor.on.ca">wvendrasco@city.windsor.on.ca</a>		



Karl Tanner		<a href="mailto:ktanner@dillon.ca">ktanner@dillon.ca</a>		
Yvonne Choi		<a href="mailto:ychoi@woodbull.ca">ychoi@woodbull.ca</a>		
Mary Bull		<a href="mailto:mbull@woodbull.ca">mbull@woodbull.ca</a>		
Mark Bartlett		<a href="mailto:mdmbartlett@aol.com">mdmbartlett@aol.com</a>		
Jesse Gardner Costa		<a href="mailto:zissoucosta@gmail.com">zissoucosta@gmail.com</a>		
Giovanni Abati		<a href="mailto:watershedwatcher@hotmail.com">watershedwatcher@hotmail.com</a>		
Ron Pritchard			519-890-1429	



KK/  
Windsor, Ontario May 13, 2013

**REPORT NO. 71**  
of the  
**WINDSOR-ESSEX COUNTY ENVIRONMENT COMMITTEE (WECEC)**  
of its meeting held  
April 4, 2013  
at 5:30 o'clock p.m.  
Lou Romano Water Reclamation Plant, 4155 Ojibway Parkway

---

**Members present at the April 4, 2013 meeting:**

Councillor Alan Halberstadt, Co-Chair  
Charlie Wright  
Councillor Hilary Payne  
Derek Coronado  
Rick Coronado  
Jesse Costa Gardner  
Paul Henshaw  
John Miller  
Mike Nelson  
Tamara Stomp  
Radwan Tamr

**Your Committee submits the following recommendation:**

Moved by T. Stomp, seconded by J. Costa Garder,  
That City Council **BE REQUESTED** to reconsider/revoke/review Council Resolution  
CR433/2007 relating to a rezoning for Part of Block Z, Registered Plan 927 as there are no  
adequate plans for the mitigation of identified species, and further, that a new bylaw **BE**  
**ADOPTED** relating to the Official Plan Amendment rezoning.  
Carried.

Clerk's Note: A copy of the CR433/2007 and the report reviewed by the Planning Advisory Committee  
at its meeting held October 29, 2007 – attached.

<b>NOTIFICATION:</b>	
<b>NAME</b>	<b>CONTACT INFORMATION</b>
WECEC Committee including resource personnel	on file
Nancy Pancheshan – Save Ojibway	<a href="mailto:nancy.pancheshan@gmail.com">nancy.pancheshan@gmail.com</a>
Johanna Shapira, Solicitor Wood Bull LLP	<a href="mailto:jshapira@woodbull.ca">jshapira@woodbull.ca</a>
Wira Vendrasco, Solicitor City of Windsor	<a href="mailto:wvendrasco@city.windsor.on.ca">wvendrasco@city.windsor.on.ca</a>

\_\_\_\_\_  
COUNCILLOR ALAN HALBERSTADT, CO-CHAIR

\_\_\_\_\_  
COMMITTEE COORDINATOR



# THE CITY OF WINDSOR

**MISSION STATEMENT:**

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

**COUNCIL SERVICES/CITY CLERK  
CITY HALL  
WINDSOR, ONTARIO  
N9A 6S1**

**Phone: (519)255-6211**

**Fax: (519)255-6868**

**E-mail: [clerks@city.windsor.on.ca](mailto:clerks@city.windsor.on.ca)**

**WEBSITE: [www.citywindsor.ca](http://www.citywindsor.ca)**

## NOTICE OF COUNCIL DECISION

**Windsor City Council adopted the following resolution at its meeting held October 29, 2007**

CR433/2007

- I That the application of 1223244 Ontario Ltd for an amendment to the City of Windsor Official Plan changing the designation of Sprucewood Avenue between Ojibway Parkway and Matchette Road from Class I Collector Road to a Class II Arterial Road **BE APPROVED**.
- II That the application of 1223244 Ontario Ltd for an amendment to the City of Windsor Official Plan for Part of Block Z, Registered Plan 927 **BE APPROVED** changing the designation from Residential and Commercial Corridor to Commercial Centre.
- III That the application of 1223244 Ontario Ltd for an amendment to Zoning By-law 8600 for Part of Block Z, Registered Plan 927 **BE APPROVED** changing the zoning of Part of Block Z, Registered Plan 927 from RD2.3 and CD2.1 to HCD3.3 save and except the northerly 50 metres of the subject parcel which will change from RD2.3 to GD1.4.
- IV That the Holding symbol **BE REMOVED** when the owner submits an application to remove the Holding symbol and when the following conditions are satisfied:
  1. Execution and registration of a development or servicing agreement with the Corporation of the City of Windsor that includes, but is not limited to, the General Provisions of Council Resolution 233/98 and the following additional requirements:
    - a. **Ojibway Lakes Pump Station/ Force Main Upgrades**-- The owner agrees that permits will be issued for development of the subject lands, based on capacity of sewage pump structure. Ojibway Lakes Pump Station/ Force Main will require upgrading for the completed development, at the entire expense of the applicant and subject to the approval of the City Engineer. The owner's engineer will show phasing of development and pump capacity.
    - b. **Matchette/Sprucewood Road and Intersection Improvements**- The owner will complete an environmental assessment at their expense for improvements, along and at Matchette Road and Sprucewood Avenue and that the roadway and intersection improvements be completed in accordance with the Environmental Assessment Act and that the Town of LaSalle be consulted on intersection improvements.

- c. **Town of LaSalle Consultation** - The owner or the City of Windsor shall consult with the Town of LaSalle for road and intersection improvements within the Town of LaSalle limits.
  - d. **Bonding** - The owner agrees to submit bonding ((less cost sharing or Development Charge Credits) to ensure the completion of all required improvements to the satisfaction of the City Engineer and City Solicitor.
  - e. **Land Conveyances**- The owner agrees to convey for road widening purposes, necessary lands to create a 24-metre right-of-way on Matchette Road and up to a 30-metre right-of-way on Sprucewood Avenue and any other lands identified for intersection improvements at Matchette Road and Sprucewood Avenue.
  - f. **Development Charge Credits**- Improvements to the Matchette/Sprucewood Intersection are identified in the existing Development Charge bylaw. Any improvements completed by the owner qualify for a Development Charge Credit, as approved by City Council.
- 2. Submission of an Urban Design Study to the satisfaction of the City Planner and inclusion of offsite improvements identified in the Urban Design Study in executed and registered servicing and/or site plan agreements.
  - 3. Revision of the Environmental Evaluation Report to include an Updated Species at Risk (SAR) review per the comments of the Ministry of Natural Resources dated October 22, 2007.
- V That for any site plan control applications for the subject land, the Site Plan Approval Officer **BE REQUIRED**:
- 1. To circulate all site plan control applications to the City of Windsor Environmental Planning Advisory Committee for their review and comment; and
  - 2.. To request that the Environmental Planning Advisory Committee send a representative to participate as a member of the Site Plan Review Committee.
- VI That the Site Plan Review Committee **BE DIRECTED** to utilize Schedule B – EPAC Conditions of Approval of the City of Windsor Environmental Planning Advisory Committee minutes for the meeting held on July 17, 2007 as site plan control guidelines (attached to the Report to the City of Windsor Planning Advisory Committee dated September 20, 2007 as Appendix C).
- VII That any Site Plan Control Application, save and except for minor changes or amendments, **BE SUBJECT** to approval by Council.

Carried.

Aye Votes: Councillors Brister, Postma, Lewenza, Gignac, Hatfield, Marra, Valentinis, Jones, Dilkens and Mayor Francis.

Nay Votes: Councillor Halberstadt.

Report Number 13068 ZB/7801 ZO/7802 PAC 1

*Steve Vlachodimos*

Deputy City Clerk/Senior Manager of Council Services

April 12, 2013

/jr

**PAC: 1**

**SUBJECT MATTER:** 1223244 Ontario Limited, rezoning, northwest corner of Sprucewood Avenue and Matchette Road, commercial development consisting of big box format commercial uses

**RECOMMENDATIONS:**

<b>ADMINISTRATION</b>	<b>PAC</b>
See Recommendation in report.	The PAC recommendation is <u>not</u> the same as the Administration recommendation. See recommendation in report.

**NOTE:** All parties interested in this rezoning/Official Plan amendment shall be invited to address Council if they so desire.

Administration submitting the attached memo dated October 1, 2007 as additional information.

City Clerk submitting the attached letter dated June 28, 2007 from the Director of Council Services & Clerk, Town of LaSalle.

COUNCIL FOR DECISION

ZB/7801 ZO/7802 LiveLink 13068

**RE: 1223244 ONTARIO LTD.**

- The following recommendation of APPROVAL was adopted by the Planning Advisory Committee at its meeting of SEPTEMBER 20, 2007.
- A copy of the report of the Manager of Development dated SEPTEMBER 20, 2007 recommending APPROVAL is attached.
- The recommendations of the Planning Advisory Committee and the Manager of Development are NOT THE SAME.

Moved by Councillor Hatfield, seconded by Councillor Postma,

**REVISED RECOMMENDATIONS PER PAC DECISION – September 20, 2007**

- I That the application of 1223244 Ontario Ltd for an amendment to the City of Windsor Official Plan changing the designation of Sprucewood Avenue between Ojibway

1223244 Ontario Limited, rezoning, northwest corner of Sprucewood Avenue and Matchette Road, commercial development consisting of big box format commercial uses



Parkway and Matchette Road from Class I Collector Road to a Class II Arterial Road **BE APPROVED**.

- II That the application of 1223244 Ontario Ltd for an amendment to the City of Windsor Official Plan for Part of Block Z, Registered Plan 927 **BE APPROVED** changing the designation from Residential and Commercial Corridor to Commercial Centre.
- III That the application of 1223244 Ontario Ltd for an amendment to Zoning By-law 8600 for Part of Block Z, Registered Plan 927 **BE APPROVED** changing the zoning of Part of Block Z, Registered Plan 927 from RD2.3 and CD2.1 to HCD3.3 save and except the northerly 50 metres of the subject parcel which will change from RD2.3 to GD1.4.
- IV That the Holding symbol **BE REMOVED** when the owner submits an application to remove the Holding symbol and when the following conditions are satisfied:
1. Execution and registration of a development or servicing agreement with the Corporation of the City of Windsor that includes, but is not limited to, the General Provisions of Council Resolution 233/98 and the following additional requirements:
    - a. **Ojibway Lakes Pump Station/ Force Main Upgrades**– The owner agrees that permits will be issued for development of the subject lands, based on capacity of sewage pump structure. Ojibway Lakes Pump Station/ Force Main will require upgrading for the completed development, at the entire expense of the applicant and subject to the approval of the City Engineer. The owner's engineer will show phasing of development and pump capacity.
    - b. **Matchette/Sprucewood Road and Intersection Improvements**- The owner will complete roadway and intersection improvements to Matchette Road and Sprucewood Avenue in accordance with the Dillon Traffic Study, Regional Transportation Study and Town of LaSalle and City of Windsor Development Charges By-law.
    - c. **Town of LaSalle Approval** - The owner or the City of Windsor shall obtain approval from the Town of LaSalle for road and intersection improvements within the Town of LaSalle limits.
    - d. **Bonding** – The owner agrees to submit bonding ((less cost sharing or Development Charge Credits) to ensure the completion of all required improvements to the satisfaction of the City Engineer and City Solicitor.
    - e. **Land Conveyances**- The owner agrees to convey for road widening purposes, necessary lands to create a 24-metre right-of-way on Matchette Road and up to a 30-metre right-of-way on Sprucewood Avenue and any other lands identified for intersection improvements at Matchette Road and Sprucewood Avenue.
    - f. **Development Charge Credits**- Improvements to the Matchette/Sprucewood Intersection are identified in the existing Development Charge bylaw. Any improvements completed by the owner qualify for a Development Charge Credit, as approved by City Council.

2. Submission of an Urban Design Study to the satisfaction of the City Planner and inclusion of offsite improvements identified in the Urban Design Study in executed and registered servicing and/or site plan agreements.
- V That for any site plan control applications for the subject land, the Site Plan Approval Officer **BE REQUIRED**:
1. To circulate all site plan control applications to the City of Windsor Environmental Planning Advisory Committee for their review and comment; and
  2. To request that the Environmental Planning Advisory Committee send a representative to participate as a member of the Site Plan Review Committee.
- VI That the Site Plan Review Committee **BE DIRECTED** to utilize Schedule B – EPAC Conditions of Approval of the City of Windsor Environmental Planning Advisory Committee minutes for the meeting held on July 17, 2007 as site plan control guidelines (attached to the Report to the City of Windsor Planning Advisory Committee dated September 20, 2007 as Appendix C).
- VII That any Site Plan Control Application, save and except for minor changes or amendments, **BE SUBJECT** to approval by Council.

Motion **CARRIED**

**FOR:** Councillor Hatfield, Councillor Postma, Mr. Asmar, Mr. Baker, Councillor Dilkens

**AGAINST:** Ms. Growe-Zdyb, Ms. Cross-Leal and Ms. Willis-More

---

The following is an extract from the Planning Advisory Committee minutes of September 20, 2007 regarding the request for deferral.

Mr. C. Kruba, representing Windsor Raceway, requests deferral of the application for rezoning and Official Plan amendment. He refers to the letter from Paul Mullins, Solicitor, retained by Toldo Corporation Services. He states that in 2003, an application for an Official Plan amendment was made by the owners of the lands adjacent to the Raceway, and at that point, the City had concerns about such an amendment and continued to have concerns until a few weeks ago. Mr. Kruba states that the Raceway is not sure what has changed and request the opportunity to review this situation in more detail.

Mr. Kevin O'Neil, 1465 Lisgar Drive, LaSalle, voices his concern and states that because Administration's report and all the related letters and studies have only been available for a week, the majority of the area residents are not aware of the proposed changes. He also points out that because of the volume of information, there has not been sufficient time to prepare a response. Therefore, he is requesting deferral of the application.

Mr. Slopen, solicitor, representing the applicant, speaks against deferral of the application. He notes that Windsor Raceway was sent copies of all the reports to keep them updated. He notes that the timing of this project is critical and the application was originally scheduled for the August PAC but was re-scheduled at Administration's request. Mr. Slopen points out that the application does not go to Council until October providing additional time for meeting with residents and other proponents. He requests that the application go forward tonight.

Mr. Kruba notes that Mr. Slopen has stated that part of the development is on Windsor Raceway property and he states that this is the first time he has heard of that. Therefore, there is even more reason for deferral to allow further discussion between the applicant and the Raceway.

Mr. Asmar asks about the time frame for notifying the public of a Planning Advisory Committee meeting.

Ms. Doyle responds that the statutory requirement is 20-day notice from the public meeting, which is the Council meeting of October 15<sup>th</sup>, and not the PAC meeting. Therefore, sufficient notice has been given.

Councillor Hatfield states that he received an email from Mr. O'Neil a few weeks ago regarding this issue and point out that he has known about the application for more than a week.

Mr. O'Neil replies that Administration's report and recommendation of approval was only made available a week ago.

Councillor Hatfield refers to the following point contained in a letter from Mr. Mullins and asks Ms. Doyle for an explanation.

*"My client confirmed to me that he received the documents from Jenny Coco on May 7, 2007. At that time, he contact Lee Anne Doyle who advised him that she understood that the Town of LaSalle was opposed to the Application and that the City Planners would also be opposed. On that basis, my client determined that it was unnecessary for him to expend the funds necessary to assess the application by retaining his own consultants."*

Ms. Doyle responds that this information is not accurate. It is correct that she indicated that the Town of LaSalle was opposed to the application; however, with regards to the City of Windsor, she states that Mr. Mullins was advised that there were a number of outstanding issues that were still to be resolved and the reference to issues was not to be interpreted as opposition to the application.

Ms. Cross-Leal asks if a resident would still be allowed to address Council on October 15<sup>th</sup> and take part in any OMB hearing that may result, if they were not in attendance at the PAC meeting.

Ms. Doyle replies that under PAC Rules of Procedure, a spokesperson is not required to register to speak at the meeting. They may also file comments if unable to attend the meeting. With regard to the Ontario Municipal Board, the new Bill 51 legislation requires that a person documents their opposition, i.e. with a letter or fax, at one of the previous meetings (PAC or Council).

Ms. Growe-Zdyb asks Mr. Slopen when he was originally requested to defer the application.

Mr. Slopen replies that on September 10, 2007 Mr. Mullins made a request for deferral of the application. He notes that on May 7, 2007, documents were delivered to the Windsor Raceway with no comments.

Ms. Growe-Zdyb asks if there are plans for construction in place at the present time.

Mr. Slopen responds that the rezoning and Official Plan amendment phases have to be dealt with first. The applicant would like to begin before the end of 2007, so that the clients can open by July; however, there are also plans to be prepared when approval is received.

Ms. Growe-Zdyb confirms from Mr. Slopen that if deferral is granted, this would cause a problem for his client and himself as they are both unavailable for meetings for the most of October.

Ms. Growe-Zdyb confirms from Mr. Kruba that two weeks would give Mr. Mullins sufficient time to read all the documents.

Ms. Growe-Zdyb asks Ms. Doyle if a special meeting of PAC could be held in two weeks time to hear this matter.

Ms. Doyle responds that according to the PAC Rules of Procedure, if a deferral is granted, it would be for one month and the item would be heard on the next regularly scheduled PAC meeting of October 18, 2007.

Moved by Councillor Dilkens, seconded by Councillor Postma,

That the application of 1223244 Ontario Limited be heard at the September 20, 2007 PAC meeting.

Motion **CARRIED**.

---

The Chair notes the following letters and comments were received.

Paul L. Mullins, Barrister & Solicitor – letter/comments to Jeffrey M. Slopen of Miller Canfield

*"I acknowledge receipt of a copy of your letter to Ms. Lee-Ann Doyle dated September 13, 2007.*

*You appear to be misinformed of the events leading up to the filing of the application.*

- 1. My client confirmed to me that he received the documents from Jenny Coco on May 7, 2007. At that time, he contact Lee-Ann Doyle who advised him that she understood that the Town of LaSalle was opposed to the Application and that the City Planners would also be opposed. On that basis, my client determined that it was unnecessary for him to expend the funds necessary to assess the application by retaining his own consultants.*
- 2. At the end of August, we became aware that the City may be prepared to support the Application. To suggest that there were numerous calls to me ahs no basis in reality. There were none, although I did initiate a call to Lee Anne Doyle myself to determine the status.*
- 3. On the storm sewer management issue, there is an agreement in place between the parties which was predicated upon residential development. It is my understanding that a commercial development will generate three or four times the run-off. This is a substantial variation from the terms of the Agreement.*
- 4. Your reference to the Raceway consenting to the rezoning of the lands is accurate but it did not agree to a change in the Official Plan. To the contrary by agreeing to a rezoning it precluded the change in designation which by its nature has more significant impacts.*
- 5. By receiving the request for deferral two (2) weeks in advance of the hearing, even before we received notice of the hearing, there is no hardship on Coco to cancel their expert consultants.*

*We again confirm our request for a deferral."*

---

Jeffrey M. Slopen % Miller Canfield LLP – letter/comments to Paul L. Mullins, Esq.

*"We acknowledge receipt of your letter dated September 14, 2007.*

*Our client was not misinformed as to events leading up to the Application. There was no communication from you or your client indicating any concern prior to your recent letter. It appears that your client has been lying in wait for our client in order to request a deferral.*

*Your position that our client is not asking for rezoning of the lands, but a change to the Official Plan is ludicrous. The Application scheduled for September 20, 2007 is an Application for rezoning the property.*

*Your client's position that the Storm Water Management Agreement was predicated upon a residential development is incorrect. The Agreement itself does not deal with any type of development. We draw your attention to paragraph 10 of the Agreement which provides:*

*"This Agreement constitutes the entire agreement between the parties relating to the Ontario Lands and Raceway Lands and supersedes all prior agreements, understandings, negotiations and discussions, whether oral or written, among the parties with respect thereto."*

*It is obvious that your client is taking an obstructionist approach which will not be tolerated. Our client will not consent to a deferral as, in fact, you or Mr. Kruba may attend at the Planning Advisory Committee for the purpose of representing your client. Further, please be advised that our client is relying on the Storm Water Management Agreement and will enforce its rights therein and seek damages in the event of any breach.*

*This matter is scheduled to be heard by City council on October 15, 2007 and you should have adequate time to prepare for that hearing."*

---

*Chris Holt called for information purposes.*

*Laura Pratt - writes/comments:*

*"I am writing to express my concerns and opposition to the proposals submitted by 1223244 Ontario Inc. I am a resident of Conte Cres. in LaSalle, which is located immediately east of the Ojibway Prairie area. This is a residential area of our region and it should remain such.*

*Changing the designation of Sprucewood between Ojibway Parkway and Matchette from a "Collector" to an "Arterial" designation will do nothing to address the traffic issues in this area currently, nor will a change of designation alone address the significant increase of traffic to this "big box" commercial site.*

*It seems the proponent is relying on shoppers for this site to travel along a substandard 2 lane road (Matchette) or via roads within the Town of LaSalle, namely Todd Lane, Malden Road or Sprucewood Avenue, which of course were not built or designed to accommodate the type of traffic this site hopes to generate. This same proponent was approved for a significant residential development and golf course in the same area without being required to up-grade the roads.*

*Apparently the City of Windsor approach to development is, built it...they will come...we'll worry about the traffic later, while at the same time we'll push the traffic problems onto the neighbouring municipality? The "big box" area of Walker Road is a traffic nightmare we don't want repeated.*

*Of course there are many other concerns, such as the impact on the adjacent environmental areas, the light and noise generated from the site and the draw from local businesses.*

*Another significant concern is the late night deliveries to these stores, which would be made by the same loud, pollution spewing trucks that Windsor doesn't want on it's streets when they are moving goods across an international border that helps maintain the Canadian economy.*

*Please provide me with a written copy of the PAC decision, together with a copy of the subsequent Council resolution with respect to these applications. They can be provided by return e-mail or by post to Laura Pratt, 1574 Conte Cres., LaSalle, Ontario N9J 3N4."*

*Kevin O'Neil - writes/comments:*

*To the members of the City of Windsor Planning Advisory Committee:*

*"I am EMailing you at this time to express my opposition to a proposal that will be presented to you in the near future to rezone portions of the Windsor Raceway lands at the corner of Matchette and Sprucewood from Residential to Commercial in order to accommodate a big box retail power centre.*

*As a homeowner and resident of an adjacent neighbourhood, I am concerned about the increased traffic, pollution, noise and light that would be created by such a development, especially in light of the fact that the existing road network in this area is not adequate to accommodate this kind of development. One only need to compare the road network in the 'Silver City' power centre to the Matchette and Sprucewood area to become aware of the inadequacies. Any expansion of the road network would encroach on the Ojibway Prairie Provincial Nature Preserve, which as I'm sure you are all aware, contains numerous plant and animal species that are threatened or on the verge of extinction.*

*The deficiencies of this proposal are addressed in considerable detail in a peer review commissioned by the Town of LaSalle and prepared by the firm of Cushman & Wakefield LePage. As such, the council of the Town of LaSalle is on record as 'unanimously opposed' to the rezoning. If the peer review hasn't already been brought to your attention, I encourage you to look it up on the Town of LaSalle website, under the detailed agenda for June 26, 2007. The same agenda also contains detailed correspondence from the Ministry of Natural Resources which outlines the threats to the Ojibway lands. I encourage you to read both of these documents.*

*I do not wish to restate the contents of the above noted reports and correspondence as they are self-explanatory, but as a nearby homeowner and resident, I have some specific concerns. First, information about this proposal - despite the fact that it calls for a significant change to the City of Windsor's official plan - is conspicuous by its absence from the City of Windsor website and no effort has been made to bring this proposal to the attention of neighbouring homeowners and residents. Indeed, the landowners who are required to receive statutory notification include the nature preserve, a golf course owned by the proponent of the development in question and perhaps a few homes near the intersection of Matchette and Sprucewood. Some signage on the lands proposed for rezoning should be required. Were it not for the information on the Town of LaSalle website, no information about this proposal would be readily available to the public.*

*I am also concerned about the fairness to neighbouring homeowners and residents of making a significant change to the City of Windsor's official plan AFTER we have purchased and invested in our properties. Our expectation, based on the official plan, was that if the raceway were to ever disappear, that it would be replaced with a residential development consistent with the adjacent neighbourhood, even if that adjacent neighbourhood lies in another municipality. To allow anything else is inherently unfair and just plain unneighbourly.*

*To put things in perspective, many of us have fought like hell to keep the Sam Schwartz memorial freeway from being built through these very same lands. While we remain uncertain whether or not that fight is really over, we will remain no less vigilant in preventing rezoning of the adjacent lands.*

*I am awaiting confirmation of a revised proposal from your building and development department and will provide an official response to the same upon receipt. In the meantime, I would appreciate hearing your opinions on this matter."*

*Letter from Karl Tanner, Dillon Consulting Ltd., dated August 29, 2007, attached as Appendix A.*

*Letter from John Winter, John Winter Associates Limited, dated August 20, 2007, attached as Appendix B.*

*Memo from Shawn Doyle, Dillon Consulting Ltd., dated August 17, 2007, attached as Appendix C.*

*Letter from Paul Mullins, Solicitor, dated Sept. 10, 2007, attached as Appendix D.*

*Letter from Jeff Slopen, Solicitor, dated September 13, 2007, attached as Appendix E.*

**Mr. Szymczak** states that he has distributed Revised Recommendations to the Committee members, attached as Appendix F. He gives a brief explanation of these revisions.

1. Recommendation III – the distance for the buffer has been changed from 55 metres to 50 metres to be consistent with the Environmental Evaluation Report
2. Recommendation IV – requirements a, b, c and e in the original report have been deleted since they can be requirements of a site plan agreement.
3. Recommendation IV – requirement g, in the revised recommendations, has been changed so that any land conveyances are consistent with an approved Environmental Assessment. It is possible that an EA may recommend right-of-way widths that exceed Official Plan requirements. The revised recommendation avoids this problem

Mr. Szymczak then gives a brief explanation of the application to amend the Official Plan and Zoning By-law to permit a commercial development at the northwest corner of Sprucewood and Matchette. He states that Administration is recommending approval as follows:

Recommendation I changes the designation of Sprucewood Avenue between Ojibway Parkway and Matchette Road from a Class I Collector Road to a Class II Arterial Road. This change is consistent with the arterial designation of Sprucewood in the Town of LaSalle and is consistent with the arterial/regional nature of the Sprucewood/Todd Lane/Cabana Road/ County Road 42 corridor.

Recommendation II changes the designation of the subject lands from Residential and Commercial Corridor to Commercial Centre

Recommendation III changes the zoning of the parcel from RD2.3 and CD2.1 to HCD3.3 save and except the northerly 50 metres that will change from RD2.3 to GD1.4. The CD3.3 commercial category is a broad commercial category and is attached as Appendix B. The GD1.4 zoning will restrict the buffer lands to that of a natural heritage – no commercial development will be permitted in the buffer.

Recommendation IV outlines the conditions that must be satisfied for the holding symbol to be removed. The first condition is the execution and registration of a servicing agreement. The servicing agreement protects the City and the public in ensuring that necessary studies, agreements, bonds and/or works are in place before any development can occur.

The second condition is the submission of an Urban Design Study to the satisfaction of the City Planner. The purpose of the Urban Design Study is to provide direction for the protection and enhancement of the character of the surrounding area. The Urban Design Study will be implemented via servicing and site plan agreements.

Recommendations V and VI direct that the Environmental Planning Advisory Committee be circulated for comment on any site plan control application and that the conditions in Appendix C be used as

guidelines. This will ensure that the commercial development will have no negative impact on the adjacent natural areas.

Finally, Recommendation VII states that Council should approve any site plan control applications. This will ensure that the development is consistent with the new Provincial Policy Statement, the Official Plan, the Urban Design Study, any documents and reports submitted by the applicant, and any additional requirements and/or guidelines that Council approves. It will also give concerned parties an opportunity to comment on the site plan in a public forum.

Mr. Slopen, solicitor, representing the applicant appears before PAC along with Mr. Karl Tanner, Dillon Consulting Ltd., Mr. Rob Vastag, Transportation Planner, Dillon Consulting Ltd., Mr. John Winter, John Winter Associates, Management Consultant dealing with feasibility studies for commercial uses, and Mr. Gregory Daly, Planner, Walker, Nott, Dragicevic Associates Ltd., who performed a peer review on the initial planning studies prepared.

Mr. Slopen describes the proposal to build 420,000 sq. ft. of retail/commercial uses, including restaurants, shops and larger big-box type stores. Mr. Slopen points out that the proposed development will provide new employment opportunities, increased tax revenue for the City and it will be a catalyst for further development on the west end of Windsor.

Mr. Tanner, Dillon Consulting Ltd, discusses the development and provides a brief history of the previous zoning applications. In 1997, 1223244 Ontario Ltd., the applicant for today's application, purchased 49 acres of property from the Raceway, leaving the balance of the lands in the Raceway's ownership, allowing them to remain in business. When it became clear that the raceway use would remain viable and a residential component was not necessary, 1223244 Ontario Ltd. made application to rezone and designate the lands for commercial development in 2003. At that time, the project was put on hold until 2006, when there was enough interest in developing the lands for big-box retail. The subject site is the only site in the area that is serviceable and addresses all of the needs that retailers are looking for. Over the past year, there have been many meetings with Administration. Tonight's proposal is actually a request to return the lands to the land use designation of ten years ago. The lands are not being used at the present time and the practice tracks on the site will be removed. The lands have also been on hold because of the uncertainty of the results of the DRIC Study. The applicant has received a letter from the MTO and representatives from DRIC stating that a new border crossing will not be coming through the subject site.

Mr. Tanner notes that the subject site borders two significant natural areas; the Ojibway Nature Centre to the north and the Ojibway Prairie Reserve to the east. The Official Plan contains a number of policies that protect these areas to ensure no negative impact from surrounding development. All requirements from Administration, EPAC and ERCA have been adhered to regarding the proposed development. ERCA is satisfied with the proposed 50 metre buffer between the proposed development and the Ojibway nature centre being proposed by the applicant. The commercial development will have no negative impact on the surrounding area. The applicant will also be submitting a site plan control application in the future. Tonight PAC is required to determine the proper land use for the area and the applicant is suggesting that a return to commercial land use is appropriate.

Mr. Rob Vastag, Transportation Planner, Dillon Consulting Ltd., appears before PAC and outlines the improvements proposed for the intersection of Matchette and Sprucewood. On road and off-road cycling facilities will be provided on Matchette Road. With regard to Sprucewood, the City of Windsor portion is designated a Collector road and the LaSalle portion is an Arterial road and redesignating the Windsor portion as an Arterial road would be consistent with the Essex Windsor Regional Transportation Study and allow for the continuity of the road network. Mr. Vastag discusses development charges and states that the applicant will contribute to improvements at the intersection of Matchette and Sprucewood as a result of the proposed development.



From traffic studies done, it was determined that raceway patrons primarily use Matchette Road and Weaver to access the raceway site and will not be affected by the proposed development. In summary, the proposed improvements to the intersection, the proposed left turn lanes and the additional signalization resulting from the development will result in an improvement to the traffic situation in the area.

Mr. John Winter, President, John Winter Associates Limited, states that there is a market in the Windsor area for the proposed development without causing a negative impact on existing Windsor and LaSalle commercial uses. In his opinion, the development will complement and support a regional commercial destination point for the Windsor Raceway area lands, including a golf course, a hotel, office space, slots, the raceway and big-box commercial development.

Mr. Greg Daly, Walker, Nott, Dragicevic Associates Ltd., Planning Consultant, appears before PAC. He states that the subject development provides a unique regional opportunity for growth making efficient use of existing and planned infrastructure. He notes that the Site Plan Control process will ensure a high standard of design and he agrees that the Site Plan Control report should be subject to Council approval. For this reason, Mr. Daly does not agree that a Holding symbol is necessary for the development. Mr. Daly refers to the City of Windsor Recommendations as contained in the report and discusses the amendments, deletions and additions suggested by the applicant, as outlined in **Appendix G, attached.**

Mr. Kevin O'Neil, 1465 Lisgar Drive, LaSalle, appears before PAC. He distributes a memo dated September 20, 2007 to the Members (**attached as Appendix H**). He is concerned that the proposed development will lead to substantial changes to the adjacent existing residential neighbourhood. He states that at the present time, there are long lines of traffic at the Sprucewood/Matchette intersection and in order to avoid that traffic jam, people cut through his neighbourhood. He fears that additional traffic from the commercial development will be detrimental to the neighbourhood and this concern needs to be addressed before the rezoning is approved. He is also concerned that no improvements are being proposed for Matchette Road even though the majority of the traffic coming to the development would be approaching from west Windsor, Sandwich and parts of LaSalle via Matchette Road. He expresses other concerns regarding the lack of a detailed site plan and the lack of additional comments from the Ministry of Natural Resources regarding the Provincial Nature Preserve located across from the proposed development.

Mr. Rob Spring, 932 Bruce Avenue, Vice Chair EPAC, appears before PAC. Mr. Spring discusses EPAC's concerns with the development as contained in his comments (**attached as Appendix I**). It is EPAC's preference to designate the subject property as parkland, however, they realize this is not an option and reluctantly agree that a commercial designation would cause a lesser impact to the Ojibway Prairie Reserve than residential development. To minimize the environmental impact on Ojibway, EPAC has recommended conditions (included in Administration's report as Appendix C). Mr. Spring asks if PAC approves the rezoning that, as a condition of approval, EPAC be part of the site plan approval process.

Mr. Slopen, speaking in rebuttal, states that he understand's Mr. O'Neil's concerns with respect to the issue of traffic. In Mr. Slopen's opinion, there will be better traffic flow after the subject development is completed, alleviating the line-ups at the stop signs. He points out that the Town of LaSalle has their own approval process and the Town has already determined that Sprucewood should be an Arterial road. Therefore, the change to Sprucewood proposed in this development will simply conform with their existing classification. With regard to the use of the land, Mr. Winter's Study shows the feasibility and desirability of the use and shows their will not be a negative impact on the Town of LaSalle or adjacent lands. Mr. Slopen states that in the 1990's, because of a downturn in business, the Raceway considered rezoning some of their lands to residential. However, after introducing slots and simulcast racing, the business flourished and the need for residential development adjacent to stables is not desirable. The subject lands should be zoned commercial and this rezoning is supported by ERCA.

Ms. Cross-Leal asks if the applicant considered any alternate sites for the development, such as the west side of Ojibway Parkway, as she is concerned about this type of development so close to the Ojibway Nature area.

Mr. Daly replies that there is a shortage of industrially-zoned lands in the City of Windsor and recent Provincial policy has reinforced the need for long-term objectives protecting and providing industrial lands. The Province has placed stringent restrictions on converting industrial lands to any other uses.

Ms. Cross-Leal states that the Provincial Policy Statement also states that development and land use patterns that may cause environmental concerns will be avoided.

Mr. Daly replies that the information provided from the environmental studies supports the development. As well, ERCA, which is the protector of Provincial lands and the body that enforces environmental issues contained in the Policy Statement, have commented favourably regarding the development.

Ms. Cross-Leal confirms from Mr. Daly that the Ministry of Natural Resources has not commented because that Ministry has delegated their responding power to ERCA.

Ms. Cross-Leal is concerned about the volume of traffic flow on Matchette Road and the lack of proposed improvements to Matchette. She is also concerned that this increase in traffic flow will affect animal population and migrations and have a negative impact on the nature reserve.

Mr. Vastag replies that the traffic that will be generated by the site will be within the physical capacity of Matchette Road. He cannot speak to the effect that traffic will have on the environment.

Mr. Slopen states that the Ojibway Nature Centre will be protected by a buffer of 50 metres. However, they cannot protect the area along Matchette as they don't own that property.

Ms. Cross-Leal states that the nature center will be impacted by the increase of traffic coming to the subject site and she is concerned that the road may have to be widened to handle the increase.

Councillor Hatfield asks Administration to comment on the applicant's proposed changes to the Recommendation.

Mr. Szymczak refers to the proposed change to Recommendation II dealing with the conveyance of parkland. He states that Section 41 deals with this and there is no reason to include it as a part of the rezoning as it is already part of the Site Plan Control process to ask for parkland.

As a result of discussions with the Legal Department, with regard to Recommendation IV, it is Administration's opinion that the Holding 'H' symbol is best used to achieve the required improvements. With regard to the request for deletion of requirements from the Recommendations, Mr. Szymczak states that the requirements must be satisfied whether they are part of the Recommendation or not.

Mr. Hunt responds regarding Recommendation IV (2), dealing with the submission of an Urban Design Study. He states that it is important that the Urban Design Study be submitted to the Planning Department because it is a tool used to evaluate the merit of the rezoning and the appropriateness of the zoning categories proposed. The Planning Department cannot support the request that the Study be submitted to the Site Plan Approval Officer.

Councillor Hatfield confirms from Mr. Hunt that it would still be better if the Planning Department reviewed the Study instead of Council because Council may not be able to evaluate the appropriateness of the Urban Design Study and determine whether it is the study required for this property.

Councillor Hatfield goes on to say that the majority of the changes requested relate to the Environmental Assessment and he is concerned that the applicant does not want to go through the Environmental Assessment process (i.e. the request to delete Recommendation IV (1) (d)).

Mr. Kapusta responds that during an Environmental Assessment, there is more public consultation and more Administrative review. The applicant has provided a Traffic Impact Study that covers most concerns, however, Administration would like more public consultation and the ability to look at areas beyond just the perimeter of the property and the environmental impact.

Mr. Tanner states that the class environmental assessment for municipal projects allows for a variety of improvements and it is up to the applicant to show that they have satisfied the requirements. For private sector projects, if the proposed improvements are under a specific dollar figure (\$6 million), it becomes a Schedule A project, which is pre-approved and is not subject to the Class Environmental Assessment process.

Mr. Kapusta confirms that Schedule A projects do not need to go through the Environmental Assessment process and are pre-approved. In this case, Administration is requesting the process in order to cover all bases and to provide an opportunity to expand the scope of the environmental assessment to include more than just the frontage of the property and perhaps include more of Matchette and Sprucewood Roads.

Councillor Hatfield asks if the cost of the project would be increased by having to take part in the Environmental Assessment or does the applicant think it is unnecessary.

Mr. Kapusta responds that, in his opinion, it is not a question of cost but rather the applicant feels the Assessment is unnecessary because studies have already been provided. The Environmental Assessment process could slow down the approvals.

Mr. Slopen states that the Class Environmental Assessment could slow down the process. If there is one objector, the Minister has to convene a hearing that would result in a minimum of one-year delay. The Environmental Assessment is only dealing with the intersection of Matchette and Sprucewood and in his opinion; there is no reason to carry out this assessment.

Councillor Hatfield asks if a left-turn lane on Ojibway Parkway onto Sprucewood is still part of the plan.

Mr. Kapusta responds that the turning lane can be achieved by line painting and does not require a road widening as there is sufficient pavement width.

Mr. Asmar asks for a synopsis of the developer's history in Windsor over the past 10 years (i.e. projects, etc).

Mr. Slopen highlights their accomplishments and states that Coco developments are well-built, to high standards in order to attract a clientele.

Mr. Asmar confirms from Mr. Winter that the estimated 1500 jobs to be created is based on the square footage of the commercial shops. He then asks what specific Big-Box developments might be interested in the subject location.

Mr. Slopen responds that it would be stores the size of Costco.

Mr. Asmar then confirms from Mr. Winter that a Loblaw Supercentre would employ around 300 people. Mr. Asmar then asks if the effects on the water table from this development will effect the nature reserve.

Mr. Tanner replies that a hydrogeologist has looked at the property and there has been substantial technical investigations done on the property. The geologists have reported that the ground water will not

drop significantly. The water table, at the subject location, fluctuates like the river, depending on the time of year, rain fall, etc.

Mr. Asmar asks for the traffic counts on Malden Road as opposed to Matchette Road. Mr. Asmar confirms from Mr. Kapusta that traffic counts are available, but only for the City of Windsor and not for LaSalle.

Mr. Kapusta states that the last count for Malden Road, north of Todd Lane, was taken in 2005 and was 8500 vehicles per day. For Matchette Road, north of Sprucewood, the latest count was 9300 vehicles per day.

Mr. Asmar is concerned about how much traffic is going to be generated from Windsor for this development using Matchette Road.

Mr. Kapusta states that Mr. Vastag and himself could devise counts to show what the additional traffic burden would be predicted for those streets. Administration does not totally agree with Dillon Consulting's analysis for the amount of traffic that will be using Matchette Road. The City of Windsor does not want to change the designation of Matchette to an Arterial road like Sprucewood.

Mr. Asmar confirms from Ms. Liu-Vajko that the developer pays for the road widenings, turning lanes and traffic lights for this development.

Mr. Asmar refers to the proposed buffer along Matchette Road and asks if what is being proposed will be substantial enough to provide proper buffering.

Mr. Szymczak replies that the proposed 50 m buffer will be located at the north end of the property between the Ojibway Nature Centre and the subject property and not along Matchette by the Ojibway Prairie Provincial Reserve.

Mr. Asmar asks if any buffer is proposed along the east side of the subject property.

Mr. Szymczak replies that beyond what the Zoning By-law requires, the applicant is conveying land to the City for a multi-use trail, which will act like a buffer.

Mr. Hunt states that the intent of the Urban Design Study is to consider the sensitive land uses and nature of the site and surroundings. This Study would also consider whether the development is compatible in scale, massing, siting, height of buildings, and the orientation of the buildings. EPAC suggested the use of a permeable parking surface to allow water to penetrate the surfaces and recharge the ground water. These criteria are used to evaluate the appropriateness of the zoning of the site. This is the reason the Planning Department reserves the right to evaluate the Urban Design Study, which doesn't just look at building facades.

Ms. Growe-Zdyb notes that one of the developer's experts stated that ERCA's comments were sufficient and there is no need for EPAC. She asks Mr. Spring to discuss the difference between the two.

Mr. Spring states that EPAC is simply an advisory committee to the City of Windsor and has no approval authority. ERCA is an extension of the Ministry of Natural Resources. On the subject project, EPAC has concurred with ERCA. The applicant's expert is also correct when he said that the Ministry has deferred their right to make comments – leaving the decision up to ERCA.

Ms. Growe-Zdyb confirms from Mr. Spring that EPAC should be involved in the Site Plan Review process because they are concerned that the applicant is claiming no negative impact will result to adjacent lands from the proposed development. EPAC would like to be present at the Site Plan Control meetings to ensure at the least – the least negative impact. EPAC agrees that a residential development would be far more harmful to the Prairie and the Nature Centre than a commercial development. He also

notes that when a presentation of the development was made to EPAC, there was no discussion of right-in/right-out, and two new intersections with signals on Matchette Road. EPAC is very concerned about traffic using Matchette Road and they recommended the closing of all access to the subject site from Matchette Road.

Councillor Hatfield states that it was his understanding that the DRIC plan showed Matchette Road closed.

Mr. Szymczak replies that that was one option. There were other options showing Matchette Road being re-routed but still going through.

Councillor Hatfield asks for confirmation regarding Mr. Slopen's assertion that one objector to the Environmental Assessment could delay the project for a minimum of one year.

Mr. Kapusta uses the example of Cabana Road and states that if a citizen filed an objection, it is a possibility that the development could be delayed for an indefinite amount of time.

Mr. Tanner uses an example in the Town of LaSalle and states that the Class Environmental Assessment took place over an 18-month period of time and at the end of the appeal period, a citizen objected. Thirteen months has gone by since the objection was filed, without much direction from the Ministry. Therefore, Mr. Tanner states that there is a real possibility of delays as a result of the Environmental Assessment process.

Councillor Hatfield confirms from Mr. Szymczak that the discussion regarding an Environmental Assessment refers to Recommendation IV (1) (d), which the applicant is requesting to delete and replace with the completion of a Traffic Study and Regional Transportation Study.

Councillor Hatfield confirms from Mr. Slopen that there will be no leakage of ambient lighting near the Ojibway Nature Centre or the Ojibway Prairies and he also confirms that the developer will be using only natural organic products and procedures in landscaping. Lastly, Councillor Hatfield confirms that the applicant has no concerns with EPAC's request that the developer never attempt to halt or interfere with the prescribed burns, and any other maintenance practices by the MNR, the City or any other government agency, in the Ojibway Prairies and Ojibway Nature Centre.

Mr. Asmar remains concerned about the effect the proposed development will have on the nature reserve to the east. He suggests a central planter area on Matchette Road that would act as a buffer, similar to the planters down the center of Huron Church Road.

Mr. Kapusta replies that the raised planters are problematic in terms of maintenance. Also he would be concerned about the plant material used in the planter that may spread and may be contrary to the native plants in the reserve.

Mr. Szymczak states that the right-of-way will be wider at that location possibly allowing the road to be shifted towards the commercial development, creating a greater setback between the easterly edge of the road and the Prairie Reserve.

Councillor Hatfield moves the approval of the development based on Administration's Recommendations I, II and III. He then suggests the approval of the Developer's proposed Recommendation IV (**contained in Appendix G**), as he is concerned about requesting an Environmental Assessment. Recommendation V would remain the same as proposed by Administration. Recommendation VI would remain the same with the addition that an EPAC representative be included in the Site Plan Approval process. Recommendation VII would remain the same as proposed by Administration.

Councillor Postma seconds the motion.

Councillor Hatfield, speaking in favour of the motion, states that he does not want to undermine Administration with regard to the request for an Environmental Assessment, however, he is concerned about the repercussions this request. Originally, he voted in favour of a deferral, in fairness to the Raceway owners as he thought there were some discrepancies in each party's view of the history and documentation. In his opinion, the residential designation proposed for the raceway lands was ill conceived and commercial development is the best use of the lands. With regard to LaSalle's objections, he believes that if the development were located in the Town of LaSalle, they would support it. He would support the development as it will provide jobs, both in the construction phase and the retail phase.

Mr. Baker proposes a friendly amendment to the Recommendation with regard to Recommendation IV (2), dealing with the provision of an Urban Design Study. He suggests that the Recommendation remain as written by Administration, which would have the Study submitted to the City Planner for approval instead of submission to the Site Plan Approval Officer, as requested by the applicant.

Councillor Hatfield accepts the friendly amendment.

Ms. Growe-Zdyb states that she can support Administration's recommendations. She asks for clarification of the amendments to Recommendation IV, proposed by the applicant. She states that unless these changes are clarified, she cannot support the motion.

Councillor Hatfield states that he suggested acceptance of the applicant's wording for Recommendation IV because he is concerned about the effect an Environmental Assessment may have on the development and he wanted to remove the need to go through that process.

Ms. Doyle gives clarification regarding Recommendation IV (2), the submission of an Urban Design Study. Ms Doyle notes that the removal of the Holding Symbol is dependent on the submission of an Urban Design Study to the satisfaction of the City Planner.

Councillor Hatfield states that he can support the imposing of a holding symbol. The possible detrimental impact of the Environmental Assessment process is his concern.

Mr. Szymczak points out that the wording being proposed by the applicant removes the Holding symbol requirement for the servicing agreement. He confirms from Councillor Hatfield that he would support Administration's request for the holding 'H' symbol.

Councillor Hatfield clarifies his proposed recommendations as follows: Recommendations I, II and III are Administration's recommendations. In Recommendation IV (1) (d), (e), (f) and (g), he suggests using the applicant's proposed wording, without reference to the Environmental Assessment Study. He goes on to say that Recommendations IV (2), and Recommendation V remain the same as proposed by Administration. Regarding Recommendation VI, the wording will remain the same plus he suggests that a member of EPAC be invited to take part in the Site Plan Control process. Recommendation VII remains the same as Administration's proposal.

Ms Growe-Zdyb, speaking against the motion, states that she has concerns about Recommendation IV (1) (b) and (c). She understands that there is an existing agreement registered on title; however, she is concerned that there may be more details to work out that may not be covered in this existing agreement from 1997. She is also concerned about the effect there may be on the existing residential neighbourhood if the Environmental Assessment process is not held.

**THE CORPORATION OF THE CITY OF WINDSOR  
Public Works - Building & Development Department**

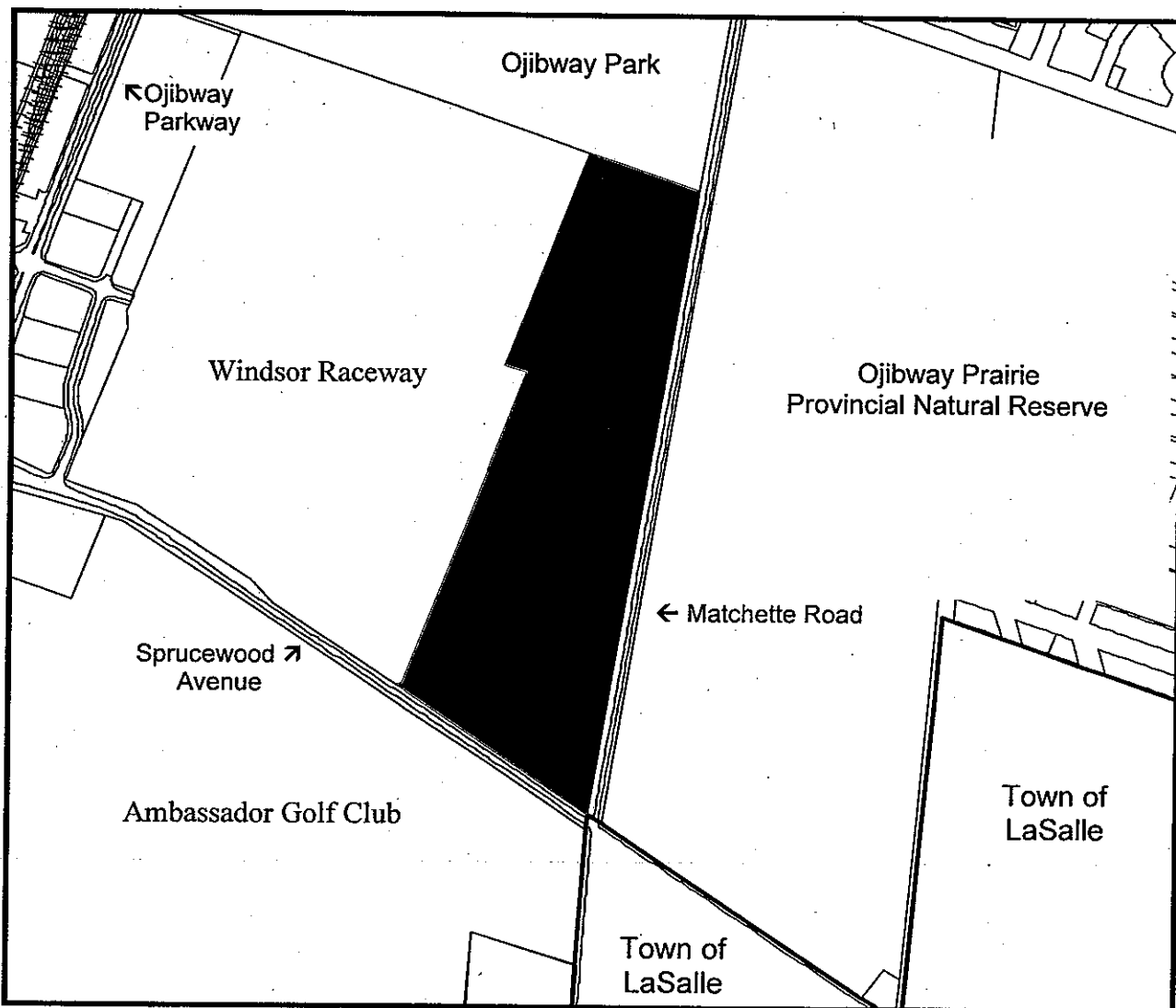
**REPORT TO THE CITY OF WINDSOR PLANNING ADVISORY COMMITTEE**

**DATE OF REPORT:** September 20, 2007

**FILE NO:** Z-063/03

**SUBJECT:** Amendments to the City of Windsor Official Plan and Zoning By-law 8600

**LOCATION MAP:**



**1. RECOMMENDATIONS:**

- I That the application of 1223244 Ontario Ltd for an amendment to the City of Windsor Official Plan changing the designation of Sprucewood Avenue between Ojibway Parkway and Matchette Road from Class I Collector Road to a Class II Arterial Road **BE APPROVED**.
- II That the application of 1223244 Ontario Ltd for an amendment to the City of Windsor Official Plan for Part of Block Z, Registered Plan 927 **BE APPROVED** changing the designation from Residential and Commercial Corridor to Commercial Centre.
- III That the application of 1223244 Ontario Ltd for an amendment to Zoning By-law 8600 for Part of Block Z, Registered Plan 927 **BE APPROVED** changing the zoning of Part of Block Z, Registered Plan 927 from RD2.3 and CD2.1 to HCD3.3 save and except the northerly 50 metres of the subject parcel which will change from RD2.3 to GD1.4
- IV That the Holding symbol **BE REMOVED** when the owner submits an application to remove the Holding symbol and when the following conditions are satisfied:
  1. Execution and registration of a development or servicing agreement with the Corporation of the City of Windsor that includes, but is not limited to, the General Provisions of Council Resolution 233/98 and the following additional requirements:
    - a. **Ojibway Lakes Pump Station/ Force Main Upgrades**– The owner agrees that permits will be issued for development of the subject lands, based on capacity of sewage pump structure. Ojibway Lakes Pump Station/ Force Main will require upgrading for the completed development, at the entire expense of the applicant and subject to the approval of the City Engineer. The owner's engineer will show phasing of development and pump capacity.
    - b. **Access Agreement – Stormwater Management Facility** - The owner agrees to provide the City of Windsor with an access agreement between the applicant and the owner of lands on which is situated the stormwater management facility. The Access agreement shall authorize use of the facility and access thereto for maintenance purposes.
    - c. **Reciprocal Access Agreement** – The owner agrees to enter into a Reciprocal Access Agreement with the owner of the abutting property known municipally as 5555 Ojibway Parkway (Windsor Raceway and Slots property). Notwithstanding the above, the owner shall only be obligated to provide easements for access for the above abutting property if required by the owner thereof.
    - d. **Matchette/Sprucewood Road and Intersection Improvements**- The owner will complete an Environmental Assessment Study for improvements along and at Matchette Road and Sprucewood Avenue.



- e. **Town of LaSalle Approval** - The owner agrees that portions of the necessary off-site improvements are beyond the City limits, and within the Town limits of LaSalle. As such, the owner or the City of Windsor is required to obtain approval from the Town of LaSalle for any works within the Town limits.
  - f. **Bonding** – The owner agrees to submit bonding ((less cost sharing or Development Charge Credits) to ensure the completion of the improvements identified in an approved or pre-approved Environmental Assessment to the satisfaction of the City Engineer and City Solicitor.
  - g. **Land Conveyances**- The owner agrees to convey for road widening purposes all necessary land along Sprucewood Avenue and Matchette Road as identified in an approved Environmental Assessment.
  - h. **Development Charge Credits**- Improvements to the Matchette/Sprucewood Intersection are identified in the existing Development Charge bylaw. Any improvements completed by the owner qualify for a Development Charge Credit, as approved by City Council.
2. Submission of an Urban Design Study to the satisfaction of the City Planner and inclusion of offsite improvements identified in the Urban Design Study in executed and registered servicing and/or site plan agreements.
- V That the Site Plan Approval Officer **BE REQUIRED** to circulate all site plan control applications to the City of Windsor Environmental Planning Advisory Committee for their review and comment.
- VI That the Site Plan Review Committee **BE DIRECTED** to utilize Schedule B – EPAC Conditions of Approval of the City of Windsor Environmental Planning Advisory Committee minutes for the meeting held on July 17, 2007 as site plan control guidelines (attached to the Report to the City of Windsor Planning Advisory Committee dated September 20, 2007 as Appendix C).
- VII That any Site Plan Control Application, save and except for minor changes or amendments, **BE SUBJECT** to approval by Council.

**2. APPLICATION DATA**

Location:

Northwest corner of Sprucewood Avenue and Matchette Road

Applicant:

1223244 Ontario Limited

Agent:

Karl Tanner, Dillon Consulting  
Jeff Slopen, Miller Canfield

Planning District:

Malden

Ward:

1

Proposal:

A commercial development consisting of big box format commercial uses with a minimum gross floor area of 38,249 m<sup>2</sup> (411,721 ft<sup>2</sup>) and a total of 2,398 parking spaces. Access to Sprucewood Avenue and Matchette Road are proposed.

Reasons for the Application:

The majority of the subject lot is designated Residential and zoned RD2.3, save for a small parcel of land at the northwest corner of Sprucewood and Matchette that is designated Commercial Corridor and zoned CD2.1.

Amendments to the Official Plan and Zoning By-law 8600 are required to permit the proposed commercial development.

Reports Submitted:

- Planning Justification Report – Dillon Consulting – April 2007 – and letter dated August 29, 2007 regarding redesignation of Sprucewood Avenue
- Functional Servicing Study – Dillon Consulting – July 1996; April 2004 Addendum; April 2007 Addendum. This study also includes the Traffic Analysis Study Addendum, April 2004 and a Traffic Impact Statement, April 16, 2007 and additional information dated August 17, 2007
- Environmental Evaluation Report – Dillon Consulting – July 1996; Addendum April 2004
- Market Impact Assessment – John Winter Associated Limited – April 2007 and a response to the Town of LaSalle comments prepared by John Winter Associated Limited dated August 20, 2008
- Urban Design Brief – Dillon Consulting – June 19, 2007

**3. SITE CHARACTERISTICS:**

Official Plan	Zoning	Current Use	Previous Use
---------------	--------	-------------	--------------

Residential Commercial Corridor	RD2.3 CD2.1	Vacant Land	Horse Stables for Windsor Raceway
<b>Frontage Sprucewood</b>	<b>Frontage Matchette</b>	<b>Area</b>	<b>Shape</b>
314 m	920 m	19.2 hectares	Irregular
1,030 ft	3,018 ft	47.5 acres	
Frontage measurements are approximate.			

**4. NEIGHBOURHOOD CHARACTERISTICS:**

Surrounding Land Uses:

The surrounding area consists of active and passive open space, significant natural area, commercial and residential uses.

The Ojibway Prairie Complex consisting of Black Oak Heritage Park, Ojibway Park, Tallgrass Prairie Heritage Park and the Ojibway Prairie Provincial Nature Reserve is located to the northwest, north and east.

To the west is the Windsor Raceway and Slots and highway commercial uses along Ojibway Parkway. On the west side of Ojibway Parkway is the Ojibway Industrial Park. To the south, across Sprucewood Avenue, is the Ambassador Golf Club. Residential uses are located to the southeast and along Matchette Road in the Town of LaSalle.

Traffic, Access and Parking:

Sprucewood Avenue is designated as a Class II Collector Road and Matchette Road is designated as a Class I Collector Road. Both roads have a two-lane rural cross-section with drainage ditches on both sides. The intersection of Sprucewood and Matchette is controlled by an all-way stop and has no right or left turning lanes.

Sprucewood provides a direct route to Ojibway Parkway and to Malden Road in the Town of LaSalle. Matchette Road has access to the EC Row Expressway and provides access to residential areas in the Town of LaSalle.

The Windsor Raceway has a large underutilized parking area. All recent commercial uses along Ojibway Parkway meet or exceed municipal parking requirements.

### Relationship to Municipal Infrastructure & Services:

The South Windsor 7 bus route serves the subject parcel. This route serves Olde Sandwich Towne, the Malden Town Centre and Todd Lane in LaSalle, St. Clair College, Devonshire Mall and the Legacy Park commercial area.

## 5. PLANNING ANALYSIS:

### Background:

The area bounded by Matchette Road, Sprucewood Avenue, Ojibway Parkway and Ojibway Park, has been subject to various development applications.

- July 4, 1996 – Windsor Raceway Inc. filed applications to amend the Official Plan and Zoning By-law (Z-047/96) and for draft plan of subdivision approval (Z-048/96) to change a large portion of the raceway lands from commercial to residential. A strip of land fronting on Ojibway Parkway was to remain commercial and a small neighbourhood commercial area was to be located at the northwest corner of Sprucewood and Matchette.
- September - October 1996 – Council Resolutions 942/96, 943/96 and 944/96 approve the Official Plan Amendment, Zoning By-law Amendment and draft Plan of Subdivision. Amendments to the Official Plan and Zoning By-law are approved.
- January 23, 1997 – Ministry of Municipal Affairs and Housing approves OPA 182 subject to minor modifications.
- September 9, 1999 – Draft plan approval expires.
- November 14, 2003 – 1223244 Ontario Ltd. submits an application to amend the Official Plan and Zoning By-law to change the designation of the Matchette Road lands from Residential to Commercial to permit big-box retail.
- January 9, 2004 – Application circulated to municipal departments, external agencies and the Town of LaSalle for review and comment.
- June 1, 2004 – Revised application, encompassing the entire block, is circulated to municipal departments, external agencies and the Town of LaSalle for review.
- August 19, 2004 – Administration recommends deferral of the application pending the resolution of outstanding issues. Applicant is in support of deferral. Planning Advisory Committee moves the staff recommendation.
- September 20, 2004 – Council notes the deferral recommendation of the Planning Advisory Committee (CR875/2004).
- April 19, 2007 – Applicant submits revised Planning Justification Report (April 2007) and revised Functional Servicing Study Addendum (April 2007) and requests that application be brought forward for review and decision.

**Provincial Policy Statement (1996):**

*This application was accepted prior to March 1, 2005 - this analysis is based on the old Provincial Policy Statement (1996, amended in 1997). Any future development applications, such as Site Plan Control, will be based on the new Provincial Policy Statement (2005), a more comprehensive and demanding document.*

*Relevant policies in the Provincial Policy Statement (1996, amended in 1997) include:*

- **Development and land use patterns which may cause environmental or public health and safety concerns will be avoided; (1.1.1f)**
- **The provision of sufficient land for industrial, commercial, residential, recreational, open space and institutional uses to promote employment opportunities, and for an appropriate range and mix of housing, to accommodate growth projected for a time horizon of up to 20 years; (1.1.2a)**
- **The provision of a range of uses in areas which have existing or planned infrastructure to accommodate them; (1.1.2c)**
- **Providing opportunities for redevelopment, intensification and revitalization in areas that have sufficient existing or planned infrastructure; (1.1.2e)**
- **Providing a supply of land to meet long term requirements, in accordance with policy 1.1.2; (1.1.3b)**
- **Maintaining the well-being of downtowns and mainstreets; (1.1.3e)**
- **Transportation systems will be provided which are safe, environmentally sensitive, and energy efficient. (1.3.2.1)**
- **Corridors and rights-of-way for significant transportation and infrastructure facilities will be protected. (1.3.2.2)**
- **Development and site alteration may be permitted on adjacent lands to [natural heritage features] if it has been demonstrated that there will be no negative impacts on the natural features or on the ecological functions for which the area is identified. (2.3.2)**

Reports submitted by the applicant conclude that there are no environmental and safety concerns, that there is planned infrastructure to accommodate the uses, that there will be no negative impacts on the natural features or ecological functions of the Ojibway Prairie Complex and that the impact on other commercial areas is acceptable.

The Essex Region Conservation Authority (ERCA) and the City of Windsor Environmental Planning Advisory Committee (EPAC) reviewed the Environmental Evaluation Report. ERCA recommends full implementation of all mitigation measures identified in the report. EPAC accepted the report with additional requirements (see Appendix C).

While the subject parcel is not located with the Area of Continued Analysis as identified by the Detroit River International Crossing (DRIC) process, it is located within a corridor identified by City Council as its preferred solution to border crossing issues.

### Official Plan:

#### **Current Designations**

Schedule B: Greenway System identifies a linkage between the Town of LaSalle and the Ojibway Prairie Complex.

Schedule D: Land Use shows that the majority of the lands are designated Residential with a small parcel at the northwest corner of Sprucewood and Matchette designated Commercial Corridor. (See Figure 9.0 in the Planning Justification Report)

Schedule F: Roads & Bikeways classifies Sprucewood Avenue as a Class II Collector Road, Matchette Road as a Class I Collector Road and Ojibway Parkway as a Class II Arterial Road. (See Figure 11.0 in the Planning Justification Report)

Text extracts from the City of Windsor Official Plan are attached as Appendix A.

#### **Proposed Official Plan Amendments**

The applicant has requested an Official Plan Amendment from Residential and Commercial Corridor to Commercial Centre and a change in the designation of Sprucewood Avenue between Ojibway Parkway and Matchette Road from a Class II Collector Road to a Class II Arterial Road.

**Sprucewood Avenue Re-classification**

Sprucewood Avenue forms part of an east-west regional road corridor consisting of Sprucewood, part of Malden Road, Todd Lane, Cabana Road, part of Division Road and County Road 42.

Sprucewood Avenue and Malden Road are classified as Arterial and Todd Lane is classified as a Major Collector in the Town of LaSalle Official Plan. Cabana Road and Division Road are classified as Class II Arterial Roads in the City of Windsor Official Plan. County Road 42 is classified as an Arterial Road in the Town of Tecumseh (Township of Sandwich South) Official Plan and is proposed to be a Rural Regional Road in the Town of Lakeshore draft Official Plan.

Transportation Planning has indicated in previous discussions that Sprucewood between Ojibway Parkway and Matchette Road should be re-designated as a Class II Arterial Road to be consistent with the Arterial designation in the Town of LaSalle.

Given that the majority of roads in this east-west corridor are classified as arterial or regional and to be consistent with the arterial designation of Sprucewood in the Town of LaSalle, Administration is recommending that the classification of Sprucewood Avenue between Ojibway Parkway and Matchette Road be changed from a Class II Collector Road to a Class II Arterial Road (Recommendation I).

**Re-designation to Commercial Centre**

The Commercial Centre designation (Recommendation II) applies to large sites where a number of uses can be accommodated according to a comprehensive development plan or nodal development at the intersections of Controlled Access Highways and/or Arterial Roads. The intent is to locate community or regional commercial uses on roads with high volumes of vehicular traffic and with adequate capacity for current and future traffic volume.

The Official Plan states that Commercial Centres are to be located where there is direct access to Class I or Class II Arterial Roads, where full municipal services can be provided, where commercial traffic can be directed away from residential areas and where public transit can be provided.

Once Sprucewood is re-designated as a Class II Arterial Road, the proposed development will be a nodal development located at the intersection of an arterial road. However, the majority of the frontage is located on Matchette Road, a Class I Collector Road.

The concept plan shows one full access point to Sprucewood Avenue and five access points to Matchette Road. This indicates that Matchette Road will function as the main means of access to the proposed development. To minimize traffic conflicts and encourage drivers to use Sprucewood Avenue, the number of access areas will be reviewed as part of the Urban Design Study and Site Plan Control.

To further encourage traffic away from Matchette Road, a reciprocal access agreement between the Windsor Raceway and the subject lands should be pursued. At the very least, the property owner of the subject land should provide an easement for access purposes to

the Windsor Raceway property; a similar easement on the Windsor Raceway property can be pursued at a later date.

The Market Impact Assessment submitted by the applicant concludes that the proposal's impacts on other commercial areas (in the City of Windsor and the Town of LaSalle) are acceptable. The Town of LaSalle disagrees and their consultant has submitted a peer review of the Market Impact Assessment (see Appendix D).

### **Natural Environment**

The proponent shall demonstrate that a proposed Commercial Centre development is feasible when it is adjacent to sensitive land uses and/or heritage resources.

A revised Environmental Evaluation Report was submitted with this application and was reviewed by the Essex Region Conservation Authority (ERCA) and the City of Windsor Environmental Planning Advisory Committee (EPAC).

ERCA notes that full implementation of all mitigation measures identified in the Environmental Evaluation Report "*should satisfy all applicable natural heritage policies demonstrating no negative impact on the natural features and ecological functions*".

EPAC recommended that the revised Environmental Evaluation Report be approved with conditions. Minutes of the meeting and their conditions are attached as Appendix C. The majority of the conditions are best considered during the site plan review process. EPAC has also requested that they be given the opportunity to review and site plan control application to ensure compliance with the Environmental Evaluation Report and other planning documents (Recommendations V and VI)

The applicant agrees to incorporate a 55-metre buffer at the north end of the parcel. Administration recommends that this buffer be rezoned to Green District 1.4 to limit its use to that of a natural heritage area.

While EPAC recommends that the buffer be conveyed to the City, Parks and Facility Operations and the Planning Department recommend that the buffer not be conveyed to the City for the purposes of parkland dedication. The applicant disagrees with the approach of Parks and Planning and states that that parcel should be conveyed to the City for parkland purposes.

Given that any commercial development of the site requires site plan approval and given that the City has the power to demand parkland conveyances and/or cash-in-lieu of parkland conveyance at the site plan control stage, the parkland conveyance issue need not be resolved prior to approval of this application.

### **Urban Design**

Commercial Centres are intended to have high development standards to strengthen their role as community focal points and to minimize any negative impacts on adjacent sensitive uses and the transportation system. They should promote the integration of uses encourage multi-purpose shopping trips and minimize conflict between commercial uses and residential and other sensitive uses.



Section 6.5.2.6 of the Official Plan (see Appendix A) lists design guidelines that shall be considered when evaluating a proposed design of a commercial development.

Council should ensure that the development has a high development standard. Accordingly, an Urban Design Study is required as one condition of removing the holding symbol (Recommendation III). The purpose of the study will be to develop guidelines that satisfy the Urban Design policies in the City of Windsor Official Plan.

For example, the conceptual site plan submitted by the applicant shows a large amount of parking between the south and east walls of building 'A'. The amount of parking provided exceeds the by-law requirement by almost 700 spaces. An opportunity exists to reduce the amount of parking while increasing the amount of landscaping and providing walkways or sidewalks between buildings to protect and encourage pedestrian traffic.

Several of the conditions identified by the Environmental Planning Advisory Committee could be incorporated in the Urban Design Study. Implementation of the Urban Design Study will occur via the servicing agreement and the site plan process.

#### **Integration with Windsor Raceway and Slots Property**

The Windsor Raceway is designated Residential in the City of Windsor Official Plan and zoned HRD2.3 with a site specific provision that permits the existing horse racing and gaming operations. The site is accessed via Weaver Street or Sprucewood Avenue (across the subject parcel).

The Planning Justification Report shows three conceptual development plans (Figures 3.0, 4.0 and 5.0) regarding the integration of the Windsor Raceway and Slots property with the proposed development on the subject parcel. All scenarios show that access to Matchette Road and Sprucewood Avenue will be maintained via private roads with necessary easements for access purposes.

Administration has been in contact with Windsor Raceway. Copies of the liaison sheet and reports submitted by the applicant have been forwarded to Windsor Raceway. A letter dated September 10, 2007, from Paul L. Mullins, solicitor for Toldo Corp. Services, lists several concerns and requests a deferral to properly review the various reports with the assistance of a professional planner.

### Master Plans:

The Windsor Archaeological Master Plan (WAMP) identifies the subject area as having low archaeological potential. Therefore, an Archaeological Condition is NOT required as a condition of approval. The Bicycle Use Master Plan (BUMP) identifies Matchette Road as having an on-street bike lane.

### Zoning:

The Commercial District 3.3 zoning (see Appendix B) is an appropriate category for a regional commercial development. The CD3.3 zoning permits a broad range of commercial uses with minimal regulations.

The Green District 1.4 zoning will apply to the 55-metre buffer zone located at the north end of the site adjacent to the Ojibway Woods Park. The GD1.4 zoning limits the use of the buffer only as a natural heritage area and does not permit buildings or structures other than those accessory to the natural heritage area.

A holding symbol (Recommendation III) will ensure that a servicing agreement for municipal works and improvements is executed and registered and that an Urban Design Study is submitted prior to any development.

### Site Plan Control:

A commercial development on this parcel is subject to site plan control. Servicing, location of aisles and access points, location of buildings, landscaping and other site details will be handled during the site plan review process.

The Site Plan Approval Officer and the Site Plan Review Committee must ensure that any proposed development is consistent with the Provincial Policy Statement (2005), the City of Windsor Official Plan, the Functional Servicing Study, the Traffic Impact Study, the Urban Design Study, and the Environmental Evaluation Report submitted or to be submitted by the applicant or future applicants.

Prior to any development, a lighting study to minimize the impact of lighting on wildlife in the Ojibway Prairie Complex shall be completed. All mitigation measures identified in various studies will be incorporated during the site plan review.

*The new Provincial Policy Statement (2005) is a more comprehensive and demanding policy document versus the 1996 Provincial Policy Statement. There is potential that a future site plan control application may result in additional requirements beyond those identified in this report or reports submitted by the applicant. To avoid any ambiguities, any Site Plan Control Application will be subject to final approval by Council (Recommendation VII)*

### Tree Preservation:

The Landscape Architect notes that there are several large trees in a park-like setting at the southwest corner of the site. Most of these trees are in good to excellent condition. There are also two mature Pin Oak trees in excellent condition that should be protected. The Pin Oak is a native Carolinian species and characterizes the Oak Savannah-type landscape in the adjacent natural areas.

A tree inventory will be required with any future site plan control application to ensure the preservation of trees and/or the upgrading of proposed landscaping.

### Leadership in Energy and Environmental Design:

The Landscape Architect notes that the extensive amount of impervious pavement associated with the parking requirements, the loss of groundwater recharge in the area beyond the subject site is of concern. Best Management Practices (BMPs) could be pursued if it were determined in an ecological impact study that the surrounding nature reserve would be affected by changes in the area's groundwater regime.

The Stormwater Management Plan Addendum (April 2004) recommends an exfiltration system will promote groundwater recharge and filtration of runoff. The Addendum concludes that "*base flows will be maintained as close as possible to their predevelopment conditions. Therefore, the impact of the development on the existing downstream facilities will be minimal*".

## 6. CONSULTATION

### Agencies/Departments:

**Town of LaSalle** (June 2007) remains opposed to this application. Their comments and peer review of the applicant's Planning Justification Report and Market Impact Assessment are attached as Appendix D.

**Transit Windsor** (June 12, 2007) has no objections and notes that the South Windsor 7 bus route serves the site, traveling on both Sprucewood Avenue and Matchette Road. In addition to the multi-use trail, appropriate pedestrian amenities within the site are also required.

**Essex Region Conservation Authority** (June 27, 2007) states that the Environmental Evaluation Report (July 1996) and Addendum (April 2004) incorporates all mitigation measures previously negotiated with the applicant. Implementation of the mitigation measures identified in the EER, to the satisfaction of the Municipality and ERCA, should satisfy all applicable natural heritage policies demonstrating no negative impact on the natural features and ecological functions

A preliminary review of the functional servicing study indicates that stormwater concerns can be addressed during the site plan process.

**Planning Department** (August 29, 2007) "Ideally the Commercial Centre designation is one that should be located at the intersection of a Controlled Access Highways and Arterial Roads. They should also be sited according to a comprehensive development

*plan as to strengthen their role as community focal points and to minimize any negative impacts on adjacent sensitive land uses and the transportation system.*

**Previously we could not support this application because a change was not being supported for Sprucewood Avenue to become an Arterial Road. However, it is now our understanding that Transportation Planning is supportive of Sprucewood Avenue being recommended for a change in its current designation to one of an Arterial status. Should Sprucewood become an Arterial Road, we would find that the land use designation of Commercial Centre and the range of uses as supported by the Market Study provided by Winter and Associates, to be consistent with the Commercial Centre designation being requested.**

*However, we do have concern that the site is challenged in terms of its orientation. Because of the rectangular nature of the proposed site, with the long leg of the property flanking Matchette Road - a Class I Collector Road, traffic being generated by the proposal should be encouraged to access the site by way of Sprucewood Avenue (Arterial Road), and specifically that multiple access points along Matchette Road should be avoided so that generated traffic can be directed away from the natural environment (city and Provincial parks) and residential areas along Matchette Road."*

**Windsor Police Service (June 15, 2007) has no objection. The nature of the proposed development (major commercial) is similar and complementary to other uses in the area. They support changing the designation of Sprucewood from a Class II Collector to a Class II Arterial as well as all physical improvements proposed for Matchette Road in order to establish high standards for safety.**

*Roadway improvements are very important in this situation given the high traffic volumes anticipated combined with pedestrian and bicycle users. Safety and security requirements we will be addressed through the site plan review process.*

**Ministry of Municipal Affairs and Housing (MMAH) (August 10, 2007) notes there are no provincial land use concerns with the proposal. City Administration has requested that MMAH forward all materials to the Ministry of Natural Resources for their review and comment.**

**Ministry of Natural Resources (MNR) (August 5, 2004) notes that they have no formal approval or review role in this proposal as the City of Windsor is exempt from provincial approval for Official Plan and zoning amendments. However, as an adjacent landowner they do have concerns with potential impacts on the Ojibway Prairie Provincial Park. MNR is currently reviewing the Planning Justification Report, Environmental Evaluation Report and the Storm water Management Plan.**

*No additional comments have been received to-date.*

**Engineering & Corporate Projects (July 6, 2007) notes there are no municipal sanitary sewers on either Sprucewood or Matchette. Sanitary sewage will be directed to an existing pump station on the south side of Sprucewood. This pump station will have to be upgraded, at the expense of the benefiting party. No sewerage fees will be imposed.**

*Storm water runoff will drain to the Windsor Raceway infield pond and outlet to the Yawkey Drain. Since the pond is located on third-party lands, an agreement for use of the pond is required. A drainage report in accordance with the Drainage Act is required to identify necessary improvements to the drain.*

**All roadways within the development are assumed to be private. Any sewers located within the roadways will also be private and must be maintained by the property owner.**

*Offsite improvements such as the enclosure of the roadside drains, curb and gutters and the Sprucewood/Matchette intersection will be required. The Sprucewood/Matchette intersection is entirely within the Town of LaSalle, therefore, their approval will also be required. These intersection improvements are identified within the Development Charge By-law.*

*Gratuitous conveyances for road widening and intersection improvements will be required.*

*No development is to occur until a servicing agreement is entered into that includes the requirements identified in the comments of Engineering & Corporate Projects dated June 28, 2007 and any other requirements identified by other Departments, external agencies, the Town of LaSalle and City Council.*

**Landscape Architect** (June 21, 2007) notes that any future site plan application would have to satisfy the Provincial Policy Statement (2005), which includes more restrictive policies regarding development adjacent to natural heritage features and areas. Any future development will have to demonstrate that "there will be no negative impacts on the natural features or on their ecological functions" (PPS, Section 2.1.6).

*There is a concern in a potential increase in the rate of road kill on Matchette Road as a result of commercial development. A wildlife impact study is required regarding the impact of the projected increase in traffic volumes on the endangered and threatened species of wildlife in the Ojibway Prairie Complex. This study should also review the impact of commercial-type lighting on the natural heritage areas.*

*There are several mature trees on the subject parcel. To ensure the preservation of trees, a tree protection study should be provided with a future development application and that the Site Plan Review Committee be directed to make any adjustments to protect trees identified by the study.*

*From an urban design standpoint, the neighbourhood commercial uses permitted in the CD2.1 zoning district and the building form / massing associated with these uses are considered most desirable at the intersection and should be developed as such.*

*The requirements of Section 42 of the Planning Act and By-law 12780 shall be in the form of cash-in-lieu of 2% parkland dedication and the applicant shall retain the buffer 50-metre buffer zone.*

**Transportation Planning** (June 15, 2007) supports the redesignation of Sprucewood from a Class II Collector Road to a Class II Arterial Road to be consistent with the arterial designation of Sprucewood in the Town of LaSalle.

*They note that the Official Plan states that "where higher traffic volumes are anticipated the number of access points may be minimized". Justification is required for the number of access points and their design based on the function of the site and traffic impact.*

*While the Traffic Impact Study addresses access concerns of the site, there are no recommendations to improve traffic flow on Matchette Road. Leaving Matchette Road as a two-lane rural road will limit future development in the area and will shift the responsibility to address traffic issues to the City of Windsor.*

*The Traffic Impact Study concludes that the 2008 Saturday peak traffic will exceed capacities for Matchette Road as defined by the Windsor Area Long Range Transportation Study (WALTS). The PM peak will also be approaching capacity. Overall, the function of Matchette does not support the number of access points proposed. Traffic should be directed to Sprucewood.*

*Analysis of the Sprucewood Avenue and Ojibway Parkway intersection identifies considerable increase in westbound left turning and level of service problems. However, the Traffic Impact Study recommends no improvements to this intersection. A separate westbound left turn lane on Sprucewood Avenue is required with an advanced signal and other road improvements.*

*The conveyance of internal roads to the municipality is not supported since the roads do not serve any municipal purpose. The Windsor Raceway has access to Weaver Road and fronts on Sprucewood Drive. Due to the size and length of these of internal roads, traffic calming measures as well as improvements to the internal road network to direct traffic to Sprucewood and Ojibway Parkway will be required at the time of site plan control.*

*The Sprucewood/Matchette Intersection requires several improvements including a signal. Since the intersection is located within the Town of LaSalle, any improvements will be conducted jointly with the Town of LaSalle.*

**Ministry of Transportation – Windsor Border Initiative Implementation Group** (January 22, 2007) states that the subject lands are outside the Area of Continued Analysis (ACA) and has no comments with regard to the proposed development. No objections were received from **Union Gas** and **Windsor Fire and Rescue Services**.

### Public Notice:

Notice was mailed to all property owners and tenants within 120 metres (400 feet) of the subject parcel and given in the Windsor Star.

All reports submitted by the applicant and all comments received by the Building & Development Department have been forwarded to the Town of LaSalle.

## **7. ISSUES TO BE RESOLVED:**

Confirmation by Council of it's preferred solution to the border crossing issue. Council had previously supported the 'Schwartz Road' that looped along the Todd Lane / Sprucewood Avenue corridor before turning along Ojibway Parkway and back along the EC Row Expressway. However, the Ministry of Transportation – Windsor Border

Initiative Implementation Group states that the subject lands are outside the Area of Continued Analysis (ACA).

**8. ALTERNATIVES FOR CONSIDERATION:**

N/A

**9. CONCLUSIONS:**

The Commercial Centre designation requested by the applicant, if approved, would revert the property back to Commercial, a designation the entire parcel between Matchette Road, Sprucewood Avenue and Ojibway Parkway had prior to an Official Plan Amendment and rezoning application in 1996.

The Windsor Raceway appears to not be relocating in the near future. A horseracing track is more compatible with a commercial development than a residential development. The redevelopment of the subject parcel may attract additional traffic and business to the Windsor Raceway, which may rejuvenate the Raceway and Slots and may create a regional retail and entertainment complex.

The Ojibway Prairie Complex is a nationally and provincially significant natural heritage area. Any development on the subject parcel must recognize the significance of, and have no negative impact on, the Ojibway Prairie Complex. The implementation of the Provincial Policy Statement (2005), the Official Plan and the Urban Design Study through servicing and site plan control agreements will ensure that the development is compatible with surrounding uses.

A servicing agreement will ensure that improvements to municipal works and rights-of-ways are completed in an orderly and timely fashion. The Class Environmental Assessment is a separate process that will dictate the design of Sprucewood Avenue, Matchette Road and the intersection of these two streets.

The parcel was designated and zoned for commercial uses prior to the Plan of Subdivision application submitted in 1986. A final Plan of Subdivision was never approved, and the land has sat underutilized and/or vacant since that time.

The Environmental Planning Advisory Committee recommended approval subject to conditions on the basis that a properly designed commercial development would have less negative impact on the surrounding natural areas and the water table than a residential development.

The Planning Act and the City of Windsor Official Plan provides the City several tools to ensure development is consistent with the Provincial Policy Statement (1996) and the Official Plan. The applicant has submitted various studies that conclude a commercial development is feasible and is compatible with surrounding uses.

All mitigation measures identified in the studies will be considered and included via the Servicing Agreement, the Urban Design Study and the Site Plan Control Agreement. Further, Administration recommends that City Council have final approval of a site plan – this would allow additional public review and input.

The proposed amendments to the City of Windsor Official Plan and Zoning By-law 8600 are consistent with the Provincial Policy Statement (1996) and the City of Windsor Official Plan and constitute good planning.

---

**Adam Szymczak, MCIP, RPP  
Planner**

---

**Lee Anne Doyle, MPA, MCIP, RPP  
Acting Executive Director of Building  
& Development Department /  
Manager of Development**

**CONTACT:**

Name: Adam Szymczak  
Phone: 519-255-6267 ext 6250

Email: [aszymczak@city.windsor.on.ca](mailto:aszymczak@city.windsor.on.ca)  
Fax: 519-255-7170



**MAPS:**

ZONING BY-LAW MAP – See Map No. Z-063/03-1 attached

CONCEPTUAL SITE PLAN – See Figure 2.0 in Planning Justification Report

OFFICIAL PLAN- LAND USE – See Figure 9.0 in Planning Justification Report

**APPENDICES:**

APPENDIX A – Excerpts from Official Plan

APPENDIX B – Excerpt from Zoning By-law 8600

APPENDIX C – Environmental Planning Advisory Committee

APPENDIX D – Town of LaSalle Comments (Report PL-38-07; June 21, 2007)

**INFORMATION CIRCULATED TO MEMBERS OF PAC and COUNCIL:**

Planning Justification Report – Dillon Consulting – April 2007 and letter dated August 29, 2007 regarding redesignation of Sprucewood Avenue

Functional Servicing Study – Dillon Consulting – July 1996; April 2004 Addendum; April 2007 Addendum. This study also includes the Traffic Analysis Study Addendum, April 2004 and a Traffic Impact Statement, April 16, 2007; 2007 and additional information dated August 17, 2007

Market Impact Assessment – John Winter Associated Limited – April 2007 and a response to the Town of LaSalle comments prepared by John Winter Associated Limited dated August 20, 2007

Environmental Evaluation Report – Dillon Consulting – July 1996; Addendum April 2004

## APPENDIX A – OFFICIAL PLAN EXCERPTS

**6.5 Commercial**

Commercial lands provide the main locations for the purchase and sale of goods and services. In order to strengthen Windsor's economy, ensure convenient access and address compatibility concerns, Commercial land uses are provided under two designations on Schedule D: Commercial Centre and Commercial Corridor.

The following objectives and policies establish the framework for development decisions in all Commercial areas.

**6.5.1 Objectives**

<i>ORDERLY DEVELOPMENT &amp; DISTRIBUTION</i>	6.5.1.1	To encourage the orderly development and distribution of commercial uses across the City.
<i>SUFFICIENT SUPPLY</i>	6.5.1.2	To ensure that a sufficient land supply for commercial purposes is maintained over the 20 year period of this Plan.
<i>IMPROVE CENTRES &amp; CORRIDORS</i>	6.5.1.3	To promote the stabilization, consolidation and improvement of existing commercial centres and corridors.
<i>ACCESSIBLE</i>	6.5.1.4	To locate commercial activities in areas which have sufficient and convenient access by all modes of transportation.
<i>MINIMIZE NEGATIVE IMPACTS</i>	6.5.1.5	To ensure that there are limited negative impacts of expanded commercial uses on adjacent sensitive uses.
<i>ACTIVE COMMUNITY AREAS</i>	6.5.1.6	To ensure that commercial areas are designed to function as locations for social interaction.
<i>RANGE OF USES</i>	6.5.1.7	To accommodate an appropriate range of commercial uses for the trade area.

**6.5.2 Commercial Centre Policies**

The Commercial Centre land use designation is intended for areas which encourage multi-purpose shopping trips by providing for community or regional serving commercial uses. This land use designation applies to large sites where a number of uses can be accommodated according to a comprehensive development plan or nodal development at the intersections of Controlled Access Highways and/or Arterial roads. Areas designated as Commercial Centre will have high development standards to strengthen their role as community focal points and minimize any negative impacts on adjacent sensitive uses and the transportation system.

<i>PERMITTED USES</i>	6.5.2.1	Uses permitted in the Commercial Centre land use designation will be primarily retail, wholesale store (added by OPA 58, 24 07 2006), entertainment, service oriented, and office uses which are combined in an integrated form of development.
-----------------------	---------	---

- ANCILLARY USES**      6.5.2.2      In addition to the uses permitted above, Council may permit ancillary Open Space and Major Institutional uses in areas designated as Commercial Centre on Schedule D: Land Use without requiring an amendment to this Plan provided that:
- (a) the ancillary use is clearly incidental and secondary to, and complementary with, the main commercial use; and
  - (b) the development satisfies the policies for the proposed land use.
- FORM**      6.5.2.3      Commercial Centres will be developed so as to promote the integration of uses, encourage multi-purpose shopping trips and minimize the conflict between commercial use and residential and other sensitive uses. Commercial Centres may include either:
- (a) shopping centres or uses which function as a unit, often with common or connected parking facilities; or
  - (b) nodal development at the intersection of Controlled Access Highways and/or Arterial roads.
- LOCATIONAL CRITERIA**      6.5.2.4      Commercial Centre development shall be located where:
- (a) there is direct access to Class I or Class II Arterial roads;
  - (b) full municipal physical services can be provided;
  - (c) commercial related traffic can be directed away from residential areas; and
  - (d) public transportation service can be provided.
- EVALUATION CRITERIA**      6.5.2.5      At the time of submission, the proponent shall demonstrate to the satisfaction of the Municipality that a proposed commercial centre development is:
- (a) feasible having regard to the other provisions of this Plan, provincial legislation, policies and appropriate guidelines and support studies for uses:
    - (i) within or adjacent to any area identified on Schedule C: Development Constraint Areas and described in the Environment chapter of this Plan;
    - (ii) within a site of potential or known contamination;
    - (iii) where traffic generation and distribution is a provincial or municipal concern; and
    - (iv) adjacent to sensitive land uses and/or heritage resources;
  - (b) in keeping with the goals, objectives and policies of any secondary plan or guideline plan affecting the surrounding area;

- (c) capable of being provided with full municipal physical services and emergency services;
- (d) provided with adequate off-street parking;
- (e) compatible with the surrounding area in terms of scale, massing, height, siting, orientation, setbacks, parking and landscaped areas; and
- (f) acceptable in terms of the proposal's market impacts on other commercial areas (see Procedures chapter).

**DESIGN GUIDELINES 6.5.2.6**

The following guidelines shall be considered when evaluating the proposed design of a Commercial Centre development:-

- (a) the ability to achieve the associated policies as outlined in the Urban Design chapter of this Plan;
- (b) the profile of the development results in a gradual transition from lower profile buildings to higher profile buildings and vice versa, on site and as it relates to buildings adjacent to the Commercial Centre site;
- (c) motorized vehicle access is oriented in such a manner that commercial related traffic will be discouraged from using Local Roads where other options are available;
- (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 encourages and facilitates interaction between the Commercial Centre and the adjacent area and enhances the function of the centre as a community focal point;
- (f) the development design facilitates access via public transportation;
- (g) the development design provides a street presence; and
- (h) the provision of appropriate landscaping or other buffers to enhance:
  - (i) all parking lots, and outdoor loading and service areas; and
  - (ii) the separation between the use and adjacent sensitive uses, where appropriate.

**SITE PLAN CONTROL 6.5.2.7**

Council shall require all development within areas designated as Commercial Centre to be subject to site plan control, with the exception of Public Open Space uses.

*PURPOSE* 10.2.8.1 The purpose of a Traffic Impact Study is to demonstrate that a proposed development may proceed such that the amount of traffic generated by a proposal can be accommodated by the transportation network and its impact on adjacent land uses is acceptable.

*STUDY COMPONENTS* 10.2.8.2 Where a Traffic Impact Study is required, such a study should:

- (a) include the collection and projection of traffic related data;
- (b) assess trip generation, assignment and distribution;
- (c) assess street and intersection capacity; and
- (d) describe and recommend measures required to achieve the transportation goals, objectives and policies set out in the Transportation Chapter of this Plan.

## **10.2.12 Urban Design Study**

*PURPOSE* 10.2.12.1 The purpose of an Urban Design Study is to provide direction for the protection and enhancement of the character of a planning district, neighbourhood, corridor or any other identified area.

*STUDY COMPONENTS* 10.2.12.2 Where an Urban Design Study is required, such a study should:

- (a) document the area's character on a street and block pattern (both sides) basis showing the size, orientation and lotting of each block;
- (b) provide a three dimensional profile for each street and block (both sides) within the area;
- (c) identify the existing urban design elements, such as nodes, landmarks, districts, paths and edges, which contribute to the character of the area and to its physical form and development pattern;
- (d) identify potential urban design elements that would enhance the future physical form, development pattern and character of the area such as streetscape treatments, significant views and vistas and locations for the provision of gateways and art; and
- (e) establish guidelines for the area which would assist in evaluating any proposed development or infrastructure undertaking.

## **7.2.6 Road Network Policies**

*CLASS II ARTERIAL ROADS* 7.2.6.4 Council will provide for Class II Arterial Roads as follows:

- (a) Class II Arterial Roads shall be designated on Schedule F: Roads & Bikeways and in any secondary plan, where appropriate;
- (b) operational and design characteristics:
  - (i) Class II Arterial Roads shall be designed to carry high volumes of passenger and commercial traffic for intra-city travel at moderate speeds;
  - (ii) Class II Arterial Roads usually consist of four undivided travel lanes, with rights-of-way widths no more than 30 metres;
  - (iii) intersections with Controlled Access Highways, Class I and Class II Arterial Roads and Class I and Class II Collector Roads shall be permitted;
  - (iv) intersections with Local Roads shall be discouraged;
  - (v) direct property access will not be permitted near Class I and Class II Arterials and Class I Collector intersections;
  - (vi) direct property access will be discouraged where other alternatives exist. Where direct property access is required, the use of shared driveways and interconnected on-site circulation systems with adjacent properties will be encouraged to limit the number and spacing of driveways. Where this cannot be accomplished, access will be limited to one per property unless it can be demonstrated that additional driveways are required for traffic capacity or safety reasons; and
  - (vii) commuter cycling lanes, including Bikeways, may be permitted along the paved travel lanes on a site specific basis.

**APPENDIX B – EXCERPTS FROM ZONING BY-LAW 8600****COMMERCIAL DISTRICT 3.3 (CD3.3)****(A) PERMITTED USES**

- (i) A retail store; wholesale store; bakery not exceeding 500 square metres in net floor area; confectionery not exceeding 500 square metres in net floor area; personal service shop; light repair shop; gas bar; service station; automobile repair garage; an existing motor vehicle dealership; existing collision shop; pawnshop; existing industrial use; garden centre and, exclusive of a lot in a Business Improvement Area, a temporary outdoor vendor's site.  
(AMENDED by B/L 8614, June 23/86 and B/L11780, March 28/94 and B/L 168-2002, July 18<sup>th</sup>, 2002 AND by B/L 232-2006, Jan. 18, 2007)
- (ii) A day nursery; church; church hall; funeral home; public hall;  
(AMENDED by B/L 363-2002, Dec. 31, 2002)
- (iii) A business, financial, medical or veterinary office; professional studio; commercial school; medical, dental or optical laboratory;
- (iv) A restaurant; take-out restaurant; drive-through food outlet; tavern; micro-brewery; print shop; drive-through food outlet.  
(AMENDED by B/L 33-2001, October 23, 2001, OMB Decision/Order No. 1716, OMB Case No. PL010233 AND AMENDED by B/L 375-2004, Dec. 21, 2004)
- (v) Place of entertainment and recreation;
- (vi) Hotel; motel;
- (vii) A public parking area; parking garage; ambulance service;  
(AMENDED by B/L 363-2002, Dec. 31, 2002)
- (viii) A warehouse; a workshop in combination with a retail store or a wholesale store;
- (ix) Any use accessory to the foregoing uses, not including an outdoor storage yard unless otherwise specifically permitted by this by-law. (AMENDED by B/L 232-2006, Jan. 18, 2007)

**(B) REGULATIONS**

- (i) Maximum building height - equal to the length of the longest exterior lot line or 20 metres, whichever is the lesser  
(AMENDED by B/L 168-2002, July 18<sup>th</sup>, 2002 AND B/L 363-2002, Dec. 31, 2002)
- (ii) The maximum net floor area of a workshop shall be equal to 200% of the net floor area of the retail store or wholesale store.
- (iv) No pawnshop shall be permitted within 300.0 metres of a lot on which a pawnshop or a school is situated. (ADDED by B/L 11780, March 28/94)

**APPENDIX C - ENVIRONMENTAL PLANNING ADVISORY COMMITTEE**

A meeting of the **Environmental Planning Advisory Committee** is held July 17, 2007 commencing at 9:00am in the Planning/Purchasing Board Room, 400 City Hall Square, there being present the following Members:

Mr. Jim Drummond, Chair; Mr. Rick Coronado; Mr. Rob Spring, Vice-chair  
Mr. Dean Clevett; Ms. Kimberly Maich; Mr. Bernie Rourke

**There also being present the following resource persons:**

Mr. Thom Hunt, Manager of Planning Policy – Planning Department  
Ms. Shahna Kennedy, EPAC Secretary – Planning Department  
Mr. Jim Abbs, Policy Planner – Planning Department  
Mr. Adam Szymczak, Planner – Building & Development Department  
Mr. Mike Clement, Manager of Parks Development and Facility Operations – Parks Department  
Mr. Paul Pratt, Naturalist – Parks Department; Mr. Alex Shinas, Conservation Planner – ERCA

**There also being present the following persons representing the application:**

Mr. Karl Tanner – Dillon Consulting  
Mr. Jeff Slopen – Miller, Canfield, Paddock and Stone LLP

**Consideration of the EER addendum for Windsor Raceway properties located at Sprucewood Ave and Matchette Rd**

Mr. Tanner indicated that his client had purchased the property in 1995 when the raceway was going through financial difficulties. The property was zoned and sold for residential development purposes. The application to zone and redesignate the property to commercial was originally submitted in 2004. At the time the area was being considered as a possible route for a new border crossing and the application was put on hold. In 2004 the applicant consulted with ERCA to determine an appropriate buffer to separate the development from the Ojibway Park located immediately to the north of the property. There was also an attempt to meet with EPAC in 2004 but the Committee could not reach quorum.

Mr. Slopen claimed that commercial uses would impact the water table less than residential development.

Mr. Drummond asked whether the development discussed at the meeting is the same development that the Town of La Salle has expressed opposition towards.

Mr. Tanner responded that it is, but only because of potential impacts to their commercial areas.

Mr. Clevett asked if additional correspondence was received from the Ministry of Natural Resources since 2004.

Mr. Tanner said that MNR typically communicates their issues through ERCA. They commented in 2004 only as owners of a neighbouring property.

Mr. Spring stated that the EER does not adequately address the concerns MNR cited in their letter regarding possible impacts to prescribed burn operations in the Ojibway Prairie Reserve, impacts due resulting from the garbage typically associated with big box retail, and impacts to the water table. Overall he believes the proponent has not expressed a strong enough commitment to implement the mitigation measures.

Mr. Slopen advised that the Committee should be considering the proposed land use designations in front of them and that issues related to site planning will be dealt with through the site plan control process.



Mr. Tanner added that the applicant does intend to deal with groundwater recharge on site.

Mr. Pratt asked how the proponent intends to deal with possible impacts to wildlife due to increased traffic on Matchette Rd.

Mr. Tanner said that most of the traffic would be directed to Sprucewood Ave and most customers would be traveling from LaSalle.

Ms. Maich asked if there would be a physical barrier separating the site and Ojibway Park in addition to the buffer.

Mr. Tanner responded that they intend to install a chain link fence but does not know the exact details at this time.

Mr. Coronado asked why this particular site was chosen for this development.

Mr. Slopen indicated that it was picked based on market demand.

Mr. Spring asked if there were any feasibility studies of other sites that currently host similar developments and are partially vacant. He cited University Mall as one example.

Mr. Slopen said that University Mall is poorly located because of its proximity to Huron Church Road. A development that mimics the Walker Road power centre would be ideal because it would serve as a shopping destination.

**Karl Tanner and Jeff Slopen exit at 10:10 am**

Mr. Spring said he is still concerned that the EER did not adequately address the impacts of increased traffic on Matchette Road would have on wildlife.

Mr. Pratt agreed that traffic is a concern for the wildlife located in the Ojibway Prairie Reserve.

Mr. Clevett stated that he is concerned over the potential hydro-geological impacts as mentioned in the MNR comments.

Mr. Spring indicated that he would be more concerned if there was a residential development on the site. He would like EPAC to be part of the Site Plan Control process.

Mr. Hunt said that Bill 51 would be applied to the Site Plan application so the municipality can enforce environmental requirements.

Mr. Drummond said he is concerned over Mr. Slopen use of the word "destination" to describe the proposed development because it implies an increase in traffic to the site.

Mr. Rourke agreed that a commercial development would have less hydro-geological impact than residential, but the committee should still ensure that there will be no negative impacts, not less impacts. He also expressed concern that intentions to direct traffic to Sprucewood Ave may not influence driver habits. People may still choose to use Matchette Road to get to the development.

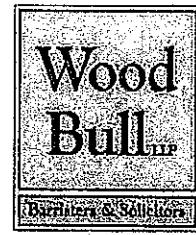
Moved by Mr. Spring **"THAT the proposed EER addendum be approved with the conditions. Conditions will be completed by email and submitted to the EPAC Secretary within one week of receiving the draft minutes"**

Seconded by Mr. Drummond. Motion carried unanimously.

Conditions completed on July 27, 2007 attached as Schedule "B".

**Schedule B: EPAC Conditions for Approval**

1. The proponent submits a hydro geological study with the site plan application demonstrating on site water treatment and groundwater recharge systems. Methods should include but are not limited to:
  - a. Permeable parking surfaces
  - b. Maximize open lands by minimizing available parking
  - c. Best Management Practices for on-site water treatment
2. Minimize impacts to wildlife and nearby natural areas by limiting traffic and infrastructure improvements on Matchette Road
  - a. Conditions of zoning amendment will not permit any new access from property to Matchette Rd
  - b. An easement for access purposes with raceway as a condition of removal of the holding ('H') provision
  - c. EPAC supports the re-designation of Sprucewood as an Arterial road
  - d. No new sanitary sewers or services on or from Matchette (development agreement)
3. Buffers
  - a. A buffer area of a minimum of 50 metres from the development as Natural Heritage in the Official Plan and GD1.4 in the Zoning By-law must be included in the application
  - b. Buffer conveyed to City as a condition of 'H' removal
4. Site plan agreement must require directional cut off lighting and other measures that would mitigate impacts of lighting on wildlife. No lighting should leak onto the surrounding natural areas. Only the minimum amount of lighting required for public safety should be permitted.
5. Site specific zoning provisions to restrict the following uses:
  - a. Fuel uses; and Hotels/motels
6. Landscaping Plan submitted for Site Plan approval is prepared by a qualified professional and includes:
  - a. Tree preservation, planting and maintenance
  - b. Use of drought and pest tolerant plant and ground cover species that are suitable to local conditions and in keeping with the surrounding areas to avoid the use of pesticides, fertilizers, and excessive watering.
7. Development agreement includes warning clause advising that MNR operations do include prescribed burns in the area
8. The Committee requests that the Manager of Development allow EPAC representation at the Site Plan Control meeting. At a minimum, EPAC should be circulated the Site Plan Control application with the ability to submit coordinated comments within the 30-day time frame prescribed by the Planning Act.



MUNICIPAL, PLANNING & DEVELOPMENT LAW

10 May 2013

Delivered by Email

Planning and Economic Development Standing Committee  
City of Windsor  
City Hall, 350 City Hall Square West  
Windsor, ON N9A 6S1

Dear Committee Members:

**Re: Windsor Essex County Environment Committee Resolution  
City of Windsor Official Plan Amendment 67 and Zoning By-law 232-2007  
Ontario Municipal Board Hearing PL080049**

We are the solicitors for 1223244 Ontario Inc. (the "Proponent") in regard to its proposed development at the northwest corner of Sprucewood Avenue and Matchette Road (the "Proposed Development" and the "Site").

We are writing in regard to the resolution of the Windsor-Essex County Environment Committee ("WECEC") which is on the Planning and Economic Development Standing Committee (the "Committee") agenda for Monday, 13 May 2013. The WECEC resolution requests that the City of Windsor reconsider/revoke/review its decision to adopt Official Plan Amendment 67 and enact Zoning By-law 232-2007 (collectively the "Planning Instruments") to permit the Proposed Development.

In our opinion, there is no merit to this resolution and we urge the Committee and the City of Windsor to simply receive the WECEC resolution for information purposes and continue to support the Proposed Development and the Planning Instruments

It is important for the Committee to consider the WECEC resolution in the context of the long history of this matter, which is summarized briefly below.

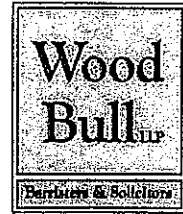
Species At Risk

In the past, this brownfield Site was actively used as part of the Windsor Raceway. It is not a greenfield site, as has been suggested. The proposal is to redevelop this brownfield site for commercial uses.

All issues, including species at risk, were thoroughly considered by City staff before it recommended approval of the Proposed Development and by City Council before it approved the Planning Instruments. In particular, the Zoning By-law specifically requires that the species at risk report be updated in accordance with the requirements of the Ministry of Natural Resources ("MNR") prior to the removal of the Holding symbol and prior to the development proceeding.

Mary Bull Direct: (416) 203-7739 mbull@woodbull.ca

65 Queen Street West Suite 1400 Toronto Ontario M5H 2M5 T (416) 203-7160 F (416) 203-8324 www.woodbull.ca



10 May 2013

Over the past several years the Proponent has been doing exactly what was required by this pre-condition to the removal of the holding symbol. As I am sure that you know, the MNR has the responsibility for species at risk in Ontario through the *Endangered Species Act* (the "ESA") and has considerable expertise in regard to species at risk. As contemplated by the Zoning By-law condition, over the past several years, the Proponent and its consultants have been working closely with the MNR to identify and resolve any species at risks issues in regard to the Site. There have been additional site investigations and studies by the Proponent's consultants, M.M. Dillon, and the MNR.

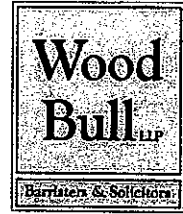
As a result of this additional work and discussions with the MNR, the Proponent submitted a detailed application for a permit pursuant to the *ESA* (the "ESA Permit") to permit the Proposed Development to proceed. We note that an ESA Permit is a tool contemplated by the *ESA* for the protection of species at risk and is not rare or unprecedented as has been suggested at the WECEC Committee and in the media. The conditions of the ESA Permit will provide an overall benefit to the species at risk identified on the Site. The proposed conditions of the ESA Permit include the following:

- conveyance of a significant portion of the Site (4.19 hectares / 10.4 acres) to the City of Windsor (the "Restoration Area"), which, among other things, would result in increased opportunities for education and outreach through Ojibway Nature Centre programming;
- restoration of the Restoration Area, including the practice track, from a brownfield site to a Tallgrass Prairie;
- reduction in the invasive, localized Common Reed population which is a key threat to the survival of some of the species at risk in the area;
- creation of functional snake habitat enhancements in the Restoration Area;
- transplantation of existing plant species at risk;
- propagation of existing plant species at risk; and
- installation of permanent exclusion fencing.

#### Ontario Municipal Board Hearing

The Planning Instruments were appealed to the Ontario Municipal Board ("OMB") by Ms. Pancheshan, Ms. Meloche and the Town of LaSalle. There have been several OMB prehearing conferences and motions in regard to these matters. The hearing was adjourned to permit the Proponent to address the species at risk issues with the MNR.

In the OMB proceedings, Ms. Pancheshan and Ms. Meloche have raised the same issues in regard to species at risk that they have now raised again with WECEC, this Committee and the City of Windsor. Nothing has changed. Nothing is new. When this matter proceeds to a hearing, the species at risk issues



10 May 2013

will be thoroughly considered by the OMB through the testimony of expert witnesses, including expert witnesses called by Ms. Pancheshan.

This Committee and the City should have the confidence, as it did when it approved the Planning Instruments, that any issues regarding species at risk will be appropriately dealt with by the experts, MNR. In addition, because of the appeals, they will also be considered by the OMB.

Environmental Planning Advisory Committee

The Proposed Development was reviewed by the Environmental Planning Advisory Committee ("EPAC") in 2007. Prior to approving the Planning Instruments, City staff and Council considered the EPAC comments and, as a result, the City required that the EPAC Conditions of Approval be used by the City as site plan guidelines and that all site plan approval applications for the Proposed Development be circulated to EPAC for consideration and comment..

Through its resolution, WECEC is attempting to revisit this matter, even though the species at risk issues were considered by EPAC and are not new. This is not reasonable and is not fair to the Proponent or the City.

Request

The Proponent has acted in good faith in reliance on the City's approval of the Proposed Development. It has continued to follow the process set out by the City in approving the Proposed Development. Nothing has occurred that would justify a change in the City staff recommendation or the City's position.

We strongly urge this Committee to simply receive the WECEC resolution and to take no further action as the matter is before the OMB.

Yours very truly,

**Wood Bull LLP**

Mary Bull

*Certified Specialist (Municipal Law: Land Use Planning and Development)*

- c. 1223244 Ontario Inc.  
City of Windsor, Planning Department

Windsor Essex County Environment Committee  
4155 Ojibway Parkway  
Windsor, Ontario N9C 4A5

Aylmer District Species at Risk Biologist  
Ministry of Natural Resources  
Regional Operations Division  
Southern Region, Aylmer District  
615 John Street North  
Aylmer, Ontario N5H 2S8

Monday, April 8<sup>th</sup>, 2013

**Re: EBR# 011-8520 Permit for activities with conditions to achieve overall benefit to the species – ESA s.17(2)(c)**

Dear Species at Risk Biologist, Aylmer Division:

The Windsor Essex County Environment Committee disagrees with Coco Paving Inc.'s proposal for a permit as an overall benefit under clause 17(2)(c) of the Endangered Species Act, 2007 (ESA) that it will: i) benefit the endangered species, ii) will not adversely affect the species, and iii) they have taken reasonable steps to minimize adverse effects on individual species.

Our discrepancies with this permit application are as follows:

- The application only considers impacts of species at risk on Coco Paving's lands and not others found on the Ojibway Prairie Complex.
- The application does not consider the large host of Tallgrass Prairie plants and habitat found on site and not found on the species at risk list. The Ojibway Nature Complex is home to 90,000 species and this type of ecosystem is one of a kind in Canada.
- The Ojibway Prairie ecosystem is already under stress from existing Permits under clause 17(2)(d) of the Endangered Species Act, 2007 (ESA) for the construction of the Rt. Hon. Herb Gray Parkway and International Border Crossing. This permit alone impacted over 90 000 endangered and threatened Tallgrass Prairie species. Accordingly, the Coco submission cannot be considered in isolation of other developments that are threatening this vital ecosystem; nor can it be considered in isolation of its impact on the larger Ojibway Prairie ecosystem which surrounds it. If we continue to allow permits within this ecosystem, we will no longer have it to protect.
- Our community does not need this development. The City of Windsor's Official Plan 2010 review states there is "enough retail commercial space to meet demand through 2031".
- Paving over and building on most of its 37 acre site will deprive the underlying soil of storm water run-off to replenish the water table which sustains the life of the Ojibway Prairie Complex. Ojibway is located in a vast bowl of poorly drained sandy soil over a thick bed of clay. The sand is saturated with water in spring but very dry in mid-summer. These conditions are essential to the continued functioning of the Ojibway Prairie ecosystem.
- There are three estimated major impacts to the Butler's Gartersnake and Eastern Foxsnake from the proposed project activities: 1) loss of habitat, 2) loss of landscape connectivity and 3) increased incidence

of road mortality. Although we feel that project impacts in terms of loss of habitat may be adequately addressed via proposed mitigation (e.g., creation of prime habitat features and the conversion of the existing racetrack to prairie habitat), the latter two impacts, loss of habitat connectivity and increase in road mortality, have not been adequately addressed.

- The proposed development project, if approved, would result in an overall decrease in landscape connectivity and an increase in road mortality to the Butler's Gartersnake and Eastern Foxsnake species. Furthermore, these activities are in direct contravention of the Government of Ontario's stated recovery priorities for the Eastern Foxsnake (OMNR 2011). The proposed permit conditions WILL NOT provide benefits that exceed the adverse effects on Eastern Foxsnake and Butler's Gartersnake. An overall benefit for the Eastern Foxsnake and Butler's Gartersnake would not be achieved under the currently proposed 17 (2) (c) permit stipulations.

In conclusion, the Windsor Essex County Environment Committee has determined that Coco Paving Inc. has not met the requirements for an overall benefit permit under clause 17(2)(c) of the Endangered Species Act, 2007 (ESA), which are: avoidance and reasonable alternatives have been considered; adverse effects will be minimized; and an overall benefit will be achieved for the species in Ontario. Therefore we encourage the Ministry of the Environment to deny their application for permit at this time.

Sincerely,

Councillor Alan Halberstadt

Co-chair, WECEC

Deputy Mayor Charlie Wright

Co-chair, WECEC

CC:

Honourable David Oraziotti  
Minister of Natural Resources  
Suite 6630, 6th Floor, Whitney Block  
99 Wellesley Street West  
Toronto, Ontario M7A 1W3  
E-mail: [minister.mnr@ontario.ca](mailto:minister.mnr@ontario.ca)

Environmental Commissioner of Ontario  
1075 Bay Street, Suite 605  
Toronto, ON M5S 2B1, Canada

E-mail: [commissioner@eco.on.ca](mailto:commissioner@eco.on.ca)

