Agenda

Corporate Services Committee

14th Meeting of the Corporate Services Committee

October 31, 2022

12:00 PM

Council Chambers - Please check the City website for additional meeting detail information. Meetings can be viewed via live-streaming on YouTube and the City Website.

The City of London is situated on the traditional lands of the Anishinaabek (AUh-nish-in-ah-bek), Haudenosaunee (Ho-den-no-show-nee), Lūnaapéewak (Len-ah-pay-wuk) and Attawandaron (Add-a-won-da-run).

We honour and respect the history, languages and culture of the diverse Indigenous people who call this territory home. The City of London is currently home to many First Nations, Metis and Inuit people today.

As representatives of the people of the City of London, we are grateful to have the opportunity to work and live in this territory.

Members

Councillors S. Lewis (Chair), M. Cassidy, J. Morgan, M. Hamou, J. Fyfe-Millar, Mayor E. Holder

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Report to Corporate Services Committee

To: Chair and Members
Corporate Services Committee

From: Anna Lisa Barbon, CPA, CGA, Deputy City Manager, Finance Supports

Subject: City of London's Credit Rating

Date: October 31, 2022

Recommendation

That, on the recommendation of the Deputy City Manager, Finance Supports, the City of London's Credit Rating Report, providing a summary of Moody's Investors Service Credit Opinion of the City of London, **BE RECEIVED** for information.

Executive Summary

The City of London has achieved the Aaa ('triple A') credit rating with a stable outlook as part of Moody's Investors Service (Moody's) latest Credit Opinion. Issued on October 5, 2022, this marks the 46th consecutive year of such a rating and represents the highest credit rating issued by Moody's.

Linkage to the Corporate Strategic Plan

Council's 2019 to 2023 Strategic Plan for the City of London (the "City") identifies "Leading in Public Service" as a strategic area of focus. Continuing to ensure the strength and sustainability of London's finances is a strategy to maintain London's finances in a well-planned manner to balance equity and affordability over the long term. The City's adherence to robust financial policies and practices has helped the City maintain positive operating results, stable debt levels, and strong liquidity, reflected in the credit rating assigned by Moody's.

Analysis

1.0 Background Information

Moody's is a leading provider of credit ratings, research, and risk analysis. The firm's ratings and analysis track debt covering more than 130 countries, 11,000 corporate issuers, 21,000 public finance issuers and 76,000 structured finance obligations. Typically, Moody's reviews the credit worthiness of the City of London annually and then assigns the City a credit rating.

The rating process involved a review of the City's 2021 Financial Statements, 2021 Financial Information Return, 2022 Annual Budget Update and recent relevant reports to Council (e.g. Budget Monitoring Reports). Moody's also utilizes independent research from a variety of sources such as Statistics Canada, comparisons with other municipalities, and news from local media. Along with reviewing and analyzing documents, Moody's arranges a meeting with the City including members of Civic Administration and the Mayor.

The Credit Opinion for the City of London, published October 5, 2022 by Moody's, is attached as **Appendix A** to this report. Consistent with prior years, the City has maintained its Aaa credit rating with a stable outlook, despite the financial challenges presented by the COVID-19 pandemic. The City has held the Aaa rating since 1977, making 2022 the 46th consecutive year of the Aaa rating and reaffirming that the City's debt has the highest rating possible. The Aaa rating is integral in securing buyers for the City's debentures. Moody's stable outlook "reflects the track record of solid operating outcomes and strong protection to bondholders stemming from a relatively low debt and interest burden as well as sizeable level of reserves."

2.0 Discussion and Considerations

The Moody's Credit Opinion summarizes the City's credit strengths and challenges. The credit strengths of the City support the rating outlook of Aaa while the challenges are factors that could impact the rating in the future.

The City's credit strengths include:

- High levels of cash and investments providing strong liquidity;
- Low debt levels supported by conservative debt management practices;
- Mature, supportive, institutional framework governing municipalities in Ontario; and
- Track record of generating positive fiscal outcomes highlights robustness of fiscal planning.

The City's credit challenges outlined by Moody's include the potential for "near-term fiscal pressures stemming from the ongoing coronavirus pandemic, inflation and other global factors." Moody's further states that "while we consider London to have a high level of budget flexibility to absorb certain pressures, they do nonetheless impose risks to the city."

Moody's also states that a sustained loss of fiscal discipline leading to a material increase in debt or a substantial reduction in accessible financial reserves could place downward pressure on the City's credit rating. A credit rating downgrade or change in outlook to negative by Moody's may cause investors to lose confidence in the City's financial management practices and/or the corresponding quality of the City's debt, potentially affecting the City's ability to raise future financing. This would also increase interest rates at which the City issues debt, which would increase debt servicing costs for the City.

Moody's comments regarding the City's track record of generating positive fiscal outcomes are as follows:

*"…*the City of London displays strong governance and management practices, such as the application of multi-year budgets, which helps to promote stable operations. London's history of posting positive operating results, application of strict controls on debt issuance, and conservative debt and investment policies which limit their exposure to market related risks and help ensure relatively smooth debt servicing costs all act as evidence of the city's strong management and governance*."*

The comments provided by Moody's in their review of the City of London's credit rating further supports the strategy taken by Council to ensure the strength and sustainability of London's finances, particularly in light of the COVID-19 pandemic and other broad global pressures. The application of multi-year budgeting signifies that the City is looking beyond a short-term horizon when planning its finances. The City's Multi-Year Budget provides alignment of longer-term goals with longer-term funding plans, improved accountability and transparency over spending changes. Taking a long-term view with respect to financial matters has led to fiscally responsible decisions, as reflected in the City's credit rating. According to Moody's, "the multi-year budget approach proved beneficial during the pandemic given the city's plans were already well developed which made the process to find mitigating measures relatively easier than for other municipalities that still needed to "build" their budget." Moody's also stated that the experience through the pandemic highlights the flexibility the multi-year budget model provides to immediate shocks, as well as providing visibility to long term planning needs.

New to the 2022 credit rating report, Moody's has now started to explicitly report its Environmental, Social and Governance (ESG) Credit Impact Score (CIS). These evaluations have been considered previously in assigning the City's credit rating but now have been separated and reported distinctly. It is important to note that this ESG score is not an evaluation of the City's performance or activities as it relates to ESG but rather a reflection of how ESG factors within the City of London impact credit risk and therefore the credit rating of the City. The CIS is based on a scale from one to five:

CIS - 1; representing positive impact
CIS – 2; representing neutral to low impact
CIS – 3; representing moderately negative impact
CIS – 4; representing highly negative impact
CIS – 5; representing very highly negative impact

The City’s overall ESG CIS is CIS – 2; neutral to low impact. The environmental profile received a score of two; the social profile received a score of two; and the government profile received a score of one, which “captures London's very strong institutional and governance framework” according to Moody’s.

3.0 Financial Impact/Considerations

The Moody’s Credit Opinion does not have a direct financial impact but affects the rates at which the City is able to issue debt, which in turn affects the City’s debt servicing costs. The Aaa rating allows the City to issue debt at favourable rates as debentures rated Aaa are perceived to have less risk of default.

Conclusion

The City’s achievement of Moody’s Aaa credit rating for 46 consecutive years is a testament to the success of the City’s prudent, conservative approach to fiscal planning and related policies. Maintaining this top credit rating through a year with continued impacts from the coronavirus pandemic and other global pressures is also a testament to the flexibility and adaptability of the City’s financial policies and processes.

Prepared by: **Folakemi Ajibola, CTP, Manager, Financial Modelling, Forecasting and Systems Control (Treasury)**

Submitted by: **Kyle Murray, CPA, CA, Director, Financial Planning and Business Support**

Recommended by: **Anna Lisa Barbon, CPA, CGA, Deputy City Manager, Finance Supports**

Appendix “A”

SUB-SOVEREIGN

MOODY'S
INVESTORS SERVICE

CREDIT OPINION
5 October 2022

Update

Send Your Feedback

RATINGS

London, City of

Domicile	London, Ontario, Canada
Long Term Rating	Aaa
Type	Senior Unsecured - Dom Curr
Outlook	Stable

Please see the ratings section at the end of this report for more information. The ratings and outlook shown reflect information as of the publication date.

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Asia Pacific	852-3551-3077
Japan	81-3-5408-4100
EMEA	44-20-7772-5454

City of London (Canada)

Update to credit analysis

Summary

The credit profile of the City of London (Aaa stable) reflects the track record of solid operating ouctomes and strong protection to bondholders stemming from a relatively low debt and interest burden as well as sizeable levels of reserves. Through an increased use of reserves and elimination of debt for repair and maintenance of infrastructure, London's net direct and indirect debt declined to a very low 19.4% of operating revenues in 2021. Concurrently, the city's holdings of cash and investments, including those to be used for financing capital projects in lieu of debt, measured 6.5x net debt and 1.4x operating expenses as of December 31, 2021. While debt is expected to increase across the next 3-4 years due to an increase in growth related capital projects, we do not see this as a change in the city's strong debt management policies.

Exhibit 1

Even with a forecasted increase, the city's debt will remain low and the city's reserves will continue to provide ample coverage of operating expenses

Sources: City of London financial statements and Moody's Investors Service

Credit strengths

» High levels of cash and investments provide strong liquidity

» Low debt levels supported by conservative debt management practices

» Mature, supportive, institutional framework governing municipalities in Ontario

» Track record of generating positive fiscal outcomes highlights robustness of fiscal planning

Credit challenges

» Near-term fiscal pressures stemming from the ongoing coronavirus pandemic, inflation and other global factors

Rating outlook

The outlook for London's Aaa debt rating is stable, reflecting our expectation that liquidity will remain strong, debt will continue to remain at the current low levels.

Factors that could lead to a downgrade

Downward pressure could arise if the city were to experience a sustained loss of fiscal discipline leading to a material increase in debt or substantial reduction in accessible financial reserves.

Key indicators

London, City of

(Year Ending 12/31)	2016	2017	2018	2019	2020	2021	2022F
Net Direct and Indirect Debt/Operating Revenue (%)	30.4	27.8	26.0	25.2	23.1	19.4	20.5
Gross Operating Balance/Operating Revenue (%)	22.4	21.2	21.2	21.2	24.0	24.7	24.0
Cash Financing Surplus (Requirement)/Total Revenue	8.6	6.2	8.2	13.2	16.9	20.3	-
Interest Payments/Operating Revenue (%)	0.9	0.8	0.8	0.7	0.7	0.5	0.6
Debt Service/Total Revenue (%)	5.3	5.0	4.6	4.7	4.7	4.3	4.3
Capital Spending/Total Expenditures (%)	24.8	25.5	21.7	19.1	20.3	19.6	20.7
Self-Financing Ratio	1.4	1.3	1.5	1.8	2.0	2.3	-

Sources: City of London financial statements and Moody's Investors Service

Detailed credit considerations

The City of London's Aaa rating combines (1) a baseline credit assessment (BCA) of aaa, and (2) a high likelihood of extraordinary support coming from the Province of Ontario (Aa3 stable) in the event London faced acute liquidity stress.

Baseline credit assessment

High levels of cash and investments provide strong liquidity

London's credit profile is supported by a strong liquidity position which provides a significant measure of safety for bondholders. In 2021 the city's cash and investments were equal to 6.5x net debt and 1.4x annual operating expenses. To achieve these levels, the city has continued to follow prudent fiscal management and liquidity policies across multiple changes in the municipal council, which we expect to continue into the future.

London's investment policies ensure that the city minimizes credit risk and maintains liquidity of its investment portfolio. The city's policies outline various limits placed on investment decisions, such as limiting the concentration of investments in specific sectors or issuers, limiting investments to only highly rated securities and ensuring a variety of maturities. The presence and adherence to these policies offers reassurance that the city's investment management policies provide security to liquidity, which along with the level of liquidity, is a strong credit positive.

Low debt levels supported by conservative debt management practices

London's net direct and indirect debt expressed as a percentage of operating revenues measured 19.4% in 2021. While Canadian municipalities can only issue debt for capital reasons, London's debt burden is nonetheless relatively low to domestic peers. Canadian municipalities' revenue structure and high level of operating expense tend to not favour funding capital needs from operations. The low debt burden is propelled by the conservative debt policies that the city employs such as a self-imposed "debt cap" which limits the amount of debt that can be issued for capital projects as well as the move to a greater reliance on pay-as-you-go financing. Debt issuance is also reduced through the use of multiple policies overseeing the use of excess funds at year end: the city applies all year-end debt service savings, 50% of unallocated assessment growth as well as 50% of any operating surplus that it generates towards financing needs that would have otherwise be funded from authorized debt issuance. The city has also eliminated debt for lifecycle maintenance of capital, which limits debt issuance to new and/or growth related needs.

The low debt burden also translates into a relatively low interest expense. In 2021, interest expense consumed only 0.5% of operating revenues. Given the efforts to minimize debt issuance, the city's debt service costs as a percentage of revenue are expected to remain low in the intermediate term even as interest rates rise.

The city's 2022-2031 capital plan totals CAD4.2 billion across tax-supported and rate-supported projects. Due in part to eliminating debt for lifecycle maintenance, which helped to promote a declining debt level, the capital plan's financing requirements will lead to an increase in the city's debt burden, although we expect it will begin to stabilise as early as 2024. The anticipated increase, however, is slight and will not pressure the rating.

Mature, supportive institutional framework governing municipalities in Ontario

The institutional framework governing municipalities in Ontario is mature and highly developed. The division of roles and responsibilities between the province and municipalities is clearly articulated. Municipalities are, however, subject to the powers and responsibilities imposed upon them by their respective provinces. Historically, changes to the institutional framework have occurred at a measured, evolutionary pace, following discussions between both parties. Nevertheless, in certain cases, changes have occurred more rapidly.

London's creditworthiness benefits from the stability inherent in the provincial institutional framework. Provincial legislation dictates a high degree of oversight, including limits on debt servicing costs, while policy flexibility, on both the revenue and expenditure sides of the ledger, helps London to manage pressures as they arise.

Track record of generating positive fiscal outcomes highlights robustness of fiscal planning

Similar to other highly rated Ontario municipalities, the City of London displays strong governance and management practices, such as the application of multi-year budgets, which helps to promote stable operations. London's history of posting positive operating results, application of strict controls on debt issuance, and conservative debt and investment policies which limit their exposure to market related risks and help ensure relatively smooth debt servicing costs all act as evidence of the city's strong management and governance.

The city manages its plans using a four-year budget that is prepared during the first year of a new council and extends into the first year of the following council period. Through this process, annual departmental expenditures for the four years are determined in the initial budget year, and in theory only expenditures that are supported through additional assessment growth can be passed outside of the initial budget. City Council can still raise property taxes above the four-year planned approved rates as part of the annual budget review process.

Despite the multi-year approach, this budget model provided sufficient flexibility for London to adjust the fiscal plan in 2020 and 2021 in reaction to pressure generated by the coronavirus pandemic, on both revenue and spending. The city was able to lower service levels where applicable and defer some new initiatives and capital projects that were originally intended for 2020. In 2021, the budget was further adjusted to mitigate against forecasted pressure resulting in a balanced budget as per provincial requirements. In our view, the multi-year budget approach proved beneficial during the pandemic given the city's plans were already well developed which made the process to find mitigating measures relatively easier than for other municipalities that still needed to "build" their budget. The experience through the pandemic highlights the flexibility the multi-year budget model provides to immediate shocks, as well as providing visibility to long-term planning needs.

Near-term fiscal pressures stemming from the ongoing coronavirus pandemic, inflation and other global factors

As with all Canadian municipalities, London faces continued uncertainty on how the continuing pandemic may impact 2023 and beyond. Pandemic related pressures could continue to impact revenues (lower user fees for certain activities) and costs (continued health related measures). Absent extraordinary funding by the federal and provincial governments, the largest single source of financial pressure we expect with greater certainty is from the city's public transit network, which will continue to face lower ridership levels, and therefore lower fare revenue, but concurrently needs to continue to offer a relatively high level of service to ensure reliable service to those customers dependent on public transit for their mobility needs.

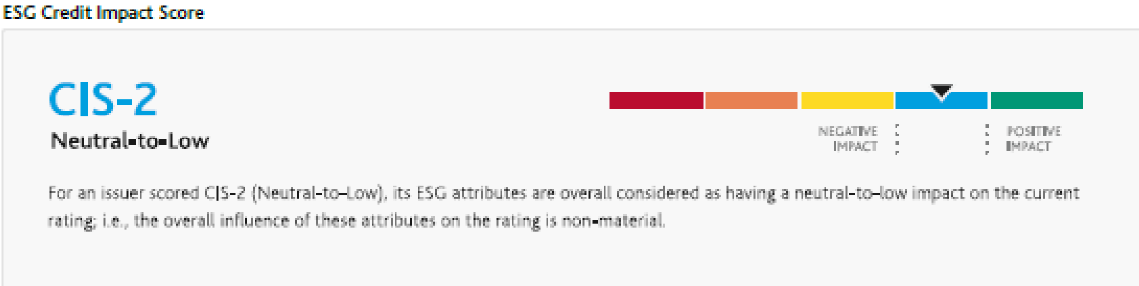
Other broad global pressures also arose in 2022 which will likely continue to lead to fiscal pressure in 2023. These include higher inflation and interest rates than what has been recorded over the past decade and higher energy costs. The city was protected in 2022 through multi-year collective agreements that limited the pressure from inflation on salaries and wages. However, as contracts expire, unions will seek to adjust wages to reflect the higher cost of living. Additionally, prices for materials and services purchased by the city will also see increases as inflation is expected to remain above historical levels in 2023. While the low debt requirements of the city will limit budgetary pressure caused by higher interest rates, interest expense will rise as well.

The Province of Ontario announced in its 2019/20 Budget that it would reduce transfers to municipalities for a variety of programs as the province faces material deficits and seeks to reduce its spending. The implementation of some changes were delayed given the province's intention to avoid further fiscal pressure to municipalities during the pandemic. However, municipalities now face uncertainty on the timing of implementation. While we consider London to have a high level of budget flexibility to absorb certain pressures, they do nonetheless impose risks to the city.

ESG considerations

The City of London's ESG Credit Impact Score is Neutral-to-Low CIS-2

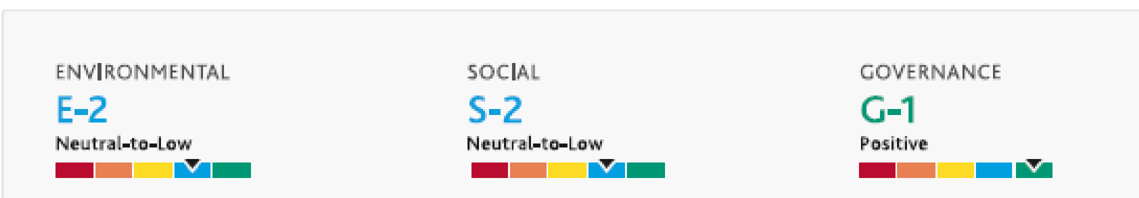
Exhibit 3
ESG Credit Impact Score



Source: Moody's Investors Service

London's neutral-to-low (**CIS-2**) ESG Credit Impact Score reflects neutral-to-low exposure to environmental and social risk, along with very strong governance and policy effectiveness that mitigates the city's susceptibility to these risks.

Exhibit 4
ESG Issuer Profile Scores



Source: Moody's Investors Service

Environmental

The E issuer profile score is neutral-to-low (**E-2**), reflecting neutral-to-low scores across all environmental risk categories. Neither the city's infrastructure nor economic base are subject to material risks stemming from environmental concerns and the city's relatively small geographic footprint further minimizes any exposure to environmental risks.

Social

The S issuer profile score is neutral-to-low (**S-2**). The city provides key public services such as public safety (police, fire and paramedic) and environmental (water and waste collection), but demand for these services do not face risks from social considerations given the stable population levels and predictable demographic trends which allows for long-term forecasting of such service requirements. London has a high level of education and overall strong levels of public health and safety. We regard the coronavirus pandemic as a social risk given the implications for public health, but the city benefits from significant provincial and federal pandemic-related support.

Governance

The positive G issuer profile score (**G-1**) captures London's very strong institutional and governance framework. The city utilizes prudent financing planning, including the establishment of a 4-year budget plan, and makes use of forward looking assumptions which provides the city with the ability to identify potential pressures and allows for sufficient time to adjust plans accordingly to mitigate any credit implications. The city provides transparent, timely financial reports and adheres to strict policies on debt and investment management.

ESG Issuer Profile Scores and Credit Impact Scores for the rated entity/transaction are available on Moodys.com. In order to view the latest scores, please click here to go to the landing page for the entity/transaction on MDC and view the ESG Scores section.

Extraordinary support considerations

Moody's assigns a high likelihood of extraordinary support from the Province of Ontario (Aa3 stable), reflecting Moody's assessment of the incentive provided to the provincial government of minimizing the risk of potential disruptions to capital markets if London, or any other Ontario municipality, were to default.

Rating methodology and scorecard factors

In the case of London, the BCA of aaa assigned by the rating committee is close to the scorecard-indicated outcome of aa1. The scorecard-indicated outcome reflects (1) an idiosyncratic risk score of 2 (presented below) on a 1 to 9 scale, where 1 represents the strongest relative credit quality and 9 the weakest; and (2) a systemic risk score of Aaa, as reflected in the sovereign bond rating (Aaa stable).

For details of our rating approach, please refer to the methodology Regional and Local Governments, 16 January 2018

Exhibit 5
London, City of
Regional & Local Governments

Baseline Credit Assessment – Scorecard	Score	Value	Sub-factor Weighting	Sub-factor Total	Factor Weighting	Total
Factor 1: Economic Fundamentals				**3.80**	**20%**	**0.76**
Economic Strength [1]	5	100.83%	70%			
Economic Volatility	1		30%			
Factor 2: Institutional Framework				**1**	**20%**	**0.20**
Legislative Background	1		50%			
Financial Flexibility	1		50%			
Factor 3: Financial Position				**1.50**	**30%**	**0.45**
Operating Margin [2]	1	23.99%	12.5%			
Interest Burden [3]	1	0.60%	12.5%			
Liquidity	1		25%			
Debt Burden [4]	1	19.40%	25%			
Debt Structure [5]	3	18.91%	25%			
Factor 4: Governance and Management				**1**	**30%**	**0.30**
Risk Controls and Financial Management	1					
Investment and Debt Management	1					
Transparency and Disclosure	1					
Idiosyncratic Risk Assessment						**1.71 (2)**
Systemic Risk Assessment						**Aaa**
Scorecard-Indicated BCA Outcome						**aa1**
Assigned BCA						**aaa**

[1] Local GDP per capita as % of national GDP per capita
[2] Gross operating balance by function/ operating revenues
[3] (Adjusted) interest expenses/operating revenues
[4] Net direct and indirect debt/operating revenues
[5] Short-term direct debt/total direct debt
Source: Moody's Investors Service; Fiscal 2021.

Ratings

Exhibit 6

Category	Moody's Rating
LONDON, CITY OF	
Outlook	Stable
Senior Unsecured -Dom Curr	Aaa

Source: Moody's Investors Service

REPORT NUMBER 1335783

CLIENT SERVICES

Americas	1-212-553-1653
Asia Pacific	852-3551-3077
Japan	81-3-5408-4100
EMEA	44-20-7772-5454

Report to Corporate Services Committee

To: Chair and Members
Corporate Services Committee
From: Anna Lisa Barbon, Deputy City Manager, Finance Supports
Subject: Pre-Authorized Tax Payment Plan By-Law and Collection of Interim Property Taxes By-Law
Date: October 31, 2022

Recommendation

That, on the recommendation of the Deputy City Manager, Finance Supports, the following actions be taken with respect to property taxation for 2023:

a) A by-law to amend by-law A-5505-497 "a by-law to authorize the implementation of a pre-authorized payment plan" so that the calculation of pre-authorized payments is based on the previous year's taxes increased by the average increase in total property tax rates in the residential class in the previous year (Appendix A) **BE INTRODUCED** at the Council meeting on November 8th, 2022.

b) A by-law to amend By-law A-8 "a by-law to provide for the collection of property taxes" so that the calculation of the interim tax levy will be set at a percentage of 40.98% of the previous year's taxes (Appendix B) **BE INTRODUCED** at the Council meeting on November 8th, 2022.

Executive Summary

The Pre-Authorized Payment Plan and Interim Property Tax By-laws are updated annually to incorporate increases to the residential property tax rate in the previous year. This report details the recommended interim property tax rate and percentage increase to estimated pre-authorized payments for 2023.

Analysis

1.0 Background Information

1.1 Legislation Related to Interim Property Tax Billing

Section 317 of the *Municipal Act, 2001* permits a municipality to levy taxes prior to the completion of its annual budget and the determination of education tax rates by the Province. Sections 342 and 307 of the Act provide additional flexibility with respect to due dates and payment arrangements. In accordance with section 317 the amount that can be levied on each property prior to the adoption of the budget is limited to fifty percent of the total property taxes applicable to the property in the previous year. Interim tax levies provide the municipality with funds to operate and make remittances to school boards prior to the finalization of municipal and education tax rates for the year. Interim tax levies do not affect the determination of total final taxes for the year as any taxes not billed at interim time are included on the final tax bill.

2.0 Discussion and Considerations

2.1 Interim Property Tax Calculation for 2023

Beginning in 2011 the City adopted the practice in accordance with section 317 of the *Municipal Act, 2001* of adjusting the interim billing tax rate each year by the approximate amount of the average tax increase in the residential property class in the previous year. This annual adjustment permits the City to bill five (5) instalments each year and ensures that the amounts of each instalment are approximately equal. Each instalment is roughly

20% of the total taxes for the year (5x 20% = 100%). Two instalments are billed as an interim levy in January each year (40%) and three (3) instalments are billed in May as the final tax instalments for the year (60%). In 2022 the average increase in total property tax rates for the residential property class was 2.45%. Using this basis of calculation, the interim tax rate for 2023 would be 40.98% (40% x 1.0245) of the 2022 taxes levied.

It is therefore recommended that an interim levy of 40.98% of the previous year's taxes be set for the 2023 interim billing in the property tax collection by-law. The proposed by-law amendments would have results consistent with past practice and would also divide the annual tax billing into five (5) approximately equal instalments for the convenience of the individual property owners.

2.2 Pre-Authorized Payment Plan Amendment

The City of London offers a Pre-authorized Payment Plan to property owners. Payments are deducted from the authorized bank account on the last business day of the month over 10 months. The first five payments (January – May) are estimated and needed to be amended annually based on the increase in total property tax rates for the residential class in the previous year. It is therefore recommended that the pre-authorized payments for 2023 be based on the previous year's taxes increased by 2.45% representing the average tax increase that occurred in the residential class in 2022.

3.0 Financial Impact/Considerations

3.1 Cash Flow Considerations

The proposed by-law amendments would ensure that the City has sufficient funds to carry on operations and make remittances to local school boards.

Conclusion

It is recommended that the pre-authorized payment by-law be amended so that payments for 2023 are based on the taxes of the previous year increased by the average increase in total residential property tax rates in the previous year (i.e. 2.45%). It is also recommended that the property tax collection by-law be amended to set interim tax payments for 2023 on the same basis. This would result in an interim levy of 40.98% of previous year's taxes in 2023 which does not exceed the fifty (50) percent maximum that is allowable under the section 317 (3)(1) of the *Municipal Act, 2001*.

Prepared by:	**Joseph McMillan, Division Manager, Taxation & Revenue**
Submitted by:	**Ian Collins, Director, Financial Services**
Recommended by:	**Anna Lisa Barbon, Deputy City Manger, Financial Supports**

“Appendix A”

Bill No.

By-law No.

A by-law to amend By-law No. A.-5505-497 entitled, “A by-law to authorize the implementation of a pre-authorized tax payment plan for The Corporation of the City of London” by changing the multiplier to determine the pre-authorized property tax payment from 1.030 to 1.0245 effective January 1, 2023.

WHEREAS subsection 5(3) of the Municipal Act, 2001, S.O. 2001, c. 25, as amended, provides that a municipal power shall be exercised by by-law;

AND WHEREAS section 9 of the Municipal Act, 2001 provides that a municipality has the capacity, rights, powers and privileges of a natural person for the purpose of exercising its authority under this or any other Act;

AND WHEREAS subsection 10(1) of the Municipal Act, 2001 provides that a municipality may provide any service or thing that the municipality considers necessary or desirable for the public;

AND WHEREAS subsection 342(1) of the Municipal Act, 2001, provides the municipality with the power to pass by-laws regarding the payment of taxes;

NOW THEREFORE the Municipal Council of The Corporation of the City of London enacts as follows:

1. Schedule “A” of By-law No. A.-5505-497 is amended by repealing paragraph 10 therein and by enacting the following new paragraphs 10 in its place:

> 10. For 2023 the amount of the pre-authorized payment for the period January to May shall be calculated as the most recently available assessments consistent with the previous year’s assessment valuations multiplied by the total tax rates applicable to the property in the previous year and then multiplied by 1.0245 and then increased by any local improvement or similar charge applicable to the property in 2023 and then divided by 10 and rounded to the nearest dollar.

2. This by-law comes into force on January 1, 2023

PASSED in Open Council on November 8, 2022

Ed Holder
Mayor

Michael Schulthess
City Clerk

First Reading –
Second Reading –
Third Reading –

“Appendix B”

Bill No.

By-law No.

A by-law to amend By-law No. A-8, as amended entitled “Property Tax Collection by-law” by changing the calculation percent for the Interim Levy from 41.2% to 40.98% effective January 1, 2023.

WHEREAS subsection 5(3) of the Municipal Act, 2001, S.O. 2001, c. 25, as amended, provides that a municipal power shall be exercised by by-law;

AND WHEREAS section 9 of the Municipal Act, 2001 provides that a municipality has the capacity, rights, powers and privileges of a natural person for the purpose of exercising its authority under this or any other Act;

AND WHEREAS section 317 of the Municipal Act, 2001 provides for the passing of by-laws for the levying of interim rates of taxation;

AND WHEREAS sections 342 and 307 of the Municipal Act, 2001, provide the municipality with additional flexibility with respect to due dates and payment arrangements;

NOW THEREFORE the Municipal Council of The Corporation of the City of London enacts as follows:

1. Part 1 of By-law A-8, the Property and Business Tax Collection By-law, is hereby amended by deleting sections 1.8 in its entirety and by replacing it with the following new section 1.8:

“1.8 Interim Levy – calculation
For the year 2023 the interim levy for a property shall be calculated as 40.98% of the total amount of taxes for municipal and school purposes levied on the property for the previous year.”

2. This by-law comes into force on January 1, 2023

PASSED in Open Council on November 8, 2022

Ed Holder
Mayor

Michael Schulthess
City Clerk

First Reading –
Second Reading –
Third Reading –

Dear Corporate Services Committee,

Re: Complaint Regarding the Mis-Application of the Development Charges By-Law

In accordance with the City of London's Development Charges by-law Sct. 26, this letter is being submitted as a formal appeal and complaint under section 20 of the Development Charges Act.

This letter will appeal the DC Fees assessed to EVE Park Buildings A (permit #21-009953), B (permit #21-009956), C (permit #21-009959) and D (permit #21-009961), on the grounds that there was an error by the City in the application of the DC by-law.

First, we wish to acknowledge and thank Mr. Kyle Wilding and his team for their ongoing support with the various challenges we've faced in bringing this project to permit. The City of London employs many exceptional staff for whom we have utmost respect, and whom we truly have enjoyed working with.

For the benefit of the Committee, EVE Park is an 84-home development consisting of 4 stacked-townhome buildings which are nearly identical to one another and are being built in sequential (alphabetical) order. The first two of these (Phase 1) have just begun construction: building A first, then B is starting imminently. There is a webcam broadcasting our progress live at https://eveparklivestream.cpfx.ca/stream.html. The City has been helping us with this project for several years now, having approved our Zone Change request on Dec. 10, 2019, and our Development Agreement on Feb. 17, 2021, and of course there were many meetings and consultations prior to those approvals as well. It has been quite a journey to get this far! We have continued to work towards building permits over the past ~18 months, with many delays.

The City of London's e-permits website shows that our building permit applications were made and accepted (ie: deemed complete) on Apr. 20, 2021. We understood that this initiated the typical internal review processes wherein we were pleased to be supported by many professional and courteous staff across the City's various departments, who both provided technical reviews and process advice / guidance along the way. The City's website includes several useful documents as well, such as a DC rates brochure explaining the rules in place as of when we applied, which states:

> "*The DC is calculated the day a complete application is received and is frozen for a period of up to two years. If a building permit has not been issued within the two year frozen period, the DC rate will revert back to the rate in effect on the date the building permit is issued*" (https://london.ca/sites/default/files/2021-12/CofL_2021_DcRatesBrochureDigital_Web.pdf, pg. 1, green dialogue box on the top right).

Further, Sct. 4 of the DC By-law states that for development types under a Site Plan Application or Zoning By-Law Amendment, the DC is calculated at the day a complete application is received.

Based on these references and on advice we received repeatedly from City staff, our team was assured that our DC rate was fixed as of Apr. 20, 2021 (for all four of our buildings) and would not change until Apr. 2023. The same brochure later goes on to say that the DC fee is calculated and due for payment on the day the building permit is issued, but we were assured by City staff that the earlier clause (promising to freeze the DC fee amount for two years) would be applied to our project, and that the DC would only be recalculated if not paid within the two-year frozen period. We paid our permit application fees and submitted complete packages for all four buildings at that time simply to ensure that the DC rate would remain fixed, even though we were planning to build our buildings sequentially over a period of 18-24 construction months and did not truly need our permits for all four buildings at that time. City staff had encouraged us that this was a wise approach, and we were happy to comply.

We continued to work with city staff towards obtaining our building permits, and London experienced ongoing increases in application/construction activity, overwhelming City staff and resulting in many further delays. While the two-year DC freeze period would typically be more than adequate to get the project to permit and get the DC paid, COVID and other challenges have made it difficult for the City to keep up to typical work flows, and this exceptionally challenging two years has been punishingly difficult for everyone. We were in regular contact with various City staff, but our building permit was ultimately not approved until June 1, 2022 (>14 months after application). We had been advised by City staff on Dec. 19, 2021, that our Foundation Permit was ready for building A (#21-009953), but the permit itself was never issued, and we, as a new developer in the region, misunderstood and believed that our permit was issued and waiting for us to pick it up. At that point we had already experienced 36 weeks of delays in reviewing our applications and had missed the 2021 construction season, so we opted to wait out the winter (avoiding winter heating costs and complications with pouring concrete during freezing weather) and pursue construction in the spring of 2022. We were also confident that we had secured our DC rate when our application was deemed complete and we had paid our building permit fee, and that we did not need to pay the DC until we were ready to pick up the building permits. The DC amount was understood at that time to be approximately $485,000 per building, which clearly is a large enough sum that we did not wish to pay until we were ready to begin construction.

Additionally, our project team and the industry have all been very busy all the while, navigating lockdowns, supply chain disruptions, significant cost increases, and more. The delays we have experienced over the past year have been far from typical and have truly cost our project tens of millions of dollars: our 2019 construction budget has since nearly doubled (to about $70MM including soft costs, from closer to $40MM in 2019). We hold the City of London staff in the highest respect for their professionalism: they are truly a lovely team to work with. Yet the City has been responsible for delays in our project which caused us to miss the 2021 construction season, and inflation since that time means that the City's delays have directly resulted in significant cost increases to our project, so we believe it is only right and fair that the City should honour the DC rate set in 2021, and follow the language quoted above from the City's own website, promising that our DC fee would be frozen as of Apr. 20, 2021, for a period of two years. If the two year freeze period were to be calculated instead from the date when our Site Plan Application was submitted in 2019 , we would then ask the Committee to consider the exceptional nature of the intervening years since that time and the delays caused by the City's inability to keep up to work flow demands, and extend the freeze period by another year (to at least Dec. 2022, or preferably to Apr. 2023) to make up for the cost impacts which the City's delays have already imposed on our project.

This letter is submitted as a formal appeal to the Corporate Services Committee for your intervention, and we would humbly request that you direct that the Development Charges due and payable by EVE Park be re-assessed at the 2021 levels, for all four buildings which had submitted complete Building Permit applications, and that those DC fee amounts be fixed and honoured until Apr. 20, 2023. If we, EVE Park London LP, do not pay the DC by Apr. 20, 2023, then we will expect that the applicable rates would update to the rates then in force, and would ask no further consideration.

And finally, we wish to advise the Corporate Services Committee that we did in fact pay the DC fee for buildings A and B at the higher (2022) rate even though we do not agree with the assessment, because we could not afford a further delay to our construction schedule. We therefore ask the Committee to instruct that, after reassessing the DC amount payable, that the surplus amounts paid on our account be either refunded or be allocated to offset DC fees payable for our upcoming buildings C and D.

Please do not hesitate to contact me directly to discuss this further at your earliest convenience. I will expect to delegate to the Committee at your next earliest convenience to present this request formally. Thank you for your consideration.

Sincerely,

Derek Satnik, P.Eng., LEED® AP
Vice President of Technology
EVE Park London LP
226-339-0943 | dsatnik@s2etech.com

cc. Chief Building Official, City of London
Ashley Hammerbacher, Project Leader, EVE Park London LP
Francisco Wulff, Director of Finance, EVE Park London LP

Report to Planning & Environment Committee

To:	**Chair and Members** **Corporate Services Committee**
From:	**Scott Mathers, MPA, P.Eng** **Deputy City Manager, Planning and Economic Development**
Subject:	**Development Charge Complaint** **2050 Linkway Boulevard**
Date:	**October 31, 2022**

Recommendation

That, on the recommendation of the Deputy City Manager, Planning and Economic Development, the Development Charges complaint submitted by Mr. Derek Satnik, Vice President of Technology EVE Park London LP, related to development at the property situated at 2050 Linkway Blvd., **BE DISMISSED.**

Executive Summary

A complaint letter from Derek Satnik, Vice President of Technology EVE Park London LP, with respect to Development Charges (DC) to be paid for the residential development of 2050 Linkway Blvd. (hereinafter referred to as 'complaint'), was received on August 22, 2022, and is included in Appendix 'A' of this report. The complaint pertains to incorrect DC rates used for the calculation of the charges. Staff has reviewed the complaint and are of the opinion that no errors were made in the calculation of the Development Charges due.

Linkage to the Corporate Strategic Plan

Growing our Economy

- London is a leader in Ontario for attracting new jobs and investments.

Leading in Public Service

- The City of London is trusted, open, and accountable in service of our community.
- Improve public accountability and transparency in decision making.

Analysis

1.0 Background Information

A complaint letter from Derek Satnik with respect to Development Charges to be paid for the development of 2050 Linkway Blvd.

The aforementioned letter makes mention of various reasons as to why the requested Development Charges amount should be adjusted to reflect the 2021 Development Charges rates. The following reasons have been listed:

1. City of London's website provides documents relating to Industrial Lands - Community Improvement Plans Financial Incentives
2. Section 4 of the Development Charges By-law states "Development types under a Site Plan Application or Zoning By-law Amendment, the DC is calculated at the day a complete application is received.
3. City staff promised to freeze the DC fee rate for two years.
4. Overwhelmed Building Department staff were delayed in issuing the building permit resulting in missing the frozen period.

For this development, a total of four building permit applications were received.

2021 009953 – 2050 Linkway Blvd. – Block A
2021 009956 – 2050 Linkway Blvd. – Block B
2021 009959 – 2050 Linkway Blvd. – Block C
2021 009961 – 2050 Linkway Blvd. – Block D

A site plan depicting the proposed development is provided in Appendix ‘B’. The drawings for Block A were reviewed by staff and a permit was ready to be issued allowing for foundation work to commence on September 9, 2021, at which time the assessed Development Charges of $485,000.00 were to be paid.

Block B’s permit was ready to be issued on May 30, 2022, at which time the assessed Development Charges of $541,380.00 were to be paid.

The remaining two permit applications are under review.

2.0 Discussion and Considerations

Section 2 of the Development Charges By-law C.P.-1551-227 (DC By-law) states:

> ***2. Owner to Pay Development Charge***
>
> *The Owner of any land in the City of London who develops or redevelops the land, or any building or structure thereon shall pay Development Charges (DC) to the City in accordance with the terms of this by-law.*

Building permit applications were submitted for the construction of a stacked townhouse block with 21 units at 2050 Linkway Blvd. As this is considered development, Development Charges are due based on the provisions of the DC By-law and the Development Charges Act.

Bill 108, More Homes, More Choice Act, 2019, and Bill 197, COVID-19 Economic Recovery Act, 2020, which came into force on January 1, 2020, and September 18, 2020, respectively (the “Bills”), introduced changes to the collection of development charges. Notably, the legislation introduced a framework to calculate and “freeze” a development charge when a development is subject to a related site plan or zoning by-law amendment application. Prior to these introductions, charges were simply calculated and due at the time of issuance of building permit.

The Bills provided for transition to this new approach, that is now included in section 26.2 (6) of the *Development Charges Act*:

> ***Transition, date of application***
>
> *Clauses (1) (a) and (b) do not apply in the case of an application made before the day subsection 8 (1) of Schedule 3 to the More Homes, More Choice Act, 2019 comes into force. 2019, c. 9, Sched. 3, s. 8 (1).*

The development charges paid by the applicant were calculated at the date of building permit issuance in accordance with section 26(1) of the *Development Charges Act* for the following reasons:

(a) the legislation that provided a framework to calculate and “freeze” a development charge (Bill 108, *More Homes, More Choice Act, 2019)* came into force was January 1, 2020;

(b) the related site plan application was made in August, 2019 (before January 1, 2020);

(c) the related zoning by-law amendment application was made in December, 2019 (before January 1, 2020); and

(d) the day that subsection 8(1) of Schedule 3 to the More Homes, More Choice Act, 2019 came into force was January 1, 2020.

In accordance with section 4 of the City of London's DC By-law:

> ***4. Calculation of Development Charge***
>
> *For all development types, unless application is made under a Site Plan or a Zoning By-law Amendment, a Development Charge under section 2 shall be calculated on the date a building permit is issued under the* Building Code Act.
>
> *For development types under a Site Plan Application or a Zoning By-law Amendment, the Development Charge is calculated at the day a Complete Application is received. If a building permit has not been issued within the Frozen Period, the Development Charge shall be calculated on the date a building permit is issued under the* Building Code Act.

Given that the Act transitions applications made prior to January 1, 2020, section 4 is to be read as if no application for site plan or zoning by-law amendment has been made. As such, "a development charge under section 2 shall be calculated on the date a building permit is issued under the *Building Code Act."*

Building Permit "Issuance"

The date that a building permit is issued is the date on which it is picked up by the applicant/ agent. The act of picking up the permit includes paying all fees that are due on that date. Once the Chief Building Official has approved the permit, the applicant/ agent is advised that the permit is ready for issuance, however, it is not issued until all fees are paid.

On September 9, 2021, the Building Division sent an invoice to the permit applicant, indicating readiness to issue a permit allowing for foundation work to commence for Building A. The invoice depicted a total DC amount of $485,000, based on the 2021 DC rates in effect at the time. The applicant did not pick up the permit at this time; therefore, the permit was not issued.

The permit allowing the foundation work and above-grade work for Building A was issued on June 15, 2022. In accordance with section 4 of the DC By-law, the DC charges were recalculated using the 2022 rates.

The permit for Building B was issued on July 7, 2022 allowing the foundation and above-grade work. In accordance with section 4 of the DC By-law, the DC charges were calculated using the 2022 DC rate.

The Ontario Building Code prescribes timeframes whereby the Chief Building Official shall process and issue a building permit. This implies that the permit application has been deemed as complete, applicable law has been complied with, and that any outstanding deficiency items found during the review of the application have been adequately addressed. Any outstanding fees must also have been paid as well. Considering Site Plan Approval (part of applicable law) was pending, the permit applications were not considered as being complete. As such, the provincially prescribed timeframes per the Ontario Building Code for the Building Division to review, process, and issue the building permit were not applicable. As such, item no.4 of the complaint letter, pertaining to overwhelmed staff contributing to delays, is not valid.

Details related to each of the four building permit applications are provided below.

Note: the 2021 and 2022 DC payable amounts below are provided simply for comparison purposes.

Building A - Permit application 21-009-953
- Permit application received on April 01, 2021
- 21 Unit Townhouse Block
- DC payable using the 2021 rates: $23,100 x 21 = $485,100
- DC payable using the 2022 rates: $25,780 x 21 = $541,380
- Status: A permit allowing for foundation was ready to be issued on September 9, 2021; the invoice was provided to the applicant. A permit was ultimately not issued until June 15, 2022 after the balance of the fees owing were paid in full.

Building B - Permit application 21-009-956
- Permit application received on April 01, 2021
- 21 Unit Townhouse Block
- DC payable using the 2021 rates: $23,100 x 21 = $485,100
- DC payable using the 2022 rates: $25,780 x 21 = $541,380
- Status: A permit allowing for foundation and shell work was ready to be issued on June 23, 2021, the invoice was provided to the applicant. The permit was ultimately not issued until July 07, 2022 after the balance of the fees owing were paid in full.

Building C - Permit application 21-009-959
- 21 Unit Townhouse Block
- Permit application received on April 01, 2021
- DC payable using the 2021 rates: $23,100 x 21 = $485,100
- DC payable using the 2022 rates: $25,780 x 21 = $541,380
- Status: Permit not issued and application is under review

Building D - Permit application 21-009-961
- 21 Unit Townhouse Block
- Permit application received on April 01, 2021
- DC payable using the 2021 rates: $23,100 x 21 = $485,100
- DC payable using the 2022 rates: $25,780 x 21 = $541,380
- Status: Permit not issued and application is under review

Development Charges By-law C.P.-1551-227 and Grounds for Complaints

Part IV, s.27 of the Development Charges bylaw provides the following grounds for a complaint:

> ***7. Grounds of Complaint***
>
> *An Owner may complain in writing to the Corporate Services Committee (with a copy provided to the Chief Building Official) upon such grounds as are established by and in accordance with the Development Charges Act in respect of the Development Charge imposed by the City:*
>
> 1. *that the amount of the Development Charge was incorrectly determined;*
> 2. *whether a credit is available to be used against the Development Charge, or the amount of the credit or the service with respect to which the credit was given, was incorrectly determined; or*
> 3. *that there was an error in the application of this By-law.*

In reviewing the three grounds above, it is staff’s position that the amount of the DC was correctly determined. Regarding item 1 noted above, the DC rate used was that in effect at the time the permit was ready to be issued and was calculated in accordance with section 4 of the DC By-law and the Development Charges Act. Regarding item 2, there was no credit due against the Development Charges. Staff are also of the opinion that there was no error in the application of the DC By-law itself addressing item 3.

Staff maintains that the DC amount was properly determined under the By-law in force and effect at the time when the building permit was ready to be issued and therefore recommends dismissal of the complaint.

Conclusion

The letter submitted by Mr. Derek Satnik, Vice President of Technology EVE Park London LP suggests that the DC amounts due, should be based on the 2021 DC rates. Indeed, staff used the 2021 rates when the permit allowing for foundation work for Building A was ready to be issued. The DC amount was not paid at that time. Subsequent to additional reviews and processing, whereby foundation and above-grade work could commence, yielded a permit issuance date of June 15, 2022. As such, in accordance with section 4 of the DC By-law, the DC rates were to be those in effect in 2022 (the time the permit is issued).

It is the Chief Building Official's opinion that the Development Charges were correctly determined, and that the complaint filed by Mr. Satnik should be dismissed.

The assistance provided by Aynsley Anderson, Solicitor II and Kyle Wilding, Manager Plans Examination, is acknowledged.

Prepared by: **Peter Kokkoros, P.Eng**
Director, Building and Chief Building Official
Planning and Economic Development

Submitted &
Recommended by: **Scott Mathers, MPA, P.Eng**
Deputy City Manager, Planning and Economic Development

APPENDIX "A"

EVE PARK
LONDON, ON

Dear Corporate Services Committee,

Re: Complaint Regarding the Mis-Application of the Development Charges By-Law

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St. Jacobs, ON N0B 2N0, Canada

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Please do not hesitate to contact me directly to discuss this further at your earliest convenience. I will expect to delegate to the Committee at your next earliest convenience to present this request formally. Thank you for your consideration.

Sincerely,

Derek Satnik, P.Eng., LEED® AP
Vice President of Technology
EVE Park London LP
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cc. Chief Building Official, City of London
Ashley Hammerbacher, Project Leader, EVE Park London LP
Francisco Wulff, Director of Finance, EVE Park London LP

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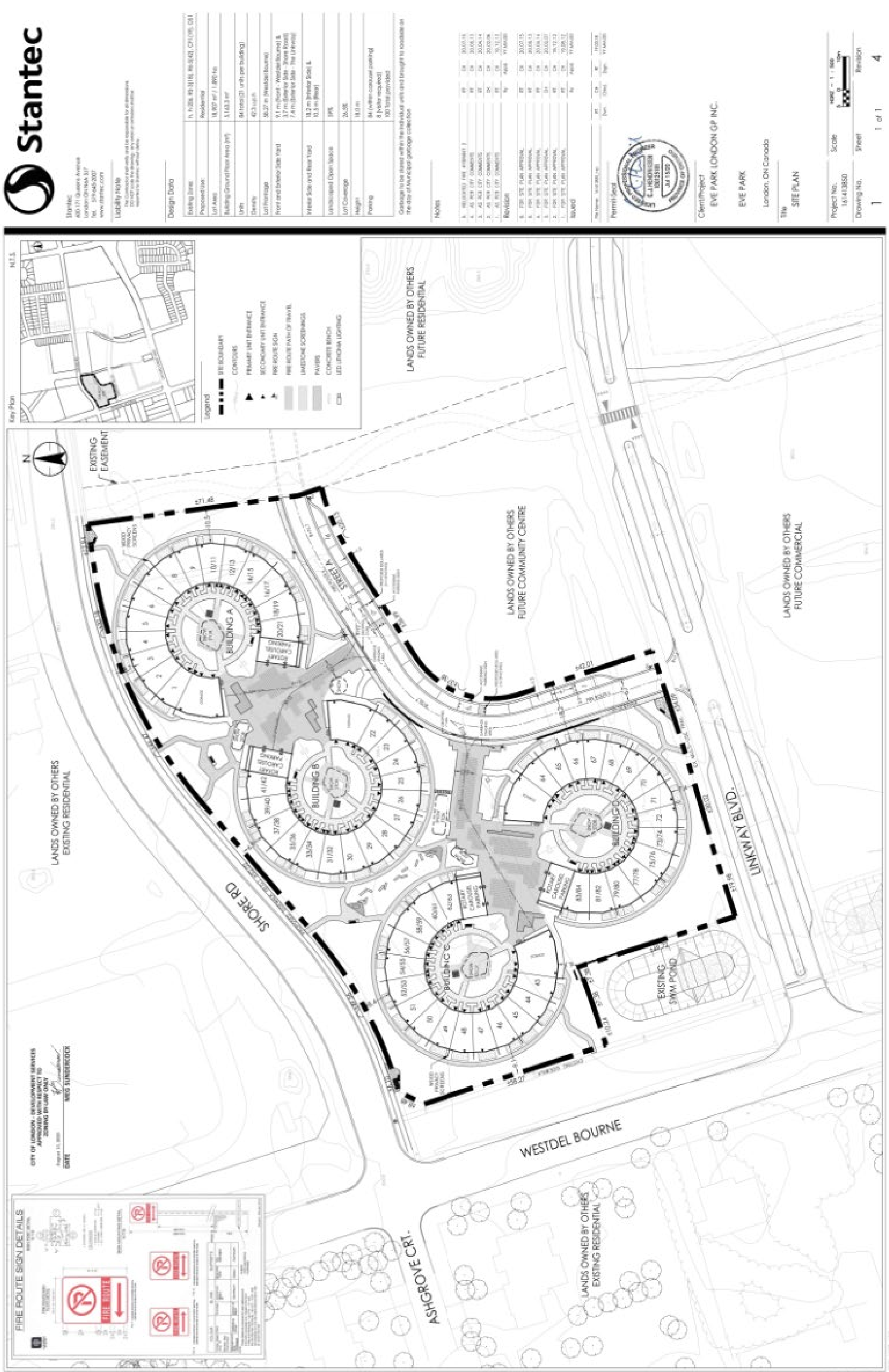
APPENDIX 'B'

M


Stantec
SITE PLAN
EVE PARK LONDON GP INC.
EVE PARK
London, ON Canada
BUILDING A
BUILDING B
BUILDING C
BUILDING D
LANDS OWNED BY OTHERS FUTURE RESIDENTIAL
LANDS OWNED BY OTHERS FUTURE COMMUNITY CENTRE
LANDS OWNED BY OTHERS FUTURE COMMERCIAL
LANDS OWNED BY OTHERS EXISTING RESIDENTIAL
EXISTING SWM POND
EXISTING EASEMENT
LINKWAY BLVD.
SHORE RD
WESTDEL BOURNE
ASHGROVE CRT.
FIRE ROUTE SIGN DETAILS