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TO:	CHAIR AND MEMBERS PLANNING AND ENVIRONMENT COMMITTEE
FROM:	G. KOTSIFAS, P.ENG. MANAGING DIRECTOR, DEVELOPMENT & COMPLIANCE SERVICES AND CHIEF BUILDING OFFICIAL
SUBJECT:	NOTICE OF APPEAL TO THE ONTARIO MUNICIPAL BOARD SIFTON PROPERTIES LIMITED 1311, 1363 AND 1451 WHARNCLIFFE ROAD SOUTH MEETING ON SEPTEMBER 24, 2013

RECOMMENDATION

That, on the recommendation of the Manager of Development Services and Planning Liaison, in response to letters of appeal to the Ontario Municipal Board, dated July 26, 2013 submitted by Stikeman Elliott on behalf of York Developments, and dated July 25, 2103 submitted by Wood Bull on behalf of Greenhills SC Ltd., relating to 1311, 1363 and 1451 Wharncliffe Road South:

- a) the Ontario Municipal Board **BE ADVISED** that the Municipal Council has reviewed its decision relating to this mater and sees no reason to alter it; and
- b) the City Solicitor **BE DIRECTED** to represent Municipal Council's interests in this matter and retain expert witnesses in support of Council's position.

PREVIOUS REPORTS PERTINENT TO THIS MATTER

- May 6, 2009 - Report to Planning Committee meeting on subdivision application from Decade Corporation (39T-05509) for property located at 1311 Wharncliffe Rd. South.
- May 6, 2009 - Report to Planning Committee on Andover Trails subdivision application from Sifton Properties Limited (39T-07510) for property located at 1451 Wharncliffe Rd. South
- September 14, 2009 - Report to Planning Committee on subdivision application from Sifton Properties Limited (39T-08508) for property located at 149, 153 and 187 Southdale Rd. West.
- June 11, 2011 – Report to Built and Natural Environment Committee meeting on Zoning Amendment application (Z-7850) for property located at 1311 and 1451 Wharncliffe Road South; 149, 153 and 187 Wharncliffe Road South.
- November 26, 2012 – Report to Planning and Environment Committee recommending special provisions for the subdivision agreement.
- January 5, 2013 – Report to Planning and Environment Committee recommending a one (1) year extension to the lapse date in the event that additional time is required to resolve any outstanding issues and proceed to final plan approval.
- March 19, 2013 – Report to Planning and Environment Committee on the current application from Sifton Properties Limited for lands located at 1311, 1363 and 1451 Wharncliffe Road South (OZ-8087).
- June 20, 2013 – Report to Planning and Environment Committee in response to a March 26, 2013 Municipal Council resolution which provided recommendations and an evaluation of the application within the context of the policy framework and land use designations of the Southwest Area Plan adopted by Council on November 20, 2013.

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PURPOSE AND EFFECT OF RECOMMENDED ACTION

The purpose and effect of the recommended action is to direct the City Solicitor to represent Council’s interest in this matter before the Ontario Municipal Board.

BACKGROUND

On March 19th, 2013 a report was brought to the Planning and Environment Committee dealing with Sifton Properties application relating to the redesignation and rezoning of properties at 1311, 1363 and 1451 Wharncliffe Road South. At that time, staff’s analysis of the application was based on the planning policies and designations in place at the time the application was received - prior to adoption of the Southwest Area Plan. Council referred the application back for further consideration.

The application was reconsidered, in light of the policies in the Southwest Area Plan, and on June 20th, 2012, a report was brought forward to the Planning and Environment Committee. The re-evaluation concluded that a change in designation for a portion of the lands from “Auto-Oriented Commercial Corridor” to “Community Commercial Node” is supported by the Official Plan policies in effect at the time of the application, and is also consistent with the intent of the Southwest Area Plan. The proposed change for a portion of the lands from “Multi-Family, High Density Residential” to “Community Commercial Node” is not supported within the context of the Southwest Area Plan. In order to enact staffs’ revised recommendation, it was necessary to request the Ontario Municipal Board to amend the land use designations in Official Plan Amendment 541.

Planning and Environment Committee did not support staffs’ recommendation to refuse the Official Plan amendment relating to the High Density Residential lands. Instead, Council resolved to amend the Official Plan and Zoning By-law to provide for an expanded commercial area and a wider range of commercial uses. The rationale for was that the subject site, with a nodal configuration, frontage on two arterial roads and transit service, is an appropriate location for the Community Commercial Node designation; the location is well suited to accommodate commercial uses that will provide for a wide range of goods and services; and, the proposed commercial uses are appropriate for this site in terms of location, function, form, scale and potential impacts; and that municipal infrastructure is readily available. It was also noted that multi-family high density residential uses may be permitted through a Zoning By-law amendment within the Community Commercial Node designation, subject to proper integration with the commercial uses.

Two appeals were received in response to Councils’ Official Plan and Zoning By-law amendments, as described below:

York Developments Appeal

The basis of the York Developments appeal relates to concerns regarding removal of the Multi-Family, High Density Residential designation and Auto-Oriented Commercial Corridor designation, and replacing it with a Community Commercial Node designation. It is York Developments’ position that this high density designation should be retained to support the function and viability of the surrounding uses. It is also their position that Wharncliffe Road South is an auto-oriented commercial corridor and any proposed development should remain consistent with the planned function of this corridor. They also note that fronting commercial uses along Bradley Avenue rather than on Wharncliffe Road South will change the planned function of the Site.

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Greenhills SC Ltd Appeal

The basis of the Greenhills SC Ltd. appeal relates to concerns regarding the redesignation and rezoning of part of the lands from Auto-Oriented Commercial Corridor to Community Commercial Node. It is Greenhills SC Ltd. position that this is a different planned function for this portion of the lands and is inconsistent with Official Plan Amendment 541, which adopts the Secondary Plan for Southwest London. The Official Plan and Zoning By-law permits 30,000m2 of similar retail uses as those permitted in the Wonderland Road Enterprise Corridor. The Southwest Area Plan allocates a maximum amount commercial space, and a reallocation of 30,000m2 to the Sifton lands is contrary to the area plan. It is also their position that the amendments are inconsistent with the recommendation of Development Services Staff.

Municipal Council’s position is not entirely aligned with the recommendation of staff and no new information has been brought forward which would provide a basis for reconsideration of the Municipal Council position. Accordingly, it is recommended that the City Solicitor be directed to represent Municipal Council’s interests in this matter and retain expert witnesses in support of Council’s position

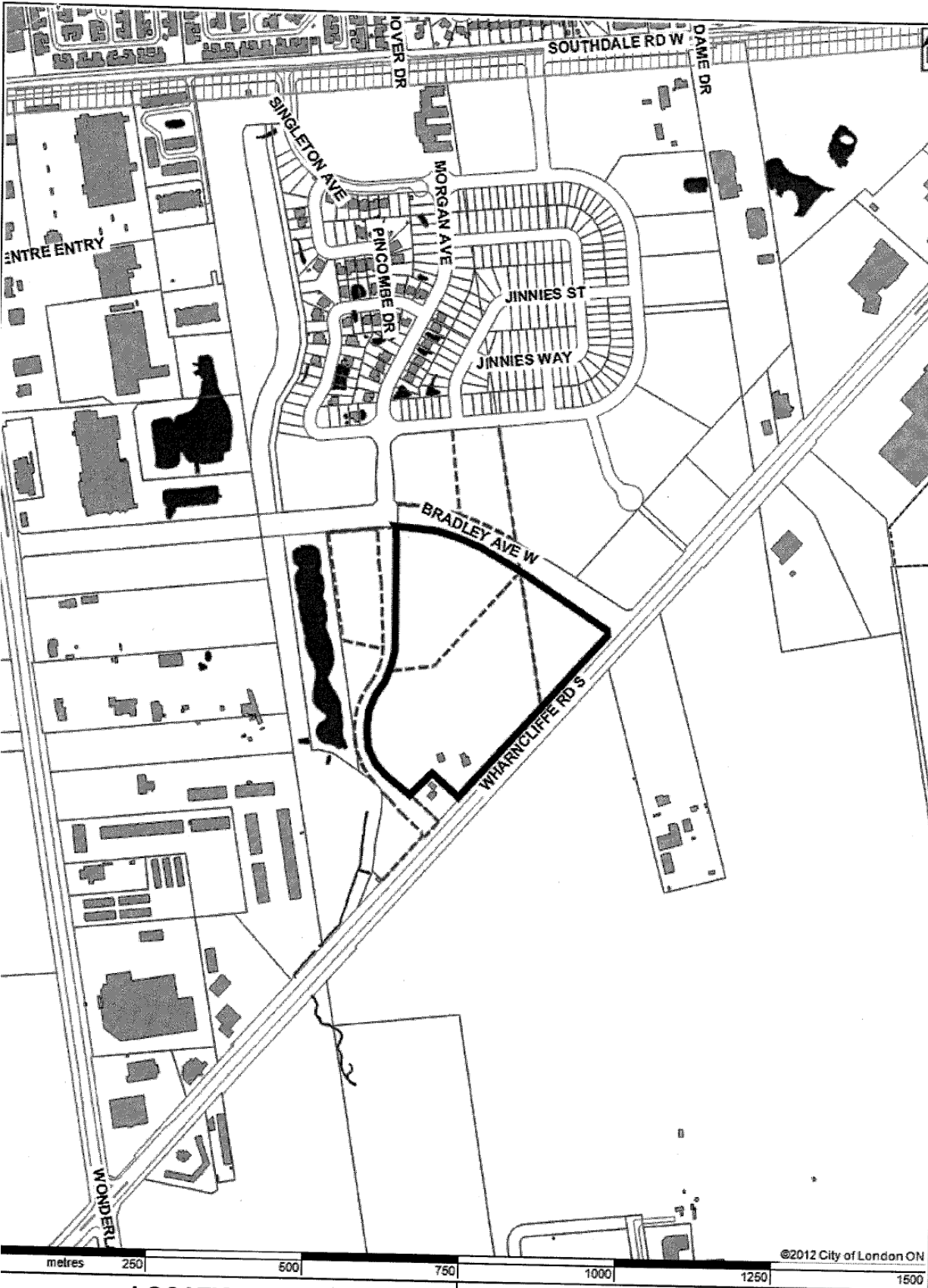
The letters of appeal are attached in Appendix “A” and “B”. The OMB hearing has not yet been scheduled.

RECOMMENDED BY:	REVIEWED BY:
ALANNA RILEY, MCIP, RPP SENIOR PLANNER-DEVELOPMENT PLANNING	ALLISTER MACLEAN MANAGER - DEVELOPMENT PLANNING
REVIEWED BY:	SUBMITTED BY:
TERRY GRAWAY MANAGER-DEVELOPMENT SERVICES AND PLANNING LIAISON	G. KOTSIFAS MANAGING DIRECTOR, DEVELOPMENT & COMPLIANCE SERVICES AND CHIEF BUILDING OFFICIAL

September 16, 2013
AR/ar
“Attach”

..DEVELOPMENT SERVICES\4 - Subdivisions\2012\OZ-8087 \OMB report to PEC(Final).doc

CC: Janice Page, Legal
Dennis Wood, Wood Bull LLP
James Harbell, Stikeman Elliott



LOCATION MAP

LEGEND

ocation: 1451, 1311 & 1363 Wharncliffe Rd. South
pplicant: Sifton Properties Limited
ile No.: OZ-8087
lanner: T. Grawey

ate: 2012-08-18
cale: 1:7500

- Subject Site
- Parks
- Assessment Parcels
- Buildings
- Address Numbers



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Appendix “A”
Letter of Appeal from Stikeman Elliott on behalf of York Developments

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2013-LO1

STIKEMAN ELLIOTT

Stikeman Elliott LLP Barristers & Solicitors

5300 Commerce Court West, 199 Bay Street, Toronto, Canada M5L 1B9
Tel: (416) 869-5500 Fax: (416) 947-0866 www.stikeman.com

James Harbell
Direct: (416) 869-5690
E-mail: jharbell@stikeman.com

BY COURIER

July 26, 2013
File No.: 129002.1002

City of London
300 Dufferin Avenue
P.O. Box 5035
London, ON N6A 4L9

Attention: Catherine Saunders, City Clerk

Dear Ms. Saunders:

City Clerk No. 2406
Subject Appeal - OPA 554 -
02-8087 - York Dev.
- chq. end.

JUL 29 2013

Ref. J. Wethercott ✓
C.C.

Re: Notice of Appeal of Official Plan Amendment No. 554 and Zoning By-law
No. Z.-1-132211
1311, 1363 and 1451 Wharncliffe Road South, City of London (the "Site")

original d

We are counsel to 1279059 Ontario Inc. (known as York Developments and referred to herein as the "Appellant"), the owner of the lands municipally known as 3313-3405 Wonderland Road South and 1789 Wharncliffe Road South, City of London. On behalf of the Appellant, we hereby appeal Official Plan Amendment No. 554 and Zoning By-law No. Z.-1-132211, as adopted by City Council on June 25, 2013.

We submitted letters, dated March the 14, 2013 and March 15, 2013, advising the Planning and Environment Committee of our concerns with respect to the applications for OPA 554 and By-law Z.-1-132211. The Appellant continues to have concerns with OPA 554 and By-law Z.-1-132211, including the following:

- OPA 554 replaces the "Multi-Family, High Density Residential" designation on the Site with a "Community Commercial Node" designation to permit a range of community-scale retail, service and office uses. It is important to maintain a supply of residential uses in close proximity to transit, employment and commercial uses. By removing higher density residential uses, OPA 554 reduces housing choice in the area. The "Multi-Family, High Density Residential" designation should be retained to support the function and viability of the surrounding employment and commercial uses.
- OPA 554 replaces the "Auto-Oriented Commercial Corridor" designation on the Site with a "Community Commercial Node" designation, which does not conform to the commercial structure (ie, nodes and corridors)

TORONTO
MONTRÉAL
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VANCOUVER
NEW YORK
LONDON
SYDNEY

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STIKEMAN ELLIOTT

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established in the Official Plan. Wharncliffe Road South is an auto-oriented commercial corridor and any proposed development on the Site should remain consistent with the planned function of this corridor.

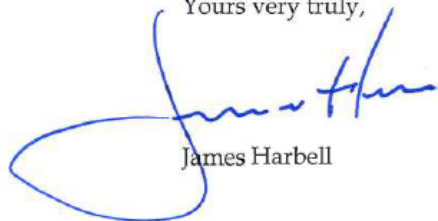
- The proposed development on the Site will orientate commercial uses towards the interior of the of the neighbourhood rather than towards the perimeter. By fronting commercial uses along Bradley Avenue rather than on Wharncliffe Road South, the proposal will change the planned function of the Site.

In light of the foregoing, we are hereby appealing OPA 554 and By-law Z.-1-132211. As well, through this appeal, we expressly reserve the right to submit or raise such other concerns, objections or issues as may become apparent whether related to the above specific concerns or otherwise.

For each of the two appeals, we enclose a completed Ontario Municipal Board Appellant Form (A1) and a cheque in the amount of \$125.00 payable to the Minister of Finance which represents the required filing fee.

Should you have any questions with respect to the matters discussed herein, kindly contact the undersigned.

Yours very truly,



James Harbell

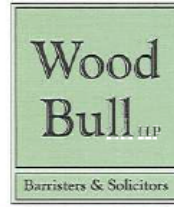
JWH/mc
Enclosures

cc: Ali Soufan, York Developments
Paolo Rovazzi, North American Development Group
Simon Smith, North American Development Group

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Appendix “B”
Letter of Appeal from Wood Bull LLP on behalf of Greenhills SC Ltd.

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MUNICIPAL, PLANNING & DEVELOPMENT LAW

25 July 2013

Sent via courier and email to csaunders@london.ca

City Clerk
Attention: Catharine Saunders
 City of London
 300 Dufferin Avenue
 3rd Floor
 London, ON N6B 1Z2

City Clerk No. 231de
 Subject: APPEAL - OZ-8087
- OPA 554
 2 cheques enclosed.
 JUL 25 2013

Ref. J. Neff-Aerott ✓
 C.C. _____ original Hard copy
 Ref to: JN SCANNED (10)

Dear Ms. Saunders:

Re: Applications by Sifton Properties Limited, Municipal File OZ-8087
Notice of Appeal pursuant to section 17 and 34 of the Planning Act - Official Plan
Amendment No. 554 and Zoning By-law Z.-1-132211
In regard to 1311, 1363 and 1451 Wharnccliffe Road (the "Sifton Lands")
City of London

We are solicitors for Greenhills SC Ltd., the owner of property located at the south-east corner of Wonderland Road and Exeter Road, within the London Southwest Planning Area.

On behalf of our clients we have provided written submissions on this matter dated March 19, 2013 and June 20, 2013. We also attended the March 19, 2013 Planning and Environment Committee and made oral submissions.

On behalf of our client, please accept this letter and the enclosed materials as its appeal of Official Plan Amendment No. 554 ("OPA 554") and Zoning By-law Z.-1-132211 (the "Zoning By-law"). A summary of the reasons for appeal are found below.

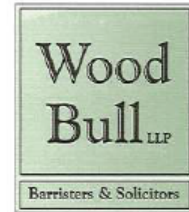
Reasons for Appeal

The reasons for our clients' appeal are outlined in our oral and written submissions made to the City dated March 19 2013 and June 20, 2013, a copy of the letters are attached hereto for ease of reference. A summary of our client's reasons appears below.

1. OPA 554 and the Zoning By-law redesignate and rezone part of the Sifton Lands from Auto-Oriented Commercial Corridor to Community Commercial Node which represents a markedly different planned function for this portion of the Sifton Lands and this re-designation and rezoning is inconsistent with the newly adopted Official Plan Amendment 541 which adopts the Secondary Plan for Southwest London (i.e. the London Southwest Area Plan, "SWAP").

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2. OPA 554 and the Zoning By-law permits 30,000 m² of the same range of retail uses as those to be permitted in the Wonderland Road Community Enterprise Corridor. Given that the London Southwest Area Plan places a maximum allocation of commercial space, the effect of OPA 541 and the Zoning Bylaw is in effect, a reallocation of 30,000 m² of "Wonderland Corridor"-type retail space to the Sifton Lands and this is contrary to the intention of the SWAP.
3. OPA 554 and the Zoning By-law are inconsistent with the recommendations of staff in regard to the geographic area to be redesignated (and rezoned) and the amount of commercial space.
4. Such other reasons as counsel may advise upon further consideration.

Enclosures

In support of this appeal we enclose the following:

- two (2) completed Appellant Forms (A1) - one for each of the adoption of the Official Plan Amendment and passing of the Zoning By-Law;
- two (2) cheques in the amount of \$125.00 each made payable to the Minister of Finance, Province of Ontario representing the appeal filing fees.

We respectfully request a copy of the record that will be submitted to the Board.

Yours very truly,

Wood Bull LLP

Dennis H. Wood

DHW