

Agenda Item #	Page #

File No.: OZ-8114
Planner: C. Smith

TO:	CHAIR AND MEMBERS PLANNING & ENVIRONMENT COMMITTEE
FROM:	JOHN M. FLEMING MANAGING DIRECTOR, PLANNING AND CITY PLANNER
SUBJECT:	APPLICATION BY: FINCORE GROUP 56 - 82 WELLINGTON ST, 283 - 323 SOUTH STREET AND 69 - 77 WATERLOO STREET NOTICE OF APPEAL TO THE ONTARIO MUNICIPAL BOARD MEETING ON NOVEMBER 12, 2013

RECOMMENDATION

That, on the recommendation of the Managing Director, Planning and City Planner, the following action be taken in response to the letters of appeal to the Ontario Municipal Board, dated July 26 and July 29, 2013 submitted by Jeffery Brick on behalf of Upper Thames River Conservation Authority and submitted by Fred Tranquilli on behalf of Stan Worbel, Ann Worbel, Ed Dziadura and Peter Dziadura, relating to the Official Plan and Zoning By-law application No. OZ-8114 concerning, 56 - 82 Wellington St, 283 - 323 South Street and 69 - 77 Waterloo Street, the Ontario Municipal Board **BE ADVISED** that the Municipal Council has reviewed its decision relating to this matter and sees no reason to alter it.

PREVIOUS REPORTS PERTINENT TO THIS MATTER
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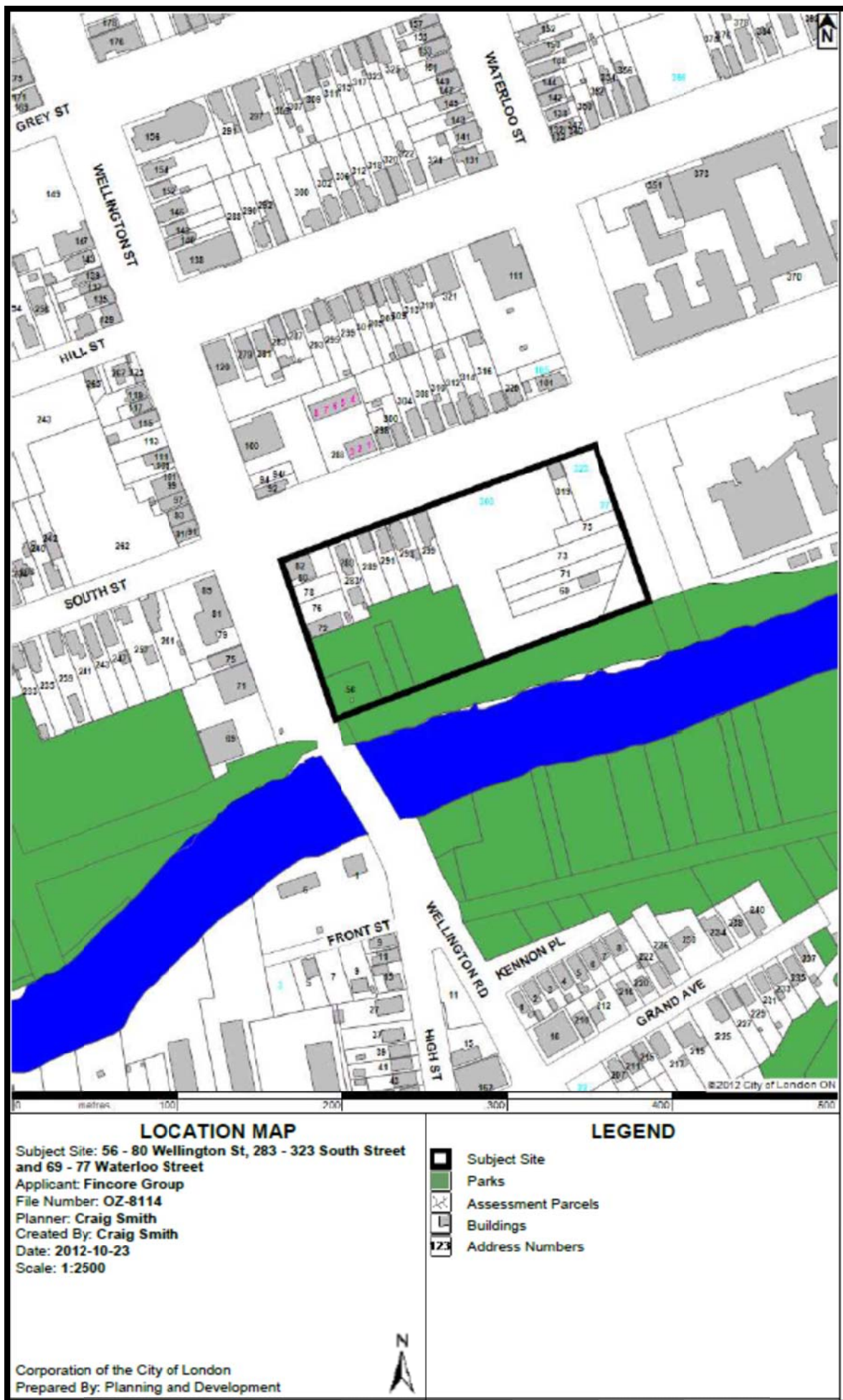
February 26, 2013: Planning and Environment Committee- Proposed Official Plan and Zoning By-law amendment (referred back to staff at the applicant's request).

June 18, 2013: Referred to the June 20, 2013 meeting of the Planning and Environment Committee for further consideration; it being noted that the Civic Administration is to investigate and report back on the possibility of creating two amendments to the Zoning By-law Z-1 for each of Phase 1 and Phase 2 of the proposed development.

June 20, 2013: Planning and Environment Committee- Proposed separate Official Plan and Zoning By-law amendments for Phase 1 and Phase 2 of the proposed development. Deferred to June 24, 2013 Special Meeting Planning and Environment Committee.

June 24, 2013: Special Planning and Environment Committee- On the direction of the Municipal Council the Official Plan and Zoning By-law be amended to allowed for Phase 1 and Phase 2 of the proposed development. Zoning amendment Z.-1-132208 and Z.-1-132209 have been appealed by the Upper Thames River Conservation Authority.

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PURPOSE AND EFFECT OF RECOMMENDED ACTION

The recommended action would advise the Ontario Municipal Board that Municipal Council is in agreement with its previous decision of June 25, 2013 to:

1. amend Zoning By-law No. Z.-1 to change the zoning applicable to the lands located at 56-82 Wellington Street and 283-299 South Street **FROM** a Business District Commercial Special Provision/ Neighbourhood Facility (BDC (6)/NF1) Zone, which permits a large range of commercial uses, churches and residential uses, a Residential R9 (R9-3*H22) Zone, which permits apartment buildings with a maximum height of 22m and a Holding Residential R7/Residential R9/Regional Facility (h-5*R7*D150*H30/R9-7*H30/RF) Zone, which permits retirement homes, continuum of care facilities and apartment buildings with a maximum height of 30 metres and a maximum density of 150 units per hectare **TO** an Open Space (OS2) Zone, to allow for conservation lands and public parks and a Holding Business District Commercial Special Provision/ Bonus (h-2*h-5*h-35*h-55*h-89*h-(*)h-(**)*BDC(□)*B-(*) Zone, which permits medical/dental office, clinics, a wide range of commercial uses, apartment buildings, nursing homes, lodging houses, offices, an Independent Health Facility on the second floor or above with a maximum gross floor area of 2000m² and a maximum height of 12m, with a bonus zone to facilitate a development design that is consistent with the text and illustrations, appended to the staff report dated June 24, 2013 which includes a 26-storey (94m tall) mixed use building on the southeast corner of Wellington Street and South Street with 19-storeys of residential apartment use; a 6-storey, 4,650m² gross floor area medical/dental clinic and independent health facility use; and, 929m² of ground floor commercial retail which shall be implemented through a development agreement in return for the provision of the following services, facilities and matters:
 - underground parking spaces;
 - placement of the building at the corner of Wellington and South Streets, with the design at its skyline to provide visual signals that both define and distinguish the Gateway area, and building facades using a composition of high quality materials including glass, metal panel, and stone veneer in proportions that, with minor variations at the City's discretion, match the elevations appended to the staff report dated June 24, 2013 so the architecture of the building itself creates the Gateway;
 - utilization of a non-residential podium base with multiple step-backs, and above it a residential point tower, to have regard for the impact of the proposed development on year-round sunlight conditions on adjacent properties and streets and to ensure the form and design of the new development complements the river valley and parklands located adjacent to the site;
 - orientation of the primary building and unit entrances into the ground floor commercial spaces so that they face and open onto the Wellington Street frontage in order to provide for the enhancement of the pedestrian environment;
 - a green roof atop the building podium portions to support innovative and environmentally sensitive development;
 - two publicly accessible pedestrian connections through the site, one from Wellington Street and one from South Street to the public open space bordering the Thames River to minimize the obstruction of views of natural features and to provide for improved access to riverside public open space supplementary to any parkland dedication requirements; and,
 - landscaping enhancements including financial contribution therefor, that are above City standards, of the abutting South Street and Wellington Street road allowances, to achieve high quality landscaping and the creation of an attractive street edge at this strategic Gateway location, to provide for Green Streets as detailed in the SoHo Community Improvement Plan, for suitable locations to accommodate the planting of

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street trees, and to encourage aesthetically attractive residential developments through the enhanced provision of landscaped open space;

and a Holding Residential R5 /Residential R7 /Residential R9/Bonus (h-2 *h-5*h-35*h-55*h-89*h-(*)*h-(**)* R5-7/R7*D150*H22/R9-7*H22*B(**)) Zone, which permits apartments, senior apartments, nursing homes, townhouses, stacked townhouses to a maximum height of 22m and maximum density of 150 units per hectare with a bonus zone to facilitate a development design that is consistent with the text and illustrations as appended to the staff report dated June 24, 2013 which includes a 26-storey (94m tall) mixed use building on the southeast corner of Wellington Street and South Street with 19-storeys of residential apartment use; a 6-storey, 4,650m2 gross floor area of medical/dental clinic and independent health facility use; and, 929m2 of ground floor commercial retail which shall be implemented through a development agreement in return for the provision of the following services, facilities and matters:

- underground parking spaces;
 - placement of the building at the corner of Wellington and South Streets, with the design at its skyline to provide visual signals that both define and distinguish the Gateway area, and building facades using a composition of high quality materials including glass, metal panel, and stone veneer in proportions that, with minor variations at the City's discretion, match the elevations appended to the staff report dated June 24, 2013 so the architecture of the building itself creates the Gateway;
 - utilization of a non-residential podium base with multiple step-backs, and above it a residential point tower, to have regard for the impact of the proposed development on year-round sunlight conditions on adjacent properties and streets and to ensure the form and design of the new development complements the river valley and parklands located adjacent to the site;
 - orientation of the primary building and unit entrances into the ground floor commercial spaces so that they face and open onto the Wellington Street frontage in order to provide for the enhancement of the pedestrian environment;
 - a green roof atop the building podium portions to support innovative and environmentally sensitive development;
 - two publicly accessible pedestrian connections through the site, one from Wellington Street and one from South Street to the public open space bordering the Thames River to minimize the obstruction of views of natural features and to provide for improved access to riverside public open space supplementary to any parkland dedication requirements; and,
 - landscaping enhancements including financial contribution therefor that are above City standards, of the abutting South Street and Wellington Street road allowances, to achieve high quality landscaping and the creation of an attractive street edge at this strategic Gateway location, to provide for Green Streets as detailed in the SoHo Community Improvement Plan, for suitable locations to accommodate the planting of street trees, and to encourage aesthetically attractive residential developments through the enhanced provision of landscaped open space;
2. change the zoning applicable to the lands located at 303-323 South Street and 69-77 Waterloo Street **FROM** a Residential R9 (R9-3*H22) Zone, which permits apartment buildings with a maximum height of 22m and a Holding Residential R7/Residential R9/Regional Facility (h-5*R7*D150*H30/R9-7*H30/RF) Zone, which permits retirement homes, continuum of care facilities and apartment buildings with a maximum height of 30m and a maximum density of 150 units per hectare **TO** an Open Space (OS2) Zone, to allow for conservation lands and public parks and a Holding Residential R5/Residential R7/Residential R9/Bonus (h-2*h-5*h-35*h-55*h-89*h-(*)*h-(**)*R5-7/R7*D150*H22/R9-7*H22*B(**)) Zone, which permits apartments, senior apartments, nursing homes, townhouses, stacked townhouses to a maximum height of 22m and maximum density of 150 units per hectare with a bonus zone to facilitate a development design that is consistent with the text and illustration appended to the staff report dated June 24, 2013 which includes an 18-storey (67m tall) residential building on the southwest corner of Waterloo Street and South Street with 78 retirement lodges and 130

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nursing home care units, 65 stacked townhouses dwelling units (15m tall) along South Street with a maximum of 1,000m² of convenience commercial uses which include convenience stores, convenience service establishments, financial institutions, personal service establishments, bake shops, commercial schools, florist shops, and restaurants, at ground level without a drive through and a church use which shall be implemented through a development agreement in return for the provision of the following services facilities and matters:

- secured bicycle parking spaces and temporary bicycle parking spaces for a total of 150 bicycle parking spaces;
- orientation of buildings to the street so that all principal facades of all units face the street and include active building elements such as primary entrances, porches, canopies and windows in order to provide for the enhancement of the pedestrian environment;
- utilization of a podium base with multiple step-backs and a residential point tower above on the building abutting the northeast corner so as to have regard for the impact of the proposed development on year-round sunlight conditions on adjacent properties and streets and to ensure the form and design of the new development complements the river valley and parklands located adjacent to the site;
- building facades using a composition of high quality materials including glass, metal panel, and stone veneer in proportions that, with minor variations at the City's discretion, match the elevations appended to the staff report dated June 24, 2013 and townhouse facades that vary in their projection and recession along South Street so that they do not appear as one solid plane, so as to ensure a high standard of design for buildings to be constructed in this prominent location at the perimeter of the Downtown, near the edge of the river valley;
- a green roof atop the parking structure and building podium portions to support innovative and environmentally sensitive development;
- a publicly accessible pedestrian and sight line connection through the site from South Street to the public open space bordering the Thames River to minimize the obstruction of views of natural features and to provide for improved access to riverside public open space supplementary to any parkland dedication requirements;
- provision of enhanced landscaped open space at street level and along the Thames Valley corridor to support the provision of common open space that is functional for active or passive recreational use; and,
- landscaping enhancements including financial contribution therefor that are above City standards, of the abutting South Street and Waterloo Street road allowances, to provide for Green Streets as detailed in the SoHo Community Improvement Plan, for suitable locations to accommodate the planting of street trees, and to encourage aesthetically attractive residential developments through the enhanced provision of landscaped open space.

BACKGROUND

On October 10, 2012, an application was made by the Fincore Group to allow for Official Plan and Zoning By-law amendments to allow for the development of:

- a 26-storey (94m tall) mixed use building on the southeast corner of Wellington Street and South Street with 19-storeys of residential apartment use, 6-storeys, 4,650 m² gross floor area of medical/dental clinic and independent health facility use; and, 929m² of ground floor commercial retail uses in the Business District Commercial lands located along the Wellington Street corridor; and
- an 18-storey (67m tall) residential building on the southwest corner of Waterloo Street and South Street with senior citizen apartments and nursing home care, 65 stacked townhouse dwelling units (15m tall) along South Street with a maximum of 1000m² of convenience commercial uses at ground level and a church use in the lands designated High Density Residential located on the easterly portion of the property.

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On July 26, 2013, an appeal was submitted by Fred Tranquilli on behalf of Stan Worbel, Ann Worbel, Ed Dziadura and Peter Dziadura in opposition to Municipal Councils decision to allow the requested Official Plan and Zoning By-law amendments. In the reasons for appeal of Council's decision the appellants states:

- The amendment is inconsistent with the rights of private landowners to have their lands re-zoned/re-designated by a private party, against the landowner's wishes.

On July 29, 2013, an appeal was submitted by Jeffery Brick on behalf of the Upper Thames River Conservation Authority in opposition to Municipal Council's decision to allow the requested Zoning By-law amendments. In the reasons for the appeal of Council's decision, the appellants states:

- The Upper Thames River Conservation Authority is the registered owner of land proposed to be rezoned.
- The Upper Thames River Conservation Authority has not authorized the Fincore Group to act as its agent to rezone the lands owned by the Upper Thames River Conservation Authority.
- The Upper Thames River Authority does not consent to the re-zoning of its lands.

A date for the Ontario Municipal Board Hearing has not yet been scheduled.

Copies of the appeal letter from Fred Tranquilli on behalf of Stan Worbel, Ann Worbel, Ed Dziadura and Peter Dziadura and Jeffery Brick on behalf of the Upper Thames River Conservation Authority, and the reasons for the appeal, are attached as Appendix "A" to this report. The reasons for appeal address matters previously discussed in detail in the staff report that was available to Council when it made its decision on June 25, 2013. The circumstances surrounding the site have not changed in substance with respect to these matters since Council made its decision. Therefore, Planning Staff see no reason for Council to alter its decision relating to this matter.

PREPARED BY:	REVIEWED BY:
C. SMITH, SENIOR PLANNER	MICHAEL TOMAZINCIC, MCIP, RPP MANAGER, PLANNING REVIEW COMMUNITY PLANNING AND DESIGN
SUBMITTED BY:	RECOMMENDED BY:
JIM YANCHULA, MCIP, RPP MANAGER, COMMUNITY PLANNING AND DESIGN	JOHN M. FLEMING, MCIP, RPP MANAGING DIRECTOR, PLANNING AND CITY PLANNER

October 30, 2013

CS/

Z:\Shared\implemen\DEVELOPMENT APPS\2012 Applications 8003 to\8114OZ - 56 - 80 Wellington St, 283 - 323 South Street and 69 - 77 Waterloo Street (CS)\8-OMB\OZ-8114- OMB Appeal Report Nov12.docx



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2013-LO1

TO MU City Clerk No. 2387

Subject APPEAL

Receipt Num: OPA 552 -

Wrobel, DZIADURA

02-8114 JUL 26 2013 cheque enclosed.

Ref. JNethercott

C.C.

Ref to: JN SCANNED (u)

Part 1: Appeal Type (Please check only one box)

SUBJECT OF APPEAL	TYPE OF APPEAL	PLANNING ACT REFERENCE (SECTION)
Minor Variance	<input type="checkbox"/> Appeal a decision	45(12)
	<input type="checkbox"/> Appeal a decision	53(19)
Consent/Severance	<input type="checkbox"/> Appeal conditions imposed	53(27)
	<input type="checkbox"/> Appeal changed conditions	53(14)
	<input type="checkbox"/> Failed to make a decision on the application within 90 days	34(19)
	<input type="checkbox"/> Appeal the passing of a Zoning By-law	34(11)
Zoning By-law or Zoning By-law Amendment	<input type="checkbox"/> Application for an amendment to the Zoning By-law – failed to make a decision on the application within 120 days	34(11)
	<input type="checkbox"/> Application for an amendment to the Zoning By-law – refused by the municipality	
	<input type="checkbox"/> Appeal the passing of an Interim Control By-law	38(4)
Official Plan or Official Plan Amendment	<input checked="" type="checkbox"/> Appeal a decision	17(24) or 17(36)
	<input type="checkbox"/> Failed to make a decision on the plan within 180 days	17(40)
	<input type="checkbox"/> Application for an amendment to the Official Plan – failed to make a decision on the application within 180 days	22(7)
	<input type="checkbox"/> Application for an amendment to the Official Plan – refused by the municipality	
Plan of Subdivision	<input type="checkbox"/> Appeal a decision	51(39)
	<input type="checkbox"/> Appeal conditions imposed	51(43) or 51(48)
	<input type="checkbox"/> Failed to make a decision on the application within 180 days	51(34)

Part 2: Location Information

56-82 Wellington Street, 283-323 South Street, 69-77 Waterloo Street – all in the City of London
Address and/or Legal Description of property subject to the appeal:

Municipality/Upper tier: **CITY OF LONDON**

[Empty boxes for Agenda Item # and Page #]

Part 3: Appellant Information

Stan Wrobel, Ann Wrobel, Ed Dziadura, Peter Dziadura

Company Name or Association Name (Association must be incorporated – include copy of letter of incorporation)

Professional Title (if applicable):

E-mail Address:
By providing an e-mail address you agree to receive communications from the OMB by e-mail.

Daytime Telephone #: Alternate Telephone #:

Fax #:

Mailing Address:
Street Address Apt/Suite/Unit# City/Town

Province Country (if not Canada) Postal Code

Signature of Appellant: Date:
(Signature not required if the appeal is submitted by a law office.)

Please note: You must notify the Ontario Municipal Board of any change of address or telephone number in writing. Please quote your OMB Reference Number(s) after they have been assigned.

Personal information requested on this form is collected under the provisions of the Planning Act, R.S.O. 1990, c. P. 13, as amended, and the Ontario Municipal Board Act, R.S.O. 1990, c. O. 28 as amended. After an appeal is filed, all information relating to this appeal may become available to the public.

Part 4: Representative Information (if applicable)

I hereby authorize the named company and/or individual(s) to represent me:

First Name: Fred W. Last Name: Tranquilli

Company Name: Lerners LLP

Professional Title: Lawyer

E-mail Address: ftranquilli@lernalers.ca
By providing an e-mail address you agree to receive communications from the OMB by e-mail.

Daytime Telephone #: 519.640.6353 Alternate Telephone #:

Fax #: 519.932.3353

Mailing Address: 85 Dufferin Avenue, London
Street Address Apt/Suite/Unit# City/Town

Ontario Canada N6A 4G4
Province Country (if not Canada) Postal Code

Signature of Appellant: [Signature] Date: July 26, 2013

Please note: If you are representing the appellant and are NOT a solicitor, please confirm that you have written authorization, as required by the Board's Rules of Practice and Procedure, to act on behalf of the appellant. Please confirm this by checking the box below.

I certify that I have written authorization from the appellant to act as a representative with respect to this appeal on his or her behalf and I understand that I may be asked to produce this authorization at any time.

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File No.: OZ-8114
Planner: C. Smith

Part 5: Language and Accessibility

Please choose preferred language: English French

We are committed to providing services as set out in the *Accessibility for Ontarians with Disabilities Act, 2005*. If you have any accessibility needs, please contact our Accessibility Coordinator as soon as possible.

Part 6: Appeal Specific Information

1. Provide specific information about what you are appealing. For example: Municipal File Number(s), By-law Number(s), Official Plan Number(s) or Subdivision Number(s):

OFFICIAL PLAN AMENDMENT No. 552

2. Outline the nature of your appeal and the reasons for your appeal. Be specific and provide land-use planning reasons (for example: the specific provisions, sections and/or policies of the Official Plan or By-law which are the subject of your appeal - if applicable). **If more space is required, please continue in Part 9 or attach a separate page.

(Please print)

The Application is premature.

Official Plan Amendment No. 552 is inconsistent with the *Planning Act* and associated Provincial Policy statements and inconsistent with sound land use planning principles. The Amendment is inconsistent with the rights of private landowners to have their lands re-zoned/re-designated by a private party, against the landowner's wishes.

THE FOLLOWING SECTIONS (a&b) APPLY ONLY TO APPEALS OF ZONING BY-LAW AMENDMENTS UNDER SECTION 34(11) OF THE *PLANNING ACT*.

a) DATE APPLICATION SUBMITTED TO MUNICIPALITY: _____
(If application submitted before January 1, 2007 please use the O1 'pre-Bill 51' form.)

b) Provide a brief explanatory note regarding the proposal, which includes the existing zoning category, desired zoning category, the purpose of the desired zoning by-law change, and a description of the lands under appeal:
**If more space is required, please continue in Part 9 or attach a separate page.

Part 7: Related Matters (if known)

Are there other appeals not yet filed with the Municipality? YES NO

Are there other planning matters related to this appeal? YES NO
(For example: A consent application connected to a variance application)

If yes, please provide OMB Reference Number(s) and/or Municipal File Number(s) in the box below:

(Please print)
OP AMENDMENT NO. 551, ZONING BYLAW No. Z-1-132208, ZONING BYLAW No. Z-1-1332209

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File No.: OZ-8114
Planner: C. Smith

Part 8: Scheduling Information

How many days do you estimate are needed for hearing this appeal? half day 1 day 2 days 3 days
 4 days 1 week More than 1 week – please specify number of days: _____

How many expert witnesses and other witnesses do you expect to have at the hearing providing evidence/testimony?
Three

Describe expert witness(es)' area of expertise *(For example: land use planner, architect, engineer, etc.):*
Land use planning, Legal issues related to private applications to rezone lands without owner consent

Do you believe this matter would benefit from mediation? YES NO
(Mediation is generally scheduled only when all parties agree to participate)

Do you believe this matter would benefit from a prehearing conference? YES NO
(Prehearing conferences are generally not scheduled for variances or consents)

If yes, why? Determine the issues and anticipated length of hearing.

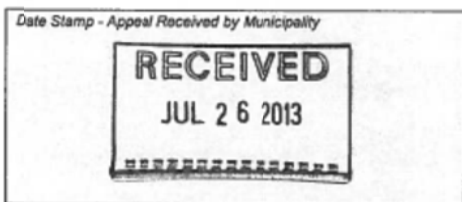
Part 9: Other Applicable Information **Attach a separate page if more space is required.

Part 10: Required Fee

Total Fee Submitted: \$ 125.00

Payment Method: Certified cheque Money Order Solicitor's general or trust account cheque

- The payment must be in Canadian funds, payable to the Minister of Finance.
- Do not send cash.
- PLEASE ATTACH THE CERTIFIED CHEQUE/MONEY ORDER TO THE FRONT OF THIS FORM.



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City Clerk No. 2389 RM
Subject ~~APPEAL~~ ZBA -TY
02-8114-Fincoe
- wrabel, Dziadura
JUL 26 2013
cheque enclosed.
Ref. J. Wetherill ✓
C.C.
not for [initials] [initials]

Part 1: Appeal Type (Please check only one box)

SUBJECT OF APPEAL	TYPE OF APPEAL	PLANNING ACT REFERENCE (SECTION)
Minor Variance	<input type="checkbox"/> Appeal a decision	45(12)
	<input type="checkbox"/> Appeal a decision	53(19)
Consent/Severance	<input type="checkbox"/> Appeal conditions imposed	53(27)
	<input type="checkbox"/> Appeal changed conditions	53(14)
	<input type="checkbox"/> Failed to make a decision on the application within 90 days	34(19)
	<input checked="" type="checkbox"/> Appeal the passing of a Zoning By-law	34(11)
Zoning By-law or Zoning By-law Amendment	<input type="checkbox"/> Application for an amendment to the Zoning By-law – failed to make a decision on the application within 120 days	34(11)
	<input type="checkbox"/> Application for an amendment to the Zoning By-law – refused by the municipality	
Interim Control By-law	<input type="checkbox"/> Appeal the passing of an Interim Control By-law	38(4)
Official Plan or Official Plan Amendment	<input type="checkbox"/> Appeal a decision	17(24) or 17(36)
	<input type="checkbox"/> Failed to make a decision on the plan within 180 days	17(40)
	<input type="checkbox"/> Application for an amendment to the Official Plan – failed to make a decision on the application within 180 days	22(7)
	<input type="checkbox"/> Application for an amendment to the Official Plan – refused by the municipality	
Plan of Subdivision	<input type="checkbox"/> Appeal a decision	51(39)
	<input type="checkbox"/> Appeal conditions imposed	51(43) or 51(48)
	<input type="checkbox"/> Failed to make a decision on the application within 180 days	51(34)

Part 2: Location Information

56-82 Wellington Street, 283-323 South Street, 69-77 Waterloo Street – all in the City of London
Address and/or Legal Description of property subject to the appeal:

Municipality/Upper tier: **CITY OF LONDON**
A1 Revised April 2010

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Part 3: Appellant Information

Stan Wrobel, Ann Wrobel, Ed Dziadura, Peter Dziadura

Company Name or Association Name (Association must be incorporated – include copy of letter of incorporation)

Professional Title (if applicable):

E-mail Address: By providing an e-mail address you agree to receive communications from the OMB by e-mail.

Daytime Telephone #: Alternate Telephone #:

Fax #:

Mailing Address:
 Street Address Apt/Suite/Unit# City/Town
 Province Country (if not Canada) Postal Code

Signature of Appellant: Date:
(Signature not required if the appeal is submitted by a law office.)

Please note: You must notify the Ontario Municipal Board of any change of address or telephone number in writing. Please quote your OMB Reference Number(s) after they have been assigned.

Personal information requested on this form is collected under the provisions of the *Planning Act*, R.S.O. 1990, c. P. 13, as amended, and the *Ontario Municipal Board Act*, R.S.O. 1990, c. O. 28 as amended. After an appeal is filed, all information relating to this appeal may become available to the public.

Part 4: Representative Information (if applicable)

I hereby authorize the named company and/or individual(s) to represent me:

First Name: Fred W. Last Name: Tranquilli

Company Name: Lerners LLP

Professional Title: Lawyer

E-mail Address: ftranquilli@lerners.ca
By providing an e-mail address you agree to receive communications from the OMB by e-mail.

Daytime Telephone #: 519.640.6353 Alternate Telephone #:

Fax #: 519.932.3353

Mailing Address: 85 Dufferin Avenue, London
 Street Address Apt/Suite/Unit# City/Town
 Ontario Canada N6A 4G4
 Province Country (if not Canada) Postal Code

Signature of Appellant: *[Handwritten Signature]* Date: July 26, 2013

Please note: If you are representing the appellant and are NOT a solicitor, please confirm that you have written authorization, as required by the Board's Rules of Practice and Procedure, to act on behalf of the appellant. Please confirm this by checking the box below.

I certify that I have written authorization from the appellant to act as a representative with respect to this appeal on his or her behalf and I understand that I may be asked to produce this authorization at any time.

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Part 5: Language and Accessibility

Please choose preferred language: English French

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Part 6: Appeal Specific Information

1. Provide specific information about what you are appealing. For example: Municipal File Number(s), By-law Number(s), Official Plan Number(s) or Subdivision Number(s):

ZONING BY-LAW NO. Z.-1-132209

2. Outline the nature of your appeal and the reasons for your appeal. Be specific and provide land-use planning reasons (for example: the specific provisions, sections and/or policies of the Official Plan or By-law which are the subject of your appeal - if applicable). **If more space is required, please continue in Part 9 or attach a separate page.

(Please print)

The Application is premature.

ZONING BY-LAW NO. Z.-1-132209 is inconsistent with the *Planning Act* and associated Provincial Policy statements and inconsistent with sound land use planning principles. The Amendment is inconsistent with the rights of private landowners to have their lands re-zoned/re-designated by a private party, against the landowner's wishes.

THE FOLLOWING SECTIONS (a&b) APPLY ONLY TO APPEALS OF ZONING BY-LAW AMENDMENTS UNDER SECTION 34(11) OF THE *PLANNING ACT*.

a) DATE APPLICATION SUBMITTED TO MUNICIPALITY: _____
(If application submitted before January 1, 2007 please use the O1 'pre-Bill 51' form.)

b) Provide a brief explanatory note regarding the proposal, which includes the existing zoning category, desired zoning category, the purpose of the desired zoning by-law change, and a description of the lands under appeal:
**If more space is required, please continue in Part 9 or attach a separate page.

Part 7: Related Matters (if known)

Are there other appeals not yet filed with the Municipality? YES NO

Are there other planning matters related to this appeal? YES NO
(For example: A consent application connected to a variance application)

If yes, please provide OMB Reference Number(s) and/or Municipal File Number(s) in the box below:

(Please print)
OP AMENDMENT NO. 551 AND NO. 552, ZONING BYLAW No. Z-1-1332208

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Part 8: Scheduling Information

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How many expert witnesses and other witnesses do you expect to have at the hearing providing evidence/testimony?
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Describe expert witness(es)' area of expertise (For example: land use planner, architect, engineer, etc.):
Land use planning, Legal issues related to private applications to rezone lands without owner consent

Do you believe this matter would benefit from mediation? YES NO
(Mediation is generally scheduled only when all parties agree to participate)

Do you believe this matter would benefit from a prehearing conference? YES NO
(Prehearing conferences are generally not scheduled for variances or consents)

If yes, why? Determine the issues and anticipated length of hearing.

Part 9: Other Applicable Information **Attach a separate page if more space is required.

Part 10: Required Fee

Total Fee Submitted: \$ 125.00

Payment Method: Certified cheque Money Order Solicitor's general or trust account cheque

- The payment must be in Canadian funds, payable to the Minister of Finance.
- Do not send cash.
- PLEASE ATTACH THE CERTIFIED CHEQUE/MONEY ORDER TO THE FRONT OF THIS FORM.

Agenda Item # Page #

File No.: OZ-8114
Planner: C. Smith



Environment and Land Tribunals Ontario
Ontario Municipal Board
655 Bay Street, Suite 1500 Toronto, Ontario M5G 1E5
TEL: (416) 212-6349 or Toll Free: 1-866-448-2248
FAX: (416) 326-5370
www.elt.o.gov.on.ca

**APPELLANT FORM (A1)
PLANNING ACT**

**SUBMIT COMPLETED FORM
TO MUNICIPALITY/APPROVAL AUTHORITY**

Date Stamp - Appeal Received by Municipality

RECEIVED
JUL 29 2013

Receipt Number (OMB Office Use Only)

Part 1: Appeal Type (Please check only one box)

SUBJECT OF APPEAL	TYPE OF APPEAL	PLANNING ACT REFERENCE (SECTION)
Minor Variance	<input type="checkbox"/> Appeal a decision	45(12)
	<input type="checkbox"/> Appeal a decision	53(19)
Consent/Severance	<input type="checkbox"/> Appeal conditions imposed	53(27)
	<input type="checkbox"/> Appeal changed conditions	53(14)
	<input type="checkbox"/> Failed to make a decision on the application within 90 days	34(19)
	<input checked="" type="checkbox"/> Appeal the passing of a Zoning By-law	34(11)
Zoning By-law or Zoning By-law Amendment	<input type="checkbox"/> Application for an amendment to the Zoning By-law – failed to make a decision on the application within 120 days	38(4)
	<input type="checkbox"/> Application for an amendment to the Zoning By-law – refused by the municipality	17(24) or 17(36)
Interim Control By-law	<input type="checkbox"/> Appeal the passing of an Interim Control By-law	17(40)
Official Plan or Official Plan Amendment	<input type="checkbox"/> Appeal a decision	22(7)
	<input type="checkbox"/> Failed to make a decision on the plan within 180 days	51(39)
	<input type="checkbox"/> Application for an amendment to the Official Plan – failed to make a decision on the application within 180 days	51(43) or 51(48)
	<input type="checkbox"/> Application for an amendment to the Official Plan – refused by the municipality	51(34)
Plan of Subdivision	<input type="checkbox"/> Appeal a decision	
	<input type="checkbox"/> Appeal conditions imposed	
	<input type="checkbox"/> Failed to make a decision on the application within 180 days	

Part 2: Location Information

303-323 South Street and 69-77 Waterloo Street
Address and/or Legal Description of property subject to the appeal:

Municipality/Upper tier: City of London

Agenda Item #	Page #
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File No.: OZ-8114
Planner: C. Smith

Part 3: Appellant Information

First Name: Jeffrey Last Name: Brick

Upper Thames River Conservation Authority - UTRCA

Company Name or Association Name (Association must be incorporated – include copy of letter of incorporation)

Professional Title (if applicable): Coordinator, Hydrology & Regulatory Services, RPP

E-mail Address: brickj@thamesriver.on.ca

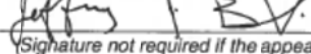
By providing an e-mail address you agree to receive communications from the OMB by e-mail.

Daytime Telephone #: 519-451-2800 ext 228 Alternate Telephone #: _____

Fax #: 519-451-1188

Mailing Address: 1424 Clarke Road, London
Street Address Apt/Suite/Unit# City/Town

Ontario, N5V 5B9
Province Country (if not Canada) Postal Code

Signature of Appellant:  Date: July 29, 2013
(Signature not required if the appeal is submitted by a law office.)

Please note: You must notify the Ontario Municipal Board of any change of address or telephone number in writing. Please quote your OMB Reference Number(s) after they have been assigned.

Personal information requested on this form is collected under the provisions of the *Planning Act*, R.S.O. 1990, c. P. 13, as amended, and the *Ontario Municipal Board Act*, R.S.O. 1990, c. O. 28 as amended. After an appeal is filed, all information relating to this appeal may become available to the public.

Part 4: Representative Information (if applicable)

I hereby authorize the named company and/or individual(s) to represent me:

First Name: _____ Last Name: _____

Company Name: _____

Professional Title: _____

E-mail Address: _____

By providing an e-mail address you agree to receive communications from the OMB by e-mail.

Daytime Telephone #: _____ Alternate Telephone #: _____

Fax #: _____

Mailing Address: _____

Street Address Apt/Suite/Unit# City/Town

Province Country (if not Canada) Postal Code

Signature of Appellant: _____ Date: _____

Please note: If you are representing the appellant and are NOT a solicitor, please confirm that you have written authorization, as required by the Board's Rules of Practice and Procedure, to act on behalf of the appellant. Please confirm this by checking the box below.

I certify that I have written authorization from the appellant to act as a representative with respect to this appeal on his or her behalf and I understand that I may be asked to produce this authorization at any time.

Agenda Item #	Page #

File No.: OZ-8114
Planner: C. Smith

Part 5: Language and Accessibility

Please choose preferred language: English French

We are committed to providing services as set out in the *Accessibility for Ontarians with Disabilities Act, 2005*. If you have any accessibility needs, please contact our Accessibility Coordinator as soon as possible.

Part 6: Appeal Specific Information

1. Provide specific information about what you are appealing. For example: Municipal File Number(s), By-law Number(s), Official Plan Number(s) or Subdivision Number(s):

(Please print) **The UTRCA is appealing the decision regarding an Amendment to the Zoning By-Law which was circulated as application - File No. OZ-8114.**

City of London Council passed Zoning By-Law Z.-1-132209 on June 25, 2013. The notice of passing is dated July 9, 2013.

2. Outline the nature of your appeal and the reasons for your appeal. Be specific and provide land-use planning reasons (for example: the specific provisions, sections and/or policies of the Official Plan or By-law which are the subject of your appeal - if applicable). **If more space is required, please continue in Part 9 or attach a separate page.

The Upper Thames River Conservation Authority (UTRCA) is the registered owner of land that is proposed to be re-zoned by Fincore Group as part of this application. Fincore Group has not been authorized to act as an agent for the UTRCA to re-zone lands that are owned by the UTRCA. The UTRCA did not, and at this point still does not, consent to the re-zoning of its lands. The UTRCA Board of Directors has resolved to dispose of the lands that are proposed to be re-zoned in this application to the City of London so that the City may consolidate the lands with their lands and offer them for public sale through a Request for Proposals Process (RFP). The UTRCA sale of land must be completed in accordance with the Conservation Authorities Act and the Ministry of Natural Resources (MNR) Policy for the Disposition of Surplus Lands. This policy requires that the land be offered to the public through a fair and transparent process. The UTRCA may dispose of land to a municipality, in this case the City of London, but the UTRCA must consider whether or not the MNR policy can be realized through the ultimate sale of the land through an RFP. The UTRCA is concerned that the zoning amendment as proposed includes a number of specific provisions which are tailored to meet a design plan which has been developed by Fincore Group and that the inclusion of such provisions may provide Fincore Group with an unfair advantage in the ultimate RFP process for the land. The UTRCA objects to the re-zoning on the grounds that the re-zoning may prejudice other potential participants in the RFP process and the re-zoning may compromise the ability of the MNR Disposition Policy to be realized. The UTRCA objection to the zoning by-law amendment application for the subject land was conveyed to the City of London in a letter dated November 12, 2012. The UTRCA Board of Directors affirmed the UTRCA staff comments by resolution at their meeting on November 26, 2012. This appeal has been submitted by staff within the appeal period to uphold the direction that was provided by the Board of Directors on this matter. Staff will seek further direction from the Board of Directors and will advise the Ontario Municipal Board of any additional direction.

Agenda Item #	Page #

File No.: OZ-8114
Planner: C. Smith

THE FOLLOWING SECTIONS (a&b) APPLY ONLY TO APPEALS OF ZONING BY-LAW AMENDMENTS UNDER SECTION 34(11) OF THE PLANNING ACT.

- a) **DATE APPLICATION SUBMITTED TO MUNICIPALITY:** _____
(If application submitted before January 1, 2007 please use the O1 'pre-Bill 51' form.)
- b) Provide a brief explanatory note regarding the proposal, which includes the existing zoning category, desired zoning category, the purpose of the desired zoning by-law change, and a description of the lands under appeal:
****If more space is required, please continue in Part 9 or attach a separate page.**

Part 7: Related Matters (if known)

- Are there other appeals not yet filed with the Municipality? YES NO - 2 appeals submitted together
- Are there other planning matters related to this appeal? YES NO
- (For example: A consent application connected to a variance application)*

If yes, please provide OMB Reference Number(s) and/or Municipal File Number(s) in the box below:

(Please print)
Another Zoning Appeal – Zoning By-Law Z.-1-132208 – 56-82 Wellington Street and 291-299 South Street, London, Ontario

Part 8: Scheduling Information

How many days do you estimate are needed for hearing this appeal? half day 1 day 2 days 3 days
 4 days 1 week More than 1 week – please specify number of days: _____

How many expert witnesses and other witnesses do you expect to have at the hearing providing evidence/testimony?
Two witnesses

Describe expert witness(es)' area of expertise *(For example: land use planner, architect, engineer, etc.):*
The Manager of Lands & Facilities for the UTRCA regarding MNR Policy and Land Ownership, Land Use Planner

Do you believe this matter would benefit from mediation? YES NO
(Mediation is generally scheduled only when all parties agree to participate)

Do you believe this matter would benefit from a prehearing conference? YES NO
(Prehearing conferences are generally not scheduled for variances or consents)

If yes, why?_ A pre-hearing conference may allow for a clarification of the issues and scope the appeal

Part 9: Other Applicable Information **Attach a separate page if more space is required.

Agenda Item # Page #

File No.: OZ-8114
Planner: C. Smith



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**APPELLANT FORM (A1)
PLANNING ACT**

**SUBMIT COMPLETED FORM
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56-82 Wellington Street and 291-299 South Street
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Municipality/Upper tier: **City of London**

Empty boxes for Agenda Item # and Page #

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Company Name or Association Name (Association must be incorporated – include copy of letter of incorporation)

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Agenda Item #	Page #

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