

Agenda Item #	Page #

**File No.: OZ-8120**  
**Planner: Amanda-Brea Watson**

<b>TO:</b>	<b>CHAIR AND MEMBERS PLANNING &amp; ENVIRONMENT COMMITTEE</b>
<b>FROM:</b>	<b>JOHN M. FLEMING MANAGING DIRECTOR, PLANNING AND CITY PLANNER</b>
<b>SUBJECT:</b>	<b>APPLICATION BY: PENEQUITY REALTY CORPORATION 3130 &amp; 3260 DINGMAN DRIVE AND THE REAR PORTION OF 4397/4407 WELLINGTON ROAD SOUTH</b>  <b>NOTICE OF APPEAL TO THE ONTARIO MUNICIPAL BOARD</b>  <b>MEETING ON NOVEMBER 26, 2013</b>

<b>RECOMMENDATION</b>
-----------------------

That, in response to the letters of appeal to the Ontario Municipal Board, dated July 24, 2014 and submitted by Barry R. Card Barrister & Solicitor on behalf of the Upper Thames River Conservation Authority, and dated September 24, 2013; and Wood Bull LLP on behalf of Greenhills SC Ltd. and dated September 24, 2013; relating to the Official Plan and Zoning By-law No. Z.-1; Goodmans LLP on behalf of Costco Wholesale Corporation, relating to a Zoning By-law No. Z.-1 concerning 3130 and 3260 Dingman Drive and the rear portion of 4397/4407 Wellington Road South. 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.

<b>PREVIOUS REPORTS PERTINENT TO THIS MATTER</b>
--

**June 18, 2013** - **Planning and Environment Committee Meeting.** At a Public Participation meeting of the Planning and Environment Committee, staff recommended an Official Plan and Zoning change to allow for 50,183m<sup>2</sup> of commercial retail use, 13,564m<sup>2</sup> of commercial recreational use, 3,921m<sup>2</sup> cinema use and a gas bar use as well as the retention and enhancement of 4.2ha of significant woodland.

Referred to the June 20, 2013 meeting of the Planning and Environment Committee for further consideration, and to report back with an amended By-law.

**June 20, 2013** - **Planning and Environment Committee meeting.** Staff presented a report, which modified the previous recommended Official Plan amendment at the direction of the Planning and Environment Committee, to delete the existing Unevaluated Vegetation Patch designation from Schedule "B-1" of the Official Plan to facilitate its removal while amending the Official Plan and Zoning By-law to permit a wider range of retail and cinema uses on the whole of the site.

Specifically, to allow for 14,000m<sup>2</sup> of commercial recreational use, 4,000m<sup>2</sup> cinema use, a gas bar use, and a hotel use, subject to holding provisions to ensure the provision of municipal servicing, archaeological evaluation be completed, a transportation study be completed, Ministry of Transportation permits be obtained, urban design matters be addressed, and a natural heritage compensation agreement between the City and the applicant be entered into to address the natural heritage compensation measures to be implemented resulting from the removal of the Unevaluated Vegetation Patch.

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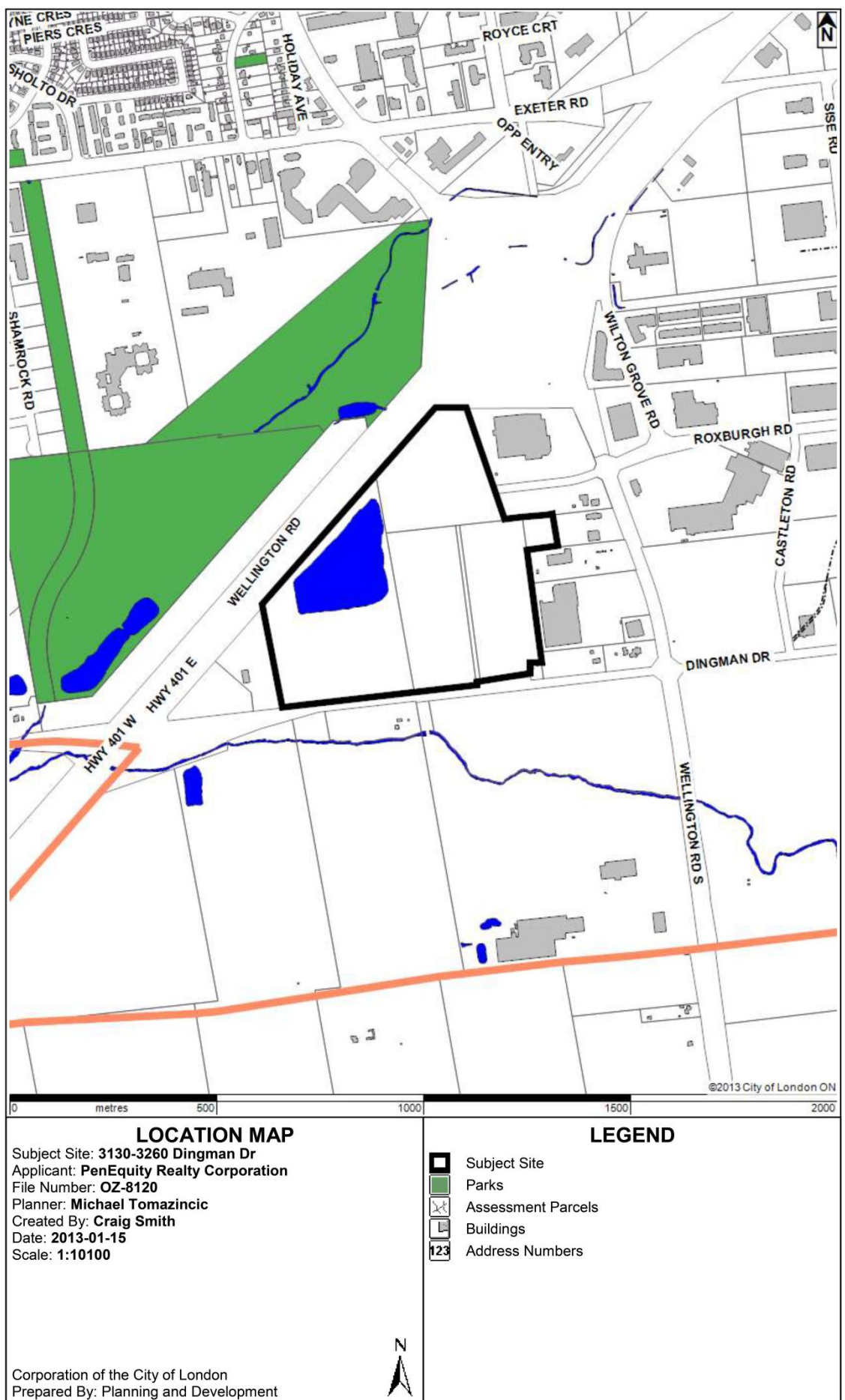
**File No.: OZ-8120**  
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- June 25, 2013** - **Municipal Council** resolved that the matter be referred back to Civic Administration to: complete an Environmental Impact Study, which is to include an evaluation and comment on the status of the woodlot and/or wetland; [provide] a summary of the net jobs, including a description of the type of jobs that will be created by this proposal; permit the applicant an opportunity to further consider the potential to retain some, or all of the woodlot; and, report back to the Planning and Environment Committee.
  
- August 20, 2013** - **Planning and Environment Committee meeting.** Staff presented a report with additional information and materials provided by the applicant in respect of the Municipal Council decision on June 25, 2013, and to allow Council to consider the information and materials and, to clarify the Council Resolution which was contradictory given that it requested that an EIS be undertaken, which would have the effect of preserving and the Significant Woodland, while requesting that the applicant consider retaining some or all of the woodlot, which implies that the Significant Woodland may be removed. It was noted that staff had not had an opportunity to fully review the additional information and material nor had the statutory approval authorities, where applicable.

By way of this report staff were seeking clarity and direction as the Council Resolution pertaining to the Significant Woodland to assist Civic Administration in moving forward.
  
- August 27, 2013** - **Municipal Council approved** an Official Plan and Zoning change and resolved that Civic Administration be directed to undertake a review, in the most expedient manner, of "Unevaluated Vegetation Patches" shown on Schedule "B-1" of the Official Plan that are not shown as "Open Space" or "Environmental Review" on Schedule "A" of the Official Plan and to initiate an Official Plan Amendment to designate the lands as Open Space, where appropriate, as soon as possible, on Schedule "A" of the Official Plan, noting that this would make these lands subject to the City's Tree Conservation By-law (By-law C.P.-1466-249); it being noted that the municipality will hire an ecologist to assist with the review.

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<b>PURPOSE AND EFFECT OF RECOMMENDED ACTION</b>
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The recommended action would advise the Ontario Municipal Board that Municipal Council is in agreement with its previous decision of August 27, 2013 to:

- approve an Official Plan amendment to permit cinema use outside of the downtown area in the New Format Regional Commercial Node and amend Schedule B-1 Natural Heritage Features;
- approve a Zoning By-law amendment to change the zone on the property **FROM** a Holding Restricted Service Commercial Special Provision/Light Industrial (h\*RSC1(9)/RSC5/LI6) Zone, a Holding Restricted Service Commercial Special Provision (h\*RSC1(9)/RSC3/ RSC4(5)/RSC5) Zone, **TO** a Holding Associated Shopping Area Commercial Special Provision (h\*h-5\*h- 18\*h-55\*h-103\*h-141\*h\_\_-\*h\_\_\*h\_\_\*ASA3/ASA5/ASA6(\_\_)/ASA7(\_\_)/ASA8(\_\_)) Zone, to allow for commercial retail use, 14,000m<sup>2</sup> of commercial recreational use, 4,000m<sup>2</sup> cinema use, a gas bar use, a hotel use, home improvement and furnishing stores, and liquor, beer and wine stores subject to holding provisions to ensure the provision of municipal servicing, archaeological evaluation be completed, a transportation study be completed, Ministry of Transportation and Upper Thames River Conservation Authority permits be obtained, an Ontario Wetland evaluation to be completed to the satisfaction of the Ministry of Natural Resources, urban design matters be addressed, and a natural heritage compensation agreement between the City and the applicant be entered into to address the natural heritage compensation measures to be implemented resulting from the removal of the Unevaluated Vegetation Patch;

<b>BACKGROUND</b>
-------------------

On November 6, 2012, an application was made by Penequity Realty Corporation for Official Plan and Zoning By-law amendments to allow the development of:

- 50,183m<sup>2</sup> of commercial retail use,
- 13,564m<sup>2</sup> of commercial recreational use,
- 3,921m<sup>2</sup> cinema use,
- A gas bar use, and
- Passive recreational use.

On September 24, 2014 an appeal was submitted by Barry R. Card Barrister & Solicitor on behalf of the Upper Thames River Conservation Authority in opposition to the Municipal Council's decision, the appellant states:

1. *The Appellant is a commenting agency with respect to natural hazard and natural heritage matters and has a statutory mandate with respect to natural hazard protection, flood plain management and wetland protection.*
2. *A significant woodland and wetland have been zoned for development by the subject Zoning By-law Amendment subject to certain holding provisions.*
3. *The subject site contains a previously unevaluated wetland which may be provincially significant (PSW). A decision by the MNR is pending.*
4. *The Council, in recognition of the potential significance of the wetland, has deferred the deletion for the present "unevaluated Vegetation Patch" area shown on Schedule B-1 Natural Heritage Features, of the Official Plan until an "Ontario Wetland evaluation...has been completed to the satisfaction of the Ministry of Natural Resources".*
5. *The policies of Chapters 8 and 15 of the Official Plan are relevant and applicable to the subject lands, and in particular, Section: 15.2.4, 15.4.5, and 15.4.51.*

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**Planner: Amanda-Brea Watson**

6. *The subject Zoning Bylaw Amendment is premature until these policies have been addressed.*
7. *The use of a holding symbol (here h-153, h-157 and h-158) under such circumstances does not conform to the Official Plan and is not consistent with Provincial Policy and does not represent good planning.*
8. *The subject site contains significant woodland.*
9. *Buffers have not been identified for the significant woodland and wetland features on the property.*
10. *The Zoning By-law Amendment proposes the elimination of the significant features and function on the basis of a conceptual “natural heritage compensation agreement” (which has not been disclosed during the planning process) for which there is no policy basis in the Official Plan.*
11. *The Council resolution which approves the Zoning By-law Amendment and the Official Plan Amendment notes, in clause d); “in the event that the Ontario Wetland evaluation noted in c) above, results in a portions of the subject lands being deemed to be a Provincially Significant Wetland, the Civic Administration BE DIRECTED to bring forward the necessary amendment to Schedule B-1 Natural Heritage Features, to identify the Provincially Significant Wetland”, further illustrating the prematurity of the proposed amendments.*
12. *Land containing the identified natural heritage features and functions and appropriate ecological buffers should be excluded from the development zone in accordance with applicable polices of the Official Plan and Provincial Policy.*
13. *The proposed development within the wetland on the property is not consistent with URTCA policies for the administration of Ontario Regulation 157/06 mad under the Conservation Authorities Act.*

On September 24, 2013 an appeal was submitted by Wood Bull LLP on behalf of Greenhills SC Ltd. in opposition to the Municipal Council’s decision, the appellants states:

1. *PenQuity’s appeal of OPA 541 states that they have concerns respecting the scope of commercial lands available for development and the elimination of a phasing strategy for development of commercial lands. Furthermore, their appeal states that there has been insufficient justification to support the volume of commercial lands available for development and that there is to policy basis to support the planning horizon for that development.*  
*The adoption of OPA 557 and the enactment of the Zoning BY-law is premature within the context of the recent adoption of Official Plan Amendment No. 541 (“OPA 541”) which adopts a Secondary Plan for Southwest London (the “Southwest London Area Plan” or “SWAP”).*
2. *Such other reason as council may advise upon further consideration.*

On September 24, 2013 an appeal was submitted by Goodmans LLP on behalf of Costco Wholesale Corporation in opposition to the Municipal Council’s decision, the appellants states:

- *Our client’s transportation consultant, BA Group, has review the traffic study submitted in support of the application by Penequity Realty Corporation (“Penequity”) and has advised that the current design of the proposal will have a major negative impact on access and egress for the Costco site which has not been addressed in the applicant’s traffic study.*
- *Penequity has failed to address Policy 4.5 of the Official Plan which requires an applicant to evaluate the impact of its traffic generated by the proposal on surrounding properties as well as coordination of access and traffic circulation with surrounding sutes. Prior to a Council decision on this application, Penequity should be required to undertake a more comprehensive traffic and a planning analysis and to undertake a redesign of the proposal. We note that a redesign will be required in any event to reflect*

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*the OS5 zoning that has been recommended for the central portion of Penequity site in order to protect the significant woodland.*

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

Copies of the appeal letters and 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 reports that were available to Council when it made its decision on August 27, 2013.

<b>PREPARED BY:</b>	<b>REVIEWED BY:</b>
<b>AMANDA-BREA WATSON, MCIP RPP PLANNER II, COMMUNITY PLANNING AND DESIGN</b>	<b>MICHAEL TOMAZINCIC, MCIP, RPP MANAGER, PLANNING REVIEW COMMUNITY PLANNING AND DESIGN</b>
<b>SUBMITTED BY:</b>	<b>SUBMITTED BY:</b>
<b>JIM YANCHULA, MCIP, RPP MANAGER, COMMUNITY PLANNING AND DESIGN</b>	<b>JOHN M. FLEMING, MCIP, RPP MANAGING DIRECTOR, PLANNING AND CITY PLANNER</b>

October 21, 2013

ABW

"Attach"

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**Planner: Amanda-Brea Watson**

**Appendix "A"**

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File No.: OZ-8120  
Planner: Amanda-Brea Watson

2013-LO2

**Barry R. Card**

BARRISTER & SOLICITOR  
Certified Specialist - Municipal Law; Local Government/ Land Use Planning & Development Law

568 RIDGEWOOD CRESCENT  
LONDON, ONTARIO N6J 3J2  
TELEPHONE (519) 433-5117 • FACSIMILE (519) 963-0285

Internet Address: [cardlaw@rogers.com](mailto:cardlaw@rogers.com)

September 24, 2013

**DELIVERED**

Cathy Saunders  
City Clerk  
Corporation of the City of London  
City Hall, 3<sup>rd</sup> Floor  
300 Dufferin Avenue  
London, Ontario  
N6A 4L9

City Clerk No. 3021  
Subject Appeal to OMB -  
ZBA - OZ-8120 -  
3130 / 3260 Dingman Dr /  
4397 / 4407 Wellington Rds.  
SEP 24 2013  
Ref. J. Nehercott  
C.C. J. Page

Dear Ms. Saunders:

**Re: Appeals to the Ontario Municipal Board  
Zoning By-law No. Z-1-132226 and OPA 557  
3130 and 3260 Dingman Drive; 4397-4407 Wellington Road South, London  
Upper Thames River Conservation Authority**

Ref to: JN JP **SCANNED** (NW)

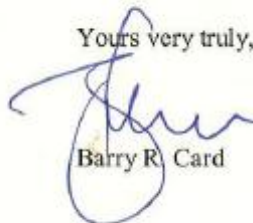
I am the solicitor for the Upper Thames River Conservation Authority. On behalf of my client, I hereby appeal to the Ontario Municipal Board with respect to enactment of the captioned Zoning By-law Amendment and against adoption by the Municipal Council of OPA No. 557 for the City of London.

In support of the appeals, I enclose the following:

1. ZBA Appellant Form (A1), Appendix re reasons, and certified cheque in the sum of \$125.00; and
3. OPA Appellant Form (A1) and certified cheque in the sum of \$125.00.

I respectfully request that you proceed to forward these appeals to the Ontario Municipal Board. Please contact me if anything further is required to permit you to honour this request.

Yours very truly,



Barry R. Card

BRC:jmh:Encls.



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**Planner: Amanda-Brea Watson**



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

**FORM**

**APPELLANT FORM (A1)**  
**PLANNING ACT**

**SUBMIT COMPLETED**

**TO**  
**MUNICIPALITY/APPROVAL**  
**AUTHORITY**



*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	
	<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	22(7)
	<input type="checkbox"/> Application for an amendment to the Official Plan – failed to make a decision on the application within 180 days	
	<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**

3130 and 3260 Dingman Drive and 4397-4407 Wellington Road South  
Address and/or Legal Description of property subject to the appeal:

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**File No.: OZ-8120**  
**Planner: Amanda-Brea Watson**

Municipality/Upper tier: City of London

**Part 3: Appellant Information**

First Name: \_\_\_\_\_ Last Name: \_\_\_\_\_

Upper Thames River Conservation Authority, c/o Barry R. Card, Barrister and Solicitor  
Company Name or Association Name (Association must be incorporated – include copy of letter of incorporation)

Professional Title (if applicable): \_\_\_\_\_


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

Daytime Telephone #: 519-433-5117 Alternate Telephone #: \_\_\_\_\_

Fax #: 519-963-0285

Mailing Address: 568 Ridgewood Crescent London  
Street Address Apt/Suite/Unit# City/Town

Ontario N6J 3J2  
Province Country (if not Canada) Postal Code

Signature of Appellant:  Date: Sept. 24 2013  
(Signature not required if the appeal is submitted by a law office.)  
**Barry R. Card**

**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

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**File No.: OZ-8120**  
**Planner: Amanda-Brea Watson**

behalf and I understand that I may be asked to produce this authorization at any time.

**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)  
By-law Z.-1-132226 of the City of London  
Municipal File No. OZ-8120

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)  
Please see Appendix A attached.

**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)  
An Official Plan Amendment Appeal against OPA 557 is also being filed with respect to these lands.



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**Planner: Amanda-Brea Watson**

## Appendix A

### Part 6: Appeal Specific Information

#### 2. Outline the nature of your appeal and the reasons for your appeal.

1. The Appellant is a commenting agency with respect to natural hazard and natural heritage matters and has a statutory mandate with respect to natural hazard protection, flood plain management and wetland protection.
2. A significant woodland and wetland have been zoned for development by the subject Zoning By-law Amendment subject to certain holding provisions.
3. The subject site contains a previously unevaluated wetland which may be provincially significant (PSW). A decision by the MNR is pending.
4. The Council, in recognition of the potential significance of the wetland, has deferred the deletion of the present "unevaluated Vegetation Patch" area shown on Schedule B-1 Natural Heritage Features, of the Official Plan until an "Ontario Wetland evaluation...has been completed to the satisfaction of the Ministry of Natural Resources".
5. The policies of Chapters 8 and 15 of the Official Plan are relevant and applicable to the subject lands, and in particular, Sections: 15.2.4, 15.4.5, and 15.4.5.1.
6. The subject Zoning By-law Amendment is premature until these policies have been addressed.
7. The use of a holding symbol (here h-153, h-157 and h-158) under such circumstances does not conform to the Official Plan and is not consistent with Provincial Policy and does not represent good planning.
8. The subject site contains a significant woodland.
9. Buffers have not been identified for the significant woodland and wetland features on the property.
10. The Zoning By-law Amendment proposes the elimination of the significant features and functions on the basis of a conceptual "natural heritage compensation agreement" (which has not been disclosed during the planning process) for which there is no policy basis in the Official Plan.
11. The Council resolution which approves the Zoning By-law Amendment and the Official Plan Amendment notes, in clause d):

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**Planner: Amanda-Brea Watson**

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“in the event that the Ontario Wetland evaluation noted in c) above, results in a portion of the subject land being deemed to be a Provincially Significant Wetland, the Civic Administration BE DIRECTED to bring forward the necessary amendment to Schedule B-1 Natural Heritage Features, to identify the Provincially Significant Wetland”,

further illustrating the prematurity of the proposed amendments.

12. Land containing the identified natural heritage features and functions and appropriate ecological buffers should be excluded from the development zone in accordance with applicable policies of the Official Plan and Provincial Policy.
13. The proposed development within the wetland on the property is not consistent with UTRCA policies for the administration of Ontario Regulation 157/06 made under the *Conservation Authorities Act*.



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Planner: Amanda-Brea Watson

2013-LO2

**Barry R. Card**

BARRISTER & SOLICITOR  
Certified Specialist - Municipal Law: Local Government/ Land Use Planning & Development Law  
568 RIDGEWOOD CRESCENT  
LONDON, ONTARIO N6J 3J2  
TELEPHONE (519) 433-5117 • FACSIMILE (519) 963-0283

Internet Address: [cardlaw@rogers.com](mailto:cardlaw@rogers.com)

September 24, 2013

**DELIVERED**

Cathy Saunders  
City Clerk  
Corporation of the City of London  
City Hall, 3<sup>rd</sup> Floor  
300 Dufferin Avenue  
London, Ontario  
N6A 4L9

City Clerk

No. 3022

Subject Appeal to OMB -  
OPA-557-3130/3260  
Dingman Dr-4397/4407  
SEP 24 2013  
Wellington Rds  
Ref. JNethercott ✓  
C.C. JPage

Dear Ms. Saunders:

**Re: Appeals to the Ontario Municipal Board  
Zoning By-law No. Z-1-132226 and OPA 557 Ref to: JN JP ✓ (ML)  
3130 and 3260 Dingman Drive; 4397-4407 Wellington Road South, London  
Upper Thames River Conservation Authority**

I am the solicitor for the Upper Thames River Conservation Authority. On behalf of my client, I hereby appeal to the Ontario Municipal Board with respect to enactment of the captioned Zoning By-law Amendment and against adoption by the Municipal Council of OPA No. 557 for the City of London.

In support of the appeals, I enclose the following:

1. ZBA Appellant Form (A1), Appendix re reasons, and certified cheque in the sum of \$125.00; and
3. OPA Appellant Form (A1) and certified cheque in the sum of \$125.00.

I respectfully request that you proceed to forward these appeals to the Ontario Municipal Board. Please contact me if anything further is required to permit you to honour this request.

Yours very truly,



Barry R. Card

BRC:jmh:Encls.

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Planner: Amanda-Brea Watson



Environment and Land Tribunals Ontario  
**Ontario Municipal Board**  
855 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

FORM

**APPELLANT FORM (A1)  
PLANNING ACT**

SUBMIT COMPLETED

TO  
MUNICIPALITY/APPROVAL  
AUTHORITY



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)
Consent/Severance	<input type="checkbox"/> Appeal a decision	53(19)
	<input type="checkbox"/> Appeal conditions imposed	
	<input type="checkbox"/> Appeal changed conditions	53(27)
	<input type="checkbox"/> Failed to make a decision on the application within 90 days	53(14)
Zoning By-law or Zoning By-law Amendment	<input type="checkbox"/> Appeal the passing of a Zoning By-law	34(19)
	<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	39(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**

3130 and 3260 Dingman Drive and 4397-4407 Wellington Road South  
Address and/or Legal Description of property subject to the appeal:  
A1 Revised April 2010 Page 2 of 6



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**File No.: OZ-8120**  
**Planner: Amanda-Brea Watson**

Municipality/Upper tier: City of London

**Part 3: Appellant Information**

First Name: \_\_\_\_\_ Last Name: \_\_\_\_\_

Upper Thames River Conservation Authority, c/o Barry R. Card, Barrister and Solicitor  
Company Name or Association Name (Association must be incorporated – include copy of letter of incorporation)

Professional Title (if applicable): \_\_\_\_\_

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

Daytime Telephone #: 519-433-5117 Alternate Telephone #: \_\_\_\_\_

Fax #: 519-963-0285

Mailing Address: 568 Ridgewood Crescent London  
Street Address Apt/Suite/Unit# City/Town

Ontario NB1 3J2  
Province Country (if not Canada) Postal Code

Signature of Appellant:  Date: Sept. 24 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



Agenda Item #	Page #

**File No.: OZ-8120**  
**Planner: Amanda-Brea Watson**

behalf and I understand that I may be asked to produce this authorization at any time.

**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)  
Official Plan Amendment No. 557 of the City of London  
Municipal File No. OZ-8120

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)

1. OPA 557 purports to permit a cinema within an area comprised of a significant woodland and wetland.
2. The proposed Amendment is premature until the woodland and wetland have been fully evaluated.
3. The proposed Amendment is premature until it has been confirmed that its purpose and effect is consistent with Provincial Policy and applicable policies of the Official Plan (ie. those dealing with the recognition and protection of significant natural heritage features and functions).
4. The Appellant is a commenting agency with respect to natural heritage matters and has a statutory mandate with respect to wetland protection.

**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)  
A zoning by-law amendment appeal against By-law No. Z.-1-132226 is also being filed with respect to these same lands.

Agenda Item #	Page #

File No.: OZ-8120  
Planner: Amanda-Brea Watson

2013-LO1



MUNICIPAL, PLANNING & DEVELOPMENT LAW

23 September 2013

Sent via courier and email to [csaunders@london.ca](mailto:csaunders@london.ca)

City Clerk  
**Attention: Catharine Saunders**  
City of London  
300 Dufferin Avenue  
3<sup>rd</sup> Floor  
London, ON N6B 1Z2

City Clerk No. 3023  
Subject Appeal to OMB  
ZBA - OZ-8120 - 3130/3260  
Dingman Dr & 4397/4407  
SEP 24 2013  
Wellington Rd's  
Ref. J. Nethercott  
C.C. J. Page

Dear Ms. Saunders:

Ref to: JN, JP SCANNED MD

**Re: Applications by PenEquity Realty Corporation, Municipal File OZ-8120  
Notice of Appeal pursuant to sections 17 and 34 of the Planning Act - Official Plan  
Amendment No. 557 and Zoning By-law Z.-1-132226  
In regard to 3130 and 3260 Dingman Drive and the rear portion of 4397/4407 Wellington  
Road South (the "PenEquity 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 19 August 2013.

On behalf of our client, please accept this letter and the enclosed materials as its appeal of Official Plan Amendment No. 557 ("OPA 557") and Zoning By-law Z.-1-132226 (the "Zoning By-law"). A summary of the reasons for appeal are found below.

**Reasons for Appeal**

1. PenEquity's appeal of OPA 541 states that they have concerns respecting the scope of commercial lands available for development and the elimination of a phasing strategy for development of commercial lands. Furthermore, their appeal states that there has been insufficient justification to support the volume of commercial lands available for development and that there is no policy basis to support the planning horizon for that development.

The adoption of OPA 557 and the enactment of the Zoning By-law is premature within the context of the recent adoption of Official Plan Amendment No. 541 ("OPA541") which adopts a Secondary Plan for Southwest London (the "Southwest London Area Plan" or "SWAP").

Agenda Item #	Page #

File No.: OZ-8120  
Planner: Amanda-Brea Watson

23 September 2013



2. 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**

A handwritten signature in black ink, appearing to read "S. Mahadevan".

Sharmini Mahadevan

Agenda Item #	Page #
---------------	--------

File No.: OZ-8120  
Planner: Amanda-Brea Watson



**APPELLANT FORM (A1)  
PLANNING ACT**

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



*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)
Consent/Severance	<input type="checkbox"/> Appeal a decision	53(19)
	<input type="checkbox"/> Appeal conditions imposed	
	<input type="checkbox"/> Appeal changed conditions	53(27)
	<input type="checkbox"/> Failed to make a decision on the application within 90 days	53(14)
Zoning By-law or Zoning By-law Amendment	<input checked="" type="checkbox"/> Appeal the passing of a Zoning By-law	34(19)
	<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**

3130 and 3260 Dingman Drive and the rear portion of 4397/4407 Wellington Road South  
Address and/or Legal Description of property subject to the appeal:

Municipality/Upper tier: London



Agenda Item #  Page #

File No.: OZ-8120  
 Planner: Amanda-Brea Watson

**Part 3: Appellant Information**

First Name: Omella Last Name: Richichi

Greenhills SC Ltd.  
 Company Name or Association Name (Association must be incorporated – include copy of letter of incorporation)

Professional Title (if applicable): Executive Vice-President, Land Development

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

Daytime Telephone #: 905-760-6200 ext. 7646 Alternate Telephone #: \_\_\_\_\_

Fax #: 905-760-6201

Mailing Address: 700 Applewood Cres. Suite 100 Vaughan  
Street Address Apt/Suite/Unit# City/Town  
Ontario L4K 5X3  
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. 26 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: Shamini Last Name: Mahadevan

Company Name: Wood Bull LLP

Professional Title: Solicitor

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

Daytime Telephone #: 416-203-7160 Alternate Telephone #: \_\_\_\_\_

Fax #: 416-203-8324

Mailing Address: 65 Queen St. W Suite 1400 Toronto  
Street Address Apt/Suite/Unit# City/Town  
Ontario M5H 2M5  
Province Country (if not Canada) Postal Code

Signature of Appellant:  Date: Sept. 23/13

**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-8120**  
**Planner: Amanda-Brea Watson**

**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)

Zoning By-law Z.-1-132226  
Municipal Files OZ-8120

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)

Please see attached letter.

**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)

Appeal of Official Plan Amendment No. 557 filed concurrently.

The lands which are subject to this appeal are subject to the London Southwest Area Plan which is before the OMB in OMB File PL130020.





Agenda Item #	Page #

File No.: OZ-8120  
Planner: Amanda-Brea Watson

2013-LOI



MUNICIPAL, PLANNING & DEVELOPMENT LAW

23 September 2013

Sent via courier and email to [csaunders@london.ca](mailto:csaunders@london.ca)

City Clerk  
**Attention: Catharine Saunders**  
City of London  
300 Dufferin Avenue  
3<sup>rd</sup> Floor  
London, ON N6B 1Z2

City Clerk No. 3024  
Subject Appeal to OMB-CPA  
557-3330/3360 Dingman  
Dr & 4397/4407 Wellington  
Rd S. SEP 24 2013  
Ref. J. Neheroff  
C.C. J. Page  
Ref to: JIN JP SCANNED ✓ (HL)

Dear Ms. Saunders:

**Re: Applications by PenEquity Realty Corporation, Municipal File OZ-8120  
Notice of Appeal pursuant to sections 17 and 34 of the Planning Act - Official Plan  
Amendment No. 557 and Zoning By-law Z.-1-132226  
In regard to 3130 and 3260 Dingman Drive and the rear portion of 4397/4407 Wellington  
Road South (the "PenEquity 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 19 August 2013.

On behalf of our client, please accept this letter and the enclosed materials as its appeal of Official Plan Amendment No. 557 ("OPA 557") and Zoning By-law Z.-1-132226 (the "Zoning By-law"). A summary of the reasons for appeal are found below.

**Reasons for Appeal**

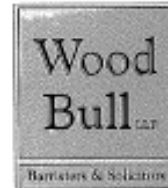
1. PenEquity's appeal of OPA 541 states that they have concerns respecting the scope of commercial lands available for development and the elimination of a phasing strategy for development of commercial lands. Furthermore, their appeal states that there has been insufficient justification to support the volume of commercial lands available for development and that there is no policy basis to support the planning horizon for that development.

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Agenda Item #	Page #

**File No.: OZ-8120**  
**Planner: Amanda-Brea Watson**

23 September 2013



2. 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**

A handwritten signature in cursive script, appearing to read "S. Mahadevan".

Sharmini Mahadevan

Agenda Item #	Page #
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File No.: OZ-8120  
Planner: Amanda-Brea Watson



Environment and Land Tribunals Ontario  
**Ontario Municipal Board**  
555 Bay Street, Suite 1500 Toronto, Ontario M5G 1E5  
TEL: (416) 212-6349 or Toll Free: 1-866-448-2248  
FAX: (416) 328-6370  
www.elt.o.gov.on.ca

**APPELLANT FORM (A1)  
PLANNING ACT**

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



*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)
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	<input type="checkbox"/> Application for an amendment to the Zoning By-law – refused by the municipality	
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	<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**

3130 and 3260 Dingman Drive and the rear portion of 4397/4407 Wellington Road South  
Address and/or Legal Description of property subject to the appeal:

Municipality/Upper tier: London

Agenda Item #	Page #

File No.: OZ-8120  
Planner: Amanda-Brea Watson

**Part 3: Appellant Information**

First Name: Ornella Last Name: Richichi  
Greenhills SC Ltd.  
 Company Name or Association Name (Association must be incorporated – include copy of letter of incorporation)  
 Professional Title (if applicable): Executive Vice-President, Land Development  
 E-mail Address: \_\_\_\_\_  
By providing an e-mail address you agree to receive communications from the OMB by e-mail.

Daytime Telephone #: 905-760-6200 ext. 7646 Alternate Telephone #: \_\_\_\_\_  
 Fax #: 905-760-6201

Mailing Address: 700 Applewood Cres., Suite 100 Vaughan  
Street Address Apt/Suite/Unit# City/Town  
Ontario L4K 5X3  
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: Sharmini Last Name: Mahadevan  
 Company Name: Wood Bull LLP  
 Professional Title: Solicitor  
 E-mail Address: smahadevan@woodbull.ca  
By providing an e-mail address you agree to receive communications from the OMB by e-mail.

Daytime Telephone #: 416-203-7160 Alternate Telephone #: \_\_\_\_\_  
 Fax #: 416-203-8324

Mailing Address: 65 Queen St. W Suite 1400 Toronto  
Street Address Apt/Suite/Unit# City/Town  
Ontario M5H 2M5  
Province Country (if not Canada) Postal Code

Signature of Appellant:  Date: Sept. 23/13

*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-8120**  
**Planner: Amanda-Brea Watson**

**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):

(Please print)

Official Plan Amendment No. 557  
Municipal File OZ-8120

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)

Please see attached letter.

**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)

Appeal of Zoning By-law Z.-1-132226 filed concurrently.

The lands which are subject to this appeal are subject to the London Southwest Area Plan which is before the OMB in OMB File PL130020.





Agenda Item #	Page #

File No.: OZ-8120  
Planner: Amanda-Brea Watson



2013-LO1

Barristers & Solicitors  
Bay Adelaide Centre  
333 Bay Street, Suite 3400  
Toronto, Ontario M5H 2S7  
Telephone: 416.979.2211  
Facsimile: 416.979.1234  
goodmans.ca  
DIRECT LINE: 416.597.4119  
rhouser@goodmans.ca

September 23, 2013

Catherine Saunders  
City Clerk  
City of London  
3<sup>rd</sup> Floor, 300 Dufferin Avenue  
London, ON N2B 1Z2

City Clerk No. 3025  
Subject: Appeal to OMB -  
ZBA-OZ-8120-31301  
3360 Dingsman Dr / 43471  
SEP 24 2013  
4407 Wellington Rd S  
Ref. J. Nehercott  
C.C. J. Page  
Ref to: JN JP SCANNED AM

HAND DELIVERED

Dear Ms. Saunders:

**Re: Appeal of By-law Z.-1-132226 by Costco Wholesale Corporation**

We are the solicitors for Costco Wholesale Corporation ("Costco"), the owner of a property immediately adjacent to the lands subject to the above-noted amendment. On behalf of our client, we advised Council on June 17, 2013 of the transportation concerns respecting the development proposed by PenEquity Realty Corporation ("PenEquity"). We attach a copy of that letter which contains the basis for the appeal herein.

As the matters raised in the submission filed with Council remain a concern to our client, we have been instructed to file this appeal of By-law Z.-1-132226. We would note however that there have been productive discussions between Costco and PenEquity regarding measures to address our client's transportation issues so we are hopeful that it will be possible to achieve a resolution that will facilitate the withdrawal of the appeal. Provided the transportation issues are resolved, Costco is supportive of the development proposed by PenEquity.

In conjunction with this appeal we enclose the following:

1. A completed copy of the Board's Appellant Form A1
2. A firm cheque in the amount of \$125 for the zoning appeal

We trust this is satisfactory.

Yours very truly,

**GOODMANS LLP**

*Roslyn Houser*  
Roslyn Houser  
RH/ss

cc: Mark Marchissano  
Margaret McCulla  
Walter Kaczynski  
Scott Snider



Agenda Item #	Page #

**File No.: OZ-8120**  
**Planner: Amanda-Brea Watson**



Barristers & Solicitors  
 Bay Adelaide Centre  
 333 Bay Street, Suite 3400  
 Toronto, Ontario M5H 2S7  
 Telephone: 416.979.2211  
 Facsimile: 416.979.1234  
 goodmans.ca

Direct Line: 416.597.4119  
 rhouser@goodmans.ca

June 17, 2013

Chair and Members of the Planning and  
 Environment Committee  
 City Hall  
 300 Dufferin Avenue  
 P.O. Box 5035  
 London, ON N6A 4L9

Dear Sirs/Mesdames:

**Re: Application by Penequity Realty Corporation, 3130 and 3260 Dingman Drive**

We are the solicitors for Costco Wholesale Corporation ("Costco"), the owner and operator of a warehouse membership club located at the northwest corner of Wellington Road and Roxburgh Road (4313 Wellington Road South), immediately adjacent to the property that is the subject of the above-noted application. This warehouse membership club has been in operation since 1992 and is a busy and successful store.

Our client's transportation consultant, BA Group, has reviewed the traffic study submitted in support of the application by Penequity Realty Corporation ("Penequity") and has advised that the current design of the proposal will have a major negative impact on access and egress for the Costco site which has not been addressed in the applicant's traffic study.

The primary means of access to the Costco site is provided from three full move driveways on Roxburgh Road. The Penequity proposal contemplates the implementation of double left turning lanes at the Roxburgh/Wellington intersection to accommodate the projected high traffic volumes from the Penequity development. BA Group has advised that the road network improvements recommended by Penequity's transportation consultant, HDR, would not provide sufficient capacity, would create unacceptable weaving conditions on Roxburgh Road and are inadequate.

Also, BA has indicated that southbound left turn capacity from Costco's Roxburgh driveways would be severely restricted and the driveways would be blocked by the queues on Roxburgh Road in the dual left turn lanes. The delays would be particularly severe for the east driveway, which is Costco's most important driveway because of its proximity to the Roxburgh/Wellington intersection and the parking lot layout.

The applicant's transportation consultant, HDR, acknowledges there will be lengthy delays at Costco's east driveway and suggests that this could be addressed by the on-site redistribution of Costco's traffic to its central and western driveways. This would not be an appropriate or

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**Planner: Amanda-Brea Watson**

**Goodmans LLP**

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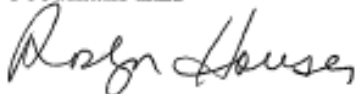
acceptable outcome for Costco because it would result in significant on-site queuing and circulation issues creating an area of high vehicular and pedestrian conflict at the main warehouse entrance.

Penequity has failed to address Policy 4.5 of the Official Plan which requires an applicant to evaluate the impact of its traffic generated by the proposal on surrounding properties as well as the coordination of access and traffic circulation with surrounding sites. Prior to a Council decision on this application, Penequity should be required to undertake more comprehensive traffic and planning analyses and to undertake a redesign of the proposal. We note that a redesign will be required in any event to reflect the OS5 zoning that has been recommended for the central portion of Penequity site in order to protect the significant woodland.

The City's Transportation and Planning Division has identified the need for additional traffic work to be undertaken by the applicant. However the recommendations in the planning report provide for approval of the development subject to a holding provision that would be lifted at the site plan approval stage when the additional traffic work is completed. In our view, it is premature for the City to enact a zoning amendment permitting a project of this scale when there are fundamental traffic issues to be resolved. We would also point out that deferring the resolution of the traffic issue to the site plan stage would deprive our client of the opportunity for meaningful participation in the process, as the Planning Act does not afford third parties with a right to appeal a site plan to the OMB.

Our client has brought its concerns to the attention of Penequity and it is our understanding that Penequity has agreed to involve Costco in the discussions with the City respecting the re-design of the proposal and the resolution of the above-noted transportation issues. In these circumstances, we trust the Committee will agree that it is premature for the zoning by-law amendment to be introduced at the Council meeting on June 25, 2013 and therefore staff recommendation (c) should not be approved.

Yours very truly,  
**Goodmans LLP**



Roslyn Houser  
RH/ss

cc: Jeff Ishida  
Mark Marchisano  
Margaret McCulla  
Walter Kaczynski  
David Johnston  
Leger Xavier  
Craig Smith

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Environment and Land Tribunals Ontario  
**Ontario Municipal Board**  
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www.elft.gov.on.ca

**APPELLANT FORM (A1)  
PLANNING ACT**

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

Date Stamp - Appeal Received by Municipality

**RECEIVED**  
SEP 24 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)
Zoning By-law or Zoning By-law Amendment	<input checked="" type="checkbox"/> Appeal the passing of a Zoning By-law	34(11)
	<input type="checkbox"/> Application for an amendment to the Zoning By-law – failed to make a decision on the application within 120 days	
	<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**

3130 and 3260 Dingman Drive and the rear corner of 4397/4407 Wellington Rd.  
Address and/or Legal Description of property subject to the appeal:

Municipality/Upper tier: City of London

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File No.: OZ-8120  
Planner: Amanda-Brea Watson

**Part 3: Appellant Information**

First Name: \_\_\_\_\_ Last Name: \_\_\_\_\_  
Costco Wholesale Corporation  
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: 45940 Horseshoe Drive, Suite 150 Sterling  
Street Address Apt/Suite/Unit# City/Town  
Virginia U.S.A 20166  
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: Roslyn Last Name: Houser  
Company Name: Goodmans LLP  
Professional Title: \_\_\_\_\_  
E-mail Address: rhouser@goodmans.ca  
By providing an e-mail address you agree to receive communications from the OMB by e-mail.

Daytime Telephone #: 416-597-4119 Alternate Telephone #: \_\_\_\_\_  
Fax #: 416-979-1234

Mailing Address: 333 Bay Street Suite 3400 Toronto  
Street Address Apt/Suite/Unit# City/Town  
Ontario M5N 2S7  
Province Country (if not Canada) Postal Code

Signature of Appellant: Goodmans LLP for Houser Date: Sept 23, 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-8120**  
**Planner: Amanda-Brea Watson**

**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)

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)

See attached letter.

**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)

