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File No.: OZ-7965
Planner: Mike Davis

TO:	CHAIR AND MEMBERS PLANNING & ENVIRONMENT COMMITTEE
FROM:	JOHN M. FLEMING MANAGING DIRECTOR, PLANNING AND CITY PLANNER
SUBJECT:	APPLICATION BY: CITY OF LONDON 1607, 1609, 1611, 1615, 1619, 1623, 1627, 1631, 1635, 1639, 1643, 1649, AND 1653 RICHMOND STREET NOTICE OF APPEAL TO THE ONTARIO MUNICIPAL BOARD MEETING ON APRIL 29, 2014

RECOMMENDATION

That, on the recommendation of the Managing Director, Planning and City Planner, in response to the letters of appeal to the Ontario Municipal Board, dated February 27, 2014 and submitted by McKenzie Lake Lawyers LLP on behalf of Richmond Medical Centre Inc., and Cercelli Law on behalf of Anthony Cercelli relating to Official Plan Amendment No. 564 and Zoning By-laws Z.-1-142261, Z.-1-142262, Z.-1-142263, and Z.-1-142264 concerning 1607, 1609, 1611, 1615, 1619, 1623, 1627, 1631, 1635, 1639, 1643, 1649 and 1653 Richmond 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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October 17, 2011 Report to Built and Natural Environment Committee – 1607, 1609 (eastern portion), 1611, 1615, 1619, 1623, 1627, 1631, 1635, 1639, 1643, 1649, and 1653 Richmond Street (OZ-7965) – This information report noted that the Civic Administration had initiated an application for Official Plan and Zoning By-law amendments for these lands and had also initiated preparation of a Master Plan to be considered for adoption as a Guideline Document to the Official Plan. Further, the report requested Municipal Council to direct Civic Administration to retain a transportation planning consultant in order to prepare a traffic impact assessment which would assist with determining area transportation policies and development conditions, to identify the costs associated with storm sewer capacity improvements required to accommodate the proposed development between Hillview and Shavian Boulevards, and to identify sources of financing to undertake these works in 2012.

December 12, 2011 Report to Planning and Environment Committee – 1607, 1609 (eastern portion), 1611, 1615, 1619, 1623, 1627, 1631, 1635, 1639, 1643, 1649, and 1653 Richmond Street (OZ-7965) – This report recommended that the Official Plan and Zoning By-law be amended at a future date to permit the development of multiple attached dwellings such as row houses or cluster houses, low-rise apartment buildings, small scale nursing homes, rest homes, and homes for the aged with a convenience commercial component; that the *Richmond Street-Old Masonville Master Plan and Urban Design Guidelines* be adopted at a future date; and that three readings of the enacting by-laws be withheld until such time as site plan approval has been obtained for the properties at 1631, 1635, and 1639 Richmond Street and a development agreement entered into with the City of London.

November 12, 2013 Report to the Planning and Environment Committee - 1607, 1609 (eastern portion), 1611, 1615, 1619, 1623, 1627, 1631, 1635, 1639, 1643, 1649, and 1653 Richmond Street (OZ-7965) – This report from the Managing Director, Planning and City Planner provided an overview of the history of planning and land use policies contemplated for the subject lands and, specifically, highlighted difficulties in implementing the January 2012 resolution of Council regarding proposed Official Plan and Zoning By-law amendments for the subject lands due to a resolution to withhold three readings of the enacting by-laws until such

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time that Site Plan approval has been obtained for 1631, 1635 and 1639 Richmond Street. The report recommended that Civic Administration be directed to initiate new Official Plan and Zoning By-law amendments to re-initiate discussions with the community and consider the use of additional holding provisions which would provide the same assurances to secure the ultimate form of development as previous the approach to withhold three readings.

January 21, 2014 Report to the Planning and Environment Committee - 1607, 1609 (eastern portion), 1611, 1615, 1619, 1623, 1627, 1631, 1635, 1639, 1643, 1649, and 1653 Richmond Street (OZ-7965) – This report from the Managing Director, Planning and City Planner recommended approval of Official Plan and Zoning By-law amendments for the subject lands to permit the development of multiple attached dwellings such as row houses or cluster houses, low-rise apartment buildings, small scale nursing homes, rest homes, and homes for the aged with a convenience commercial component in accordance with the *Richmond Street-Old Masonville Master Plan and Urban Design Guidelines*.

PURPOSE AND EFFECT OF RECOMMENDED ACTION

The purpose and effect of the recommended action is to advise the Ontario Municipal Board that Municipal Council has received the appeal from McKenzie Lake Lawyers LLP and Cercelli Law and remains in agreement with its January 28, 2014 decision to approve Official Plan Amendment No. 564 and Zoning By-laws Z.-1-142261, Z.-1-142262, Z.-1-142263, and Z.-1-142264.

BACKGROUND

In March of 2011, Civic administration received direction from Council, based on communications from Councillor Matt Brown, to report back at a future meeting with respect to a new Official Plan and Zoning By-law framework for the subject lands that considers a form and intensity of development that:

- Is supportive of infill;
- Is respectful of the character of the corridor and the neighbourhood to the west;
- Allows for appropriate intensity of use (recognizing the propensity for 5 bedrooms for unit within residential development at this location);
- Manages and mitigates impacts on the rear yards of development to the west;
- Manages and consolidates access to avoid impact on Richmond Street; and
- Provides for a built form and urban design that enhances the Richmond Street corridor and Masonville node.

In response to this Council direction, Planning Staff undertook a series of consultation sessions with representatives of the Old-Masonville Community, Mr. Farid Metwaly (owner of lands at 1631, 1635, and 1639 Richmond Street), Civic Administration and the Ward Councillor. The result of these collaborative consultation efforts was a new concept for the future development of the lands including 1607-1653 Richmond Street which adds residential intensity toward the Richmond Street corridor and Masonville Node while increasing setbacks from the existing single detached dwellings to the south and west, reducing the number of bedrooms per unit and appealing to a wider mix of residents.

On December 12, 2011, Planning Staff presented a series of Official Plan and Zoning By-law amendments to the Planning and Environment Committee to, effectively, implement the development concept resulting from the Council direction and community consultation. These were endorsed by Council on January 10, 2012 but 3 readings of the by-laws were withheld, "...until such time as site plan approval has been obtained for the properties at 1631, 1635, and 1639 Richmond Street, following a public site plan review, and a development agreement

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entered into with the City of London, which is consistent with the site plan drawings and elevation drawings [presented to Council].

On January 21, 2014, revised Official Plan and Zoning By-law amendments were presented to the Planning and Environment Committee to allow for adoption of the previously considered approvals with holding provisions to provide further assurances as to the ultimate form of development. On January 28, 2014, Municipal Council approved the recommended Official Plan and Zoning By-law amendments which resulted in the re-designation of the subject lands to “Multi-Family, Medium Density Residential”, the adoption of special Official Plan policies to Section 3.5 – Policies for Specific Residential Areas of the Official Plan, the adoption of the Richmond Street Old-Masonville Master Plan and Urban Design Guidelines as a guideline document to the Official Plan and the rezoning of the subject properties to allow for the development of multiple attached dwellings such as row houses or cluster houses, low-rise apartment buildings, small scale nursing homes, rest homes, and homes for the aged with a convenience commercial component with holding provisions to ensure development occurs in accordance with the *Richmond Street-Old Masonville Master Plan and Urban Design Guidelines*.

On February 27, 2014, appeals were submitted by McKenzie Lake Lawyers LLP on behalf of Richmond Medical Centre Inc. (owner of 1653 Richmond Street), and Cercelli Law on behalf of Anthony Cercelli (owner of 1609 Richmond Street), in opposition to Municipal Council’s decision to approve the Official Plan and Zoning By-law amendments. The appeal documents outline a range of reasons for appeal. The various reasons for appeal are highlighted in the appeal document excerpts attached as Appendix “A” to this report. A date for the Ontario Municipal Board hearing has not yet been scheduled.

ANALYSIS

Reasons for Appeal

Planning Staff have reviewed the previous recommendation for approval of the Official Plan and Zoning By-law amendments in view of the stated reasons for appeal. The reasons for appeal are summarized in excerpts from the submitted appeal documents attached as Appendix “A” to this report for further reference.

Provincial Policy Statement, 2014

Staff have conducted an evaluation of the subject application in the context of the new *Provincial Policy Statement (PPS), 2014* which comes into effect on April 30, 2014. In general, the *PPS, 2014* supports and continues to build on many key planning objectives established through the *PPS, 2005* including promoting intensification and redevelopment at appropriate locations to facilitate land use and development patterns which are conducive to active transportation and transit usage and providing for a mix of uses and densities to create complete communities and shorten commute distances. A detailed evaluation of the previously approved Official Plan and Zoning By-law amendments in the context of the *PPS, 2014* has been provided below.

The *Provincial Policy Statement, 2014 (PPS)* provides policy direction on matters of provincial interest related to land use planning and development. The objectives of the *PPS* pertain to three major policy areas including 1.0 – Building Strong Healthy Communities, 2.0 – Wise Use and Management of Resources, and 3.0 – Protecting Public Health and Safety. The *PPS* is more than a set of individual policies. It is intended to be read in its entirety and the relevant policies are applied to each situation. Section 3 of the *Planning Act* requires that decisions of any authority affecting planning matters “shall be consistent” with the *PPS*. As it relates to this application, the *PPS* provides the following direction.

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One of the primary objectives of the Province as expressed in the PPS, as with the previous version (2005), is to facilitate the efficient use of lands and infrastructure within urban areas. The policies of the PPS provide for the efficient use of land and resources in urban areas, primarily by promoting *intensification*. The PPS defines *intensification*, in part, as the development of a property, site or area at a higher density than currently exists through development of vacant and/or underutilized lots within previously developed areas.

Policy 1.1.3.3 of the PPS states that, “*Planning authorities shall identify appropriate locations and promote opportunities for intensification and redevelopment where this can be accommodated taking into account existing building stock or areas...and the availability of suitable existing or planned infrastructure and public service facilities required to accommodate projected needs.*” It is worth noting that *redevelopment* is defined as, “the creation of new units, uses or lots on previously developed land in existing communities” and *infrastructure* is defined as, “physical structures (facilities and corridors) that form the foundation for development... [including] transit and transportation corridors and facilities...”

As indicated above, the PPS (2014), requires that Council promote opportunities for development of new units on previously developed land in existing communities at a higher density that currently exists where it can be accommodated taking into account existing building stock and available infrastructure, including such services as water, sewage, and transit, required to accommodate the projected needs. The Official Plan and Zoning By-law amendments, as approved by Council, will provide for intensification and redevelopment through a built form which decreases in height and intensity from the northern portion to the southern portion and from the eastern half to the western half of these lands to, provide for intensity along the Richmond Street corridor and increased setbacks from surrounding single family residential development to the east and south.

Policy 1.5.1 states that, “*Healthy, active communities should be promoted by planning public streets, spaces and facilities to be safe, meet the needs of pedestrians, foster social interaction and facilitate active transportation and community connectivity*”. A primary objective of the recommended amendments is to facilitate a form of development that is conducive to alternative modes of transportation including walking, cycling and public transit. The recommended amendments provide for the development of mid-rise apartment buildings and residential intensity in close proximity to commercial and personal service uses, along a major transit corridor and adjacent to an existing transit terminal. In addition, the form of construction outlined in the *Richmond Street-Old Masonville Master Plan and Urban Design Guidelines*, adopted as guideline document to the Official Plan, requires the proposed apartment buildings to be constructed with active frontages to support active modes of transportation in conformity to the policies of the PPS (2014).

Policy 1.6.7.4 (Transportation Systems) of the PPS requires that, “*A land use pattern, density and mix of uses should be promoted that minimize the length and number of vehicle trips and support current and future use of transit and active transportation.*” Similarly, policy 1.6.7.5. of the PPS (2014) states that, “*Transportation and land use considerations shall be integrated at all stages of the planning process.*” As previously mentioned, one of the primary goals of the recommended amendments is to facilitate a transit-supportive form of development at this location. By providing for intensification at the Masonville node, within close proximity to transit and commercial services, the recommended amendments serve to contribute to a land use pattern which supports and enhances the viability of higher order transit.

Policy 1.8.1 (Energy Conservation, Air Quality and Climate Change) of the PPS (2014) requires planning authorities to support energy conservation and efficiency, improved air quality, reduced greenhouse gas emissions and climate change adaptation through land use and development patterns which: *promote a compact structure of nodes and corridors; promote the use of active transportation and transit; and improve the mix of employment and housing uses to shorten commute journeys and decrease transportation congestion.*

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As part of the local implementation of this policy, the *City of London's 2030 Transportation Master Plan: Smart Moves* recommends strategies to assist the City of London and the London Transit Commission (LTC) in meeting a 20% transit modal share target by 2030. To achieve this objective, the growth management strategies in the Transportation Master Plan encourage directing growth to locations where it supports transit ridership, walking and biking. Such locations include the Downtown Area and planned rapid transit nodes and corridors identified in the 2030 Transportation Master Plan. Masonville Mall has been identified as a BRT node and Richmond Street as a planned BRT corridor. Based on a strategic review of ridership potential, both Richmond Street and Western Road, in proximity to the subject lands, have been identified as rapid transit corridors that can be implemented in the short-term. The Growth Strategy stresses the importance of strengthening land use policies around nodes and corridors to focus future high-density development and employment in these areas. The recommended amendments to introduce higher density residential uses on the subject lands represent a key component in implementing land use patterns which support transit objectives, in conformity with the PPS (2014), at this strategic location.

CONCLUSIONS

Staff have conducted an evaluation of the previously approved Official Plan Amendment No. 564 and Zoning By-laws Z.-1-142261, Z.-1-142262, Z.-1-142263, and Z.-1-142264 with regard to the stated reasons for appeal and the policies of the *Provincial Policy Statement, 2014*. The results of this planning analysis support the previously approved amendments and, as such, Staff see no reason for Council to alter its previous decision relating to this matter.

PREPARED BY:	SUBMITTED BY:
MIKE DAVIS, B.U.R.PI. PLANNER II, CURRENT PLANNING	MICHAEL TOMAZINCIC, MCIP, RPP MANAGER, CURRENT PLANNING
RECOMMENDED BY:	
JOHN M. FLEMING, MCIP, RPP MANAGING DIRECTOR, PLANNING AND CITY PLANNER	

April 14, 2014
Mike Davis
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APPENDIX "A"

i) Richmond Medical Centre Inc. – Reasons for Appeal

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.

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)

Appealing a By-law passes by the Council of the Corporation of the City of London, By-law No. Z-1-142264, on the 28th day of January, 2014 under section 34 of the Planning Act. Copy of NOTICE is attached.

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. The By-Law is too restrictive in that it does not permit the full range of uses permitted in the City of London Official Plan.
2. The Bylaw is too restrictive in that it does not permit existing parcels of land to develop without significant assembly.
3. The Bylaw is based on a Master Plan and Urban Design Guidelines prepared by the City of London, and these planning documents are too prescriptive to facilitate intended land development.
4. The Bylaw represents undesirable land use planning by proposing land uses that may be incompatible with the surrounding land uses and transportation facilities.
5. The Bylaw should permit non-residential uses, such as medical offices, in mixed use buildings.

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: Feb 27 2014
(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.

Existing zone is Holding Residential R5 Special Provision/Residential R6 Special Provision (h-5•R5-2(12)/R6-4(14)) Zone. Proposed Zone is Holding Residential R9 Special Provision (h-5•h-(162)•h-55•R9-7(21)) Zone. See attached NOTICE, DESCRIPTION OF SUBJECT LANDS and PURPOSE AND EFFECT.

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ii) Anthony Cercelli – Reasons for Appeal

SCHEDULE A

Pursuant to section 17 of the Planning Act, I am hereby appealing against Council's passing of By-law No. C.P.-1284(tp)-60 Amendment No. 564, at Council's meeting on January 28th, 2014.

The reasons for my appeal are as follows;

1. The Guidelines are not appropriate for the development of the West side of Richmond Street and should not be included in the Official Plan.
2. At best they are premature.
3. Such other reasons as may be adduced and permitted by the Ontario Municipal Board.

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SCHEDULE A

Pursuant to section 34 of the Planning Act, I am hereby appealing against Council's passing of By-law No. Z.-1-142261, at Council's meeting on January 28th, 2014.

The reasons for my appeal are as follows;

1. The proposed zoning is an inappropriate use of land.
2. The proposed zoning will be out of character with the street.
3. The proposed zoning will permit uses in locations which will impact the quiet enjoyment of my lands and other adjacent properties.
4. The proposed zoning will have a negative impact on the privacy and create issues of peering, for the current homeowners.
5. The proposed density is completely out of character with existing properties along Richmond Street and the streets to the immediate East of Richmond Street.
6. The various H designations are premature, H-5 for a development agreement is premature until all of the lands are determined or in the alternative all of the lands are contained in a comprehensive development proposal.
7. The proposed zoning would create a piecemeal development form.
8. The H-162 designation, anticipates that design guidelines be added to the Official Plan.
9. A corollary appeal has been filed with respect to that Official Plan Amendment and the design guidelines.
10. The H-163 designation, requires a storm water management plan be approved for some of the sites and not others, again speaking to the piecemeal approach and also to the prematurity of zoning that servicing issues have not been addressed.
11. Such other reasons as may be adduced and permitted by the Ontario Municipal Board.