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File: OZ-8375
Planner: E. Lalande

TO:	CHAIR AND MEMBERS PLANNING & ENVIRONMENT COMMITTEE
FROM:	JOHN M. FLEMING MANAGING DIRECTOR, PLANNING AND CITY PLANNER
SUBJECT:	APPLICATION BY: ESAM CONSTRUCTION LIMITED 720 PROUDFOOT LANE PUBLIC PARTICIPATION MEETING ON SEPTEMBER 9, 2014

RECOMMENDATION

That, on the recommendation of the Managing Director, Planning and City Planner, the following actions be taken with respect to the application of ESAM Construction Limited relating to the property located at 720 Proudfoot Lane:

- (a) the proposed by-law attached hereto as Appendix "A" **BE INTRODUCED** at the Municipal Council meeting on September 16, 2014 to amend the Official Plan to change the designation of the subject lands by amending a site-specific special policy area to add a restaurant as a permitted use within the existing building in an Open Space designation.
- (b) the proposed by-law attached hereto as Appendix "B" **BE INTRODUCED** at the Municipal Council meeting on September 16, 2014 to amend Zoning By-law No. Z.-1, in conformity with the Official Plan as amended in part (a) above, to amend the Commercial Recreation Special Provision (CR(1)) Zone by adding a new use and regulations to the existing special provision zone.;

PREVIOUS REPORTS PERTINENT TO THIS MATTER
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"None"

PURPOSE AND EFFECT OF RECOMMENDED ACTION

The recommended action will permit the development of a restaurant within the existing building in addition to the range of commercial and facility uses currently operating. The proposed amendments will update a site-specific special policy area in the Official Plan and amend a site specific special provision in the Zoning By-law.

RATIONALE

1. The recommended amendments are consistent with the Provincial Policy Statement, 2014;
2. The recommended amendments meet the general intent of the Official Plan; and,
3. The proposed use is limited to internal reconfiguration of the existing building and does not require additional parking beyond what is currently provided.
4. The recommended amendment seeks to adaptively reuse the portion of the building which is being vacated by a long-term tenant and maximize the utility of the building and associated infrastructure.

Two empty rectangular boxes for agenda item and page numbers.

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Aerial Photo Location Map

File No.: OZ-8375

EL

Date Prepared: 2014/07/10

CK

SCALE: 1:4,500



Prepared by: Graphics & Information Services, Planning Division, Corporation of the City of London
Photography based on April 2010 flight info.

Note: Parcel linework, when shown, is not for official or legal use.

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BACKGROUND

Date Application Accepted: June 11, 2014	Agent: Michael Hannay
<p>REQUESTED ACTION: An addition to Policy 10.1.3.xxxvii by changing the wording from “A Fast Food Restaurant” to “A Fast Food Restaurant & Restaurant” which would allow for a restaurant in addition to the existing Dairy Queen.</p> <p>To request a Site Specific Amendment that would revise CR(1) zone variation to include the permitted use of “Restaurant” in the existing building at 233 m² (2,500 ft²) which would allow the development of a full service restaurant to be built in addition to the existing Dairy Queen.</p>	

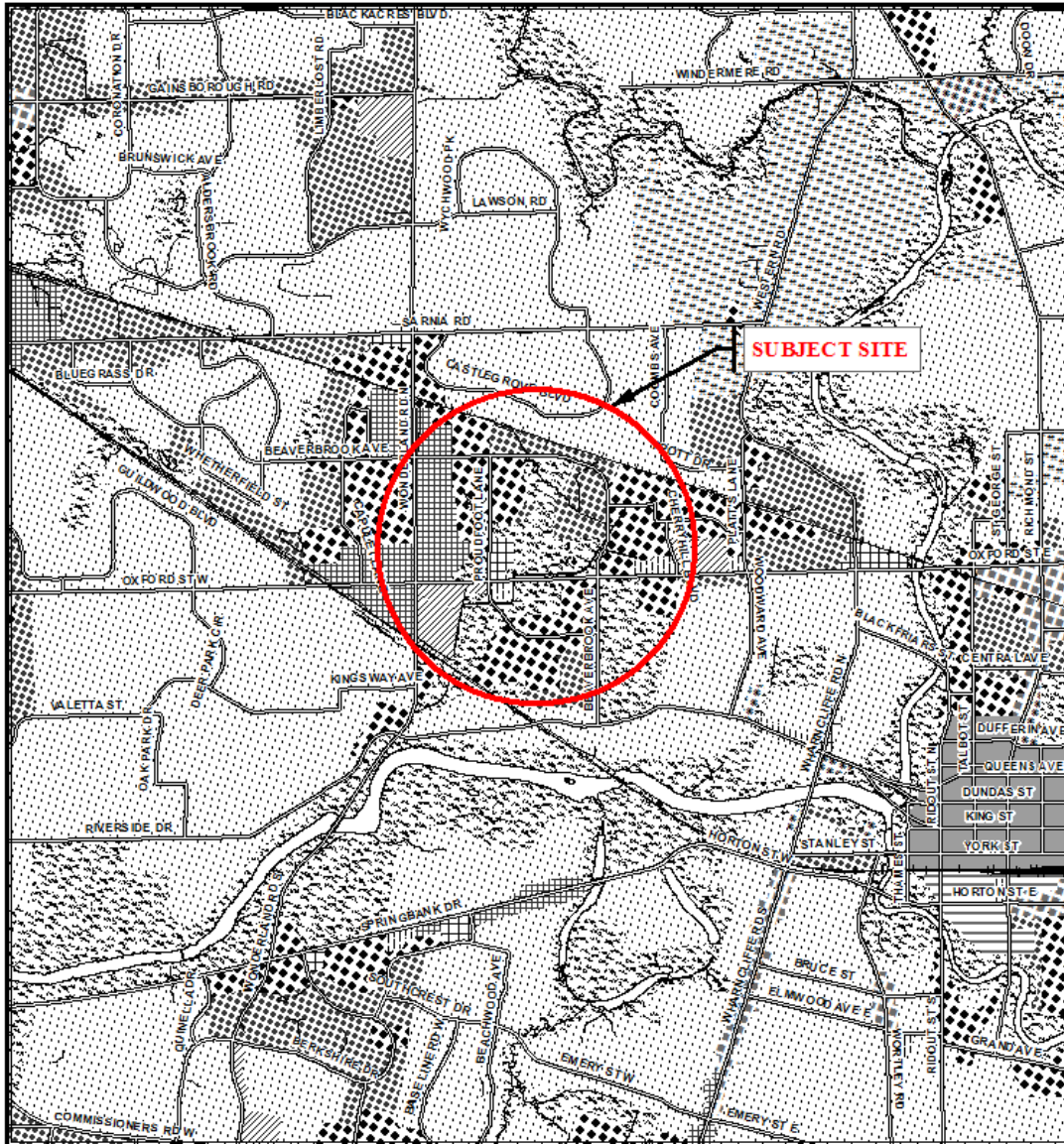
SITE CHARACTERISTICS:
<ul style="list-style-type: none"> • Current Land Use – Commercial Recreation, Fast/Food Restaurant, Post Office/Depot • Frontage – 47.7 m (156.5 ft) • Depth – 309.5 m – 353.7 m (1015.4 ft – 1160.4ft) • Area – 7.4 ha (18.4ac) • Shape – Irregular

SURROUNDING LAND USES:
<ul style="list-style-type: none"> • North - Vacant • South - Open Space / Residential • East - Commercial Recreation/Vacant • West - Commercial

OFFICIAL PLAN DESIGNATION: (refer to Official Plan Map)
<ul style="list-style-type: none"> • Open Space -Special Policy Area
EXISTING ZONING: (refer to Zoning Map)
<ul style="list-style-type: none"> • Community Facility (CF1), Commercial Recreation (CR(1)) and Open Space Special Provision (OS4(3))

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<p>Legend</p> <table border="0"> <tr> <td></td> <td>Downtown</td> <td></td> <td>Office Business Park</td> </tr> <tr> <td></td> <td>Enclosed Regional Commercial Node</td> <td></td> <td>General Industrial</td> </tr> <tr> <td></td> <td>New Format Regional Commercial Node</td> <td></td> <td>Light Industrial</td> </tr> <tr> <td></td> <td>Community Commercial Node</td> <td></td> <td>Regional Facility</td> </tr> <tr> <td></td> <td>Neighbourhood Commercial Node</td> <td></td> <td>Community Facility</td> </tr> <tr> <td></td> <td>Main Street Commercial Corridor</td> <td></td> <td>Open Space</td> </tr> <tr> <td></td> <td>Auto-Oriented Commercial Corridor</td> <td></td> <td>Urban Reserve - Community Growth</td> </tr> <tr> <td></td> <td>Multi-Family, High Density Residential</td> <td></td> <td>Urban Reserve - Industrial Growth</td> </tr> <tr> <td></td> <td>Multi-Family, Medium Density Residential</td> <td></td> <td>Rural Settlement</td> </tr> <tr> <td></td> <td>Low Density Residential</td> <td></td> <td>Environmental Review</td> </tr> <tr> <td></td> <td>Office Area</td> <td></td> <td>Agriculture</td> </tr> <tr> <td></td> <td>Office/Residential</td> <td></td> <td>Urban Growth Boundary</td> </tr> </table>			Downtown		Office Business Park		Enclosed Regional Commercial Node		General Industrial		New Format Regional Commercial Node		Light Industrial		Community Commercial Node		Regional Facility		Neighbourhood Commercial Node		Community Facility		Main Street Commercial Corridor		Open Space		Auto-Oriented Commercial Corridor		Urban Reserve - Community Growth		Multi-Family, High Density Residential		Urban Reserve - Industrial Growth		Multi-Family, Medium Density Residential		Rural Settlement		Low Density Residential		Environmental Review		Office Area		Agriculture		Office/Residential		Urban Growth Boundary
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<p>CITY OF LONDON Department of Planning and Development</p> <p>OFFICIAL PLAN SCHEDULE A - LANDUSE -</p> <p><small>PREPARED BY: Graphics and Information Services</small></p>	<p style="text-align: center;"> Scale 1:30,000 Meters </p>	<p>FILE NUMBER: OZ-8375 PLANNER: EL TECHNICIAN: CK DATE: 2014/07/10</p>																																															

PROJECT LOCATION: e:\planning\proj\cslp_officialplan\work\coo\solid0\excerpts\mxd_templates\scheduleA_NEW_b&w_8x14.mxd

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SIGNIFICANT DEPARTMENT/AGENCY COMMENTS

Upper Thames River Conservation Authority: *“has no objections to this application subject to the required parking for the proposed eat-in restaurant being accommodated in the same zone as the restaurant and not in the flood plain. We recommend that the proponent contact the Authority to confirm whether section 28 approvals are required for the proposed restaurant.”*

Wasterwater and Drainage Engineering: “No objections”

Transportation Engineering: “No objections”

PUBLIC LIAISON:	On July 10, 2014, Notice of Application was sent to 10 property owners in the surrounding area. Notice of Application was also published in the <i>Public Notices and Bidding Opportunities</i> section of <i>The Londoner</i> on July 24, 2014. A “Possible Land Use Change” sign was also posted on the site.	0 replies were received
Nature of Liaison: The purpose and effect of the requested Official Plan and Zoning By-law amendments is to permit the use of an eat-in restaurant within the existing building.		
Responses: None		

ANALYSIS

Nature of the Application

The proposed development includes 232.30 m² (2,500 ft²) of restaurant use built entirely within the existing structure. The building on the subject lands currently houses a commercial recreation use (Fleetway Fun) a fast food restaurant (Dairy Queen) and a postal depot (Canada Post). The application is limited to a portion of the property as shown below. The subject lands are limited to the area currently zoned Community Facility (CF1), Commercial Recreation (CR(1)) and Open Space (OS4(3)). The northern portion of property, zoned Open Space (OS1) is not subject to this application.

A previous Special Policy area has been established in the Official Plan for 720 Proudfoot Lane. Section 10.1.3 xxxvii) of the Official Plan: *“A Fast Food Restaurant in the existing building may be permitted in addition to the uses permitted in the Open.”* The requested amendment is seeking to amend this provision to include a restaurant use in addition to the fast food restaurant use.

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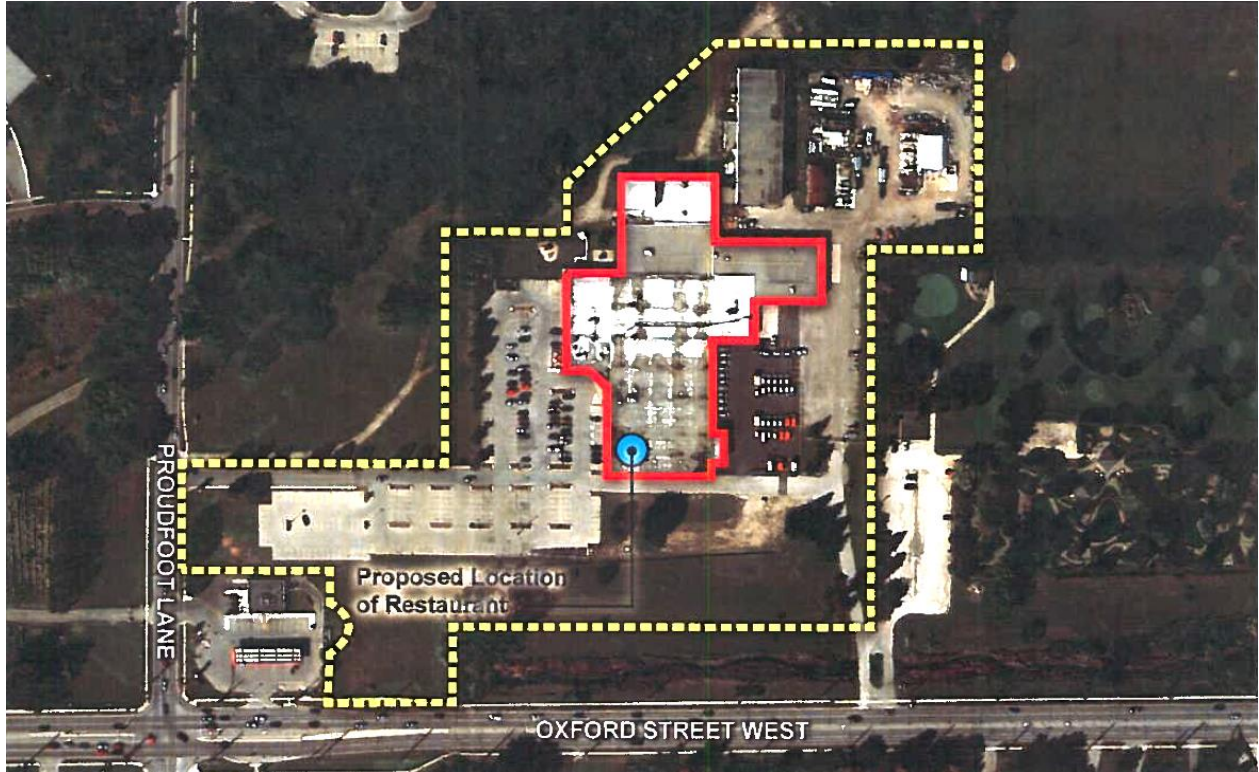


Image (above): identifies the subject lands (dotted line), existing building footprint (solid line) and proposed restaurant location (circled)



Image (above): portion of building currently operating as postal depot to be converted to Restaurant

Provincial Policy Statement, 2014

The *Provincial Policy Statement, 2014* (PPS) provides policy direction on matters of provincial interest related to land use planning and development. The PPS is more than a set of individual policies. It is intended to be read in its entirety and the relevant policies are to be applied to each situation. As it relates to this application, the PPS provides some direction to this matter.

The PPS provides policy direction that encourages the development of strong and healthy communities by facilitating land use patterns based on densities and a mix of land use. Section 1.1.1 b) of the PPS encourages “accommodating an appropriate range and mix of residential (including second units, affordable housing and housing for older persons), employment (including industrial and commercial), institutional (including places of worship, cemeteries and long-term care homes), recreation, park and open space, and other uses to meet long-term

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needs;”

Section 1.1.1. e) of the PPS seeks efficient land development by “*promoting cost-effective development patterns and standards to minimize land consumption and servicing costs;*”. The proposed development is looking to adaptively reuse a portion of the building which is being vacated by the existing postal depot. The recommended amendment will support commercial flexibility and viability of the existing uses on site where infrastructure is already in place. A restaurant use is complementary to the primary commercial recreation use currently established on the subject lands. A change of use limited to the existing building will promote cost effective development patterns and minimize land consumption and servicing costs.

Section 2.2.2 of the PPS requires that *Development and site alteration shall be restricted in or near sensitive surface water features and sensitive ground water features such that these features and their related hydrologic functions will be protected, improved or restored.*” The proposed restaurant use is to be limited to the existing building and will ensure that no new construction or site alteration is created in proximity to the Open Space areas both to the north and south of the existing building.

Staff considers the recommended amendment to be consistent with the Provincial Policy Statement, 2014.

Official Plan

The Official Plan contains short-term and long-term physical growth objectives of the municipality. It provides direction regarding the allocation of land use, provision, of municipal services and facilities, and preparation of regulatory by-laws to control the development and use of land.

The proposed amendment to the Official Plan seeks to maintain the Open Space designation, while amending the existing site specific policy to add “Restaurant” as a permitted use in addition to the existing “Fast Food Restaurant”.

The Official Plan’s Open Space policies place a high importance on the protection of natural heritage features. Section 15.1.1. ii) Natural Heritage Objectives looks to *Provide for the identification, protection and rehabilitation of significant natural heritage areas.*” Further, subsection 15.1.1. v) seeks to *Maintain, restore and improve the diversity and connectivity of natural features, and the long term ecological function with biodiversity of natural heritage systems.*

Further, Section 15.1.2 i) Natural Hazards Objectives promotes development where it is able to *“Provide for limited and controlled development on flood plain lands in accordance with provincial policies, where such development would be safe and appropriate, and would not reduce flood storage capacity.”*

The recommended amendments are to limit a new restaurant use to the existing building. This is promoted to maintain the existing natural heritage features of the abutting Open Space area. No site alteration is being proposed, and therefore, there are no impacts anticipated on the natural heritage, or greater risk created from natural hazards. Additionally, the proposed commercial use does not promote activities that would restrict or hinder the existing safe evacuation in the event of a flood.

Given that the subject lands are currently designated Open Space, the existing and proposed uses are not typically permitted within this designation. However, a special policy exists for these lands that considers additional uses to be appropriate for the use of these lands. The requested amendment seeks to change the current special policy to expand the range of uses by adding a “Restaurant” to the list of permitted uses. Chapter 10 of Official Plan provides criteria for the adoption of policies for Specific Areas which may be considered where one or more of the following conditions apply:

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- ii) *“The change in land use is site specific and is located in an area where Council wishes to maintain existing land use designations, while allowing for a site specific use.”*

The recommended amendments are site specific, the proposed use is limited to where development has already occurred within the Open Space designation and impacts are not expected to be created. However, given the topography and proximity to Mud Creek, the Open Space designation continues to be desirable to protect against further encroachments in the area while allowing for this site specific use.

- iii) *“The existing mix of uses in the area does not lend itself to a specific land use designation for directing future development and a site specific policy is required.”*

The existing mix of uses, along with the proposed restaurant use, is appropriate for this portion of the subject lands within the existing building. However, while the surrounding Open Space designation is appropriate for directing future development in the larger area the existing designation does not lend itself to direct the land uses within the existing building, Therefore, a site specific policy is required.

- iv) *“The policy is required to restrict the range of permitted uses, or to restrict the scale and density of development normally allowed in a particular designation, in order to protect other uses in an area from negative impacts associated with excessive noise, traffic, loss of privacy or servicing constraints.”*

Within the Open Space designation, restaurant uses are not permitted. However, the proposed use is limited to internal changes and construction within the existing building. A site specific amendment to ensure that the proposed use is limited to the existing building is recommended to mitigate any impacts created to the surrounding Open Space lands.

Although the policies of the Official Plan require that only one of the applicable criteria apply, the proposal meets three criteria applicable for determining the suitability of a site specific policy area. Therefore, staff considers the recommended amendment to be appropriate and consistent with the policies of the Official Plan.

Zoning By-law

The extent of the property is zoned Open Space (OS1), Community Facility (CF1) and Commercial Recreation Special Provision (CR(1)) and Open Space Special Provision (OS4(3)). For the purposes of this application, the subject lands applies to a portion of the lot currently zoned Community Facility (CF1) and Commercial Recreation Special Provision (CR(1)). Since no development or site alteration is proposed within or in proximity to area zoned Open Space, the portion of the property where these zones apply are not subject to the requested amendment.

The Community Facility (CF1) Zone provides for and regulates institutional type uses which provide a city-wide or community service function. The Community Facility Zone includes uses which are more intense than those included in the Neighbourhood Facility (NF) Zone and which may impact adjacent land uses. This zone provides for a range of uses including Places of Worship; Community centres; Day care centres; Elementary schools; Group Home Type 2; Libraries; Post office depots; Private schools; Secondary schools; and, Police stations.

The Commercial Recreation Special Provision (CR(1)) Zone provides for and regulates primarily indoor commercial recreational uses which are located outside of the floodway and flood fringe. The uses generally include permanent structures with some outdoor activity. This zone permits a range of uses including: Commercial recreation establishments; Golf courses; Private clubs;

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Private outdoor recreation clubs; Private parks; Recreational buildings; Recreational golf courses; Amusement parks; Commercial outdoor recreation facilities; and Go-cart tracks.

The existing special provision applied to the subject lands permits the additional use of a fast food restaurant, up to a maximum of 200 m². The use is able to function independently of the commercial recreation facilities; however, given the nature of the site, restaurant uses are compatible and supportive of the primary commercial recreation use. The proposed restaurant will provide an option for greater amount and mix of food consumption on site.

The zone lines on the subject lands provide a separation between the existing developed portion of the site and the open space areas to the north and south of the existing building. The Community Facility and Commercial Recreation Zone are intended to recognize the existing use while allowing the subject lands to grow in a manner that is responsive to the sensitivity of environmental features in the area. The requested amendment does not propose a change to the existing zone lines.

The recommend amendments will provide for an additional use limited to the existing building. A restaurant is considered appropriate based on the existing mix of uses on site. The intensity will appropriately maintained at the existing be set at an appropriately with a cap on total floor area for restaurants. The form of the new use is being maintained within to the existing building. Therefore, the use, intensity and form of the proposed development are considered appropriate and form the basis of Staff's recommendation and there are no concerns about impacts on the ability of the site to accommodate the use.

CONCLUSION

Staff supports the recommended action to allow the addition of a restaurant use within the existing building on the subject lands as the recommended amendments are consistent with the Provincial Policy Statement, 2014, the recommended amendments meet the general intent of the Official Plan and the proposed use is limited to internal reconfiguration of the existing building and does not require additional parking beyond what is currently provided.

PREPARED BY:	SUBMITTED BY:
ERIC LALANDE, PLANNER II CURRENT PLANNING	MICHAEL TOMAZINCIC, MCIP, RPP MANAGER, CURRENT PLANNING
RECOMMENDED BY:	
JOHN M. FLEMING, MCIP, RPP MANAGING DIRECTOR, PLANNING AND CITY PLANNER	

July 23, 2014

EL/el

"Attach"

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Responses to Public Liaison Letter and Publication in “The Londoner”

<u>Telephone</u>	<u>Written</u>
N/A	N/A

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**Bibliography of Information and Materials
OZ-8375**

Request for Approval:

City of London Official Plan and Zoning By-law Amendment Application Form, completed by ESAM Construction Limited, June 9, 2014

Reference Documents:

Ontario. Ministry of Municipal Affairs and Housing. *Planning Act, R.S.O. 1990, CHAPTER P.13*, as amended.

Ontario. Ministry of Municipal Affairs and Housing. *Provincial Policy Statement*, 2014.

City of London. *Official Plan*, June 19, 1989, as amended.

City of London. *Zoning By-law No. Z.-1*, May 21, 1991, as amended.

MBTW Group, Planning Justification Report, June 6, 2014

Correspondence: (all located in City of London File No. OZ-8375. unless otherwise stated)

City of London -

Moore, R., City of London Wastewater and Drainage Engineering. July 18, 2014.

Departments and Agencies -

Creighton C., UTRCA. Letter to E. Lalande. July 30, 2014.

Other:

Site visit July 11, 2014 and photographs of the same date.

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Appendix "A"

Bill No. (number to be inserted by Clerk's Office)
2014

By-law No. C.P.-1284-_____

A by-law to amend the Official Plan for the City of London, 1989 relating to 720 Proudfoot Lane.

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

1. Amendment No. (to be inserted by Clerk's Office) to the Official Plan for the City of London Planning Area – 1989, as contained in the text attached hereto and forming part of this by-law, is adopted.
2. This by-law shall come into effect in accordance with subsection 17(38) of the *Planning Act, R.S.O. 1990, c.P.13*.

PASSED in Open Council on September 16, 2014.

J. Baechler
Mayor

Catharine Saunders
City Clerk

First Reading – September 16, 2014
Second Reading - September 16, 2014
Third Reading - September 16, 2014

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AMENDMENT NO.

to the

OFFICIAL PLAN FOR THE CITY OF LONDON

A. PURPOSE OF THIS AMENDMENT

The purpose of this Amendment is to amend a policy in Section 10.1.3 Specific Areas of the Official Plan for the City of London to permit the establishment of a restaurant located within the existing building.

B. LOCATION OF THIS AMENDMENT

This Amendment applies to lands located at 720 Proudfoot Lane in the City of London.

C. BASIS OF THE AMENDMENT

The recommended amendments are consistent with the Provincial Policy Statement, 2014; meet the general intent of the Official Plan; and, the proposed use is limited to internal reconfiguration of the existing building and does not require additional parking beyond what is currently provided. The amendment seeks to adaptively reuse the portion of the building which is being vacated by a long term tenant and maximize the utility of the building and associated infrastructure.

D. THE AMENDMENT

The Official Plan for the City of London is hereby amended as follows:

1. Section 10.1.3 – Special Areas of the Official Plan for the City of London is amended by amending subsection xxxvii) by adding the text “and a restaurant” after the words “a fast food restaurant”.

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Appendix "B"

Bill No. (number to be inserted by Clerk's Office)
2014

By-law No. Z.-1-14_____

A by-law to amend By-law No. Z.-1 to rezone an area of land located at 720 Proudfoot Lane.

WHEREAS ESAM Construction Limited has applied to rezone an area of land located at 720 Proudfoot Lane, as shown on the map attached to this by-law, as set out below;

AND WHEREAS upon approval of Official Plan Amendment Number (number to be inserted by Clerk's Office) this rezoning will conform to the Official Plan;

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

- 1) Section Number 38.4 a) 1) a) Additional Permitted Uses of the Commercial Recreation Special Provision (CR(1)) Zone is amended in Zoning By-law Z.-1 by adding a new subsection ii) "Restaurant, in the existing building;" after subsection i);
- 2) Section Number 38.4 a) 1) b) Regulation of the Commercial Recreation Special Provision (CR(1)) Zone is amended in Zoning By-law Z.-1 by adding the words "Fast Food Restaurant" after the words "Gross Floor Area" in subsection i).
- 3) Section Number 38.4 a) 1) b) Regulation of the Commercial Recreation Special Provision (CR(1)) Zone is amended in Zoning By-law Z.-1 by adding a new subsection ii) "Gross Floor Area Restaurants 233.0 square metres (2,500 square feet);" after subsection i)

The inclusion in this By-law of imperial measure along with metric measure is for the purpose of convenience only and the metric measure governs in case of any discrepancy between the two measures.

This By-law shall come into force and be deemed to come into force in accordance with Section 34 of the *Planning Act, R.S.O. 1990, c. P13*, either upon the date of the passage of this by-law or as otherwise provided by the said section.

PASSED in Open Council on September 16, 2014.

J. Baechler
Mayor

Catharine Saunders
City Clerk

First Reading - September 16, 2014
Second Reading - September 16, 2014
Third Reading - September 16, 2014

