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File: OZ-8324  
Planner: Mike Davis

<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: GREENHILLS SHOPPING CENTRES LTD. 51 &amp; 99 EXETER ROAD NOTICE OF APPEAL TO THE ONTARIO MUNICIPAL BOARD MEETING ON JANUARY 19, 2015</b>

<b>RECOMMENDATION</b>
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That, on the recommendation of the Managing Director, Planning and City Planner, in response to the letter of appeal to the Ontario Municipal Board, dated November 13, 2014 and submitted by Barry R. Card, Barrister and Solicitor on behalf of Westbury International Corp. and The Decade Group relating to Zoning By-law No. Z.-1-142352 concerning 51 & 99 Exeter Road, 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>
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**July 22, 2014 Report to Planning and Environment Committee – 51 and 99 Exeter Road (OZ-8324)** – This report recommended refusal of a Zoning By-law amendment received from Greenhills Shopping Centre Ltd. intended to facilitate a phased development on the subject lands, with potential for a range of commercial, office, institutional and high-density residential land uses. Phase 1 of the proposed Greenhills development was intended to be primarily a “commercial precinct” with zoning which would allow for up to 46,500m<sup>2</sup> of commercial gross floor area (GFA). The Greenhills application was recommended for refusal, primarily because the extent of commercial development requested would result in Council exceeding the 100,000m<sup>2</sup> “commercial cap” established for the Wonderland Road Community Enterprise Corridor and outlined in Section 20.5.6.1 of the Southwest Area Secondary Plan. However, this report recommended a modified version of the Greenhills application which included appropriate limitations on the scale of commercial development at 20, 470m<sup>2</sup> of GFA to ensure that commercial development within the Corridor does not exceed 100,000m<sup>2</sup>.

**October 7, 2014 – Report to Planning and Environment Committee – 51 and 99 Exeter Road (OZ-8324)** – The intent of this report was to provide Municipal Council with a supplemental planning evaluation that addressed matters raised at the July 22, 2014 public participation meeting. The supplemental planning evaluation specifically reviewed potential holding provisions suggested by Greenhills Shopping Centres Ltd. in order to advance their application as presented, and a further review of the “Wonderland Road Community Enterprise Corridor” policies of the Southwest Area Secondary Plan related to the allocation of commercial GFA within the corridor. The conclusions of this supplemental planning evaluation supported the original recommendation as presented in the July 22, 2014 Staff Report.

<b>PURPOSE AND EFFECT OF RECOMMENDED ACTION</b>
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The purpose and effect of the recommended action is to advise the Ontario Municipal Board that Municipal Council has received the appeal from Barry R. Card Barrister and Solicitor on behalf of Westbury International Corp. and The Decade Group and remains in agreement with its October 14, 2014, decision to approve Zoning By-law Z.-1-142352.



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**Aerial Photo Location Map**

File No.: OZ-8324 MD

Date Prepared: 2014/07/02 CK

SCALE: 1:7,500



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**

In February of 2014, the City received an application for an Official Plan and Zoning By-law amendment from Greenhills Shopping Centres Ltd. which was intended to facilitate a comprehensive phased development on the subject lands with Phase 1, comprising the westerly 18.32 hectares of the subject lands, being primarily a “Commercial Precinct” intended to accommodate 16 proposed commercial buildings with a mix of retail and office uses and Phase 2, comprising the easterly 8.84 hectares of the subject lands, being a “Mixed-Use Precinct” intended to accommodate, in addition to retail, commercial and office uses, medium–high density residential uses including apartment buildings of up to 14 storeys in height and densities of up to 175 units per hectare and a variety of community facilities including libraries, community centres and residential care facilities.

The original application proposed to change the Official Plan designation from “Urban Reserve – Industrial Growth” to “New Format Regional Commercial Node” and add “Special Policies” (4.3.6.6 – New Format Regional Commercial Node – Special Policies) which would permit a mixed-use development with a range of commercial, office, residential and institutional land uses with site-specific policies guiding the permitted form and scale of development and site-specific policies to regulate the phasing and orderly of development of the subject lands.

At the time of submission of the original Greenhills application, the lands were subject to a pending Official Plan amendment application by the City of London (OPA 541) which would result in the adoption of the Southwest Area Plan (SWAP) to Chapter 20 – Secondary Plans of the Official Plan and the re-designation of the subject lands from “Urban Reserve – Industrial Growth” to “Wonderland Road Community Enterprise Corridor”. At the time, OPA 541 was under appeal and subject to a future decision by the Ontario Municipal Board. On April 29, 2014, The Southwest Area Plan received final approval from the OMB. As the new “Wonderland Road Community Enterprise Corridor” designation applicable to the subject lands generally contemplated a similar vision for mixed-use development, the original request to amend the Official Plan was withdrawn by Greenhills and only a Zoning By-law amendment application remained.

The remaining Zoning By-law amendment application from Greenhills was recommended for refusal, primarily because the extent of commercial development requested would result in Council exceeding the 100,000m<sup>2</sup> “commercial cap” established for the “Wonderland Road Community Enterprise Corridor” and outlined in Section 20.5.6.1 of the Southwest Area Secondary Plan. However, this report recommended a modified version of the Greenhills’ application which included appropriate limitations on the scale of commercial development at 20, 470m<sup>2</sup> of GFA to ensure that commercial development within the Corridor does not exceed 100,000m<sup>2</sup>. On October 14, 2014, Municipal Council approved the Zoning By-law No. Z.-1-142352 as recommended by Staff.

On November 13, 2014, an appeal was submitted by Barry R. Card, Barrister and Solicitor on behalf of Westbury International Corp. and The Decade Group (owner of 3680 Wonderland Road South) in opposition to Municipal Council’s decision to approve Zoning By-law No. Z.-1-142352. 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.

**CONCLUSIONS**

Planning Staff have conducted an evaluation of the previously approved Zoning By-law No. Z.-1-142352 with regard to the stated reasons for appeal. The results of this planning analysis support the previously approved Zoning By-law and, as such, Staff see no reason for Council to alter its previous decision relating to this matter.

Agenda Item # Page #

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

January 5, 2014  
Mike Davis  
Y:\Shared\implemen\DEVELOPMENT APPS\2014 Applications 8309 to\8324OZ - 51 & 99 Exeter Rd (MD)\OMB referral  
Report.docx

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File: OZ-8324  
Planner: Mike Davis

Appendix "A"



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

**APPELLANT FORM (A1)  
PLANNING ACT**

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



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	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**

51 and 99 Exeter Road  
Address and/or Legal Description of property subject to the appeal:

Municipality/Upper tier: City of London

Two empty rectangular boxes for Agenda Item # and Page #.

**Part 3: Appellant Information**

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

Westbury International and The Decade Group, 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): \_\_\_\_\_

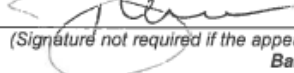
E-mail Address: \_\_\_\_\_  
By providing an e-mail address you agree to receive communications from the OMB by e-mail.

Daytime Telephone #: \_\_\_\_\_ Alternate Telephone #: \_\_\_\_\_

Fax #: \_\_\_\_\_

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: Nov. 13, 2014  
(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 behalf and I understand that I may be asked to produce this authorization at any time.

Two empty rectangular boxes for entering agenda item and page numbers.

**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 Application by Greenhills Shopping Centres Ltd.  
Zoning By-law No. Z.-1-142352  
City File No. OZ-8324

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 impugned ZBA allocates all remaining retail opportunity in the Wonderland Enterprise Corridor to the owner of the subject land, in contravention of policy 20.5.6.1 i) of the Southwest Area Secondary Plan, which states that:

*“Wonderland Road Community Enterprise Corridor  
i) Intent  
The Wonderland Road Community Enterprise Corridor designation is intended to provide for a wide range of large scale commercial uses, medium scale office development, high density residential uses, and institutional uses. Both stand-alone and mixed-use developments are permitted.  
It is anticipated that the area may redevelop over time, such that new mixed-use developments or reformatted commercial development may occur. In order to provide for these redevelopment opportunities, a grid pattern of development shall be encouraged through the provision and dedication of local roads and/or right of ways aligned perpendicular to Wonderland Road South for the lands designated as Wonderland Road Community Enterprise Corridor. In advance of redevelopment, this grid pattern will establish an organizing structure for the land uses permitted within the designation. Commercial uses within this designation are intended to complement the more traditional commercial uses and forms in the Lambeth Village Core, and serve local, neighbourhood and city needs. It is not intended that the specific location of commercial uses be identified within this designation, however, such uses shall be encouraged to locate in mixed use developments over time with the opportunity to incorporate office and/or residential uses.”*

- 2. There are other lands within the Wonderland Enterprise Corridor which are more suitable for retail use and which the Council has not considered.
- 3. The proposed Zoning By-law amendment is premature, given the absence of services in the area.
- 4. The proposed Zoning By-law amendment is not consistent with Provincial Policy, in that it sponsors leapfrog development and an urban form that is neither compact nor justified on the basis of expected growth.

**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.)

Two empty rectangular boxes for agenda item and page numbers.

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.

Empty rectangular box for providing a brief explanatory note.

**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)  
Empty rectangular box for providing OMB Reference Number(s) and/or Municipal File Number(s).

**Part 8: Scheduling Information**

How many days do you estimate are needed for hearing this appeal?  half day  1 day  2 days  3 days  
 4 days  1 week  More than 1 week – please specify number of days: 10 days

How many expert witnesses and other witnesses do you expect to have at the hearing providing evidence/testimony?  
2

Describe expert witness(es)' area of expertise *(For example: land use planner, architect, engineer, etc.):*  
land use planner, engineer

Do you believe this matter would benefit from mediation? YES  NO   
*(Mediation is generally scheduled only when all parties agree to participate)*  
Do you believe this matter would benefit from a prehearing conference? YES  NO   
*(Prehearing conferences are generally not scheduled for variances or consents)*

If yes, why? identify issues, parties and other procedural matters

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

Multiple empty horizontal lines for providing other applicable information.



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**Part 10: Required Fee**

Total Fee Submitted: \$ 125.00

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

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