

## 22ND REPORT OF THE

### BUILT AND NATURAL ENVIRONMENT COMMITTEE

Special meeting held on September 19, 2011, commencing at 3:30 p.m.

PRESENT: Councillor W. J. Polhill (Chair), Councillors J. L. Baechler, D. Brown, J. Swan and S. White and H. Lysynski (Secretary).

ALSO PRESENT: Mayor J. F. Fontana and Councillors M. Brown, J. P. Bryant, P. Hubert and P. Van Meerbergen, P. McNally, D. Ailles, J. P. Barber, G. Barrett, K. Dawtrey, J. M. Fleming, B. Henry, J. Leunissen, J. Page, D. Stanlake, B. Westlake-Power and J. Yanchula.

#### I YOUR COMMITTEE RECOMMENDS:

Ayerswood  
Development  
Corp – Site  
Plan – 940  
Springbank  
Drive

1. (2,4) That, the following actions be taken with respect to the application of Ayerswood Development Corporation for the construction of an apartment building located at 940 Springbank Drive:

- (a) the attached proposed by-law **BE INTRODUCED** at the Municipal Council meeting of September 19, 2011 to amend By-law No. C.P.-1455-541, a by-law to designate a site plan control area and to delegate Council's power under section 41 of the *Planning Act*, R.S.O. 1990, c.P.13 with respect to an application for site plan approval submitted by Ayerswood Development Corporation for the construction of an apartment building at 940 Springbank Drive;
- (b) the application by Ayerswood Development Corporation, accepted on April 29, 2011 and amended on May 2, 2011, for approval of a site plan for a 165 unit apartment building with 12 floors of residential and two levels of parking **BE APPROVED, SUBJECT TO** the following conditions:
  - (i) Ayerswood Development Corporation entering into a development agreement with The Corporation of the City of London;
  - (ii) Ayerswood Development Corporation provide to the satisfaction of and at no expense to the municipality:
    - facilities to provide access to and from the land;
    - a servicing plan;
    - a grading plan;
    - a landscaping plan;
    - hydrogeological studies; and
    - drawings and an urban design brief showing matters relating to exterior design for consideration by the municipality's urban design review panel;
- (c) the Managing Director of Development Planning and the Director of Development Planning **BE DIRECTED** to formally prepare for final approval by Municipal Council drawings, plans and development agreement referred to above and report back to the Built and Natural Environment Committee at its meeting held on October 31, 2011;

it being noted that the Built and Natural Environment Committee asked the Civic Administration to outline the Urban Design Review Process;

it being also noted that the Built and Natural Environment Committee received the following communications with respect to this matter:

- a Municipal Council resolution adopted at its meeting held on June 20, 2011;
- a report from the City Solicitor, dated August 31, 2011;
- a report from the City Solicitor, dated June 16, 2011;
- the attached actions taken by the Built and Natural Environment Committee at its meeting held on June 13, 2011;
- the attached report from the City Clerk;
- the attached report from the City Solicitor;

BNEC - 2

- the attached report, dated September 15, 2011, from the Managing Director, Development Approvals Business Unit; and,
- the attached report, dated June 6, 2011, from the Director, Development Planning.

Kenmore  
Homes  
(London) Inc. –  
255 South  
Carriage Road  
and 1331  
Hyde Park  
Road

2. (3,5) That the Civic Administration be directed to undertake the following actions with respect to the application submitted by Kenmore Homes (London) Inc. for an Official Plan Amendment, Zoning By-law Amendment and draft plan of subdivision for the lands located at 255 South Carriage Road and 1331 Hyde Park Road:

- (a) the Director of Land Use Planning and City Planner **BE ASKED** to undertake a review of the commercial zone on the east and west corridors of Hyde Park Road, south of Carriage Road to the Canadian Pacific Railway Line; and,
- (b) a public participation meeting **BE HELD** at a future meeting of the Built and Natural Environment Committee with respect to the proposed draft plan of subdivision;

it being noted that the BNEC received and reviewed an information report, dated September 15, 2011, from the Director, Development Planning and the Managing Director, Development Approvals Business Unit and the attached communication from R. Knutson, Knutson Development Consultants Inc., with respect to this matter.

**II YOUR COMMITTEE REPORTS:**

Sifton  
Properties  
Limited –  
Ballymote  
Woods  
Subdivision

3. (1) That the Built and Natural Environment Committee (BNEC) reviewed and received an information report dated September 16, 2011, from the Managing Director of Development Approvals and the Director, Development Planning, with respect to the application of Sifton Properties Limited relating to the Ballymote Woods Subdivision. The BNEC asked the Civic Administration to meet with the Ministry of Municipal Affairs and Housing and the Ministry of Natural Resources with respect to their respective roles and responsibilities and to report back at a future meeting of the BNEC.

The meeting adjourned at 4:54 p.m.

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## APPENDIX "A"

Bill No.  
2011

A by-law to amend By-law No. C.P.-1455-541, a by-law to designate a site plan control area and to delegate Council's power under section 41 of the *Planning Act*, R.S.O. 1990, c. P.13 with respect to an application for site plan approval submitted by Ayerswood Development Corporation for the construction of an apartment building at 940 Springbank Drive

WHEREAS section 8 of the Site Plan Control Area By-law, being By-law No. C.P.-1455-541, as amended, provides that Council's powers and authority under section 41 of the *Planning Act*, R.S.O. 1990, c. P.13, as amended, are assigned to delegated officials under the By-law;

AND WHEREAS Ayerswood Development Corporation applied to the Approval Authority on April 29, 2011, as amended on May 2, 2011, for approval of a site plan for the construction of a 165 unit apartment building with twelve (12) floors of residential and two (2) levels of parking at 940 Springbank Drive;

AND WHEREAS the Built and Natural Environment Committee held a public meeting on June 13, 2011 to receive representations from the public in connection with the application by Ayerswood Development Corporation for site plan approval for the construction of a 165 unit apartment building with twelve (12) flows of residential and two (2) levels of parking at 940 Springbank Drive;

AND WHEREAS Council has considered it to be in the public interest to revoke this delegated authority to Municipal Council with respect to the application by Ayerswood Development Corporation to construct a 165 unit apartment building with twelve (12) flows of residential and two (2) levels of parking at 940 Springbank Drive;

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

1. The delegation pursuant to section 8 of By-law No. C.P.-1455-541, as amended, with respect to the delegation of Council's powers and authority under section 41 of the *Planning Act*, R.S.O. 1990, c. P.13 to a delegated official under By-law C.P.-1455-541, as amended, with respect to an application submitted by Ayerswood Development Corporation for site plan approval to construct a 165 unit apartment building with twelve (12) flows of residential and two (2) levels of parking at 940 Springbank Drive in the City of London (the "Development"), is hereby revoked and this application shall be considered in accordance with this By-law as follows:
  - (a) Council shall take over the powers and authority to approve the plans and drawings and impose requirements pertaining to the Development, and thereafter no delegated official shall approve such plans and drawings or impose requirements pertaining to the Development;
  - (b) Despite any provision of By-law No. C.P.-1455-541, as amended, to the contrary, Council, following receipt of a recommendation from the Built and Natural Environment Committee, may exercise the powers and authority that would otherwise be exercised by a delegated official under By-law No. C.P. 1455-541, as amended, were it not for section 1 of this By-law; and,
  - (c) City Council shall consider the recommendation of the Built and Natural Environment Committee and make a decision on the approval of the plans and drawings and any requirements, including the provisions of any Development Agreement required pursuant to section 41 of the *Planning Act*, R.S.O. 1990, c. P.13

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2. The Managing Director of Development Planning and the Director of Development Planning shall formally approve the plans and drawings and impose the requirements in accordance with Council's approval under section 1(a) of this By-law and further the Managing Director of Development Planning and the Director of Development Planning are hereby authorized to execute the Development Agreement contemplated in paragraph 1(c) above.
3. This by-law comes into force and effect on the day it is passed.

Passed in open Council on \_\_\_\_\_, 2011.

Joe Fontana  
Mayor

Catharine Saunders  
City Clerk

First Reading – \_\_\_\_\_, 2011

Second Reading – \_\_\_\_\_, 2011

Third Reading – \_\_\_\_\_, 2011

Joe Fontana  
Mayor

Catharine Saunders  
City Clerk

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**Actions taken by the Built & Natural Environment Committee from its meeting held on June 13, 2011:**

35. That, notwithstanding the recommendation of the Director of Development Planning, a special meeting of the Built and Natural Environment Committee **BE HELD** on Monday, June 20, 2011 at 4:00 p.m., at which time the Civic Administration will bring forward a report with respect to a legal opinion on the site plan and outstanding issues related to the site plan application of Ayerswood Developments Ltd., for the property located at 940 Springbank Drive;

it being pointed out that at the public participation meeting associated with this matter, the following individuals made an oral submission in connection therewith:

- A. Patton, Patton, Cormier & Associates, on behalf of the applicant – expressing support for the application; indicating that his client agrees with the summary listed on page 342 of the June 13, 2011 Built and Natural Environment Committee Agenda and indicating that the 6th bullet of the summary relates to the Hopkins property; advising that the building would be built 43.9 meters from the property line that Ayerswood shares with the Hopkins; advising that the building would be 36.3 meters from the property line that Ayerswood shares with the Howells; advising that they met with the Urban Design Review Panel and that the Panel has no concerns; advising that a shadow analysis has been completed; advising that the issue has been dealt with by the Ontario Municipal Board in 2010; advising that pages 351 to 353 of the June 13, 2011 Built and Natural Environment Committee Agenda are all acceptable; indicating that the City asked that the building be brought close to the street line; advising that the area zoned by the Ontario Municipal Board goes to the old service station, the Hopkins property, the City-owned open space and back; advising that in the Ontario Municipal Board decision in 2010, the zoned boundaries for rear and side yards were determined; advising that the setbacks were established to ensure that there was no negative impact on the neighbouring properties; correcting the incorrect information that was provided that the City took the Ontario Municipal Board decision to the Ontario Court of Appeal, not the Supreme Court of Canada; advising that the 2010 Ontario Municipal Board hearing makes no special restrictions on height, side yards, etc.; advising that the reason for the greater disturbed area is the vertical cut line; indicating that what flew in the face of the Rosenberg decision was the cut line of 3 acres; indicating that his client has gone back to a smaller disturbed area; and advising that there is no shadowing impact on the Howells' house.
- A. Hopkins, 928 Springbank Drive – expressing appreciation to the Committee for addressing this issue; advising that in 2000, Ayerswood proposed to build 2 buildings on Reservoir Hill; indicating that the City took the decision to the Supreme Court of Canada; indicating that the City indicates that the building is 43% larger than the original; enquiring as to how this meets the site plan; requesting that a copy of the 2001 Ontario Municipal Board decision be included for Council members to review; and indicating that losing the Open Space designation on Reservoir Hill is a compromise.
- B. Hopkins, 928 Springbank Drive – advising that with the initial application in 2000, the City fought long and hard to keep this from happening as it is a significant woodlot; advising that the City stood behind the residents and that at the public participation meeting that was held, no one spoke in favour of the development; indicating that they are forced to accept the Ontario Municipal Board decision; indicating that he always thought that the Ontario Municipal Board decision was final and doesn't understand how it can be deviated from; indicating that the Ontario Municipal Board decision was for 1 – 12 storey building in the middle of the lot; indicating that the Ontario Municipal Board determined that the Hopkins and Howells were adversely impacted if two buildings were erected on the site; advising that they bought their property because it was next to Open Space and it means a lot to lose that; indicating that building something larger than what is necessary is difficult to accept; advising that Ayerswood brought forward a new proposal in 2004 that is closer to their property line than the closest of the 2 buildings in the first proposal; advising that the next proposal was done in 2009; advising that with the current proposal, the building is 43% larger than one of the original buildings and 7 meters closer to their property line; advising that they are not fighting the developer, just asking that one building be put in the middle of the lot; suggesting that the developer should build the building 43% smaller; and asking what has changed, realizing that there are new Council members but that the Ontario Municipal Board decision has not changed.
- W. Howell, 929 Commissioners Road West – expressing opposition to the application; advising that the development was appealed to the Ontario Municipal Board in 2009 and that the Committee carefully considered the reasons for rejection; indicating that the size of the building flies in the face of the Rosenberg decision; suggesting that the solution is

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for a smaller building with a reconfigured parking garage; indicating that the Ontario Municipal Board made the size of the building clear; advising that the new site plan proposes a token reduction in the size of the building and doesn't stay in the cut line; asking for a revised site plan in keeping with the Ontario Municipal Board decision; and that the desire to have larger units in the building doesn't mean you have to increase the size of the building.

- R. Dickinson, 1118 St. Anthony Road – indicating that she was one of the people at the original hearing; advising that a Thames Corridor Plan is being developed; advising that there are no policies in the Official Plan that protect the integrity of the Thames River Corridor Plan; recommending that more attention be paid to the policies; advising that there is a proposal for the first Cultural Heritage Plan in London and that the background was prepared by the previous Heritage Planner; asking that we keep what we have as the river valley is important and requesting that we protect what we have and noting that the valley and views be adhered to as they are precious. (2011-D25-00)

<b>TO:</b>	<b>CHAIR AND MEMBERS BUILT AND NATURAL ENVIRONMENT COMMITTEE MEETING ON SEPTEMBER 19, 2011</b>
<b>FROM:</b>	<b>CATHARINE SAUNDERS CITY CLERK</b>
<b>SUBJECT:</b>	<b>REVOCATION OF DELEGATED AUTHORITY AYERSWOOD DEVELOPMENT CORPORATION 940 SPRINGBANK DRIVE</b>

**RECOMMENDATION**

That, on the recommendation of the City Clerk, the information contained in this report with respect to the revocation of delegated authority **BE RECEIVED**.

**PREVIOUS REPORTS**

None.

**BACKGROUND**

At the September 12, 2011 meeting of the Built and Natural Environment Committee (BNEC), the Civic Administration was directed to prepare a by-law to revoke the "delegated authority" with respect to a site plan application submitted by Ayerswood Development Corporation for the lands known as 940 Springbank Drive. The attached proposed by-law (Appendix "A") is submitted for your consideration, should Council determine the revocation to be appropriate.

Previous Council direction with respect to the site plan application was related to the position of the municipality on a referral of the site plan approval application to the Ontario Municipal Board and to advise the Approval Authority not to take any action in connection with the application. Section 13.1 of the Council Procedure By-law indicates that a motion to reconsider is required on "a decided matter" of Council. The revocation of the "delegated authority" regarding this matter is not a decided matter of Council. To this end, reconsideration of the matter is not required.

Should Council decide to enact the by-law to revoke the "delegated authority", Council would then need to make a determination on the site plan application that was previously presented at a Public Participation Meeting held before BNEC on June 13, 2011.

Should the "delegated authority" be revoked, the following steps would need to be followed to dispose of the matter:

1. Recommending the introduction of a by-law to Council to revoke the "delegated authority."
2. Council enacting the by-law (three readings)
3. Council giving consideration to the recommendations from BNEC pertaining to the site plan application.

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With respect to consideration of the by-law, the following wording is suggested for your consideration:

That, the ~~attached~~ proposed by-law **BE INTRODUCED** at the Municipal Council meeting of September 19, 2011 to amend By-law No. C.P.-1455-541, a by-law to designate a site plan control area and to delegate Council's power under section 41 of the *Planning Act*, R.S.O. 1990, c.P.13 with respect to an application for site plan approval submitted by Ayerswood Development Corporation for the construction of an apartment building at 940 Springbank Drive.

BNEC should consider advice from Planning Staff regarding a recommendation pertaining to the site plan application. The following wording has been suggested by the Director, Development Planning for consideration during your deliberations on this matter:

That, the application by Ayerswood Development Corporation accepted on April 29, 2011 and amended on May 2, 2011 for approval of a site plan for a 165 unit apartment building with 12 floors of residential and two levels of parking **BE REFERRED** back to the Civic Administration for further review and to report back to the October 17, 2011 meeting of the Built and Natural Environment Committee on the acceptance of the Site Plan and a draft of the proposed Development Agreement required for the site.

Alternatively, BNEC may wish to consider the following wording as part of the recommendation during the deliberations on this matter:

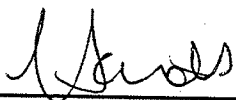
That, on the basis of the Report of the Director of Development Planning to the Built and Natural Environment Committee at its meeting held on June 13, 2011 and on considering representation made at the public participation meeting held on June 13, 2011, that the following actions be taken:

- (a) the application by Ayerswood Development Corporation accepted on April 29, 2011 and amended on May 2, 2011 for approval of a site plan for a 165 unit apartment building with 12 floors of residential and two levels of parking **BE APPROVED/NOT APPROVED** for the following reasons:
  - i.
  - ii.
  - iii.
  - iv.

(if approved, add the following clauses to the recommendation)

- (b) that the above-noted approval **BE SUBJECT TO** the condition that Ayerswood Development Corporation enter into a development agreement with The Corporation of the City of London; and
- (c) the Managing Director of Development Planning and the Director of Development Planning **BE DIRECTED** to formally approve the site plan and drawings referred to in paragraph (a) above and impose the requirement of a development agreement between Ayerswood Development Corporation and The Corporation of the City of London that includes the proposed development agreement clauses attached as Appendix 1 to the Report of the Director of Development Planning to the Built and Natural Environment Committee at its meeting held on June 13, 2011

RECOMMENDED BY:



CATHARINE SAUNDERS  
CITY CLERK



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<b>TO:</b>	<b>CHAIR AND MEMBERS BUILT AND NATURAL ENVIRONMENT COMMITTEE SPECIAL MEETING ON SEPTEMBER 19, 2011</b>
<b>FROM:</b>	<b>JAMES P. BARBER CITY SOLICITOR</b>
<b>SUBJECT</b>	<b>AYERSWOOD DEVELOPMENT CORP. SITE PLAN APPLICATION 940 SPRINGBANK DRIVE</b>

**RECOMMENDATION**

That, on the recommendation of the City Solicitor, this report **BE RECEIVED** for information purposes.

**PREVIOUS REPORTS PERTINENT TO THIS MATTER**

- March 13, 2000 – Report of the Commissioner of Planning and Development to the Planning Committee – Official Plan and zoning by-law amendments public meeting
- November 8, 2004 – Report of the General Manager of Planning and Development to the Planning Committee – Site Plan Public Meeting
- February 13, 2006 – Report of the General Manager of Planning and Development to the Planning Committee – 2006 Decision of the Ontario Municipal Board
- June 1, 2009 – Report of the General Manager of Planning and Development to the Planning Committee - Site Plan Public Meeting
- April 26, 2010 – Report of the General Manager of Planning and Development to the Planning Committee – 2010 Decision of the Ontario Municipal Board
- June 13, 2011 – Report of the Director of Development Planning to the Built and Natural Environment Committee – Site Plan Public Meeting
- June 20, 2011 – Report of the City Solicitor to the Built and Natural Environment Committee

**BACKGROUND**

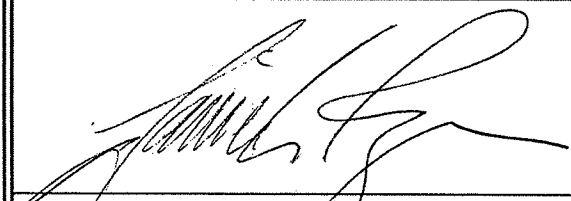
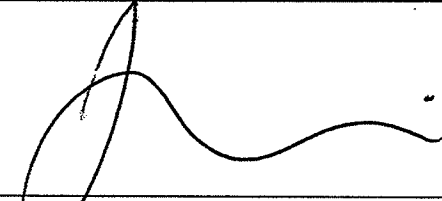
Pursuant to the direction of the Committee, a by-law has been prepared and placed before the Committee by the City Clerk to revoke the delegated authority to city officials to approve the site plan for the subject property. On previous occasions, a by-law has been enacted to provide for London City Council to resume development control powers which had been delegated to its officials under the by-law.

As the writer has previously advised, there is no right of appeal under the *Planning Act* to the Ontario Municipal Board to persons other than the applicant from site plan approval by City Council. There may be legal remedies for persons including the applicant for site plan approval who believe that the municipality has failed to properly consider a site plan for approval including judicial review.

Where delegated authority is taken back by City Council, City Council should ensure that it addresses the application based on the planning considerations relevant to the exercise of site plan approval authority under section 41 of the *Planning Act* and that it

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has considered the representations of all parties who made representations at the public meeting.

PREPARED BY:	RECOMMENDED BY:
	
JANICE L. PAGE SOLICITOR II	JAMES P. BARBER CITY SOLICITOR

<b>TO:</b>	<b>CHAIR AND MEMBERS BUILT AND NATURAL ENVIRONMENT COMMITTEE</b>
<b>FROM:</b>	<b>D. AILLES, P.ENG. MANAGING DIRECTOR, DEVELOPMENT APPROVALS BUSINESS UNIT</b>
<b>SUBJECT:</b>	<b>SITE PLAN PROCESS WHERE COUNCIL IS THE APPROVAL AUTHORITY  SPECIAL MEETING - SEPTEMBER 19, 2011</b>

**RECOMMENDATION**

That, on the recommendation of the Managing Director of the Development Approvals Business Unit, the following report relating to the process to follow for Council approval of site plans, drawings, and the proposed development agreement **BE RECEIVED** for information.

**BACKGROUND**

**Introduction**

On January 20, 2003, City Council required that any new site plan for the subject property be the subject of a public participation meeting. In 2010, the OMB dismissed the appeal on the site plan by-law before it.

On April 18, 2011, Ayerswood filed a new application for site plan approval. Both staff and the developer consulted separately with the neighbours and a public participation meeting of BNEC was held on June 13, 2011.

There remains some interpretation in the OMB decisions regarding the site development.

On June 20, 2011 the Municipal Council provided direction to the OMB regarding the application for its approval. The OMB subsequently determined it did not see itself at this time as the Approval Authority.

On September 12, 2011 BNEC considered a report by Legal in this regard and requested that staff provide an information report with respect to the remaining staff concerns and position and a process to undertake if Council was to revoke site plan approval authority for this application. This request also included providing an appropriate by-law if authority was revoked by Council.

**Discussion**

Staff Concerns

Staff have reviewed the conceptual application as submitted by Ayerswood Corporation. At this time, not all engineering issues with respect to the servicing and grading are resolved but staff have the following concerns:

- There have been ongoing positions in regard to the building footprint. In this application the size, mass and form of the building and the effect of the parking structure on the site slope is significant, has always been a concern of staff and remains the primary concern.
- Impact of the site configuration on the slope cut in regard to tree retention, long term slope stability on this and surrounding land.
- Hydrogeotechnical effect of the proposed site plan on the groundwater strata in the area.

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- The configuration of balconies and the effect on privacy for neighbours.
- This application was reviewed by the Urban Design Peer Review Committee in a restrained scope.

Process to Delegate Site Plan Approval Authority for 940 Springbank Drive to Council

Under the Site Plan By-law certain members of staff have been designated as "appointed officers" for the purpose of approving applications for site plan approval. In some cases, Council may revoke this authority by passing a by-law to revoke the delegated authority.

In cases where the delegated authority has been revoked, the recommended procedure to follow for staff prepare a report to BNEC and Council to consider the conceptual plans, and any other basic materials and the clauses for the development agreement for the approval of the complex. In cases where Council approves the concept drawings and requirements, this approval may be subject to the acceptance of any additional plans and/or studies. The applicant will provide detailed designs for any required servicing approval and staff will prepare a draft agreement. Following the direction by Council, it is up to staff to ensure any and all conditions set out by Council are completed satisfactorily. Once these items are completed, staff finalize the development agreement and send copies out to the Owner for execution.

Highlights:

- BNEC reviews and makes recommendations on the site plan, landscape plan, building elevations and draft development agreement clauses.
- Council adopts modifies or refuses BNEC's recommendation.
- Staff ensures all modifications, plans and studies are carried out and finalize the development agreement.
- The Owner and Council enter into the development agreement and it is registered on title.

After the Owner executes the agreement, the copies are returned to the City for execution by the Clerk and Mayor. Ultimately, the Owner's solicitor will register the agreement on title.

**Conclusion**

The above summary has been the practice for processing site plans where Council has been the Approval Authority.

<b>RECOMMENDED BY:</b>

<b>DAVID AILLES MANAGING DIRECTOR, DEVELOPMENT APPROVALS BUSINESS UNIT</b>

September 15, 2011  
DA/bh/lf

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<b>TO:</b>	<b>CHAIR AND MEMBERS BUILT AND NATURAL ENVIRONMENT COMMITTEE</b>
<b>FROM:</b>	<b>D. N. STANLAKE DIRECTOR OF DEVELOPMENT PLANNING</b>
<b>SUBJECT:</b>	<b>APPLICATION BY: AYERSWOOD DEVELOPMENTS LIMITED 940 SPRINGBANK DRIVE PUBLIC PARTICIPATION MEETING JUNE 13, 2011 AT 7:00 PM</b>

<b>RECOMMENDATION</b>
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That on the recommendations of the Director of Development Planning, the following action be taken with respect to the site plan approval application of Ayerswood Developments Limited for a 165 unit apartment building at 940 Springbank Drive:

- a) On behalf of the Approval Authority, the Built and Natural Environment Committee **BE REQUESTED** to conduct a public meeting on the subject site plan application and **REPORT TO** the Approval Authority the issues, if any, raised at the public meeting with respect to the application for Site Plan approval;
- b) Council **ADVISED** the Approval Authority of any issues they may have with respect to the Site Plan application and **ADVISE** the Approved Authority whether they support the Site Plan application for a 12 storey apartment building with 165 units and two levels of parking in the location proposed;
- c) Council **ADVISE** the Approval Authority any issues they may have with respect to the Development Agreement Clauses proposed in Appendix 1; and
- d) the applicant **BE ADVISED** that the Director of Development Finance has projected the following claims and revenues information:

	<u>Estimated Revenue</u>	<u>Estimated Claims</u>
Urban Works Reserve Fund	\$587,148.00	Nil
Other Reserve Funds (City Services & Hydro)	<u>\$1,458,852.00</u>	<u>Nil</u>
<b>TOTAL</b>	<b>\$2,046,000.00</b>	<b>Nil</b>

<b>PREVIOUS REPORTS PERTINENT TO THIS MATTER</b>
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- March 13, 2000 – Public participation meeting to consider the requested OPA and ZBA
- November 8, 2004 – Site Plan Public Meeting
- June 1, 2009 – Site Plan Public Meeting
- April 26, 2010 – report to Planning Committee regarding the OMB decision

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## BACKGROUND

On **October 21, 1999**, an application was filed to amend the Official Plan and amend the Zoning By-law.

The requested Official Plan amendment was to change the designation from Open Space to Multi-Family High Density Residential for approximately 2.2 hectares of land along the south side of Springbank Drive and the requested Zoning By-law amendment was to change the zoning from Open Space (OS1) to Residential R9 (R9-7.H40) to permit a range of residential uses including apartment buildings, lodging house class 2, senior citizens apartment buildings and handicapped persons' apartment buildings. The regulations provide for a maximum building height of 40 metres; a maximum density of 150 units per hectare; and maximum building lot coverage of 30%. Building setbacks are 1.2 metres of setback per three metres of building height but no less than 7.0 metres for the rear yard and 4.5 metres for the side yard.

Ayerswood Development Corp. appealed to the Ontario Municipal Board from Council's neglect to approve or refuse within the prescribed time period a proposed amendment to the Official Plan to change the designation on the lands from "Open space" to "Multi-Family High Density Residential" and to rezone the lands from Open Space – OS1 to Residential, R9-7 to permit the development of apartment buildings.

On March 13, 2000, a public participation meeting was held to consider the requested zoning amendment and Official Plan amendment. The Commissioner of Planning and Development, recommended the following actions be taken:

- (a) the request to amend the Official Plan to change the designation of the subject property from Open Space which allows a range of conservation and recreational uses to Multi-Family High Density Residential **BE REFUSED**;
- (b) the request to amend Zoning By-law No. Z-1 to change the zoning of the subject property from an Open Space (OS1) Zone which permits a range of conversation and recreational uses to a Residential R9 (R9-7, H40) Zone to permit apartment buildings and other multi-family residential uses at a maximum density of 150 units per hectare and maximum building height of 40 metres (131 feet) **BE REFUSED**; and
- (c) the Ontario Municipal Board **BE ADVISED** of the Council position.

On **March 20, 2000**, Municipal Council resolved:

That, on the recommendation of the Commissioner of Planning and Development, the following actions be taken with respect to the application of Ayerswood Development Corporation relating to approximately 2.2 hectares of land located on the south side of Springbank Drive, east of Commissioners Road West:

- (a) the request to amend the Official Plan to change the designation of the subject property from an Open Space designation which allows a range of conservation and recreational uses to a Multi-family High Density Residential designation **BE REFUSED**;
- (b) the request to amend Zoning By-law No.Z-1 to change the zoning of the subject property from an Open Space (OS1) Zone which permits a range of conservation and recreational uses to a Residential R9 (R9-7.H40) Zone to permit apartment buildings and other multi-family residential uses at a maximum density of 150 units per hectare and with a maximum building height of 40 metres (131 feet) **BE REFUSED**; and
- (c) the Ontario Municipal Board **BE ADVISED** of the Municipal Council's position with respect to the subject application;

An Ontario Municipal Board hearing was held to consider the appeal by Ayerswood Development Corporation and A.H. Graat Jr. On **February 1, 2001**, the OMB issued their Order No. 0166:

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The Board is satisfied that one 12 storey apartment building with appropriate site plan control measures can be built on the site with the least amount of environmental impact and the least amount of impact on the two neighbours. The amended proposal is reasonable, responsible and represents good planning. The Board also finds that the proposed Zoning By-law as modified conforms to the proposed Official Plan Amendment.

In the result, the Board orders that:

1. The appeal be allowed in part;
2. The Board will approve the draft Official Plan Amendment as set out in Exhibit "5" which is appended as Attachment "1" to this decision;
3. The Board will approve the draft Zoning By-law as set out in Exhibit "6" which is appended as Attachment "2" to this decision;
4. The Board will require from the applicant, the following:
  - (a) An additional Zoning By-law zoning the remnant 7 acres from "OS1" to "OS5";
  - (b) A new Site Plan reflecting the Board's decision incorporating the following:
    - (i) Maximum one 12 storey apartment building located roughly in the middle of the two apartment buildings as set out in the existing proposed Site Plan and driveways to the site can be angled;
    - (ii) Maximum of 165 apartment units with a minimum of 215 underground parking spaces. This underground parking will also include visitor and handicapped parking. There will also be a minimum of 6 parking spaces on the surface for pickup and drop-off purposes;
    - (iii) Maintain the existing mature trees at the front and as well, the trees abutting Mr. Howell's property and Mr. and Mrs. Hopkins' property;
    - (iv) Noise attenuation features will be incorporated to deflect noise from any opening and closing of garage doors affecting both property owners;
    - (v) The developer will donate to the City of London, 2 acres out of the 7 acre parcel for park purposes to be added to Reservoir Hill;

The Board's final order will not issue, until the additional Zoning By-law and the revised Site Plan, are approved by the City of London and forwarded to the Board for approval. Mr. and Mrs. Hopkins and Mr. Howell are to be involved in the revised Site Plan process with the applicant and the City of London.

The matter was appealed to the Superior Court of Justice of Ontario and heard on June 22, 2001. On September 21, 2001, the Endorsement of Justice J.C. Kennedy was received. The Court accepted the Ontario Municipal Board's decision.

On *January 20, 2003*, Municipal Council resolved:

That, on the recommendation of Corporation Counsel, the following actions be taken with respect to the City's appeal to the Court of Appeal for Ontario from an order of the Divisional Court dated January 30 2002 which was the result of an appeal from the decision of the Ontario Municipal Board issued On February 1, 2001 concerning a vacant parcel of land at the southeast corner of Springbank Drive and Commissioners Road West (Reservoir Hill):

- (a) the decision of the Court of Appeal for Ontario released on December 13, 2002 **NOT BE APPEALED** to the Supreme Court of Canada;
- (b) the Ontario Municipal Board **BE REQUESTED** not to be schedule a hearing to review the errors in the Board's original decision which were identified by the Divisional Court and the Court of Appeal until a new site plan for one twelve storey apartment building showing appropriate building setbacks has been considered by City Council and remitted to the Board in accordance with the fair process mandated by the Court of Appeal, to provide the City and the neighbours with an opportunity to be heard on specific issues emerging from any new site plan for one twelve storey building;
- (c) any new site plan for the subject lands submitted to the City for approval based upon the decision **BE THE SUBJECT** of a public participation meeting before the Planning Committee and subsequent review by City Council;
- (d) the Civic Administration **BE REQUESTED** to report back on the costs of the appeals to date;

- (e) the Director of Corporate Communications **BE REQUESTED** to prepare a media release with respect to the status of this matter for issuance subsequent to the Municipal Council meeting of January 20, 2003; and
- (f) a copy of this resolution **BE FORWARDED** to the Ontario Municipal Board. (59.24.4.) (3/3c/BC).

**On November 15, 2004**, Municipal Council resolved:

That, on the recommendation of General Manager of Planning and Development, the following actions be taken with respect to the site plan approval application of Ayerswood Development Corp. relating to the property located at 940 Springbank Drive:

- (a) the applicant **BE ADVISED** to review their site plan to meet the requirements and intent of the OMB decision as follows:
  - i. the building be shifted to the west to a location that is "roughly the middle of the two apartment buildings" as set out in the site plan before the Board in 2000;
  - ii. the southward extent of the cut into the forested slope to the rear of the proposed building be revised to approximately the extent of the cut shown on the 2000 site plan;
  - iii. the size of the building be revised to be the size of one of the buildings identified in the site plan which is before the OMB to be approved; and
  - iv. the parking plan be revised to meet the intent of the OMB's decision;
- (b) in the event that the applicant does not opt to alter the site plan as set out in part (a) above and wishes to have the matter deliberated at the OMB, the Board **BE ADVISED** that the Municipal Council does not recommend the site plan for approval unless the revisions as set out in part (a) above are made, it being noted that:
  - i. subject to final approval of a drainage and services plan, the site plan otherwise satisfies the requirements of the Site Plan Control By-law;
  - ii. charges that would be payable to the City by the property owner are as follows:

Development Charges	
- Estimated Revenues	\$738,363
(October 1, 2004 rates; based on 165 units)	
Urban Works Reserve Fund	
- Estimated Revenues	\$391,029
(October 1, 2004 rates; based on 165 units)	
RCSSB	
- Estimated Revenues	\$124,575
(October 1, 2004 rates; based on 165 units)	
<b>TOTAL CHARGES</b>	<b>\$1,253,967</b>

- iii. estimated claims to the Urban Works Reserve Fund would be approximately \$170,000;
- iv. as required by the Board's decision, the developer has proposed to dedicate a 2 acre parcel portion of its lands for parks purposes at a location that is supported by staff;
- v. no action has been taken to rezone the remainder of the lands until the site plan meets the intent of the Board's decision;

Subsequent to this, the site plan went back to the OMB and the hearing for the matters before the OMB continued regarding the site plan approval.

On **January 23, 2006**, the OMB issued its decision No. 0223 (attached). The OMB did not



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approve the site plan as submitted, however, the Board adjourned the matter "in order to allow Ayerswood to revisit the issue of the building location in order that its location might reflect the decision of the Board on the original hearing".

On **June 19, 2008**, the solicitor for Ayerswood Development Corp. submitted a revised site plan locating the building approximately in the middle, in accordance with the original OMB decision. The building consists of 12 floors of residential units with a total of 165 units. There are three levels of parking.

On August 11, 2008, copies of the site plans were sent to Mr. & Mrs. Hopkins and Mr. Howell in accordance with the original OMB decision.

In December 2008 updated site plans were forwarded to the neighbours.

On February 9, 2009 copies of the landscape plan were received and copies of the plans were distributed to the neighbours.

On March 5, 2009, a meeting was held with the two neighbours and staff. While the building was approximately in the middle, there was concern with the size of the proposed building and that it was 27% larger than the original building and that the impact on the slope needs to be reduced. They were concerned that the plans did not reflect the Council decision from November 2004.

On **June 1, 2009**, a public participation meeting of the Planning Committee was held to review the proposed plans and drawings for 940 Springbank Dr.

On **June 15, 2009**, Municipal Council resolved:

15. That the following actions be taken with respect to the site plan approval application of Ayerswood Development Corp. relating to the property located at 940 Springbank Drive:

- (a) the Ontario Municipal Board **BE ADVISED** that the Municipal Council reiterates its position taken on November 15, 2004 with respect to this matter, in that:

as required by the Board's decision:

- (i) The developer has proposed to dedicate a two-acre parcel portion of its lands for parks purposes at a location that is supported by staff;
- (ii) The proposed building has been shifted to the west to a location that is "roughly in the middle of the two apartment buildings" as set out in the site plan before the Board in 2000; and

The revised site plan does not meet the position adopted by City Council at its meeting held on November 15, 2004 with regard to the Ayerswood site plan appeal in that:

- (i) The size of the building has not been reduced to the size of one of the buildings as shown on the 2000 site plan; and
- (ii) The southward extent of the cut into the forested slope to the rear of the proposed building has not been revised to the approximate extent of the cut shown on the 2000 site plan;

It being pointed out that at the public participation meeting associated with this matter, the following individuals made an oral submission in connection therewith:

- A. Patton, Patton, Cormier and Associated – representing the applicant and joined by representatives of Golder and Associates and Development Engineering; noting that conditions relating to the parkland requirement and the location of the proposed building have been met as directed by the Ontario Municipal Board (OMB), that the direction and intent of the setbacks are well in excess of what is required, the number of trees to be preserved has been increased and noise, that road widening issues have been addressed, that the OMB did not direct the size of the building to be reduced to the size



of one of the buildings as shown on the 2000 site plan; further noting that the OMB decision is lawful, that the increased in the extent of the area to be cleared is greater than expected given the increased in setbacks from Spring bank Drive as required by City staff, that the slope will still be stable given the proposed building location, and pointing out that Councillor J. L. Baechler was a witness at a previous October 2000 OMB hearing relating to this matter and was adverse to his client's position.

- A. and B. Hopkins, 928 Springbank Drive – expressing their thanks to City staff for their work on this file over the years; noting the original OMB decision was clear in that there should be one building on the site, roughly in the middle of the site to provide them, as the adjacent neighbours, privacy and to mitigate negative impacts on the environment, and that it should be expected for the applicant to comply with that decision, and encouraging refusal of the existing site plan.
- D. Howell, 929 Commissioners Road West – expressing concern with respect to the size and location of the building, the setbacks, and that the current proposal does not meet the intent of the OMB decision, that while the setback from Springbank Drive is increased, there is now an adverse impact on the slope, that the trees to be preserved as shown by the applicant are already on his property, and noting the current proposal significantly impacts his privacy. (2009-D25-00) (AS AMENDED) (15/15/PC)

The matter returned to the OMB in October 2009.

On **March 12, 2010**, the OMB issued this decision for the ongoing case. The Board allowed the appeal in part by approving the zoning by-law for one apartment building containing 165 units being R9-7( ) zone for a two acre parcel and zoning the remainder of the property open space (OS5). The appeal regarding the site plan was dismissed.

On **April 29, 2011**, an application for site plan approval was submitted to the City for a twelve storey apartment building with 162 units. Several days later the application was corrected to show 165 units.

Notice of the application was sent out to area residents and copies of the plans were sent out to Mr. & Mrs. Hopkins and Mr. Howell. Subsequent to this, the two neighbors and Mr. Proudfoot met with staff to discuss their concerns. The parties provided written submissions of their concerns at the meeting. (See attached)

The project went to the Urban Design Peer Review Panel on May 18, 2011.

On June 1, 2011, the developer submitted revised building elevations based upon the verbal discussion by the Urban Design. At this time the site plan had not been revised.

On June 2, 2011, the panel provided the following comments regarding the proposed development:

1. Enhance the design standard of the building elevations by differentiating the building's base (parking levels) from its shaft (residential levels one through ten) and top (residential levels eleven and twelve). Techniques to accomplish this include but are not limited to selection of facing materials, coloration of facing materials, application of shadow lines, inclusion of a water board and cornice lines and shaping of the building roof profile;
2. Consider reducing the impact of the linear building mass by distinguishing the main façade as denoted by the residential tower from the parking garage base extensions. Techniques to accomplish this include but are not limited to selection of face materials, coloration of face materials, application of shadow lines and recessing of the parking garage building extensions from the main façade and/or projection of the main façade from the parking garage extensions;
3. Reduce the perceived height of the reinforced concrete retaining wall located south of the parking garage entrance by introducing steps or terraces, and introduce landscaping to further soften its visual impact;

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4. Enhance the design standard of the reinforced concrete retaining wall located at the south edge of the parking garage deck green roof and introduce landscaping to reduce the visual impact of its height;
5. Naturalize the vegetable north facing slope between the reinforced concrete wall referenced in item 3 and the proposed armor stone retaining wall(s) located on the north facing slope south of the proposed building;
6. Partially screen the building's garbage storage area and parking garage entrance/garage door without effecting sight lines by enlarging island at the northwest corner of the building and landscaping with coniferous screening or wood screening;
7. Further develop the outdoor amenity area terracé associated with the indoor pool/spa at the west end of the 1<sup>st</sup> residential floor level. Consideration should be given to securing the privacy of this area with screening and/or hedging;
8. Continue to develop the green roof predominately to the south of the proposed building on the garage roof deck. Consideration should be to a more meandering-like walkway layout that continues west to connect with the gated outdoor pool area; and
9. Widen the municipal sidewalk to minimum of 2.5 m to provide additional safety to pedestrians from vehicular traffic in lieu of a grass boulevard between the roadway and sidewalk.

The written comments were forwarded to the applicant on June 2, 2011 for further consideration with regard to the treatment of the garage entrance and the garbage area, the outdoor annuity area associated with the indoor pool/spa. With respect to the building elevations, a number of the panels comments have been accommodated in the June 1, 2011 building elevations.

<b>Date Application Accepted:</b> April 29, 2011	<b>Agent:</b> Zelinka Priamo Ltd.
<b>REQUESTED ACTION:</b> Approval of a site plan for 165 unit apartment building with 12 floors of residential and two levels of parking (corrected on May 2, 2011 from 163 units)	

<b>SITE CHARACTERISTICS:</b>
<ul style="list-style-type: none"> <li>• <b>Current Land Use:</b> – Vacant</li> <li>• <b>Frontage:</b> – 153 m</li> <li>• <b>Depth:</b> – 75.1m (Irregular)</li> <li>• <b>Area:</b> – 2.2 hectares</li> </ul>

<b>SURROUNDING LAND USES:</b>
<ul style="list-style-type: none"> <li>• <b>North</b> – Park (North side Springbank Dr.)</li> <li>• <b>South</b> – Park / Residential</li> <li>• <b>East</b> – Residential</li> <li>• <b>West</b> – Commercial</li> </ul>

<b>OFFICIAL PLAN DESIGNATION:</b>
<ul style="list-style-type: none"> <li>• High density residential</li> </ul>
<b>EXISTING ZONING:</b>
<ul style="list-style-type: none"> <li>• R9-7.H40</li> </ul>

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<b>PUBLIC LIAISON:</b>	On May 27, 2011, notices were sent out to area property owners and on May 28, 2011, notice was placed in the London Free Press.
<b>Nature of Liaison:</b> Proposed 12 storey apartment building with 165 units.	
<b>Responses:</b> To date there have been two responses.	

**ANALYSIS**

**Description of the Proposed Site Plan:**

Size of the Building

The new design for this building has resulted in a significantly longer and slightly wider building having increased in length from 65 m to 97 m. and in width from 25 m. to 26.5 m from the original design in 2000. The maximum number of dwellings is 165 units. In the original proposal each building was 161 units. (332 units in total)

The developer is proposing 165 apartment units (37 – one bedrooms, 128 – two and three bedroom units). The new apartment tower has a foot print of approximately 2,182 sq. m. in size. The original design had a foot print of 1525 sq. m. in size. This represents a 43% increase from the original design. The building is 7.0m closer to the east property line than shown in 2009.

The underground parking lot layout provides 209 underground parking spaces for the complex and bicycle parking. The construction of the underground parking should not impact the trees across the frontage.

The building has twelve floors of residential dwellings with two levels underground parking. Two levels of the parking are exposed to Springbank Drive. The refinements in the building design result in the overall height of the building being 38.7 m in height.

The original proposal had two towers with 12 floors with residential units with two levels of underground parking close to the Springbank streetline. The location of this parking would have resulted in the loss of trees across the front of the property.

The H40 provides for a building of 40 metres in height. Height is measured from average grade. Based on the average grade, the building height is 38.7 metres. This would comply with the proposed zoning regulation.

Balconies and Loss of Privacy

The building as proposed has balconies at the east end of the building. The building wall is approximately 40.3 metres from the east property line. The removal of the underground parking entrance from the east end of the buildings provides a larger area for tree retention and landscape buffering. The elimination of this drive removes the previously anticipated noise from the east end of the building. A 1.8m privacy fence will be constructed on the Hopkin's west property line. Existing trees will provide buffer between the building and the property to the east.

Road Widening

There is concern that the road improvements on Springbank Drive will adversely affect the City lands to the north. The City Engineer has requested a 1.8 metre sidewalk on the south side of Springbank Drive. The sidewalk is in keeping with the City's policies to provide sidewalks on arterial roads. The new walk provides access to the bus stop. The walk has not been placed in the standard location in order to maximize tree preservation in the road allowance. The sidewalk will be extended to the Commissioners and Springbank intersection

The detailed designs for the left turn lane into the site and the sidewalk have not been accepted by E.E.S.D.

A tree preservation plan has been done and many of the trees on the boulevard will be preserved, while a number of trees will be removed. The lowering of the grades at the front of the building helps to reduce the impact of the building on these trees.



### Other Trees

The extent of the site area proposed to be cut and the trees removed has been decreased from the 2000 proposal in terms of the impact on the slope. Originally it was shown that an area of 1.03 hectares would be impacted by the two buildings. Based upon the recent submission, an area of 0.91 hectares will be affected.

Council and the neighbours have indicated that the proposed building located approximately in the middle of the site should be the same size of the individual building initially proposed. By doing this there is the anticipation that less trees would need to be removed.

There will be challenges during construction to ensure that the trees on the slope will not be adversely affected.

Staff have requested an update to the tree preservation plan.

### Shade Impact

Based upon the proposed building location, staff have reviewed the analysis prepared by James T. Ziegler at Site Line Research. The report focused in March, June and September from 9:00 a.m. to 4:00 p.m. Subsequent to this, Zelinka Priamo provided additional comments and the following conclusions:

1. "Through the year, the majority of shadows generated by the proposed building will fall on Springbank Drive.
2. There will be no shadow impact at any time of the year on the adjacent property located at 929 Commissioners Road.
3. During the spring and fall, there will be very limited shadow impact on the adjacent property to the east at 928 Springbank Drive. Shadow impact on this proposed building will only contribute to the existing pattern of shadows generated by existing vegetation and the topography of the hill.
4. During the summer months, the proposed building will not generate shadows that will impact the adjacent property at 928 Springbank Drive."

### Location of the Building

The original Board decision indicated a 12 storey apartment building located roughly in the middle of the original two apartment buildings.

The proposed building is offset from the middle of the original buildings. The building is 7 m closer to the east property line than the plan presented to the OMB at the last hearing and it is slightly longer.

Shifting the building to the east increases the extent of the tree preservation adjacent to the Howell property.

### Noise

The elimination of the easterly drive and the entrance to the underground parking area will reduce the concerns of the Hopkins with respect to noise.

The access to the underground parking at the west end of the building is approximately 25 m below the grade of the lands adjacent to Mr. Howell's residence.

A noise study has been requested to ensure the indoor noise levels for the units facing Springbank Drive meet the M.O.E. guidelines.

### Slope

There has been considerable concern with the stability of the slope and the retaining wall design. Golder & Associates Ltd had conducted soil studies and in turn has provided recommendation, as follows:

"Based on the results of this investigation, the construction of the proposed buildings is considered to be geotechnically feasible and can be done utilizing conventional construction equipment and procedures. The stabilization of short term excavation slopes is not of concern. The proposed buildings, when completed will have a positive impact on the overall stability of the slopes. The site conditions are well suited for the use of conventional strip and spread footings for the building."

Parkland Dedication

The developer has provided a plan showing the location of lands to be deeded to the City for parkland purposes. The parcel is 1.82 hectares (2.0 acres) and the location and shape is acceptable to Parks Planning. (See attached Park Plan)

Involvement of the Neighbours

The new plans have been sent to both the Hopkins and Mr. Howell. Staff have subsequently met with the neighbours. The neighbours expressed concerns that the new building is larger than the buildings originally presented at the OMB. They believe the building should be the same size as the building presented in 2000 at the OMB and not the larger building. They support Council's previous position of one building which is the same size as one of the buildings proposed in 2000. The building is located 7m closer than the previous submission and is no longer approximately in the middle. They are concerned with the impact of shadows on their home, and the size and shape of the parkland dedication. (See attached letters)

We would note that a smaller building approximately in the middle would increase the setback and reduce the shadow impact on the property.

We have been advised that the Consultant for the developer had scheduled a meeting with the neighbours to go through the new proposal.

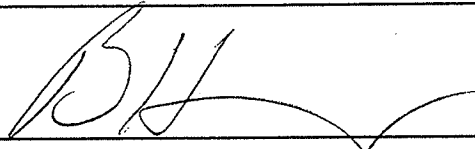

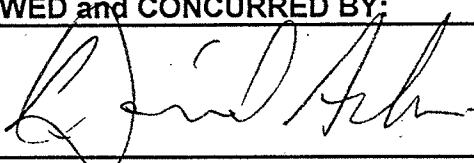
Servicing

Both the storm & sanitary services are required to be extended to service the site. The extension of these services will be at the sole expense of the property owner. The plans propose extending the sanitary sewer to the east property line of the development. This will provide the opportunity for the Hopkins to connect to the sanitary service in the event their septic system fails in the future. The developer will be required to enter into an infrastructure agreement for these works and provide adequate security to cover the cost of the services and the restoration.

<b>SUMMARY</b>
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- Proposed Site Plan meets the zoning by-law approved by the OMB
- Proposed Site Plan is generally in conformity with the Site Plan By-law
- Proposed building location is contained within the building envelope established by the zoning by-law
- Proposed number of units meets the zoning by-law
- Proposed building foot print while in conformity and meets the zoning by-law is 557 sq m (5995 sq. ft.) larger than the original proposed building
- Proposed building is 7.0m closer to the east property line than the proposal of 2009
- Proposed number of underground parking spaces meets the zoning by-law
- Proposed building height of 38.7m meets the zoning by-law
- Proposed setback of the building from Springbank Drive should result in fewer trees being impacted between Springbank Drive and the front face of the building
- Removal of the east end parking entrance provides for large area for tree retention and landscape buffering. In addition removes anticipated noise at the east end of the building
- Proposed non-standard public sidewalk location should maximize tree preservation within the road allowance
- Proposed lower grades at the front face aids in reducing impact on boulevard trees
- Extent of trees to be cut and removed has been reduced. Net reduction is 0.12 hectares
- Shade analysis demonstrates no impact on 928 Springbank Drive in summer months and no shadowing impact any time of the year for 929 Springbank Drive
- Proposed Park parcel of 1.82 hectares acceptable to Parks Planning
- Sanitary and storm services are requested to be extended to the site within existing road allowance and at the cost of the developer

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<b>PREPARED BY:</b>	<b>RECOMMENDED BY:</b>
	
<b>B. HENRY MANAGER – DEVELOPMENT PLANNING</b>	<b>D. N. STANLAKE DIRECTOR – DEVELOPMENT PLANNING</b>
<b>REVIEWED and CONCURRED BY:</b>	
	
<b>DAVID AILLES MANAGING DIRECTOR, DEVELOPMENT APPROVALS BUSINESS UNIT</b>	

Y:\Shared\Site Plan.Section\SitePlan.Section\Bruce Henry\2011\springbank940.pc.doc

June 6, 2011  
BH:mn

cc: P. McNally, Executive Director – P E&ES Dept

Mr. & Mr. Hopkins, 928 Springbank Dr., London, ON. N6K 1A5

Mr. Howell, 929 Commissioners Rd. W., London, ON N6K 1C1

Mr. Proudfoot, 550 Westmount Dr., London, ON. N6K 1X8

Ayerswood, c/o A. Patton, Patton Cormier  
1515-140 Fullarton St.  
London, ON. N6A 5P2  
Fax: 519-432-7285





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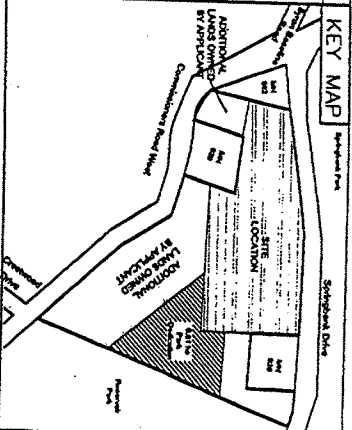
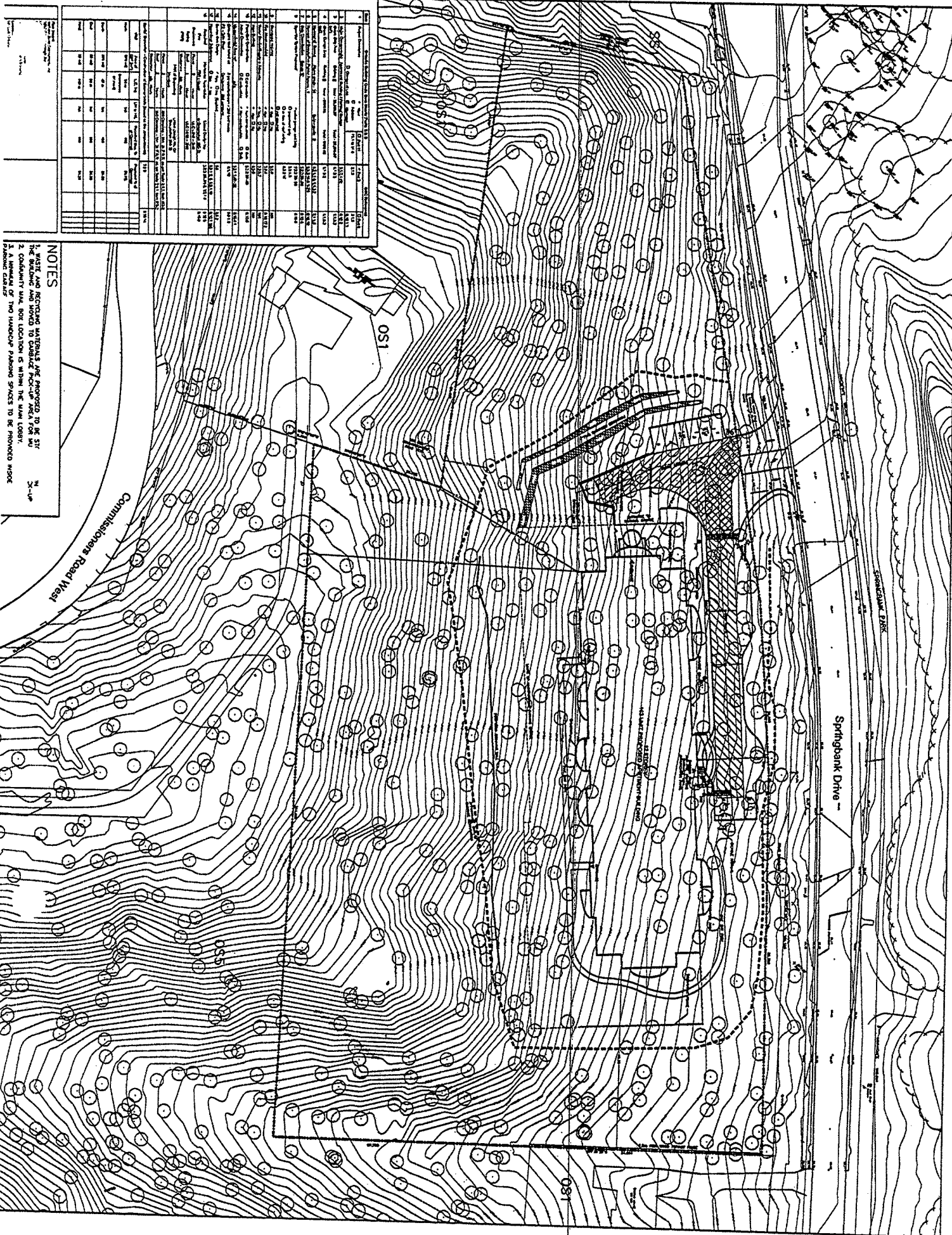
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CITY OF LONDON  
DEVELOPMENT APPROVALS BUSINESS UNIT

11-011305

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**NOTES**  
 1. WASTE AND RECYCLING MATERIALS ARE PROPOSED TO BE SIT...  
 2. THE BUILDING AND HOW TO SUBSIDE PICK-UP AREA FOR MU...  
 3. A MINIMUM OF TWO HOURS OF PARKING SPACES TO BE PROVIDED MORE...  
 4. COMMUNITY VALE BOX LOCATION IS WITHIN THE MAIN LOBBY.



**PROPOSED SITE PLAN**  
 OF PART OF  
**LOT 41, BROKEN FRONT CONCESSION 'B'**  
 AND  
**LOT 41, CONCESSION 1**  
 (GEOGRAPHIC TOWNSHIP OF WESTMINSTER)  
 CITY OF LONDON  
 COUNTY OF MIDDLESEX

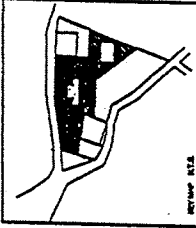
**SITE STATISTICS**

ITEM	REQUIREMENTS	PROPOSED
Lot Area (sq. ft.)	86,211 sq. ft.	21,055 sq. ft.
Lot Frontage (ft.)	360 ft.	213.5 ft.
Ground Road Width	120 ft.	160 ft.
Front Yard Setback - Standard (ft.)	15 ft.	15 ft.
Front Yard Setback (ft.)	15 ft.	15 ft.
Side Yard Setback (ft.)	15 ft.	15 ft.
Landscaped Area (sq. ft.)	300 sq. ft.	1,032 sq. ft.
Lot Coverage (sq. ft.)	150 sq. ft.	1,032 sq. ft.
Permitted Height (ft.)	20 ft.	20 ft.
Permitted Area (sq. ft.)	200 sq. ft.	218 sq. ft.

**APPLICANT:**  
 AYERSWOOD DEVELOPMENT CORP.  
 673 Richmond Street, London, ON, N6A 4J4

**DRAWING:**  
 940 SPRING BANK DRIVE  
 SITE PLAN

**ZELINKA PRILAMO LTD**  
 A Topographical Planning Practice  
 318 West Road, London, Ontario, N6C 4P4  
 Tel: (519) 474-4744  
 Fax: (519) 474-2284 e-mail: zp@zplha.com



BY WAY OF NOTE

**LEGEND**

- PROPOSED PLANTINGS
- SECONDARY ACCESS ROADS
- EXISTING TREES TO BE REMOVED
- TREE PRESERVATION MARKERS

11-111111  
 RECEIVED BY  
 APR 18 1978  
 CITY OF LONDON  
 ENGINEERING DEPARTMENT

**Ken Kesky**  
 Landscape Architect  
 INC.

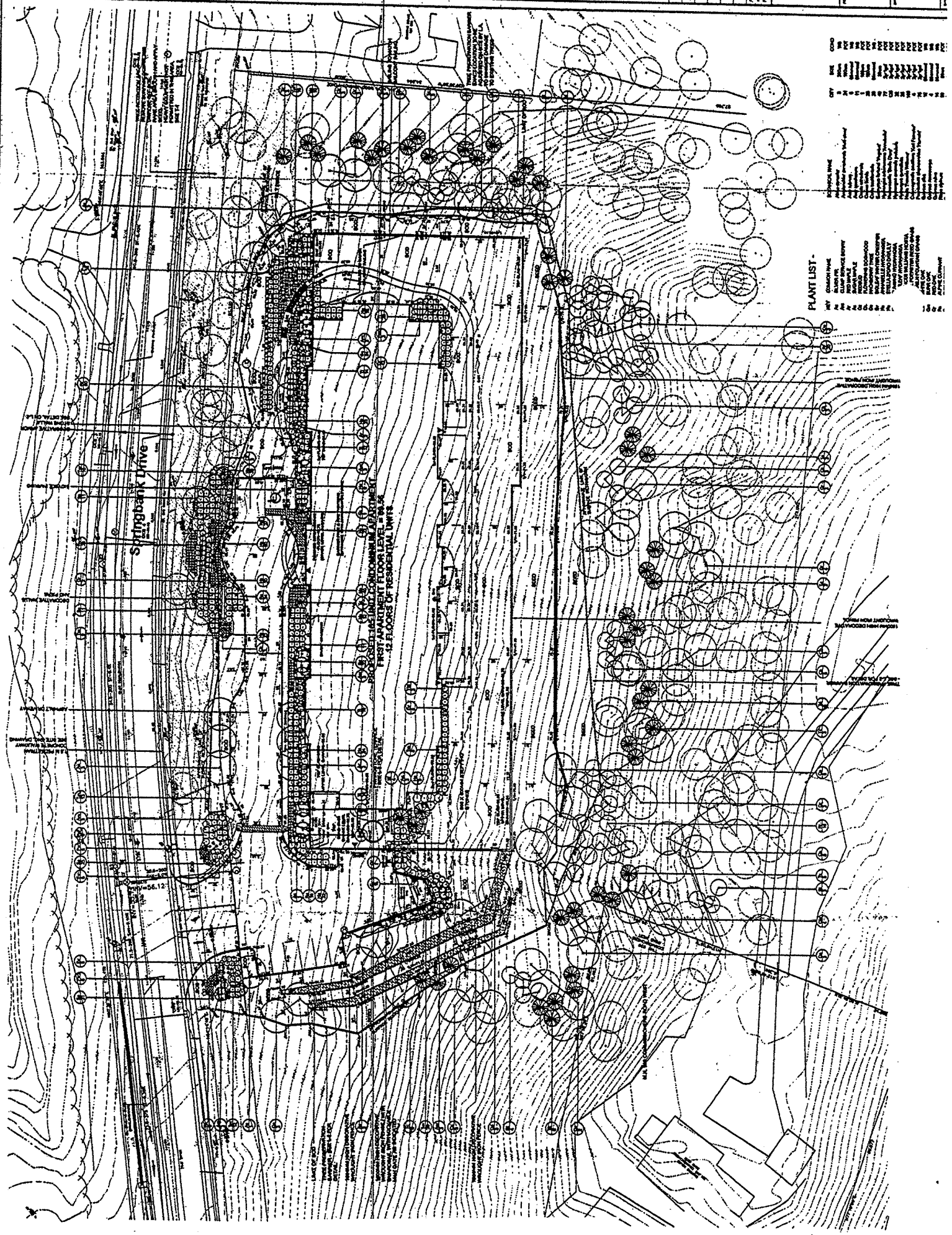
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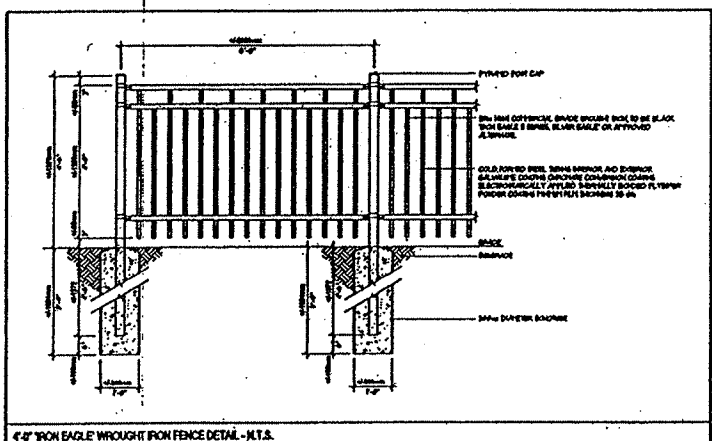
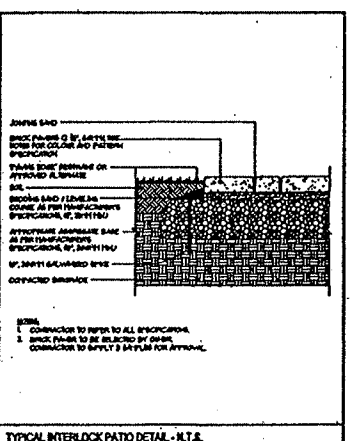
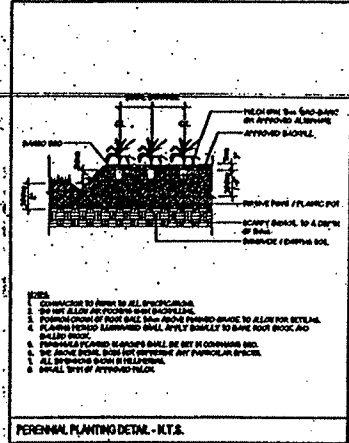
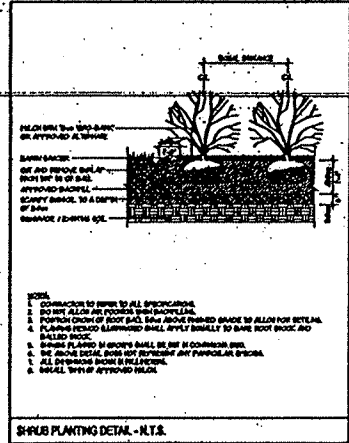
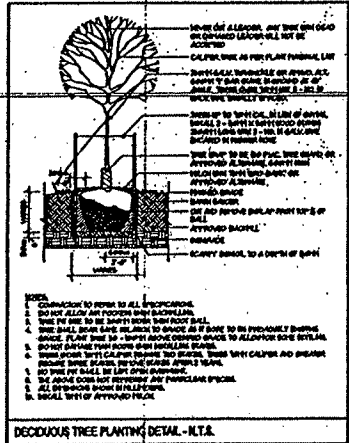
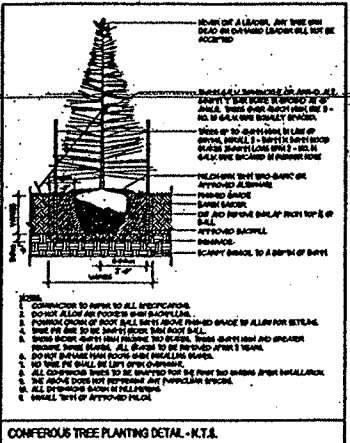
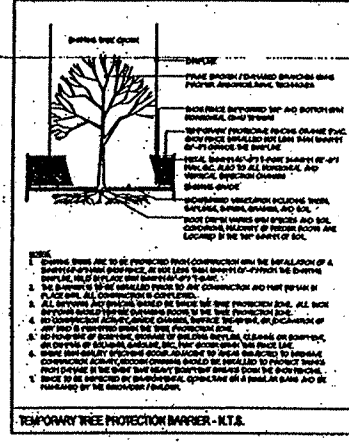
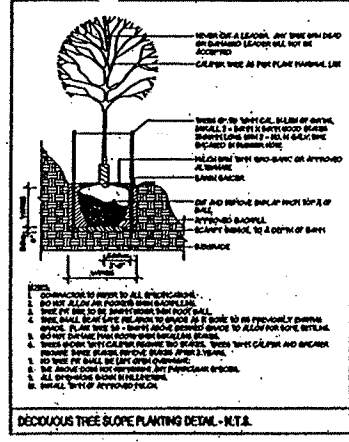
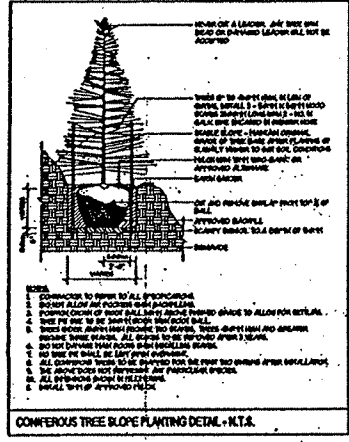
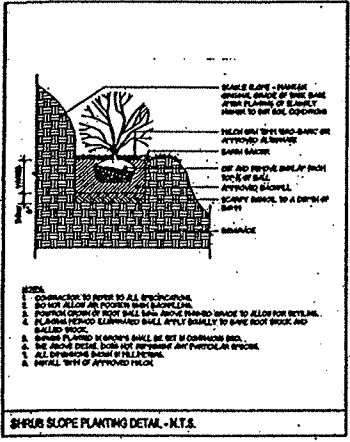
NO.	DESCRIPTION	DATE
1	PROPOSED PLANTINGS	
2	SECONDARY ACCESS ROADS	
3	EXISTING TREES TO BE REMOVED	
4	TREE PRESERVATION MARKERS	



**RESERVOIR HILL**  
 Springbank Dr.  
 London, Ontario

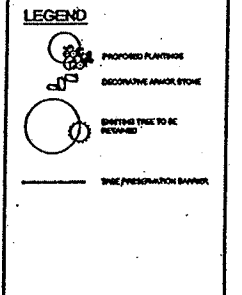
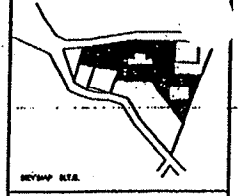
LANDSCAPE PLAN





**GENERAL PLANTING SPECIFICATIONS**

1. ALL PLANTING SHALL BE DONE IN ACCORDANCE WITH THE CITY OF LONDON PLANTING SPECIFICATIONS.
2. ALL PLANTING SHALL BE DONE IN ACCORDANCE WITH THE CITY OF LONDON PLANTING SPECIFICATIONS.
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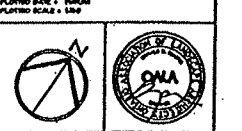


11-011805  
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APR 18 2011  
CITY OF LONDON  
RECEIVED PLANNING DEPARTMENT

**Ron Koudys**  
Landscape Architect  
Inc.

ALL DRAWINGS REMAIN THE PROPERTY OF THE LANDSCAPE ARCHITECT AND SHALL NOT BE REPRODUCED OR COPIED WITHOUT THE WRITTEN PERMISSION OF THE LANDSCAPE ARCHITECT.


ITEM NO.	DESCRIPTION	QUANTITY	UNIT
1	PLANTING	1	EA
2	PLANTING	1	EA
3	PLANTING	1	EA
4	PLANTING	1	EA
5	PLANTING	1	EA
6	PLANTING	1	EA
7	PLANTING	1	EA
8	PLANTING	1	EA
9	PLANTING	1	EA
10	PLANTING	1	EA



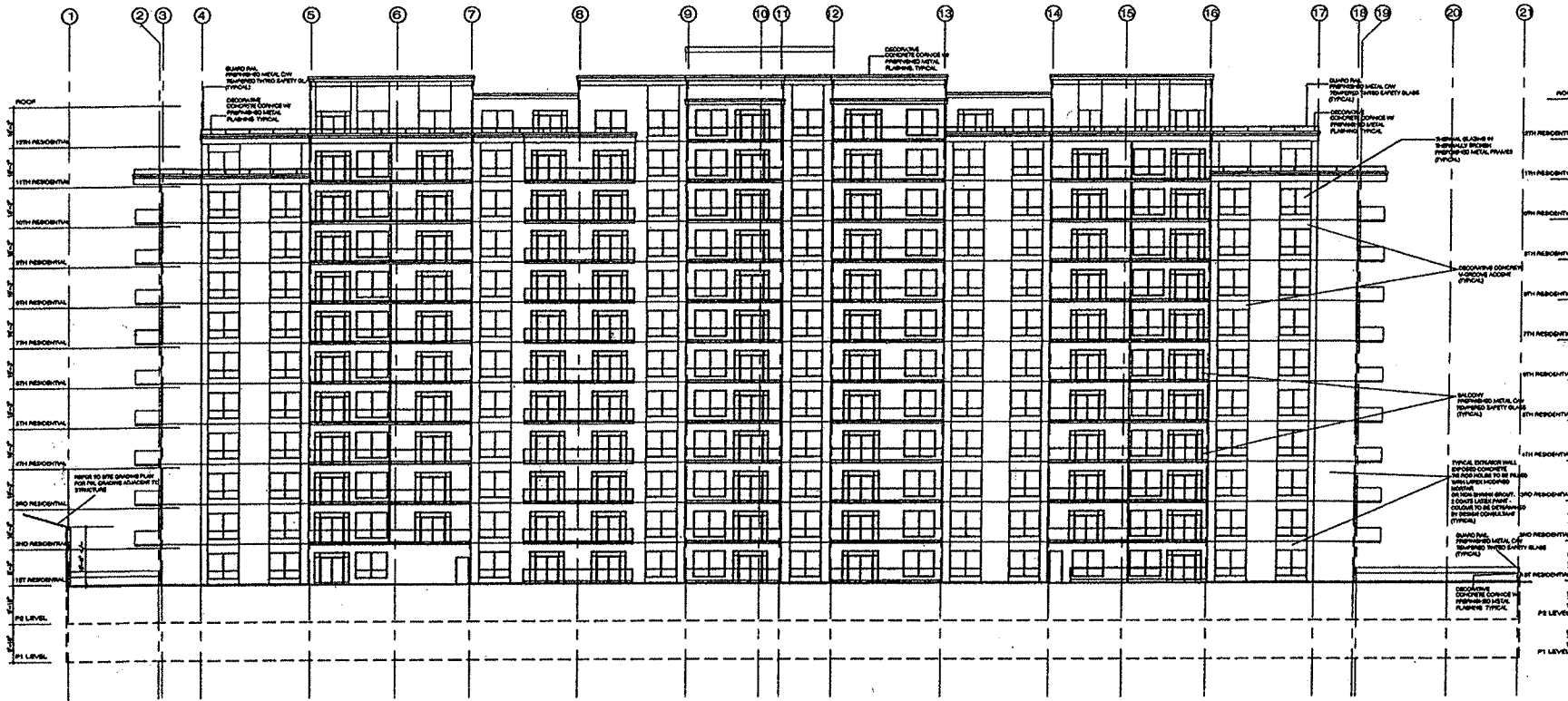
**RESERVOIR HILL**  
Springbank Dr.  
London, Ontario

**DETAILS & GENERAL SPECIFICATIONS**



Archived by  Wednesday, June 01, 2011

1



### SOUTH ELEVATION

REFER TO MECHANICAL DRAWINGS FOR LOCATION OF ALL GRILLES, VENTS, LOUVRES INTAKES, ETC.  
 REFER TO ELECTRICAL DRAWINGS FOR LOCATION OF ALL LIGHT FIXTURES.  
 REFER TO EXTERIOR FINISH SCHEDULE FOR ALL EXTERIOR COLOUR TREATMENT.  
 REFER TO SITE GRADING PLAN FOR FINISHED GRADES AT BUILDING.

#### NOTES

CONTRACTOR MUST CHECK AND VERIFY ALL DIMENSIONS AND ANY DISCREPANCIES TO THIS PLAN BEFORE PROCEEDING TO WORK. ALL DRAWINGS REMAIN THE PROPERTY OF W&H

REVISION	DATE	BY
1	APRIL 7 2011	
2	APRIL 17 2011	
3	MAY 27 2011	

NOT FOR CONSTRUCTION UNTIL SIGNED AND SEALED



NOT FOR CONSTRUCTION UNTIL SIGNED AND SEALED

**WILLIAM HAAS CONSULTANTS INC**  
 ARCHITECT / ENGINEER  
 LONDON, ONTARIO  
 TEL. (519)471-1336 FAX. (519)471-

PROJECT:  
**AYERSWOOD DEVELOPMENT**  
**RESERVOIR HILL**  
**12 STOREY APT. BLDG**  
 LONDON, ONTARIO

DRAWING TITLE:  
**SOUTH ELEVATION**

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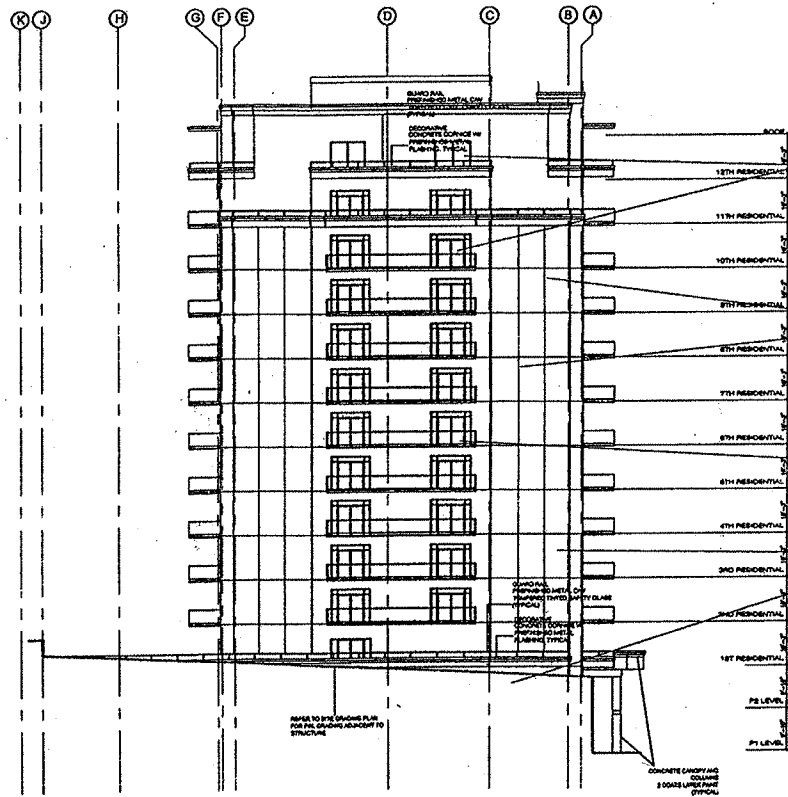
CITY OF LONDON  
 DEVELOPMENT APPROVALS BUSINESS UNIT

SCALE: 1/16"=1'-0" DATE: OCTOBER, 2011  
 JOB NUMBER: DRAWING NO.:



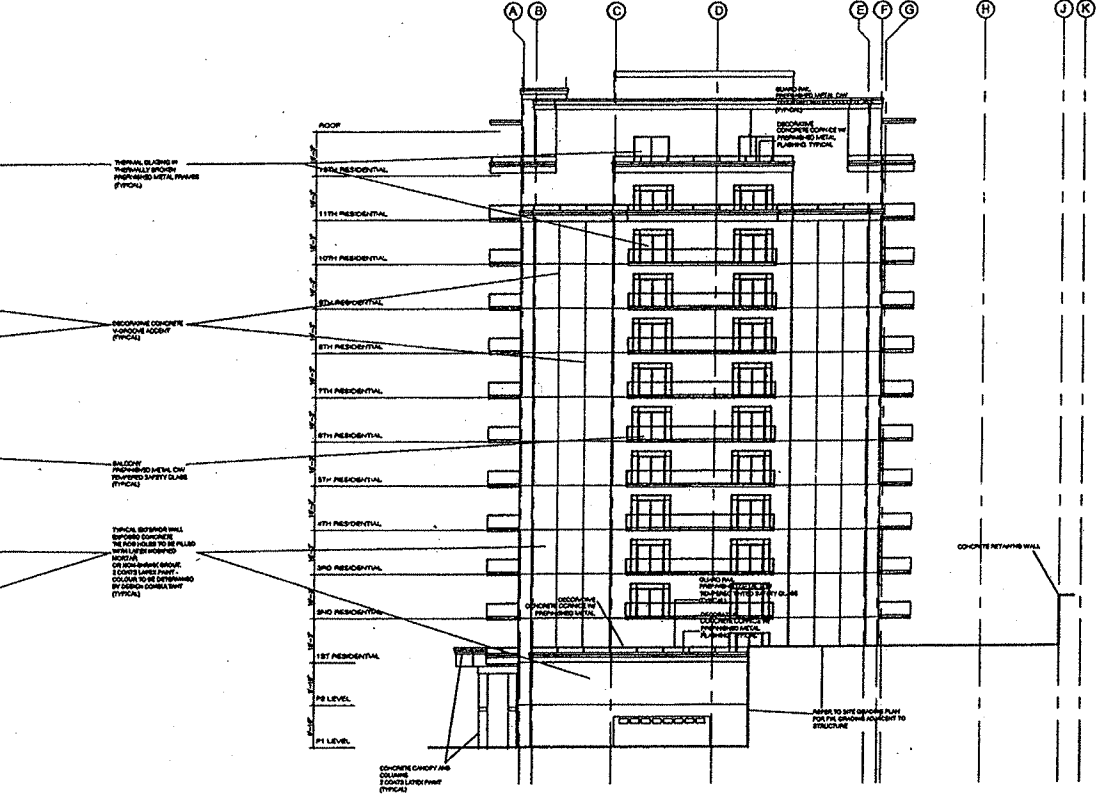
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**EAST ELEVATION**

REFER TO MECHANICAL DRAWINGS FOR LOCATION OF ALL GRILLES, VENTS, LOUVRES INTAKES, ETC.  
 REFER TO ELECTRICAL DRAWINGS FOR LOCATION OF ALL LIGHT FIXTURES.  
 REFER TO EXTERIOR FINISH SCHEDULE FOR ALL EXTERIOR COLOUR TREATMENT.  
 REFER TO SITE GRADING PLAN FOR FINISHED GRADES AT BUILDING.



**WEST ELEVATION**

REFER TO MECHANICAL DRAWINGS FOR LOCATION OF ALL GRILLES, VENTS, LOUVRES INTAKES, ETC.  
 REFER TO ELECTRICAL DRAWINGS FOR LOCATION OF ALL LIGHT FIXTURES.  
 REFER TO EXTERIOR FINISH SCHEDULE FOR ALL EXTERIOR COLOUR TREATMENT.  
 REFER TO SITE GRADING PLAN FOR FINISHED GRADES AT BUILDING.

**NOTES**

CONTRACTOR MUST CHECK AND VERIFY ALL DIMENSIONS AT ANY DISCREPANCIES TO THE FINAL MEASUREMENTS BEFORE WORK. ALL DRAWINGS REMAIN THE PROPERTY OF THIS FIRM.

ISSUED TO	NO.	DATE
REVISED WORKS/EXTENDED ROOF OVER UPPER BALCONIES	3	MAY 27 2011
ADJUSTED GANTRY LOCATED ABOVE BALCONIES	2	APRIL 27 2011
ADDED MATERIAL NOTES	1	APRIL 7 2011



NOT FOR CONSTRUCTION UNTIL SIGNED AND S

NOT FOR CONSTRUCTION UNTIL SIGNED AND S

**WILLIAM HAAS CONSULTANTS INC.**  
 ARCHITECT / ENGINEER  
 LONDON, ONTARIO  
 TEL. (519)471-1336 FAX. (519)471-

PROJECT:  
**AYERSWOOD DEVELOPMENT**  
**RESERVOIR HILL**  
**12 STOREY APT. BLDG**  
 LONDON, ONTARIO

DRAWING TITLE  
**EAST/ WEST ELEVATIO**

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CITY OF LONDON  
 DEVELOPMENT APPROVALS BUSINESS UNIT

SCALE: 1/16"=1'-0" DATE: OCTOBER, 2011

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## APPENDIX 1

### Proposed Development Agreement Clauses.

- 1) Standard Clauses to be retained: 2, 3, 13, 14, 15, 16, 18, 21, 23, 25, 26, 27, 28, 31, 32, 33, 34, 35(b), 37, 38, 39, 40, 41, 42, 43, 44
- 2) Standard Clauses to be deleted: 4, 5, 6, 8, 9, 10, 11, 12, 19, 20, 24, 29, 30, 35(a)
- 3) Standard Clauses to be modified:
  - a) Clause 1 Drawings and Construction of External Works be modified to include in (a) construction of a 1.8 m wide concrete sidewalk from the east property line of the site to the intersection of Springbank and Commissioners, (b) construction of a left turn lane and lane improvements on Springbank Drive.
  - b) Clause 7, Road Widening be amended to include a 15.5m road widening from the original centreline at the road allowance.
  - c) Special Provisions Clause 22 be modified to include the following
    - i) **Municipal Infrastructure:** The owner agrees to construct and maintain the works required pursuant to section 41 of the Planning Act in accordance with this agreement. In addition, the owner has entered into the agreement annexed hereto as Schedule "D" to provide for municipal infrastructure to service the proposed development.
    - ii) Prior to the issuance of a building permit, the contract for the works included in the infrastructure agreement shall be awarded and the successful contractor shall have commenced work.
    - iii) **Noise Study (Arterial Streets)**
      - (1) Prior to the issuance of a building permit, the Owner shall either:
        - (a) Have a qualified acoustical consultant prepare; and have accepted by the City of London, a study (herein called a noise study) concerning the impact of traffic noise from Springbank Drive upon the development. The noise study shall include projected noise levels and recommendations for noise abatement in accordance with Ministry of Environment standards. The plans for all dwelling units shall be reviewed and certified by a qualified acoustical engineer before building permits are issued, to ensure that they incorporate the recommended indoor and outdoor noise control measures outlined in the accepted noise study; and the Owner's qualified acoustical consultant and architect shall, upon completion of construction of the accepted noise abatement measures and prior to issuance of occupancy permits, certify the work has been carried out in accordance with the accepted noise study.
        - (b) **Warning Clauses:** warning clauses shall be included in all agreements of purchase and sale and all rental agreements as follows:
          - (i) Dwelling units facing Springbank Drive, unless otherwise determined "Purchasers and tenants are advised that despite the inclusion of noise control features in this development area and within the building units, road noise from Springbank Drive may be of concern occasionally interfering with some activities of the dwelling occupants, as predicted future noise levels exceed the Ministry of the Environment's Guidelines."
    - iv) **Lot Grading:** The Owner covenants and agrees that all lots and blocks shown on the approved site servicing plan attached hereto as Schedule "C" shall be graded including fill or excavation as required by the City Engineer, for their full width and length to the grades, levels specifications, requirements and satisfaction of the City Engineer.

The Owner covenants and agrees that each lot and block shall be graded to conform generally to the elevations and grades shown on the approved site servicing plan attached hereto as Schedule "C" for the full developed lot or block including the building, the landscaping and the paved driveway.

The Owner further agrees that he shall either impose by general registration on all lots and blocks in the development a building scheme which includes the following lot and block grading restrictions, or include in the agreement of sale and in the conveyance or transfer of each and every lot and block in the development a covenant by the purchaser of transferee (and by each successive owner after such purchaser or transferee) in the following form to observe and comply with the lot

1

grading restrictions contained therein:

Lot and Block Grading Restrictions

The Transferee covenants with the Transferor to observe and comply with the following lot and block grading restrictions, the burden of which shall run with these lands and the benefit shall likewise run with these lands, and shall be annexed to and run with each and every part of these lands and also each and every part of the land now owned by the Transferor, not included in these lands. This covenant shall be binding upon and ensure to the benefit of the respective heirs, executors, administrators, successors and assigns of the parties.

- v) Obligation to Grade According to Accepted Plan: These lands shall not be graded except in general conformity with the grades and elevations shown on the approved site servicing plan attached to the development agreement or filed with the City Engineer of the City of London.
- vi) Certified Lot Grading Plan: No building shall be constructed on these lands until a Certified Lot Grading Plan has been filed with the Chief Building Official of the City of London showing

The proposed finished elevation of these lands at each corner of the lot or block;

The proposed finished elevation of these lands at the front and rear of the building;

The proposed finished elevations of the underside of the footings and the proposed finished height of the foundation of the building;

The proposed finished elevation of any retaining walls, the proposed elevation of any walk-out onto these lands from the basement of the building, and the proposed elevation of any basement window openings;

The proposed finished elevation and slope of any driveway and the proposed location of any swale or rear yard catch basin; and,

Any abrupt changes in the proposed finished elevation of these lands.

The plan shall bear the signature and seal of an Ontario Professional Engineer authorized by the Association of Professional Engineers of Ontario or who is employed by a partnership or corporation authorized by the Association to offer professional engineering services to the public (hereinafter called an "Ontario Professional Engineer") who certifies thereon that the Plan generally conforms with the approved site servicing plan attached to the development agreement or filed with the City Engineer.

- vii) Owner's Interim Grading Certificate: No building shall be constructed beyond the readiness to construct structural framing until there has been filed with the Chief Building Official and Owner's Interim Grading Certificate bearing the signature and seal of either an Ontario Professional Engineer or an Ontario Land Surveyor that the elevations of the footings or the foundations generally conform with the Certified Lot Grading Plan.

- viii) Owner's Final Grading Certificate: No newly constructed building shall be occupied or used unless there is filed:

Prior to occupancy, in the case of substantial completion on or between June 1 and October 31, or;

By the following June 1, in the case of substantial completion on or between November 1, and May 31;

With the Chief Building Official an Owner's Final Grading Certificate bearing the signature and seal of an Ontario Professional Engineer that the actual finished elevation and grading of these lands generally conform with the approved site servicing plan and the Certified Lot Grading Plan.

- ix) Obligation to Maintain Grading: After these lands are graded in accordance with Clause 1 of these restrictions, no change shall be made to the actual finished





elevation and grading of these lands in any way that results in a material alteration of drainage on or across these lands or adjacent lands from that shown on the approved site servicing plan and the Certified Lot Grading Plans for these lands and the adjacent lands.

- x) Continuation of Covenant: The Transferee agrees to obtain from any subsequent purchaser or transferee from him a covenant to observe and comply with the restrictions set forth above including this clause.

The Owner further agrees that the existing property line grades abutting developed lands are not to be altered or disturbed, except as approved otherwise by the City Engineer.

The Owner shall construct silt fences or other facilities as required during construction to control overland flows from this development to ensure that mud, silt, construction debris, etc. does not adversely affect abutting properties, all to the specifications of the City Engineer.

d) Tree Preservation

- i) If during construction or during a period ending two years after occupancy of the development the City Landscape Planner determines that the health of existing trees designated for preservation as shown on Schedule 'B' attached may be declining due to construction or the operations on the Owner's lands, the Owner shall at his expense retain a consultant qualified in the field of arboriculture to investigate and submit a report to the Director of Development Planning. The report shall outline any measures required to mitigate the damage to existing trees and the Owner shall implement the recommendations of the report under the supervision of the consultant. The consultant shall certify in writing that the work was completed in accordance with the recommendations. In the case where trees in the designated area of tree preservation are required to be removed, new trees with a minimum of 5" caliper shall be planted at a ratio of two new trees for each tree removed in the area of tree preservation. The type of the trees shall be to the satisfaction of the Director of Development Approvals.
- e) Clause 36 Security be amended to include: \$125,000 for onsite works and \$450,000 for the construction of the sidewalk and left turn lanes. Additional security in the amount of \$1,400,000.00 is required for the infrastructure agreement at Schedule 'D' before this later agreement is executed by the City.

1

May 2, 2011

Bill and Anna Hopkins  
928 Springbank Drive  
London, Ontario N6K 1A5  
Tel: 519-657-3456

City of London  
Planning Department  
300 Dufferin Avenue  
London, Ontario  
N6A 4L9

Dears Sirs:

Re: 940 Springbank Drive – SP11-011305

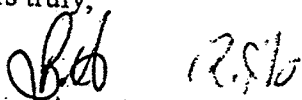
Thank you for allowing us to submit our concerns regarding the latest site plans on the above noted file which are as follows:

- 1) The plan does not meet the requirements as set out by the Planning Department in regards to the physical size. It is 34% larger than what was required. See City's Recommendation dated June 1, 2009.
- 2) The building is no longer located in the middle of the site. The building is now located 40.4 meters from our property line. If it were one building of the original size, located in the middle then it would be approx. 65 meters from our property line.
- 3) The shade study provided is missing all of the critical times and months as it relates to our property ie. After 4:00p.m. and the months between October and February.
- 4) The 2 acre site to be dedicated as parkland has changed from a previous agreed upon site.

Based on the OMB recommendations of 2001, 2005 and 2009 and the City's Recommendation it seems that the solution is to have one building the same size as one of the two buildings originally proposed in 2000 located in the middle of the site. By adhering to these guidelines it will address our concerns as it relates to shade, noise, privacy and tree preservation.

We trust that the City of London will be consistent in their position regarding this site plan.

Yours truly,

  
Bill and Anna Hopkins

1

May 2, 2011

Attn.- Linda McDougall,  
Development Planning Team,  
Development planning Department,  
City of London.

Re: File SP 11-011305 / 940 Springbank Drive

I wish to make the following comments on this latest Site Plan Approval Application.

London City Council in each of its two Resolutions, which led to the OMB hearings of November 8, 2004 and June 1, 2009, stipulated that:

- (i) The size of the building be revised to be the size of one of the buildings identified in the Site Plan before the Board in 2000.
- (ii) The southward extent of the cut into the forested slope to the rear of the proposed building be revised to approximate the extent of the cut shown in the 2000 Site Plan.

This latest submission does not fully meet either of these two stipulations.

On reviewing the OMB decision rendered by J.E. Sniezek on March 12, 2010 subsequent to the Hearing of June 2009, the following points are relevant.

In rejecting the Ayerswood Appeal, it was stated that: "...the Board finds that the proposed Site Plan does not meet the spirit and intent of the Rosenberg decision..." (page 11, para 3)

With respect to the size of the building being that of one of the two originally proposed, Sniezek suggested that the City's argument does not align with the reasoning of the Rosenberg decision in that Rosenberg did not use the words, revised or amended, to refer to the site but uses the word, new, to apply to the Site Plan and therefore, the approach put forward by the Appellant has merit.

Sniezek's argument, however, is flawed in that Rosenberg did use the word, 'amended', in his decision:

[ page 50, para 2, lines 6-8: "...Setbacks and angled traffic entrances to the site are appropriate in the draft plan and should be incorporated in the amended site plan relating to only one 12 storey apartment building..." ]

Nevertheless, despite that suggestion, Sniezek stated later that "...The scale of the proposed building flies in the face of the Rosenberg decision..." ( page 11, para 2 ) and that, "...the solution would appear to be a building with a smaller footprint..." (page 11, line 3 from bottom).

The building in this new Site Plan is in fact 4 meters longer (92.5 vs 89.3) but being some 3 meters narrower, the footprint is moderately reduced from 47% to 34% larger than that of one of the original buildings.

In considering the consequences of the proposed Site Plan in relation to the arguments in the Rosenberg decision, the following statements by Sniezek are particularly relevant.

1

(i) page 9, bottom 2 paras,

“...the Board finds that the loss of privacy in the case of the Howell residence remains unchanged. The Board finds that the impact of the tree buffer in the case of the Howell residence has not been improved and remains the same as the impact of the two apartments...”

(ii) page 10, para 3

“ the Board finds that the loss of enjoyment remains in the case of the Howell property...”

On comparison of the Landscape Plans for the 2008 application with that of the 2011 application, there is no change in the Tree Retention plan in the areas immediately adjacent to the Howell property lines. No additional trees are being retained and just as many are being removed!

Therefore, there has been no improvement in my loss of privacy and enjoyment.

There appears to be a significant reduction in the southward extension of the cut line, but it still does not return to that of the original plan because of the very large rearward extension of the parking garage.

There needs to be some justification for such a large extension, concomitant with the elimination of 3<sup>rd</sup> level of underground parking and no extension of it to the north side of the structure.

My final comment relates to the proposed change in the location of the 2 acre dedication of land to Reservoir Park.

The location of that dedication had been agreed upon by all parties concerned at the Hearings in 2004 and 2009. There is no justification for any change.

Sincerely,

  
W. C. Howell

2

Issues referred to BNEC September 19 re Kenmore

1. rationale for Hyde Park Lands to be commercial.

- historic use
- size and shape of parcels not feasible for residential
- corridor modified by Council (Perparos) leaving three orphaned properties
- widening of Hyde Park Road 2014
- similar parcels north of Carriage Way have been unsuccessful as residential
- 4 lots proposed to be taken from Kenmore by city is beyond city authority to create a new access for lands of others that currently have frontage on a municipal street.

Request that Council not change Kenmore block 203, refer all three properties for a report and OPA to be circulated re-designating them to an appropriate commercial category. Leave Kenmore zoning on block 203 as Urban Reserve.

2. rationale for maintaining lot sizes

- Perparos lands are currently zoned to permit townhouses and low rise apartments
- Location of model homes for subdivision on the 2 entry streets, therefore need to be of similar size to subdivision product.
- Crescent is 11M lots with homes around same size and value of the adjacent condos.
- All neighbours bought knowing that these lands were medium density OP and zoning as per above. They should have no expectation of lots of the same size as the ones that they purchased.

3. rationale for Kenmore design versus staff preferred design

- Kenmore subdivision based on reduction of servicing costs
- Kenmore plan has 82M less road
- Kenmore and City plan each have 2 entries, Kenmore road pattern has greater interest, quieter streets without the

2

"racetrack" configuration which is not well received in the marketplace.

- Kenmore plan has yield of 4 additional lots
- Kenmore plan is traffic calmed through shorter streets
- Kenmore plan has greater market attractiveness as a living environment
- Kenmore plan yields significantly more lots of higher value than the city plan
- Each plan has a single cul de sac the length of the entry throat is longer on Kenmore and irrelevant
- City has no policy regarding the internal design of the subdivision
- Traffic operations should not be the lowest common denominator to determine design

4. Request that the following be approved

- Approve the Kenmore preferred draft plan and road pattern as redlined consistent within all areas of agreement with city plan.
- Modify appropriate conditions to match the Kenmore plan (conditions 1, 39, 40, 49, 87) and delete conditions 44 and 94 related to the 4 access blocks
- Eliminate the requirement for 4 access blocks for lands of others currently fronting onto Hyde Park Road
- Refer the Kenmore commercial block along with the 2 properties to the north back to staff to prepare and circulate an Official Plan amendment to an appropriate commercial category
- Direct either myself or staff to prepare a By-law amendment consistent with the Kenmore plan as red line changed.

5 Rationale to amend condition 49

- Kenmore had extensive litigation with Sydenham and believes that all road lengths were included in the settlement that the city participated in.
- The reason for the litigation is that the original consent agreement provided by the city required that Kenmore pay based on only Sydenham certifying its own costs unverified.

2

- There was no ability to ensure that values were fair, that there was any competition for the work (as would be the case if the city had done that same work)
- The person therefore who wanted to be paid did not have to do anything other than demand the monies without proper justification
- If a claim is demonstrated, any compensation must be fairly tested. We rely on the city unit costs for a secondary collector street, and also that the value excludes the excavation, bedding, trunk sewers and backfill to underside of granular material as these were done and paid for from the UWRF.

We are seeking condition 49 to be deleted and replaced with

*"If it is determined that the subdivider is responsible for half the cost of South Carriage Way along it's frontage, that cost shall be determined by the City Engineer on the basis of experienced unit costs for granular 'B', granular 'A', asphalt, curb and gutter, sidewalks if installed and street lights if installed for secondary collector streets. The costs shall specifically exclude any consideration for excavation, bedding, trunk sewers or water mains and back fill to grade below granular requirements."*

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