

Agenda Item #	Page #

File No.:39T-10503/Z-7785
Planner:Nancy McKee

TO:	CHAIR AND MEMBERS PLANNING AND ENVIRONMENT COMMITTEE
FROM:	D.N. STANLAKE DIRECTOR, DEVELOPMENT PLANNING AND DAVID AILLES MANAGING DIRECTOR DEVELOPMENT APPROVALS BUSINESS UNIT
SUBJECT:	APPLICATION BY: 756949 ONTARIO LIMITED 1647 FANSHAWE PARK ROAD EAST MEETING ON MONDAY, FEBRUARY 6, 2012

RECOMMENDATION

That, on the recommendation of the Director of Development Planning and the Managing Director, Development Approvals Business Unit, in response to the letters of appeal to the Ontario Municipal Board, dated July 21, 2011 and November 23, 2011, as submitted by Alan Patton on behalf of 756949 Ontario Limited c/o Global Vision Investments, relating to Zoning By-law No. Z.-1 and Draft Plan of Subdivision concerning 1647 Fanshawe Park Road East, the Ontario Municipal Board **BE ADVISED** that the Municipal Council has reviewed its position relating to this matter and sees no reason to alter it, and that the City Solicitor **BE DIRECTED** to represent Council's interests in these matters and may retain outside expert witnesses in support of Council's position.

PREVIOUS REPORTS PERTINENT TO THIS MATTER
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June 8, 2011 – report and BNEC public meeting – Draft Plan of Subdivision & Zoning By-law Amendment (39T-10503/Z-7785)

June 20, 2011 – information report to BNEC

November 14, 2011 – information report to BNEC

BACKGROUND

On June 8, 2011, a public meeting was held for the above noted application. One of the issues neighbourhood residents expressed concern about was the level of traffic on their street and that future residential development in the surrounding area would result in a further increase in traffic. They expressed the opinion that a separate road access onto Fanshawe Park Road East should be provided from this subdivision. Municipal Council, as a result of these issues, recommended the following:

*“the Civic Administration **BE DIRECTED** to take steps to mitigate the impact of construction traffic on area residents by placing certain restrictions on access to and egress from the existing subdivision and, notwithstanding the recommendations of the Civic Administration, to take the required steps to incorporate a permanent secondary access to the development from Fanshawe Park Road East;”*

At the June 8th meeting, the Built and Natural Environment Committee (BNEC) recommended approval of the implementing zoning by-law amendment, and this was supported by Municipal Council on June 20, 2011. This zoning by-law amendment was appealed by the applicant on July 21, 2011 and is attached in Appendix “A”.



Draft Plan 39T-03518 (Cedarhollow)

Cedarbrook Gardens Golf






©2010 City of London ON



LOCATION MAP

Subject Site: 1647 Fanshawe Park Road East
 File Number: 39T-10503 / Z-7785
 Planner: Created By: Nancy Pasato
 Date: 2010-05-20
 Scale: 1:5000

LEGEND

-  Subject Site
-  Parks
-  Assessment Parcels
-  Buildings
-  Address Numbers

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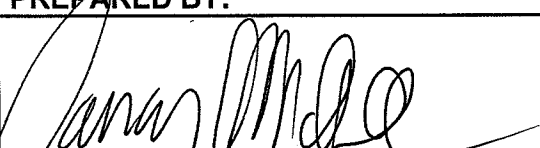
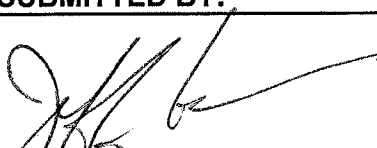
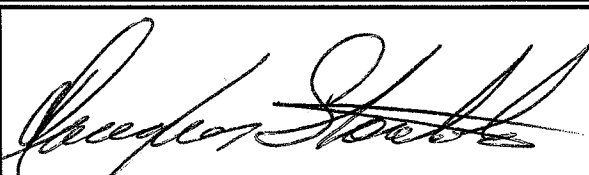
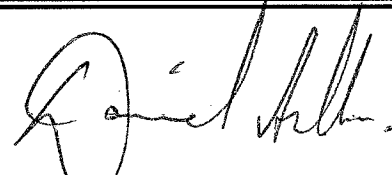
The applicant requested that the Approval Authority not make a Decision on the Draft Plan of Subdivision until they were able to review the request by Council and determine the impact a second access would have on the plan of subdivision, and report back to Committee with their findings.

On November 14, 2011, the applicant made a presentation before BNEC outlining the issues associated with redesigning the draft plan to add a permanent access to Fanshawe Park Road East. The Committee noted the report but took no action on the information presented by the applicant, and no action was taken by Council on November 21, 2011.

Appeals against the Draft Plan of subdivision failure to make a decision on the application within 180 days and Zoning By-law amendment was received from Alan Patton, on behalf of 756949 Ontario Limited c/o Global Vision Investments. The reasons for appeal are the lack of decision by the Approval Authority within 180 days, and Municipal Council's direction for Administration to incorporate a permanent secondary access from the subdivision to Fanshawe Park Road East. All appellant form and appeal letters are attached as Appendix "A".

It is recommended that the Ontario Municipal Board be advised that the Municipal Council has reviewed its decision relating to this matter and sees no reason to alter it. Council is advised that the City Solicitor shall represent Council's interests in these matters and may retain outside expert witnesses in support of Council's position.

The OMB hearing has not yet been scheduled.

PREPARED BY:	SUBMITTED BY:
	
NANCY MCKEE, MCIP, RPP SENIOR PLANNER, DEVELOPMENT PLANNING	JEFF LEUNISSEN, MCIP, RPP MANAGER, DEVELOPMENT PLANNING
RECOMMENDED BY:	
	
D.N. STANLAKE DIRECTOR OF DEVELOPMENT PLANNING	DAVID AILLES, P. Eng. MANAGING DIRECTOR, DEVELOPMENT APPROVALS BUSINESS UNIT

January 26, 2012

NP/np
"Attach"

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(HMcn)\OMB\OMB report 1647 Fanshawe.docx

CC: Janice Page, Legal
Alan Patton, Patton Cormier and Associates
Carol Weibe, MHBC Planning

Agenda Item #	Page #

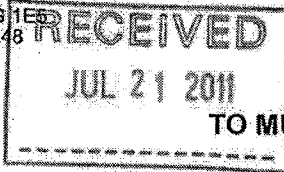
**File No.:39T-10503/Z-7785
Planner:Nancy McKee**

**Appendix "A"
Appeal letters and appellant forms**



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

**APPELLANT FORM (A1)
 PLANNING ACT**



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

Date Stamp - Appeal Received by Municipality

Receipt Number (OMB Office Use Only)

Part 1: Appeal Type (Please check only one box)

SUBJECT OF APPEAL	TYPE OF APPEAL	PLANNING ACT REFERENCE (SECTION)
Minor Variance	<input type="checkbox"/> Appeal a decision	45(12)
Consent/Severance	<input type="checkbox"/> Appeal a decision	53(19)
	<input type="checkbox"/> Appeal conditions imposed	
	<input type="checkbox"/> Appeal changed conditions	53(27)
	<input type="checkbox"/> Failed to make a decision on the application within 90 days	53(14)
Zoning By-law or Zoning By-law Amendment	<input checked="" type="checkbox"/> Appeal the passing of a Zoning By-law	34(19)
	<input type="checkbox"/> Application for an amendment to the Zoning By-law – failed to make a decision on the application within 120 days	34(11)
	<input type="checkbox"/> Application for an amendment to the Zoning By-law – refused by the municipality	
Interim Control By-law	<input type="checkbox"/> Appeal the passing of an Interim Control By-law	38(4)
Official Plan or Official Plan Amendment	<input type="checkbox"/> Appeal a decision	17(24) or 17(36)
	<input type="checkbox"/> Failed to make a decision on the plan within 180 days	17(40)
	<input type="checkbox"/> Application for an amendment to the Official Plan – failed to make a decision on the application within 180 days	22(7)
	<input type="checkbox"/> Application for an amendment to the Official Plan – refused by the municipality	
Plan of Subdivision	<input type="checkbox"/> Appeal a decision	51(39)
	<input type="checkbox"/> Appeal conditions imposed	51(43) or 51(48)
	<input type="checkbox"/> Failed to make a decision on the application within 180 days	51(34)

Part 2: Location Information

1647 Fanshawe Park Road East, London, Ontario

Address and/or Legal Description of property subject to the appeal:

Municipality/Upper tier:

Part 3: Appellant Information

First Name: _____ Last Name: _____
756949 Ontario Limited c/o Global Vision Investments
Attn: Matt Falls

Company Name or Association Name (Association must be incorporated – include copy of letter of incorporation)

Professional Title (if applicable): _____ President

E-mail Address: _____

mfalls@j-aar.on.ca

By providing an e-mail address you agree to receive communications from the OMB by e-mail.

Daytime Telephone #: 519 652-2104 Alternate Telephone #: 519 808-6672

Fax #: _____

Mailing Address: 31 Exeter Road London

Street Address Apt/Suite/Unit# City/Town

Ontario N6L1B6

Province Country (if not Canada) Postal Code

Signature of Appellant: Matt Falls Date: July 21, 2011
(Signature not required if the appeal is submitted by a law office.)

Please note: You must notify the Ontario Municipal Board of any change of address or telephone number in writing. Please quote your OMB Reference Number(s) after they have been assigned.

Personal information requested on this form is collected under the provisions of the *Planning Act*, R.S.O. 1990, c. P. 13, as amended, and the *Ontario Municipal Board Act*, R.S.O. 1990, c. O. 28 as amended. After an appeal is filed, all information relating to this appeal may become available to the public.

Part 4: Representative Information (if applicable)

I hereby authorize the named company and/or individual(s) to represent me:

First Name: _____ Last Name: _____

Company Name: _____

Professional Title: _____

E-mail Address: _____

By providing an e-mail address you agree to receive communications from the OMB by e-mail.

Daytime Telephone #: _____ Alternate Telephone #: _____

Fax #: _____

Mailing Address: _____

Street Address Apt/Suite/Unit# City/Town

Province Country (if not Canada) Postal Code

Signature of Appellant: _____ Date: _____

Please note: If you are representing the appellant and are NOT a solicitor, please confirm that you have written authorization, as required by the Board's Rules of Practice and Procedure, to act on behalf of the appellant. Please confirm this by checking the box below.

I certify that I have written authorization from the appellant to act as a representative with respect to this appeal on his or her behalf and I understand that I may be asked to produce this authorization at any time.

Part 5: Language and Accessibility

Please choose preferred language: English French

We are committed to providing services as set out in the *Accessibility for Ontarians with Disabilities Act, 2005*. If you have any accessibility needs, please contact our Accessibility Coordinator as soon as possible.

Part 6: Appeal Specific Information

1. Provide specific information about what you are appealing. For example: Municipal File Number(s), By-law Number(s), Official Plan Number(s) or Subdivision Number(s):

(Please print)
We are appealing zoning Bylaw No. Z.-1-112025, as it pertains to the land located at 1647 Fanshawe Park Road.

2. Outline the nature of your appeal and the reasons for your appeal. Be specific and provide land-use planning reasons (for example: the specific provisions, sections and/or policies of the Official Plan or By-law which are the subject of your appeal - if applicable). **If more space is required, please continue in Part 9 or attach a separate page.

(Please print)
We are appealing the zoning bylaw amendment for our lands as Council failed to approve the corresponding draft plan of subdivision (File No. 39T-10503) at the same time. Further, Council passed a resolution on June 20, 2011 which directed City staff to take steps to incorporate changes to the draft plan of subdivision which may also necessitate further zoning amendments. As such, we are concerned that the zoning bylaw, as passed, may not be appropriate pending potential changes to the plan of subdivision.

THE FOLLOWING SECTIONS (a&b) APPLY ONLY TO APPEALS OF ZONING BY-LAW AMENDMENTS UNDER SECTION 34(11) OF THE PLANNING ACT.

a) DATE APPLICATION SUBMITTED TO MUNICIPALITY: _____
(If application submitted before January 1, 2007 please use the O1 'pre-Bill 51' form.)

b) Provide a brief explanatory note regarding the proposal, which includes the existing zoning category, desired zoning category, the purpose of the desired zoning by-law change, and a description of the lands under appeal:
**If more space is required, please continue in Part 9 or attach a separate page.

[Empty box for explanatory note]

Part 7: Related Matters (if known)

Are there other appeals not yet filed with the Municipality? YES NO

Are there other planning matters related to this appeal? YES NO

(For example: A consent application connected to a variance application)

If yes, please provide OMB Reference Number(s) and/or Municipal File Number(s) in the box below:

(Please print)
 As noted above, we have also submitted a draft plan of subdivision with the Municipality (File No. 39T-10503) which has not yet received approval. Pending resolution of the issues pertaining to the draft plan there may be subsequent amendments required to the zoning bylaw amendment. However, if issues related to the draft plan of subdivision cannot be resolved, then we may have to refer this application to the OMB as well.

Part 8: Scheduling Information

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

How many expert witnesses and other witnesses do you expect to have at the hearing providing evidence/testimony?
 ___2 land use planners, 1 - 2 transportation engineers, 1 - 2 municipal/civil engineers

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

Do you believe this matter would benefit from mediation? YES NO
 (Mediation is generally scheduled only when all parties agree to participate)

Do you believe this matter would benefit from a prehearing conference? YES NO
 (Prehearing conferences are generally not scheduled for variances or consents)

If yes, why? _____

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

2011- D11-07

PATTON CORMIER & ASSOCIATES
LAWYERS

Alan R. Patton, B.A., LL.B.

Elizabeth K. Cormier, B.A., LL.B.

Analee J.M. Fernandez, B.A., LL.B.

R. Arti Sanichara, Hons. B.E.S., LL.B.

December 6, 2011

File No. 32954

Via Courier

The Corporation of the City of London
City Hall - 3rd Floor
300 Dufferin Avenue
London, ON N6A 4L9

Attention: **Clerk / Approval Authority**

Dear Sir/Madam:

Re: **756949 Ontario Limited c.o.b. Global Vision Investments**
1647 Fanshawe Park Road East. Notice of Appeal s. 51(34), Planning Act

We are the solicitors for 756949 Ontario Limited, c.o.b. as Global Vision Investments.

Enclosed please find our client's Notice of Appeal pursuant to s. 51(34) of the *Planning Act* along with our firm's cheque in the amount of \$125.00 representing the filing fee for the Appeal.

Please forward the Appeal Record to the Ontario Municipal Board as soon as possible, referencing OMB Case No. PL110789.

Yours truly

PATTON CORMIER & ASSOCIATES

per:

Alan R. Patton

ARP/dr

Encl.

apatton@pattoncormier.ca

cc: 756949 Ontario Limited - via email (with encl.)
MHBC - Att: Carol Wiebe - via email (with encl.)

City Clerk

No.

4414

Subject: RE: 756949 Ontario Limited c.o.b. Global Vision Investments - 1647 Fanshawe

DEC 06 2011

Appeal - Draft Plan of Subsd
Ref. N. Pisalo PL110789

C.C. JPB, Jekimia Infantis Ferrits
Scan - CSawnders

SCANNED

DATE: 12/06/11 MN

1512-140 Fullarton Street, London, ON N6A 5P2

tel: 519.432.8282

fax: 519.432.7285



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

**APPELLANT FORM (A1)
 PLANNING ACT**

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

Date Stamp - Appeal Received by Municipality

Receipt Number (OMB Office Use Only)

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	<input type="checkbox"/> Appeal a decision	53(19)
Consent/Severance	<input type="checkbox"/> Appeal conditions imposed	53(27)
	<input type="checkbox"/> Appeal changed conditions	53(14)
	<input type="checkbox"/> Failed to make a decision on the application within 90 days	34(19)
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Zoning By-law or Zoning By-law Amendment	<input type="checkbox"/> Application for an amendment to the Zoning By-law – failed to make a decision on the application within 120 days	38(4)
	<input type="checkbox"/> Application for an amendment to the Zoning By-law – refused by the municipality	17(24) or 17(36)
Interim Control By-law	<input type="checkbox"/> Appeal the passing of an Interim Control By-law	17(40)
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	<input type="checkbox"/> Failed to make a decision on the plan within 180 days	51(39)
	<input type="checkbox"/> Application for an amendment to the Official Plan – failed to make a decision on the application within 180 days	51(43) or 51(48)
	<input type="checkbox"/> Application for an amendment to the Official Plan – refused by the municipality	51(34)
Plan of Subdivision	<input type="checkbox"/> Appeal a decision	
	<input type="checkbox"/> Appeal conditions imposed	
	<input checked="" type="checkbox"/> Failed to make a decision on the application within 180 days	

Part 2: Location Information

1647 Fanshawe Park Road East
 Address and/or Legal Description of property subject to the appeal:

Municipality/Upper tier: **City of London**
 A1 Revised April 2010

Part 3: Appellant Information

First Name: _____ Last Name: _____

756949 Ontario Limited c.o.b. Global Vision Investments

Company Name or Association Name (Association must be incorporated – include copy of letter of incorporation)

Professional Title (if applicable): _____

E-mail Address: _____

By providing an e-mail address you agree to receive communications from the OMB by e-mail.

Daytime Telephone #: **519-652-2104**

Alternate Telephone #: **519-808-6672**

Fax #: _____

Mailing Address: _____

Street Address Apt/Suite/Unit# City/Town

Province Country (if not Canada) Postal Code

Signature of Appellant: _____ Date: _____

(Signature not required if the appeal is submitted by a law office.)

Please note: You must notify the Ontario Municipal Board of any change of address or telephone number in writing. Please quote your OMB Reference Number(s) after they have been assigned.

Personal information requested on this form is collected under the provisions of the *Planning Act*, R.S.O. 1990, c. P. 13, as amended, and the *Ontario Municipal Board Act*, R.S.O. 1990, c. O. 28 as amended. After an appeal is filed, all information relating to this appeal may become available to the public.

Part 4: Representative Information (if applicable)

I hereby authorize the named company and/or individual(s) to represent me:

First Name: **Alan** Last Name: **Patton**

Company Name: **Patton Cormier & Associates**

Professional Title: **Lawyers**

E-mail Address: **apatton@pattoncormier.ca**

By providing an e-mail address you agree to receive communications from the OMB by e-mail.

Daytime Telephone #: **519-432-8282** Alternate Telephone #:

Fax #: **519-432-7285**

Mailing Address: **Suite 1512 – 140 Fullarton Street, London, ON N6A 5P2**

Signature of Appellant: Alan R. Patton Date: December 5, 2011

Please note: If you are representing the appellant and are NOT a solicitor, please confirm that you have written authorization, as required by the Board's Rules of Practice and Procedure, to act on behalf of the appellant. Please confirm this by checking the box below.

I certify that I have written authorization from the appellant to act as a representative with respect to this appeal on his or her behalf and I understand that I may be asked to produce this authorization at any time.

Part 5: Language and Accessibility

Please choose preferred language: English French

We are committed to providing services as set out in the *Accessibility for Ontarians with Disabilities Act, 2005*. If you have any accessibility needs, please contact our Accessibility Coordinator as soon as possible.

Part 6: Appeal Specific Information

1. Provide specific information about what you are appealing. For example: Municipal File Number(s), By-law Number(s), Official Plan Number(s) or Subdivision Number(s):

(Please print)
City of London Draft Plan of Subdivision 39T-10503

2. Outline the nature of your appeal and the reasons for your appeal. Be specific and provide land-use planning reasons (for example: the specific provisions, sections and/or policies of the Official Plan or By-law which are the subject of your appeal - if applicable). **If more space is required, please continue in Part 9 or attach a separate page.

(Please print)
The Approval Authority has failed to make a Decision on the Application within 180 days. The Municipal Council, which is not the Approval Authority, by Council Resolution, "directed the Civic Administration to take steps to mitigate the impact of construction traffic....and to take the required steps to incorporate a permanent secondary access to the development from Fanshawe Park Road East."
The Civic Administration does not support the incorporation of a permanent secondary access from the subdivision to Fanshawe Park Road East, an arterial road, as directed by Council.

THE FOLLOWING SECTIONS (a&b) APPLY ONLY TO APPEALS OF ZONING BY-LAW AMENDMENTS UNDER SECTION 34(11) OF THE *PLANNING ACT*.

a) DATE APPLICATION SUBMITTED TO MUNICIPALITY: _____
(If application submitted before January 1, 2007 please use the O1 'pre-Bill 51' form.)

b) Provide a brief explanatory note regarding the proposal, which includes the existing zoning category, desired zoning category, the purpose of the desired zoning by-law change, and a description of the lands under appeal:
**If more space is required, please continue in Part 9 or attach a separate page.

Part 7: Related Matters (if known)

Are there other appeals not yet filed with the Municipality? YES NO

Are there other planning matters related to this appeal? YES NO
(For example: A consent application connected to a variance application)

If yes, please provide OMB Reference Number(s) and/or Municipal File Number(s) in the box below:

(Please print)
OMB Case No. PL110789

Part 8: Scheduling Information

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

How many expert witnesses and other witnesses do you expect to have at the hearing providing evidence/testimony?
Three (3) experts, one (1) witness on behalf of Appellant.

Describe expert witness(es)' area of expertise (For example: land use planner, architect, engineer, etc.):
Land Use Planner, Traffic Engineer, Civil Engineer

Do you believe this matter would benefit from mediation? YES NO
(Mediation is generally scheduled only when all parties agree to participate)

Do you believe this matter would benefit from a prehearing conference? YES NO
(Prehearing conferences are generally not scheduled for variances or consents)

If yes, why? _____

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

Part 10: Required Fee

Total Fee Submitted: \$ 125.00

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

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