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File: OZ-8463
Planner: M. Tomazincic

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| TO: | CHAIR AND MEMBERS PLANNING & ENVIRONMENT COMMITTEE |
| FROM: | JOHN M. FLEMING MANAGING DIRECTOR, PLANNING AND CITY PLANNER |
| SUBJECT: | APPLICATION BY: YORK DEVELOPMENTS (LONDON) INC. 1192 Highbury Avenue North PUBLIC PARTICIPATION MEETING ON JUNE 15, 2015 |

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| RECOMMENDATION |
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That, on the recommendation of the Managing Director, Planning and City Planner, the following actions be taken with respect to the application of York Developments (London) Inc. relating to the property located at 1192 Highbury Ave North:

- (a) The proposed by-law attached hereto as Appendix "A" **BE INTRODUCED** at the Municipal Council meeting on June 16, 2015 to amend the Official Plan to change the designation of the subject lands **FROM** Low Density Residential designation **TO** Auto Oriented Commercial Corridor;
- (b) The proposed by-law attached hereto as Appendix "B" **BE INTRODUCED** at the Municipal Council meeting on June 16, 2015 to amend Zoning By-law No. Z.-1, in conformity with the Official Plan as amended in part (a) above, to change the zoning of the subject property **FROM** a Neighbourhood Facility (NF1) Zone **TO** a Restricted Service Commercial Special Provision (RSC1(_)/RSC4(_)) Zone;
- (c) The Site Plan Approval Authority **BE REQUESTED** to consider the following design issues through the site plan process:
 - i) Implement 2.4m high ornamental noise attenuation barriers the perimeter of the site to mitigate any potential noise from the proximity of the drive-through lanes and abutting uses to the east;
 - ii) Maintain pedestrian walkway through the south portion of the site to provide for non-vehicular connectivity and permeability between the residential neighbourhood to the east and the uses located along Highbury Avenue North, including transit;
 - iii) Include a low masonry wall and plant materials to screen all exposed parking from the public street and create an urban street wall.

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| PREVIOUS REPORTS PERTINENT TO THIS MATTER |
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May 13, 2014 – Report to Corporate Services Committee

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| PURPOSE AND EFFECT OF RECOMMENDED ACTION |
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The purpose and effect of this Official Plan and zoning change is to permit a commercial development proposal for two restaurants with drive-throughs.

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| RATIONALE |
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1. The recommended amendment is consistent with the polices of the Provincial Policy Statement (2014);
2. The proposed amendment is consistent with the Auto Oriented Commercial Corridor policies of the City of London Official Plan related to the evaluation of applications requesting an expansion to a commercial corridor designation;
3. The Zoning By-law amendment will allow for the re-use of an underutilized property along a main commercial corridor.

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| BACKGROUND |
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| Date Application Accepted: March 3, 2015 | Agent: Laverne Kirkness |
| REQUESTED ACTION: Change the Official Plan land use designation from FROM Low Density Residential TO an Auto Oriented Commercial Corridor designation. Possible change to Zoning By-law Z.-1 FROM a Neighbourhood Facility (NF1) Zone and a Residential R1 (R1-8) Zone TO a Restricted Service Commercial (RSC1/RSC4) Zone to permit range of moderate intensity commercial uses. | |

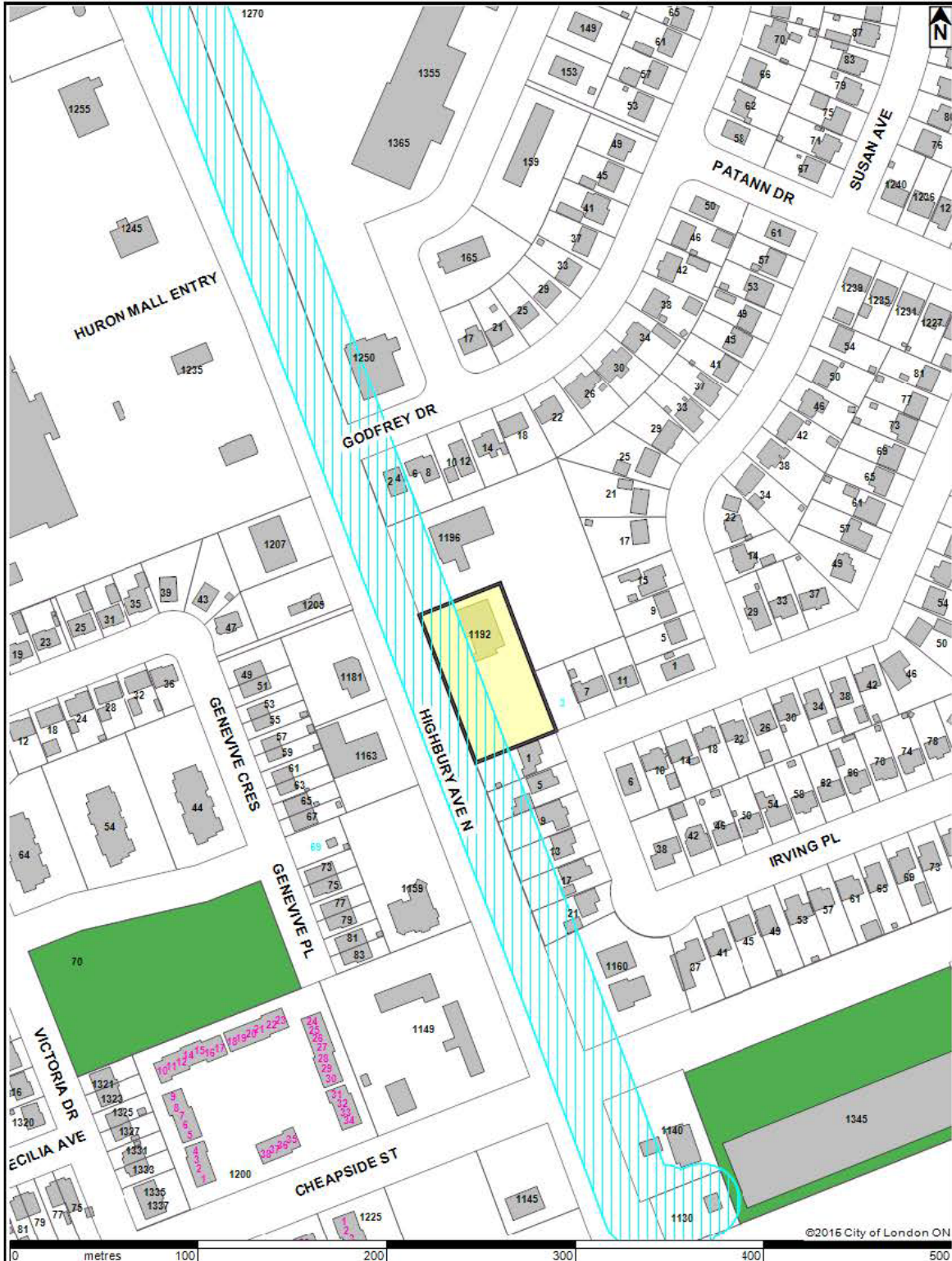
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| SITE CHARACTERISTICS: |
| <ul style="list-style-type: none"> • Current Land Use – Vacant Neighbourhood Facility (Fire Hall) • Frontage – 84.4 metres • Depth – 45.72 metres • Area – 0.43ha (4369.78 m²) • Shape - Rectangular |

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| SURROUNDING LAND USES: |
| <ul style="list-style-type: none"> • North - Place of Worship/LDR/Commercial • South - Low Density Residential/ Community Facility • East - Low Density Residential • West - Commercial/ Low Density Residential |

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| OFFICIAL PLAN DESIGNATION: (refer to Official Plan Map) |
| <ul style="list-style-type: none"> • Low Density Residential |
| EXISTING ZONING: (refer to Zoning Map) |
| <ul style="list-style-type: none"> • Neighbourhood Facility |

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| <p style="text-align: center;">LOCATION MAP</p> <p>Subject Site: 1192 Highbury Ave N Applicant: York Developments (London) Inc File Number: OZ-8463 Planner: Mike Corby Created By: Michael Tomazincic Date: 2015-06-08 Scale: 1:2500</p> | <p style="text-align: center;">LEGEND</p> <ul style="list-style-type: none"> Subject Site Parks Assessment Parcels Buildings Address Numbers |
| <p>Corporation of the City of London Prepared By: Planning and Development</p> | |

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PLANNING HISTORY

The subject site was a previously a fire hall owned and operated by the City which was relocated to 1295 Webster Street. It was then determined that the vacated fire hall had no operational value and no municipal need was identified through an internal liaison process. The site was then declared surplus and disposed of at fair market value.

Community Meeting – April 21, 2015

The applicant held a community meeting on April 21, 2015 with roughly 25 members of the public attending. Many of the issues that were raised were addressed by the applicant. These concerns were the same as the responses received in response to the City’s circulation to the public and outlined in this report. The main concern that could not be addressed was the requirement for a walkway through the site to the abutting neighbourhood from Highbury Ave.

SIGNIFICANT DEPARTMENT/AGENCY COMMENTS

Bell – March 25, 2015

A detailed review of the Official Plan Amendment and Zoning By-Law Amendment application has been completed and an easement may be required to service the subject property, depending on a review of more detailed applications under the Planning Act.

Please be advised that Bell Canada requests to be circulated on any future draft plan of subdivision, draft plan of condominium, site plan, or any other development application, that is proposed to implement the subject Official Plan Amendment and Zoning By-Law Amendment application. Through these processes, Bell Canada will provide a more detailed review and comments with respect to any requirements Bell Canada may have to service the subject property.

Urban Design – March 30, 2015

Urban design staff have reviewed the Official Plan and Zoning Application for the above noted address and provide the following urban design principles consistent with the Official Plan, applicable by-laws, and guidelines:

- *Due to a required Union Gas setback, the buildings are not able to be located closer to the public right-of-way. The applicant is commended for locating the drive-thru facilities to the rear of the buildings.*
- *Variances to setbacks and required parking for the site should take into consideration the following accommodations:*
 - *The site should be arranged to provide enhanced pedestrian amenities and circulation to accommodate the large number of students living in the area. Widen the walkway in front of the buildings to accommodate pedestrians as well as overhangs from the adjacent parked cars.*
 - *Widen, and straighten as much as possible, the primary pedestrian walkway coming from Highbury Ave. This entrance should be enhanced with landscape and/or built components to frame it at the street edge, as well as decorative pavement treatment where it crosses the vehicular drive aisle. Decorative pavement treatment should also be used for the crossing through the drive-thru aisles.*
 - *Include a low masonry wall and plant materials to screen all exposed parking from the public street and create an urban street wall.*
- *More detailed urban design discussions will take place during the Site Plan Consultation and Application processes. However, the above considerations will directly affect the site variances in the zoning and must be accommodated for the orderly development of the site.*

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Transportation – March 30, 2015

A transportation impact analysis will be required as part of a site plan complete application. Attention to access location & turn lane requirements in relation to other existing accesses and turn lane requirements will be required. For example, the northerly access shown on the proposed plan conflicts with the access to the church at 1196 Highbury Ave and will create an unsafe offset with the access to the Tim Horton's restaurant on the west side of Highbury Ave. The proponents traffic engineer must contact transportation prior to undertaking the study. The site plan must conform to the minimum number of stacking spaces required for drive through facilities in accordance with City by-laws.

The proposed site should have sufficient parking for the proposed uses.

A road widening dedication measured 20 m from the centre line of Highbury Ave will be required Holding provisions for access and the submission and approval of a transportation impact assessment are requested.

Transportation (SPA) – April 23, 2015

Transportation has reviewed the TIA submitted March 9, 2015 and has the following comments regarding the TIA.

- *Depending on the use there is insufficient stacking for a donut shop and/or a fast food restaurant.*
- *Placement of a pylon sign does not guarantee nor does it actually have any effect on which entrance is used (typically the first entrance drivers see they use)*
- *The current centre lane rumble strip is consistently used by drivers making left turns and does not act as a deterrent (only a physical barrier would accomplish this)*
- *The northerly proposed access is not supported overlap with Tim Hortons entrance*
- *The need for two access is not supported (one access with one inbound lane and an outbound left & right lane would be more appropriate)*
- *A left turn lane should be provided into the site*

A revised TIA will be required based on our comments.

Transportation – June 2, 2015

- *The proposed drive thru lanes were modified on the revised site plan to accommodate stacking for up to 12 vehicles.*
- *[The placement of a pylon sign] is not applicable anymore since now there is one entrance only.*
- *Transportation agrees to the recommendation in the revised TIA for the section of rumble strip located between the proposed entrance to the subject site and the existing Tim Horton's entrance to be replaced with a two-way left turn lane.*
- *The north access has been removed leaving one entrance only located near the south limit of the site.*
- *[The revised conceptual site plan depicts one vehicular access]*
- *A left turn lane should be provided into the site as noted above.*
- *Transportation staff has reviewed the revised TIA and have no further comments*

Urban Design Peer Review Panel (UDPRP)

1.0 Urban Design Context

1.1 *The proposed development is positive in that it will bring use and activity to a former city fire station site.*

2.0 Site Planning

2.1 *The proposed building locations result from the site constraints. They are as close to the*

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- street as they can be.
- 2.2 *Ensure pedestrian connections into the site at both the north and south ends.*
 - 2.3 *Ensure a continuous and well-defined pedestrian system throughout the site, especially in front of the south building.*
 - 2.4 *Minimize curb radii where possible.*
- 3.0 Building Architecture**
- 3.1 *The architecture is corporate and thus offers little room for improvement.*
- 4.0 Landscape Design**
- 4.1 *The ornamental grass specified on both sides of the public walkway on the south side of the site will result in an inappropriate tunnel effect. It's recommended that a shorter species of grass be specified for the north side of the pathway to ensure visibility for pedestrians.*
 - 4.2 *The extent of frontage would allow for a staggered double row of street trees (high canopy for visibility of the buildings). That coupled with shrubs would effectively screen the proposed parking.*

This UDPRP review is based on City planning and urban design policy, the submitted brief and noted presentation. It is intended to inform the ongoing planning and design process and represents support for the proposed commercial buildings.

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| PUBLIC LIAISON: | On March 13, 2015, Notice of Application was sent to 84 property owners in the surrounding area. Notice of Application was also published in the <i>Public Notices and Bidding Opportunities</i> section of <i>The Londoner</i> on March 12, 2015. A "Possible Land Use Change" sign was also posted on the site. | 7 replies were received |
| <p>Nature of Liaison: The purpose and effect of this Official Plan and zoning change is to permit a commercial development proposal for two restaurants with drive-throughs.</p> <p>Change the Official Plan land use designation from FROM Low Density Residential TO an Auto Oriented Commercial Corridor designation. Possible change to Zoning By-law Z.-1 FROM a Neighbourhood Facility (NF1) Zone and a Residential R1 (R1-8) Zone TO a Restricted Service Commercial (RSC1/RSC4) Zone to permit range of moderate intensity commercial uses.</p> | | |
| <p>Responses:</p> <ul style="list-style-type: none"> - Concerns with noise, garbage, smell, traffic generate - Appropriate barrier fencing along property lines - No pedestrian connection to limit student traffic through neighbourhood and reduce litter from pedestrians coming from fast food restaurants\ - Pollution created by additional drive-through's (health concerns) - Reduction in property value - Better alternatives for adaptive re-use of the site. Potential woodworking shop for retired people. (example in Cambridge) - 2 drive- throughs on such a small site seems congested and an overuse of the site especially with a reduction in parking required. | | |

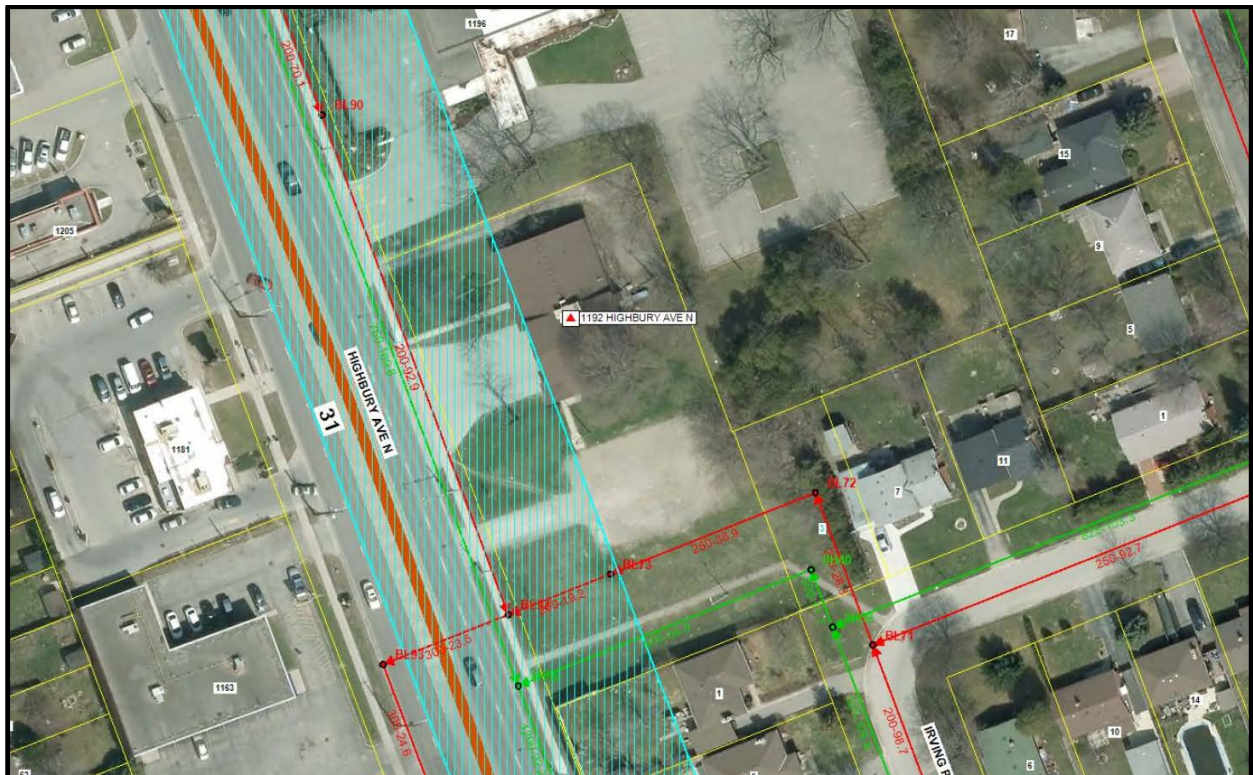
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ANALYSIS

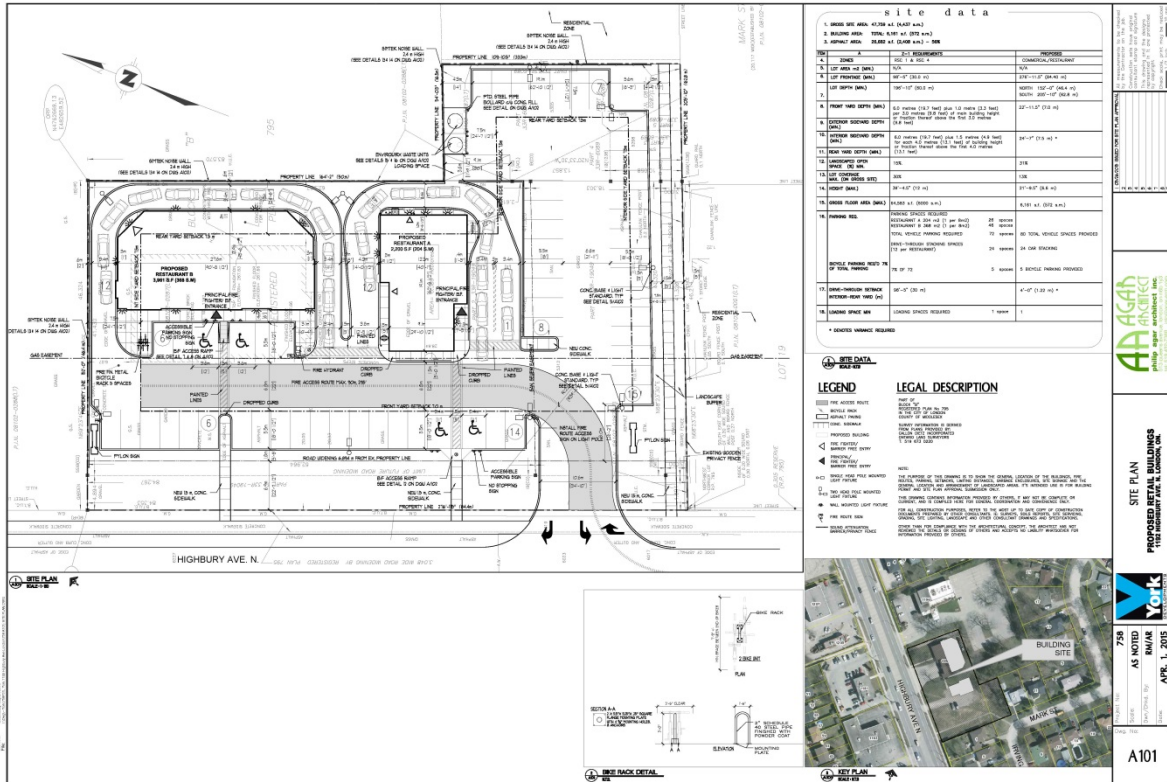
Subject Site

The subject site is located at 1192 Highbury Ave North and was previously used as a fire hall by the City. The site abuts a residential subdivision to the east and is surrounded by commercial uses to the north and west. This section of Highbury is a main commercial corridor for the area leading to a large commercial node just to the north at Huron and Highbury. The site has a large gas easement along its frontage which predetermines the setback of any future building similar to where the existing fire hall is located. A City servicing easement is also located on the south side of the property from Highbury Ave into the subdivision. No development can occur within this easement limiting the actual building envelope of the site.



Nature of Application

The applicant has applied for an Official Plan and Zoning By-Law amendment to permit commercial uses on the site. The requested amendment is from the current Low Density Residential designation to an Auto Oriented Commercial Corridor designation which also is located across the street. The re-zoning is from a Neighbourhood Facility Zone to a Restricted Service Commercial Zone to implement the requested uses. Specifically the applicant is seeking two restaurants with drive-throughs.



Conceptual site plan for the proposed development

Provincial Policy Statement 2014

The Provincial Policy Statement (PPS) 2014 provides policy direction on matters of provincial interest related to land use and development. The proposed re-development of the old fire hall site promotes growth and regeneration of vacant lot while creating an efficient form of development and maintaining the existing land use pattern. The redevelopment will bring additional tenants to the area which will create employment opportunities on a site that was previously underutilized. This increase in new tenants, new jobs, along with a fully serviced and functional lot will help sustain the financial wellbeing of the Municipality as no extension of services or additional land consumption is required and taxes will now be collected on lands previously owned by the City. Since the proposed change in use is subject to site plan approval it will address accessibility for persons with disabilities and older persons by identifying, preventing and removing land use barriers which restrict their full participation in society. It will also ensure that any environmental and public health and safety concerns are addressed. The proposed use also supports active transportation as the subject site is located on and around several bus routes with a bus stop located in front of the property. The proposal for both medical and dental offices with an accessory pharmacy and laboratories creates compact, mixed-use development within a building that exists at a scale which is already compatible with the area.
(PPS 2014 sec.1.1.1a,b,e,f,g, 1.6.6, 1.1.3.1, 1.1.3.2, 1.3.1)

Official Plan

The subject site is currently designated Low Density Residential but road widening dedications and a high pressure gas pipeline along Highbury Ave combined with municipal easement on the south side of the property limit the development potential of the site. The existing Low Density residential designation was appropriate to facilitate the development of the former fire hall and abutting place of worship however, the redevelopment of the subject site for low density residential uses poses significant challenges given the reduced lot area and setback requirements are factored.

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The requested Auto Oriented Commercial Corridor designation promotes the grouping of service commercial uses while providing common access points and parking facilities. These corridors are also encouraged to provide enhanced street edge landscaping and enhanced building aesthetics. The proposed development has consolidated two restaurant uses that are permitted in the AOCC designation with a common parking facility and a shared vehicular access point from Highbury Ave and a pedestrian walkway from Mark Street. (4.4.2.1. Planning Objectives, 4.4.2.2. Urban Design Objectives)

The subject site is located along an arterial road that consists of a mix of retail, auto commercial uses and restaurants. The designation of the subject site ensures the proposed uses which are similar to those existing in the area are clustered together and serve the same function as the AOCC designation across the street. No extension of strip commercial development is being considered and the proposal is geared towards the travelling public. The proposed restaurants are permitted uses in the proposed designation and are geared towards the traveling public and generate significant amounts of traffic making the subject site an ideal location for the proposed application. The site itself provides a lot that is suitable in terms of depth and size even with the existing easements on the site to accommodate the permitted uses. The site is also separated from the abutting subdivision as its main interaction with the public is along Highbury Ave and the subdivision sits behind the site and functions internally with no access to Highbury Ave. Though the recommended amendment does represent a site-specific change in use, the recommended amendment should not be considered an isolated commercial designation as it will function with the existing AOCC designation on the west side of Highbury Ave.

3.4.2.3. Function

The Official Plan indicates that the Auto-Oriented Commercial Corridor designation is applied to areas along arterial roads that typically consist of a mix of retail, auto and commercial uses, office and remnant residential uses. The intent of the policies is to promote the clustering of similar service commercial uses having similar functional characteristics and requirements, and to avoid the extension of strip commercial development.

The subject site is located on an arterial road in the middle of corridor consisting of a mix of retail, auto and commercial uses. The addition of AOCC uses to the subject site will facilitate the clustering of similar service commercial uses in conformity to the policies of the Official Plan.

3.4.2.4. Permitted Uses

Areas designated Auto-Oriented Commercial Corridor are primarily intended for commercial uses that cater to the commercial needs of the traveling public. Types of service commercial uses that generate significant amounts of traffic and draw patrons from a wide area may also be located within these areas.

The requested amendment will facilitate the development of restaurant uses with drive-throughs which will service the traveling public similarly to the restaurant uses immediately across the street from the subject site and in conformity to the Official Plan..

The Official Plan specifically identifies “restaurants” as uses that considered to be appropriate within this designation.

3.4.2.5. Location

The policies of the Official Plan indicate that the Auto-Oriented Commercial Corridor designation will be applied to areas along arterial roads where high traffic volumes are present and where services to the traveling public can be concentrated and supported.

This portion of Highbury Ave accommodated 31,000 vehicles per day and this portion of the corridor has been able to attract and maintain a concentration of services that cater to the traveling public. While most of these services are located on the west side (servicing southbound traffic)

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the recommended amendment will permit an extension of these uses to the east side (servicing northbound traffic) and the immediate residential neighbourhood.

3.4.2.6. Form

The Official Plan contemplates the development of new permitted uses within the designation may take Form the form of infilling, redevelopment or the conversion of existing structures. The redevelopment of a former fire hall represents “redevelopment” in conformity to the policies of the Official Plan.

The integration of these new commercial uses for the provision of a common parking area and driveway has been proposed by the applicant. There is only one vehicular access point proposed to Highbury Ave to limited to the number of access necessary for the functioning of the proposed commercial use.

To accommodate buffering requirements from adjacent residential and institutional areas, a 2.4m ornamental noise attenuation wall is being proposed.

4.4.2.6.8. The Official Plan provides policy direction for development where Auto-Oriented Commercial Corridor designations are adjacent to existing residential development. The policies are intended to ensure that adequate mitigation measures implemented to buffer the sensitive land uses from any potential negative impacts from the proposed commercial development.

Matters related to garbage storage, lighting, landscaping and other screening methods can be addressed in more detail through the site plan approval process. While the applicant has requested to reduce the setback between the proposed drive-through lanes and adjacent uses to the east, the proposed location of the drive-through lanes is immediately adjacent to a parking lot and is further proposed to be surrounded by 2.4m sound attenuation fencing in order to reduce any potential impacts from noise.

4.4.2.9. Applications to Expand or Add Auto-Oriented Commercial Corridors

Although the policies of the Official Plan generally discourage the expansion or extension of existing Auto-Oriented Commercial Corridors the policies do recognize that there may be circumstances where this is appropriate and list the following criteria to evaluate the merits of such proposals:

4.4.2.9.1. Criteria

Compliance with the appropriate policies on form, function, permitted use, location, and scale of development.

The proposed development is consistent with the Official Plan policies related to form, function, permitted use, location and scale of development (as noted above).

4.4.2.9.2. Size of Development

The Auto-Oriented Commercial Corridor designation will not be applied on a site specific or small area basis

The above criterion is intended to ensure that an isolated, site-specific designation will not be created. While the recommended amendment proposed for the subject site is intended to be applied on a site-specific basis, the effect of the amendment is to expand an existing AAOC designation and not to create an isolated area of commercial development.

4.4.2.9.3. Servicing

The availability of municipal services to accommodate the proposed use;

The subject site has adequate provision of municipal services.

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4.4.2.9.4. Alternative Lands

The availability of alternative undeveloped lands within the general vicinity that may be appropriate for the proposed use.

The commercially designated and zoned lands that are located within the immediate area are fully developed for commercial uses and implementing their planned function. There are no undeveloped commercial lands in the general vicinity.

4.4.2.9.5. Planning Impact Analysis

The criteria that will be considered include

i) the policies contained in the Section relating to the requested designation;

As described above, the use, intensity and form of the proposed development are consistent with the applicable policies of the Official Plan and therefore this criterion is met;

ii) compatibility of proposed uses with surrounding land uses, and the likely impact of the proposed development on present and future land uses in the area;

The proposed uses requested by the applicant are compatible with the surrounding context and the proposed form of development is compatible with present and future land uses in the area. The applicant proposes to construct a 2.4m noise attention barrier to mitigate any noise that may be generated from the proximity of the drive-through lanes and speaker boxes.

iii) the size and shape of the parcel of land on which a proposal is to be located, and the ability of the site to accommodate the intensity of the proposed uses

The subject site is adequate to accommodate the intensity of the proposed use. The proposed development meets the minimum parking standards, lot coverage, and landscaped open space requirements which are typically used to measure the level of intensity. Although special provisions have been requested to reduce the drive-through setbacks from the lands to the east, this is largely due to the reduction in lot area from road widening dedication and set back requirements from the high pressure gas pipeline and not a key indicator of intensity.

iv) the supply of vacant land or vacant buildings in the area which is designated and/or zoned for the proposed uses;

As previously mentioned, The commercially designated and zoned lands that are located within the immediate area are fully developed for commercial uses and implementing their planned function. There are no undeveloped commercial lands in the general vicinity.

v) the potential traffic generated by the proposed change, considering the most intense land uses that could be permitted by such a change, and the likely impact of this additional traffic on City streets, pedestrian and vehicular safety, and on surrounding properties

The requested amendment and proposed development has been vetted by the City's Transportation Planning Division. Transportation Staff have reviewed the Transportation Impact Assessment ("TIA") submitted by the applicant and agree with the TIA's recommendation to replace a section of rumble strip located between the proposed entrance to the subject site and the existing Tim Horton's entrance with a two-way left turn.

While Transportation Staff expressed some concern had expressed some concern with the initial site design, the recent revisions to the site design such as accommodating more stacking spaces in the drive-through lanes, have allayed those concerns.

vi) the height, location and spacing of any buildings in the proposed development, and any potential impacts on surrounding land uses;

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The height of the proposed development is not anticipated to create any impacts onto abutting lands. While the location and spacing of the proposed buildings to the eastern property line have been reduced from the typical zoning standard, it should be noted that this portion of the eastern property line abuts a parking lot for the adjacent place of worship and does not abut any sensitive land uses. Furthermore, the proposed development includes the provision of a 2.4m noise attenuation wall to further mitigate any potential noise impacts.

vii) the location of vehicular access points and their compliance with the City's road access policies and Site Plan Control By-law, and the likely impact of traffic generated by the proposal on City streets, on pedestrian and vehicular safety, and on surrounding properties

The initial development proposal depicted to accesses – one near the northern lot line and one near the southern lot line. The northern proposed access was of particular concern to the City's Transportation Staff and neighbouring property given its proximity to the existing access for the adjacent place of worship. However, the recent revisions to the site design include the removal of the northern access and creation of only one access to the site from the south which have allayed those concerns.

vii) the exterior design in terms of bulk, scale, and layout of buildings, and the integration of these uses with present and future land uses in the area and its conformity with the City's commercial urban design guidelines

The proposed development was vetted at the Urban Design Peer Review Panel (UDPRP) as well as by the City's Urban Design Staff. The proposed form of development did not generate any concern and the applicant was commended for locating the proposed drive-through lanes toward the rear of the buildings. The comments from Staff and the UDPRP largely related to landscaping and pedestrian connections which can be addressed through the site-plan approval process.

xii) compliance of the proposed development with the provisions of the City's Official Plan, Zoning By-law, Site Plan Control By-law, and Sign Control By-law;

The proposed development is not consistent with the policies of the Official Plan (as detailed above) pertaining to use, intensity and form as well as the criteria used to evaluate proposals to expand the designation. In general, the requirements of the Zoning By-law are being maintained with the exception of setback distances between the proposed drive-through lanes and abutting lands which is the result of road widening dedications and high pressure gas pipeline setbacks. The proposed development will be reviewed for compliance with the Site Plan By-law and Sign Control By-law at a future date.

xiv) measures planned by the applicant to mitigate any adverse impacts on surrounding land uses and streets which have been identified as part of the Planning Impact Analysis.

As previously mentioned, the applicant proposes to construct a 2.4m noise attenuation barrier around the perimeter of the site to mitigate any noise impact that may be generated from the proximity of the drive-through lanes to the eastern property line. And the applicant has revised their conceptual site plan by adding drive-through stacking lanes and removing the proposed northern access to allay the concerns of the Transportation Planning Staff and the abutting property owner to the north.

xv) impacts of the proposed change on the planned transportation system, including transit

As previously mentioned, the applicant has submitted a TIA to the City's Transportation Planning Staff. And as a result of consultation, the applicant has revised their conceptual site plan such that it has now been accepted by the City's Transportation Planning Staff and no significant impacts are anticipated on the City's transportation system, including transit.

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Zoning By-law

Section 28.1 - General Purpose of the RSC Zone - describes the rationale behind the RSC zone variations. This section indicates that this Zone is normally intended to implement the Auto-Oriented Commercial Corridor designation of the Official Plan and provides for and regulates a range of moderate intensity commercial uses, and trade service uses, which may require significant amounts of land for outdoor storage or interior building space and a location on major streets.

Staff are supportive of a Zoning By-law amendment to permit the RSC1 and RSC4 zone variations which are appropriate to implemented the recommend Official Plan amendment and are compatible with the Zoning applied to the existing commercial development on the west side of Highbury Avenue.

The RSC1 range of uses provides a list of automotive uses and specialty retail uses that is consistent with the proposed auto corridor designation. These uses are typical of the primary permitted uses contemplated in the Official Plan. The RSC4 zone provides for a wider range of secondary permitted uses that are more retail in nature and may provide a service to neighbouring lands in addition to the intended auto oriented users. The recommended uses are similar to those permitted along the west side of the Highbury Avenue corridor which have been a successful over many decades.

The development proposal can meet general purpose and intent of the proposed zoning regulations. However, special provisions are required for yard setbacks to accommodate the drive-through lanes. As previously mentioned, these are required due to the setback requirements from the high pressure gas pipeline located along the front of the subject site as well as the road widening dedication that will occur when the proposed development is vetted through the Site Plan Approval process.

Issues

A letter received from a neighbouring property owner expressing opposition to the requested amendments was concerned that the applicant’s Planning Justification Report in support of the requested amendment indicates that:

*On the recommendation of the Managing Director of Corporate Services and City Treasurer, along with the advice of the Manager of Realty Services, the highest and best use of the lands was declared to be “**redevelopment for commercial uses**”*

The letter indicates that the City has effectively “...pre-judged this application prior to the completion of the planning process. As such, the City Planning Staff and Council are in a difficult position to evaluate this application independently...It would have been much preferred to have the property on an “as is” basis without the interference of a “land swap” in place.”

In response to these statements, the City’s Realty Services Department indicates that the subject site was evaluated by a third party independent appraiser that provided a highest and best use determination and that this information was included in the body of the Staff report as a salient detail.

But more importantly, the subject site “**is indeed under contract on an “AS IS” basis**”. The agreement does not include a provision associated with rezoning of the property which the proponent is carrying out on his own volition.

CONCLUSION

The recommended amendment is consistent with the polices of the Provincial Policy Statement

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File: OZ-8463
Planner: M. Tomazincic

(2014) and the Auto Oriented Commercial Corridor policies of the City of London Official Plan related to the evaluation of applications requesting an expansion to a commercial corridor designation.

The recommended amendments will allow for the re-use of a previously developed property along a main commercial corridor which is fully serviced by utilities and transit.

The conceptual site plan has been modified to implement the initial concerns expressed by the neighbourhood property to the north and Transportation Planning Staff and the revised conceptual site plan represents an appropriate form of development.

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

06 June 2015

MT/mt

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Amendment Report

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**File: OZ-8463
Planner: M. Tomazincic**

Responses to Public Liaison Letter and Publication in “Living in the City”

| <u>Telephone</u> | <u>Written</u> |
|------------------|--|
| Name/Address | Lee Greenwood Canadian Commercial 1145 Highbury Avenue North |
| | Manny Brykman 865943 Ontario Ltd 1145 Highbury Avenue North |
| | Highbury Avenue Gospel Hall 1196 Highbury Avenue North |
| | Ruth Perkins 1 Susan Ave |
| | Mike Roi 5 Irving Place |
| | Dale Constable [No Address Provided] |
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File: OZ-8463
Planner: M. Tomazincic

**865943 Ontario Ltd.
7305 Woodbine Ave., Suite 606
Markham Ontario, L3R 3V7
Tel. 416-410-7135**

May 11, 2015

City of London, Planning Division
300 Dufferin Avenue, London, Ontario
PO Box N6A 4L9
Attn. Michael Tomazincic –Manager, Current Planning

Dear Sirs,

Re: Application to Amend the Official Plan and Zoning By-Law at 1192 Highbury Avenue North, London, ON - File OZ-8463

We are the Owners of the property at 1145 Highbury Avenue North, London, Ontario.

Please accept this letter in regards to the Official Plan Amendment and Rezoning requested for the property located at 1192 Highbury Avenue North, London, ON. It should be noted that we have a number of concerns in regards to the application as detailed below in point form.

One of our primary concerns stems from the nature of the application and the ownership situation. We understand that the City of London is the current owner of the property. We also understand that the Applicant has a conditional contract with the City of London to purchase the property subject the completion of another real estate transaction with the City of London – essentially a “land swap”. We find the nature of this transaction problematic. The Applicant has stated in their “Planning Justification Report” the following: “On the recommendation of the Managing Director of Corporate Services and City Treasurer, along with the advice of the Manager of Realty Services, the highest and best use of the lands are to be “redevelopment for commercial uses”. This recommendation seems to suggest the City has pre-judged this application prior to the completion of the planning process. As such the City planning staff and council are in a difficult position to evaluate this application independently of the pending real estate sale of the property. It would have been much preferred to have the property sold on an “as is” basis without the interference of a “land swap” in place. We trust that this application will solely be viewed on its planning merits alone. In addition, it appears that this Application has been fast-tracked for approval as very little time has been provided for proper review.

Our further concerns stem from reading the material submit with the application and are detailed below in point form.

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File: OZ-8463
Planner: M. Tomazincic

- As part of the “Planning Justification Report” the proponent has completed a Planning Impact Analysis. There are a number of deficiencies as follows:
 - There has been no attempt to prove the “need” or “commercial needs” for this development as required by section 4.2.1 of the Official Plan. This is typically done by market study or similar reporting and has not been completed.
 - Section 4.2.1 describes compatibility with adjacent land uses. The proponent’s site plan is very dense and deficient versus the applicable standards in a number of categories. With residential and institutional uses on all sides of the property, we expect that meeting setbacks to buildings and drive through’s would be critical. There will surely be impact on the adjacent residential.
 - Section 4.2.1 describes that a parcel must be of suitable size and shape. This point is not dealt with sufficiently in the report. The parcel is not of sufficient size if a number of variances are requested.
 - Section 4.2.1 describes compliance with other areas of the City’s Official Plan, Zoning By-law, Site Plan Control By-Law. Again the site has not been planned in accordance with these documents. The City has also been promoting an active streetscape and these buildings do not comply with this policy.
 - The completed Planning Impact Analysis is weak and does not provide sufficient detail in a variety of areas.
- The “Planning Justification Report” also compares the proposal versus the City Zoning By-Law. Again the review is problematic, as the Applicant has asked for at least six variances to the RSC1, RSC4 standard.
 - Parking deficiency of 17 spots
 - Drive thru stack deficiency
 - Parking against a road allowance
 - Parking next to property line
 - Drive Through setback from Residential from 30 m to 1.2 m
 - No loading space provided
- The Applicant has done nothing more than suggest landscaping and fencing will negate these variance issues. A more in depth review of the variances and their compatibility to other planning documents including the various Urban Design Reference documents located on the City’s website should occur.
- The Applicant submitted a Transportation Impact Assessment for the property. We offer the following comments
 - The report offers comments on the “Roadway Geometry”. The proponent suggests that left turns over the rumble strip median are appropriate and that an off-set from existing entrances will function adequately. It does not appear that a high level of study has been provided to arrive at these conclusions.

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File: OZ-8463
Planner: M. Tomazincic

- Later in the report, the left turns over the rumble strip median is evaluated again. This movement would surely cause a problem if cars began to back into a through lane of traffic.
- A solution with one access point, may be better suited given the conflict potential of the north access point
- The conflict between two Drive-Through's on such a small site with reduced parking and set-backs and turning radius with no loading has not been investigated as it impacts the site and adjacent uses.
- Traffic during times that the Gospel Church is in use and cars are lined up on Highbury has not been fully investigated.

This letter provides our preliminary review and critique of the Applicant's material. We believe the Application in its current form is problematic and should not be approved. We understand there are significant concerns from the residential community in the area, specifically in regards to the requested variances, density of construction and compatibility of the project. We trust staff to fully review the application solely on its planning merits irrespective of the pending "land swap". We reserve our rights to take further action on the file and would appreciate being copied on any correspondences regarding the file.

Regards,



865943 Ontario Limited

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File: OZ-8463
Planner: M. Tomazincic

865943 Ontario Ltd.
7305 Woodbine Ave., Suite 606
Markham Ontario, L3R 3V7
Tel. 416-410-7135

Re: Rezoning and Official Plan Amendment at 1192 Highbury Avenue North,
London, ON – OZ 8463

Attention: Michael Tomazincic
Manager, Current Planning
City of London, Planning Services
300 Dufferin Avenue, London, ON
PO Box N6A 4L9

Dear Mr. Tomazincic:

As you are aware we have previously provided general comments pertaining to the Rezoning and Official Plan amendment for 1192 Highbury Avenue North, London, ON (file OZ 8463) via a letter dated May 11, 2015. We have had the opportunity to review the Traffic Impact Assessment (“TIA”) completed by BT Engineering. Our consultant, Richard Pernicky, of NexTrans Inc. has completed a quick review of the TIA and offers the following comments and critiques:

- Include the date for the existing traffic volumes (i.e. when was the data collected?).
- Saturday peak period should also be reviewed for commercial development.
- Provide supporting information on the assumed 1.5% growth rate (i.e. based on historical data?).
- Future background traffic operation should be provided.

Trip Generation:

- It is unrealistic to assume the proposed Unit ‘B’ (commercial unit) will not generate any trip during the weekday AM peak hour;
- It appears 50% pass-by rate was applied to the total trips. Details on assumption required (i.e. how was the rate determined?);
- Separate figures should be provided for the site total and site pass-by trips so the assumptions on assignment can be reviewed; and,
- The report reiterates that Unit ‘C’ will be occupied by Harvey’s Restaurant and that they do not offer breakfast (open at 10AM) therefore the analysis is conservative. Typically site plan agreement only includes land use and it does not restrict operating hours (i.e. the unit can be leased to another restaurant that serves breakfast).

Synchro analysis:

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**File: OZ-8463
Planner: M. Tomazincic**

- Peak Hour Factor appears to be default value, it should be calculated based on the existing traffic data; and,
- Truck percentage and pedestrian volumes should be included in the analysis.

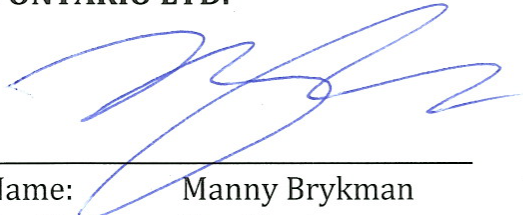
Site Plan:

- The City’s ZBL requirement for parking should be reviewed to ensure the sufficiency of the proposed parking supply; and,
- No loading space provided, demonstrate how delivery will be arranged.
- Northerly access may conflict with opposing entrance - suggest restrict to RIRO or RO only

It would appear from our review that there are a number of problems and omissions from the TIA provided by the Applicant. We hope that staff share similar concerns and will take appropriate action to ensure the proposed development can meet the criteria required for a safe and functional site. We reserve our rights to take further action on the file and would appreciate being copied on any correspondences regarding the file.

Regards,

865943 ONTARIO LTD.



Per: _____

Name: Manny Brykman
Position: President

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File: OZ-8463
Planner: M. Tomazincic

Appendix "A"

Bill No. (number to be inserted by Clerk's Office)
2015

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

A by-law to amend the Official Plan for the City of London, 1989 relating to 1192 Highbury Avenue North.

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

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

PASSED in Open Council on June 25, 2015.

Matt Brown
Mayor

Catharine Saunders
City Clerk

First Reading – June 25, 2015
Second Reading – June 25, 2015
Third Reading – June 25, 2015

Agenda Item # Page #

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File: OZ-8463
Planner: M. Tomazincic

Insert location map specific to the OPA

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**File: OZ-8463
Planner: M. Tomazincic**

AMENDMENT NO.

to the

OFFICIAL PLAN FOR THE CITY OF LONDON

A. PURPOSE OF THIS AMENDMENT

The purpose of this Amendment is To change the designation of certain lands described herein from Low Density Residential to Auto Oriented Commercial Corridor on Schedule "A", Land Use, to the Official Plan for the City of London.

B. LOCATION OF THIS AMENDMENT

This Amendment applies to lands located at 1192 Highbury Avenue North in the City of London.

C. BASIS OF THE AMENDMENT

The recommended amendment is consistent with the polices of the Provincial Policy Statement (2014) and the Official Plan criteria related to the evaluation of applications requesting an expansion to a commercial corridor designation.

The amendment to the Official Plan will allow for the re-use of a previously developed property along a main commercial corridor which is fully serviced by utilities and transit.

D. THE AMENDMENT

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

Schedule "A", Land Use, to the Official Plan for the City of London Planning Area is amended by designating those lands located at 1192 Highbury Avenue North in the City of London, as indicated on "Schedule 1" attached hereto from Low Density Residential to Auto Oriented Commercial Corridor

Agenda Item # Page #

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File: OZ-8463
Planner: M. Tomazincic

Insert amended OP Schedules

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File: OZ-8463
Planner: M. Tomazincic

Appendix "A"

Bill No. (number to be inserted by Clerk's Office)
2015

By-law No. Z.-1-15_____

A by-law to amend By-law No. Z.-1 to rezone an area of land located at 1192 Highbury Avenue North.

WHEREAS York Developments (London) Inc. has applied to rezone an area of land located at 1192 Highbury Avenue North, as shown on the map attached to this by-law, as set out below;

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

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

1) Schedule "A" to By-law No. Z.-1 is amended by changing the zoning applicable to lands located at 1192 Highbury Avenue North, as shown on the attached map comprising part of Key Map No. A103, from a Neighbourhood Facility (NF1) Zone to a Restricted Service Commercial Special Provision (RSC1(_)/RSC4(_)) Zone.

2) Section Number 28.4 of the Restricted Service Commercial (RSC1) Zone is amended by adding the following Special Provision:

-) RSC1() 1192 Highbury Avenue North
 - a) Regulation[s]
 - i) Rear Yard Depth (Minimum) 4.3 metres (14.1 feet)
 - ii) North Interior Side Yard Depth (Minimum) 4.3 metres (14.1 feet)
 - iii) Separation distance from the edge of the drive-through lane or speaker location, whichever is closer, to the closest residential/facility/institutional use lot line and/or zone line 0.3 metres (1 foot)

3) Section Number 28.4 of the Restricted Service Commercial (RSC4) Zone is amended by adding the following Special Provision:

-) RSC4() 1192 Highbury Avenue North
 - b) Regulation[s]
 - iv) Rear Yard Depth (Minimum) 4.3 metres (14.1 feet)
 - v) North Interior Side Yard Depth (Minimum) 4.3 metres (14.1 feet)
 - vi) Separation distance from the edge of the drive-through lane or speaker location, whichever is closer, to the closest 0.3 metres (1 foot)

Agenda Item # Page #

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File: OZ-8463
Planner: M. Tomazincic

residential/facility/institutional
use lot line and/or zone line

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

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

PASSED in Open Council on June 25, 2015.

Matt Brown
Mayor

Catharine Saunders
City Clerk

First Reading – June 25, 2015
Second Reading – June 25, 2015
Third Reading – June 25, 2015

Agenda Item # Page #

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File: OZ-8463
Planner: M. Tomazincic

Insert ZBA map schedule