

--	--

File: OZ-8279
Planner: Mike Davis

TO:	CHAIR AND MEMBERS PLANNING & ENVIRONMENT COMMITTEE
FROM:	JOHN M. FLEMING MANAGING DIRECTOR, PLANNING AND CITY PLANNER
SUBJECT:	APPLICATION BY: RAND DEVELOPMENTS INC. 250, 268, 270 & 272 SPRINGBANK DRIVE MEETING ON AUGUST 24, 2015

RECOMMENDATION

That, on the recommendation of the Managing Director, Planning and City Planner, the following actions be taken with respect to the decision of the Ontario Municipal Board relating to an appeal by Rand Developments Inc. on an Official Plan and Zoning By-law amendment application pertaining to the properties located at 250, 268, 270 & 272 Springbank Drive:

- (a) The following report **BE RECEIVED** for information;
- (b) The Site Plan Approval Authority **BE REQUESTED** to consider the following design issues through the site plan process:
 - i) The proposed 45 degree angle of the tower portion of the development does not appropriately orient the buildings to Springbank Drive or the context of the site. The following design elements should be addressed:
 - a. Taking into account the site context, revise the site design to include a mid-rise podium form (4-6 storeys) that aligns parallel to both Springbank Drive and west bank of The Coves integrating a taller (up to 14-storey) point tower at the northern/northeastern corner of the site. Providing a single point tower that is aligned with Springbank Drive will allow the extension of the podium to be sited along the street edge and improve the building's street orientation and contribution to the public realm.
 - b. Ensure the floor-plate of the tower portion of the building is no greater than 1,000m² in order to provide for an appropriate scale relationship with Springbank Drive, The Coves and the surrounding neighbourhood and to reduce shadowing impacts, bird strikes and the overall visual impact of the massing of the tower;
 - ii) Ensure the massing of the tower form responds to the topography of the site to reduce the visual impact on the Coves ESA by including building step-backs on the tower portion of the development at floors 12, 13 & 14 and by integrating the mechanical penthouse into the overall architectural design of the top of the building;
 - iii) The massing, floor levels and unit/building entrances of the mid-rise podium (4-6 storeys) is to respond to the grades of the site in an effort to ensure an active street frontage along Springbank Drive;
 - iv) Ensure the overall massing of the podium façade is broken up with varying materials and recesses and projections to prevent a long, flat, monolithic building face along the street;
 - v) Blank facades without windows or other openings are to be avoided along the Springbank Drive frontage, the building face along the edge of the Coves ESA and the side building face as the site is approached from the west/southwest. These facades should include transparent windows and a variation in massing and materials that serve to reduce the overall visual bulk of the development;

--	--

**File: OZ-8279
Planner: Mike Davis**

- vi) Ensure a high quality design which includes a variety of complimentary materials (masonry, glass, metal and concrete) distinguishing the base, middle, and top of the building(s);
- vii) To break up the massing and ensure a lighter design quality of building at the Coves, concrete and similar building materials should not constitute the majority (more than 50%) of the overall exterior of the building;
- viii) To improve the overall street orientation, the following design features are to be incorporated:
 - a. Locate active ground floor uses such as, lobbies, common rooms, or individual unit entrances with urban courtyards on the ground floor along the portions of the building directly adjacent to Springbank Drive;
 - b. Incorporate an urban treatment between the built form and the City sidewalk. This can be achieved by landscaped tiered planters and staircases where changes in grades exist along the street. This should also include forms of public art along this street frontage, recognising the significant bonus zone that has been provided;
 - c. Avoid dark tinted vision glass in favour of clear vision glass to animate the street.
- ix) The following elements should be incorporated to improve greening of the site:
 - a. Ensure an integrated transition treatment between the identified top-of-slope and the built-form/parking areas. Include a comprehensive landscaping strategy in order to screen the parking area from the Coves;
 - b. Recognizing the significant bonus zone that has been provided, eliminate all surface parking with the exception of the minimum required for retail uses on the ground floor and a small amount for visitor parking, to provide greater areas for landscaping and tree planting. No parking should be located between the building and the Springbank Drive public right-of-way and the building and the Coves ESA;
 - c. A Leadership in Energy & Environmental Design (LEED) Gold certification should be obtained;
 - d. Alternatives to impervious pavement should be considered for the surface parking area;
 - e. Incorporate a green roof on top of all buildings.
- x) Provide documentation that identifies the elements to be incorporated into the design of the building(s) that will assist in the LEED Gold certification;
- xi) All underground parking is required to be located fully underground with no above ground exposure. An underground parking plan will be required with submitted elevations.

PREVIOUS REPORTS PERTINENT TO THIS MATTER

June 17, 2014 Report to the Planning and Environment Committee – 250, 268, 270 and 272 Springbank Drive (OZ-8279) – This report from the Managing Director, Planning and City Planner provided a recommendation to the Planning and Environment Committee regarding an application for an Official Plan and Zoning By-law amendment received from Rand Developments Inc. (2355440 Ontario Inc.). The requested amendments were intended to facilitate the development of two (2) 14-storey apartment buildings and a 3-storey commercial building at 250-272 Springbank Drive; a property adjacent to the west bank of the “Coves” Environmentally Significant Area (ESA), on the south side of Springbank Drive.

--	--

File: OZ-8279
Planner: Mike Davis

PURPOSE AND EFFECT OF RECOMMENDED ACTION

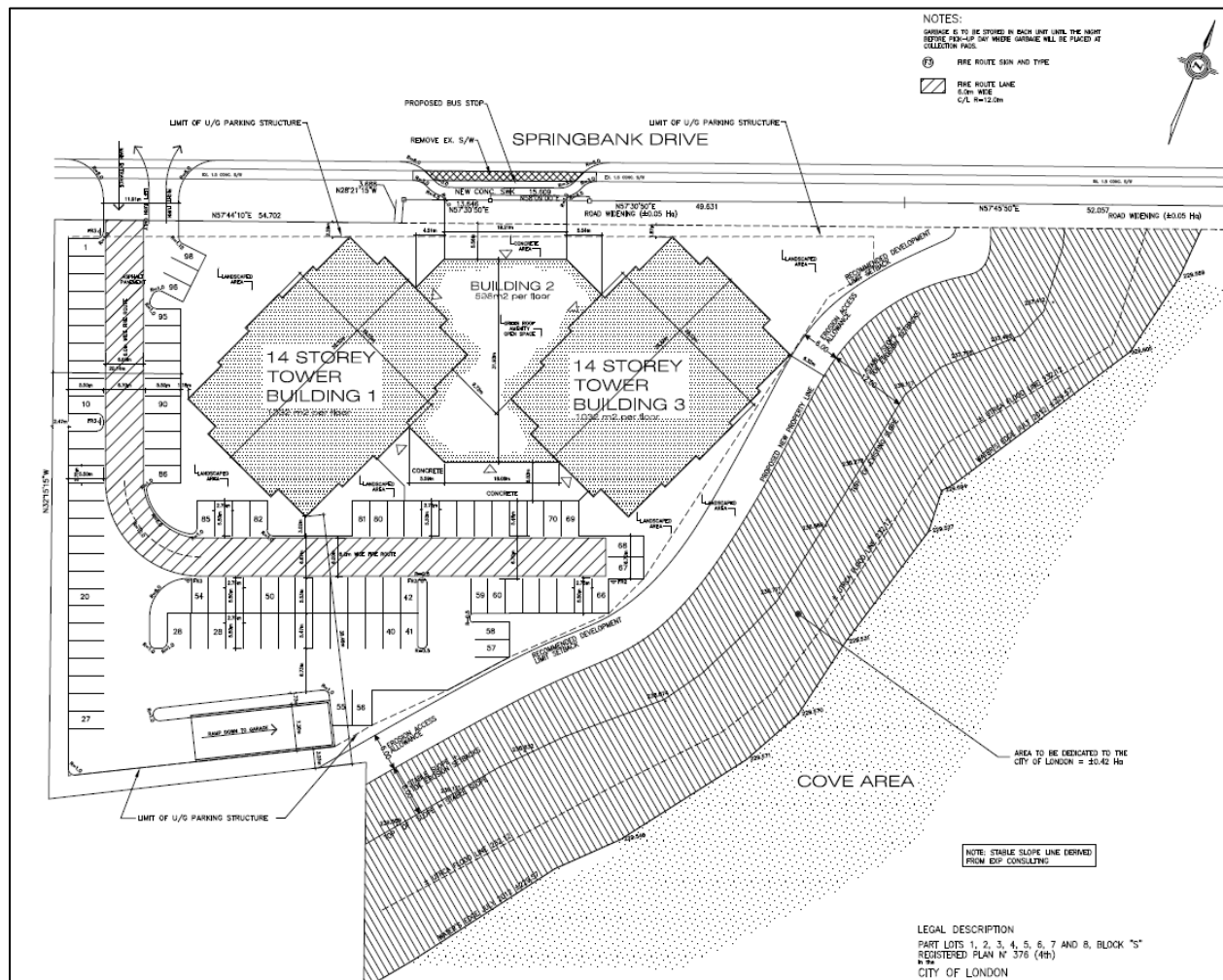
The purpose of the recommendations outlined in clauses (a) and (b) above is for Municipal Council to receive information regarding the outcome of an Ontario Municipal Board (OMB) hearing on an Official Plan and Zoning By-law amendment relating to the subject lands, and, further to the OMB decision for Municipal Council to provide direction on important urban design matters to be considered through the subsequent site plan approval process.

ISSUES

Chronology:

On October 29, 2013 the City received a complete application for an Official Plan and Zoning By-law amendment from Rand Developments Inc. for the lands located at 250-272 Springbank Drive. The application was intended to facilitate a high-rise, mixed-use residential development with a maximum height of 14 storeys and a maximum density of 286 units per hectare (approx. 240 residential units and 2,000m² commercial/office space). A conceptual development plan depicted in figures 1 & 2 below was submitted with these applications showing two 14-storey apartment buildings with a 3-storey commercial building connecting the base of the two towers.

Figure 1: Conceptual Site Plan



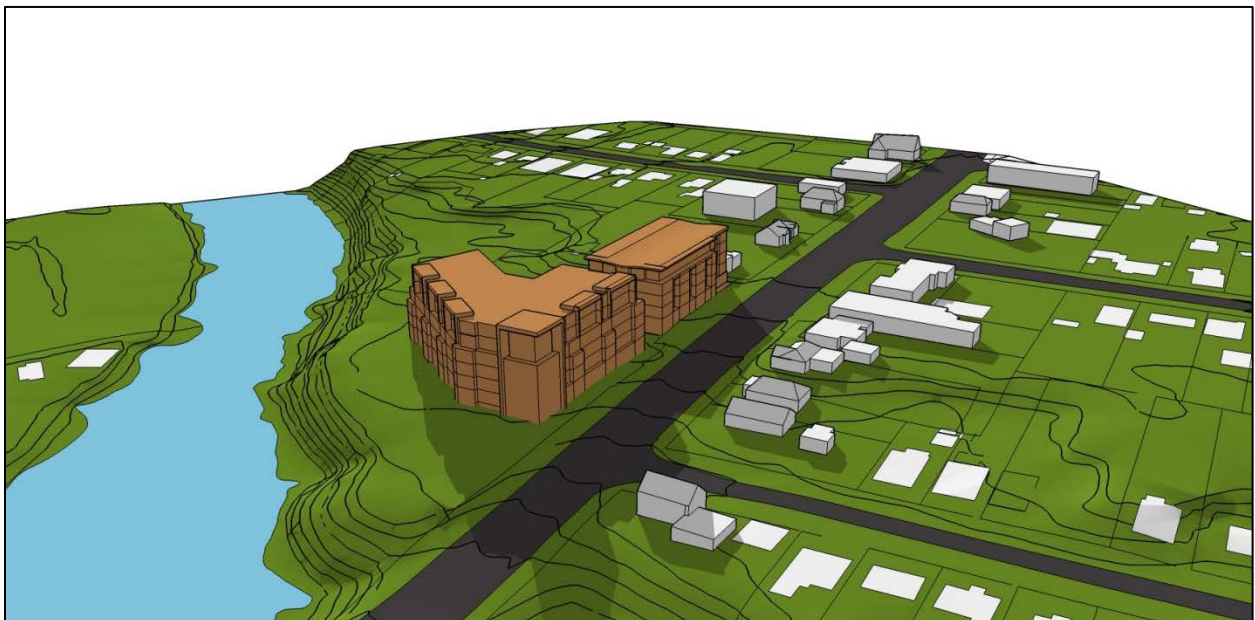
--	--

Figure 2: Conceptual Building Rendering



At its meeting on June 17, 2014 the Planning and Environment Committee, on the recommendation of the Managing Director, City Planner, recommended that these applications be refused primarily because the scale of the proposed development presented an inappropriate relationship with the site's spatial context, directly adjacent to the west bank of The Coves ESA, in an area of the City not previously designated for high density residential purposes and surrounded by low-rise built form. Upon the recommendation of Planning Staff, the Committee recommended that a Medium Density Residential designation be supported for the subject lands which would have allowed for a mixed-use residential development of up to six storeys and density of up to 150 units per hectare subject to the inclusion of special urban design matters which qualify the project for bonus zoning. This recommendation to the OMB was supported by Municipal Council on June 24, 2014. Figure 3 below generally depicts the built form that could have been facilitated by the June 24, 2014 Council recommendation.

Figure 3: Mid-rise Concept



--	--

**File: OZ-8279
Planner: Mike Davis**

OMB Hearing Outcome:

A hearing was held on April 20, 2015 to consider the appeal from Rand Developments Inc. In general, the OMB decision supports the Rand Developments Inc. Official Plan and Zoning By-law amendments in terms of use and intensity by allowing for the maximum density of 286 hectares and a maximum height of 14-storeys on the site, subject to the inclusion of a series of “bonusable” features in the ultimate development. In contrast, Council’s recommendation would have allowed a density of up to 150 units per hectare and a maximum height of up to 6-storeys with “bonusing”. However, in terms of form, the OMB decision provides some direction on urban design matters that should be addressed through the subsequent site plan application by the applicant. These items include revising the site design to provide an appropriate building orientation, ensuring that all of the parking structure remains fully below-grade and is not exposed to The Coves or Springbank Drive, that buildings include a “green roof” and that the development achieves LEED certification. The OMB has also ordered that a public hearing should be conducted on the site plan application and that final approval of the zoning be withheld until a site plan has been approved and a satisfactory agreement entered into with the City. The full copy of the OMB decision has been attached as Appendix ‘A’ to this report for further detail and reference.

Next Steps:

Once the City has received a complete application for Site Plan approval from Rand Developments Inc. a public participation meeting will be held. In the interim, Staff, through this report, have recommended that Council endorse a series of urban design objectives to be considered through the process, as outlined above.

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

August 17, 2015
Mike Davis
Y:\Shared\implemen\DEVELOPMENT APPS\2013 Applications 8135 to\8279OZ - 250-272 Springbank Dr (MD)\OMB Report with UD Comments.docx

--	--

File: OZ-8279
Planner: Mike Davis

Appendix "A"

Ontario Municipal Board
Commission des affaires municipales
de l'Ontario



ISSUE DATE: May 28, 2015

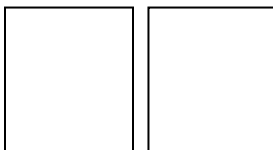
CASE NO(S): PL140423

PROCEEDING COMMENCED UNDER subsection 22(7) of the *Planning Act*, R.S.O. 1990, c. P. 13, as amended

Applicant and Appellant:	2355440 Ontario Inc.
Subject:	Request to amend the Official Plan - Failure of the City of London to adopt the requested amendment
Existing Designation:	Auto-Orientated Commercial Corridor
Proposed Designation:	Multi Family High Density Residential with a Special Policy
Purpose:	To permit the development of two 14-storey residential apartment buildings with a 3-storey podium structure connecting the base of the two towers
Property Address/Description:	250-272 Springbank Drive
Municipality:	City of London
Approval Authority File No.:	OZ-8279
OMB Case No.:	PL140423-2355440 Ontario Inc. - Two 14-storey Bldgs
OMB File No.:	PL140423-2355440 Ontario Inc. - Two 14-storey Bldgs

PROCEEDING COMMENCED UNDER subsection 34(11) of the *Planning Act*, R.S.O. 1990, c. P. 13, as amended

Applicant and Appellant:	2355440 Ontario Inc.
Subject:	Amendment to Zoning By-law No Z.-1 - Failure of the City of London to announce a decision on the application
Existing Zoning:	Arterial Commercial (AC2(3)) Zone & Open Space (OS1) Zone
Proposed Zoning:	Open Space (OS4) Zone to allow for conservation lands and public parks, and a Residential R9 Special Provision Bonus/Office



File: OZ-8279
Planner: Mike Davis

2

PL140423

Purpose: Residential Special Provision (R9-7().D282.H49.B-*/OR4()) Zone
To permit the development of two 14-storey residential apartment buildings with a 3-storey podium structure connecting the base of the two towers

Property Address/Description: 250-272 Springbank Drive
Municipality: City of London
Municipal File No.: OZ-8279
OMB Case No.: PL140423-2355440 Ontario Inc., Two 14-storey Bldgs
OMB File No.: PL140423-2355440 Ontario Inc., Two 14-storey Bldgs

Heard: April 27 to 30, 2015 in London, Ontario

APPEARANCES:

<u>Parties</u>	<u>Counsel</u>
2355440 Ontario Inc. ("Rand")	A Patton
City of London (the "City")	N. Hall

DECISION DELIVERED BY BLAIR S. TAYLOR AND INTERIM ORDER OF THE BOARD

[1] The Board heard the appeals of Rand concerning the proposed redevelopment of 250-272 Springbank Drive (the "Subject Lands") for an Official Plan Amendment ("OPA") and a Zoning By-law Amendment ("ZBA") to enable the construction of two 14 storey residential apartment buildings with a three storey office/commercial podium structure connecting the base of the two towers. While no Site Plan Referral had been made to the Board, an Urban Design Brief and a draft site plan and conceptual rendering were put into evidence, and the draft ZBA put into evidence by Rand, was based on the draft site plan.

BACKGROUND AND CONTEXT

[2] The Subject Lands are generally located in South West London, about 2.4

--	--

**File: OZ-8279
Planner: Mike Davis**

kilometres ("km") from downtown London. The Subject Lands have 204 metres ("m") of frontage along Springbank Drive, a total area of about 1.4 hectares ("h"), a net developable area of 0.85 ha, and are triangular in shape as they abut the "Coves", an environmentally sensitive area created by a remnant oxbow of the Thames River. Thus the Subject Lands also come under the jurisdiction of the Upper Thames River Conservation Authority for that portion of the Subject Lands abutting the Coves containing flood elevations and slopes.

[3] The Subject Lands are presently occupied by two structures: one a former Toyota car dealership building, and the other a Quonset hut. It appears that the Subject Lands have been occupied by a number of uses over the years, but most recently the uses seem to have been largely auto oriented: i.e. the former car dealership, and a former used car and auto repair shop based in the Quonset hut. The westerly portion of the Subject Lands are currently vacant, and the southerly and easterly edges of the Subject Lands are well vegetated with mature tree heights in the range of 10 m along the slopes to the Coves.

[4] The Subject Lands are located in an older area of the City, on a four lane arterial road (Springbank Drive), with two City bus routes on Springbank Drive, and an existing bus stop adjacent to the Subject Lands. With regard to the neighbourhood context of the Subject Lands, the Coves are generally to the southeast and east, a City owned (and land locked) woodlot abuts on the southwest, another auto related use abuts to the west, and there are other low rise arterial commercial uses on both the north and south sides of Springbank Drive.

[5] Beyond the immediate surrounding uses, to the south east there is a trailer park located in the Coves. Beyond the City woodlot in the south west is a low rise residential area, and an elementary school. Further west on Springbank Drive is a neighbourhood shopping area about 500 m from the Subject Lands. To the north is another low rise residential area and also the Greenway Pollution Control Centre.

[6] The Subject Lands are currently designated in the Official Plan Auto-Oriented

--	--

**File: OZ-8279
Planner: Mike Davis**

Commercial Corridor, and zoned Arterial Commercial, and along the slope to the Coves, Open Space.

[7] Due to the former uses of the Subject Lands, they are presently contaminated and the evidence before the Board was that redevelopment of the Subject Lands would require remediation of the Subject Lands such that most of the site would have to be excavated to a depth ranging from 2 to 6 m, and the excavated material taken off site to an appropriately licensed disposal site.

THE PROPOSAL

[8] Rand seeks to redevelop the Subject Lands for a mixed use development including two 14 storey residential apartment buildings (42.0 m in height), with a three storey podium structure connecting the base of the two 14 storey residential buildings, with a density maximum of 286 units per ha, and most of the onsite parking supplied by two levels of (fully) underground parking. With the redevelopment of the Subject Lands, Rand would convey to the City, a link to the City owned woodlot along the top of bank of the Coves. To achieve all of this, Rand has applied to redesignate the Subject Lands as Multi-Family, High Density Residential and Open Space (with bonusing), and to rezone the Subject Lands to a site specific holding Residential 9 Bonus, Office Residential, and Open Space zone. The purpose of the holding provision is to enable the proposed site plan for the Subject Lands to be submitted, and processed, and any refinements arising out of the site plan process, to be incorporated into the draft ZBA.

[9] As the height threshold for the Multi-Family, High Density Residential designation is 12 storeys and the threshold density is 150 units per ha, (as established in the Zoning By-law), the Board has considered both the official plan policies for the Multi-Family, High Density Residential designation and has also considered the official plan policies for bonusing.

--	--

**File: OZ-8279
Planner: Mike Davis**

DECISION

[10] For the reasons set out below, the Board has found that the development application is consistent with the Provincial Policy Statement (“PPS”), conforms to the Official Plan, and represents sound land use planning. Thus the Board will approve in principle the OPA, and the ZBA.

THE HEARING

[11] Appearing at the hearing was Rand, the City, and one participant Thomas McClenaghan. The participant resided some distance from the Subject Lands and attended the hearing due to his concern with his perceived impact of the proposed development on the Coves. The Board notes that no other members of the public, no resident’s association, or neighbours appeared at the hearing.

[12] This matter was originally set down for a three week hearing. In the lead up to the hearing, the parties were able to resolve a number of issues, including: traffic, slope analysis, Phase II Environmental, Natural Heritage, and servicing. As there were no objections from the Upper Thames Conservation Authority, the issues for the hearing dealt solely with land use planning. Hence the hearing time was significantly reduced due to the positive steps taken by the parties, which is appreciated by the Board.

PROCESSING

[13] The memorandum of pre-application consultation for the development proposal is dated as of July 17, 2012, and subsequently the development applications for the Subject Lands were filed with the City on May 28, 2013, and deemed “complete” as of October 29, 2013. The development applications include the conceptual site plan illustrating the two 14 storey buildings, the connecting podium, and the underground parking. The two 14 storey buildings are sited on a bias, such that they are on a diagonal to Springbank Drive, and also to the Coves. The conceptual site plan also seems to indicate that a portion of the “underground” parking would be exposed and not

--	--

**File: OZ-8279
Planner: Mike Davis**

fully underground.

[14] The first comments on the development application appear to come from the Urban Design Peer Review Panel dated November 20, 2013, an “external” body made up of representatives from either the private sector or institutes of higher learning. The Urban Design Peer Review Panel had concerns with the “orientation of the buildings contrary to the conventional practice of squaring a building to a street”, which it said would diminish the connection of the buildings to the street. While the attempt to take advantage of the proximity to the Coves was appropriate, the Panel had concerns about siting the two 14 storey towers at an acute angle. To overcome this, the Panel suggested that the building better address the street, and a multi-storey townhouse podium was suggested as an alternative. Additionally it was pointed out that the underground parking should be fully below grade.

[15] On December 11, 2013, the City’s urban designer commented as well. He noted that Springbank Drive was a major arterial road, the Coves were an environmentally significant area, and the views of the downtown skyline from the Subject Lands can be spectacular. He then proposed a “V” shaped building of a midrise form (4-6 storeys) parallel to both Springbank Drive and the Coves with the possibility of integrating a taller (up to 14 storey) point tower at the intersecting point. Similar to the panel, he also recommended that the proposed parking garages be fully underground and not exposed to the street or the Coves.

[16] With these two comments, the progress of the development applications appeared to stall. Notwithstanding meetings to discuss the conceptual site plan, it appears no progress was made and Rand filed its appeals to the Board on May 5, 2014 based on the failure of the City to consider the applications within the time stipulated in the *Planning Act*.

[17] Following the Rand appeals to the Board, the City planning staff prepared and recommended to City Council that City Council recommend to the Board that the development applications be denied for a number of reasons including:

--	--

**File: OZ-8279
Planner: Mike Davis**

- a) The City has made other lands available for High Density Residential development,
- b) The Subject Lands are inconsistent with the locational criteria of the Multi-Family, High Density Residential designation,
- c) The Subject Lands are not of a suitable size to accommodate the adequate transition and buffering measures to protect adjacent low density residential uses, and
- d) The development proposal introduces potential for a high-rise built form adjacent to the Coves Environmentally Significant Area, and the physical context would result in a high rise form of development perched on a plateau facing the Thames Valley Corridor and the low-rise character of the surrounding development.

[18] In the alternative, planning staff recommended that the Subject Lands would be appropriate to conceptually accommodate a “V” shaped mid-rise four storey building, or with bonus zoning a “V” shaped six storey mid-rise building.

THE HEARING

[19] The Board heard the evidence of two land use planners during the course of the hearing: Ric Knutson on behalf of Rand, and Mike Davis, a land use planner with the City. The Board also heard from the participant with regard to his concerns for the Coves.

PROVINCIAL POLICY STATEMENT (“PPS”)

[20] Rand’s planner opined that the development applications before the Board were consistent with the PPS as the applications were: an intensification within a settlement area that promoted efficient development, promoted cost effective development patterns that minimized land consumption and servicing costs, (s. 1.1.1(a) and (e)); efficiently

--	--

**File: OZ-8279
Planner: Mike Davis**

used infrastructure and public service facilities that existed, and were transit supportive, (s. 1.1.3.2 (a)) and optimized the long term use of land resources and infrastructure, promoted redevelopment of brownfield sites, and were public transit supportive (s. 1.7.1 (b) (e) and (f)).

[21] Both planners considered s. 1.1.2.3 of the PPS but with differing conclusions. Rand's planner, while acknowledging that the Subject Lands were not a location that had been identified by the City in its Official Plan, testified that the Subject Lands presented an opportunity for intensification and redevelopment as the Subject Lands constituted a brownfield site, that all the City infrastructure and public service facilities were available to the Subject Lands including public transit, and that the location was at a gateway to the City's downtown.

[22] The City planner placed particular emphasis on the opening words of s. 1.1.2.3: "Planning authorities shall identify appropriate locations..." (Emphasis added). He noted that the City had not identified this site for high density residential, that the City had through its Official Plan other designated areas for high density residential uses and that those sites were "appropriate" and this site was not appropriate, as it was "less" compatible with the built character of the area than a medium density designation, which he opined would be consistent with the PPS. However in cross examination, the City's planner acknowledged that the development proposal was "compatible" with the built character of the area.

[23] The Board prefers the evidence of Rand's planner. The Board finds that the development applications before the Board are consistent with the PPS in that a brownfield within the City's settlement area is proposed for redevelopment, that all infrastructure and public service facilities are available to the Subject Lands, that the development proposal is a form of intensification, in a compact form, makes efficient use of the site, is transit supportive, and in the language of s. 1.6.3 (a) and 1.7.1(b) optimizes the use of infrastructure and public service facilities.

--	--

**File: OZ-8279
Planner: Mike Davis**

OFFICIAL PLAN

[24] The City's Official Plan contains an introductory policy section setting forth the vision statement including:

- s. 2.2.2 (ii) fulfill growth-related requirements for housing...through the efficient utilization of existing serviced land and infrastructure,
- (iv) protect and enhance natural features and attributes,
- (v) promote an urban form that features a strengthened and revitalized downtown...and the more intensive forms of residential and commercial development outside of the downtown will continue to be focused along sections of major transportation corridors and in designated nodes to facilitate public transit.

[25] Following the vision statement the Official Plan outlines its Planning Principles which include:

- s. 2.3.1 (ii) land use planning should promote compatibility among land uses in terms of scale, intensity of use, and potential impacts,
- (iii) land use planning should be conducive to the maintenance and enhancement of environmental quality and conservation of natural, cultural and built heritage,
- (v) encourage a compact urban form which is conducive to the maintenance and efficient use of services and facilities,
- (vi) enhance the character of residential areas and direct

--	--

**File: OZ-8279
Planner: Mike Davis**

redevelopment and intensification activities to locations where existing land uses are not adversely affected,

- (vii) site and building design is to be sensitive to the scale and character of surrounding land uses,
- (viii) enhance the efficiency of all modes of travel in the transportation network.

[26] Following the Planning Principles is a section on City Structure policies.

[27] For High and Medium Density Residential Development s. 2.4.1(vi) directs such development to appropriate areas within and adjacent to the Downtown, near the periphery of Regional and Community Shopping Areas, and in selected locations along major roads specifically along transit nodes and corridors identified in Chapter 18, and near Open Space designations, while recognizing that through infill, intensification, and redevelopment, some high and medium density residential project may be permitted in areas which have not been identified as preferred locations.

[28] With regard to Neighbourhood Protection s. 2.4.1(ix) provides that there may be redevelopment, infill, and intensification in some established residential neighbourhoods, higher intensity land uses will be directed to locations where the character of the residential area is enhanced and the existing land uses are not adversely affected.

[29] With regard to "Transition Areas" s. 2.4.1(xv) notes that areas near the Downtown that are appropriate for conversion and redevelopment to higher density residential uses shall be identified as gateway areas to the Downtown and shall be part of the Main Street Commercial Corridor designation.

[30] Compact Urban Form is the subject of s. 2.4.1(xvi) which encourages such form in a manner that maximizes the use of existing services, minimizes the loss of

--	--

**File: OZ-8279
Planner: Mike Davis**

productive agricultural land, is conducive to the use of public transit and minimizes the need for and cost of new infrastructure.

[31] Section 2.4.1(xvii) deals with intensification and infill and states that lands that are appropriately located in accordance with policy 3.2.3 (dealing largely with low density residential areas) and appropriately serviced shall be encouraged.

[32] Finally from s. 2.4.1(xxi) it is noted that forms of development that are designed to be pedestrian oriented and supportive of public transit shall be supported through redevelopment.

[33] From these policies, and based on the evidence, the Board makes the following findings: firstly the Subject Lands are not located in a residential neighbourhood area; secondly, the Subject Lands are not designated as Main Street Commercial Corridor and hence not a designated "Gateway" to the Downtown; but thirdly, the Subject Lands are located on an arterial road, are about 2.4 km from Downtown, that one could walk to the Downtown in about 20 to 30 minutes, that there are two bus lines in proximity to the Subject Lands one of which goes to the Downtown, all of which suggest that Springbank Drive in the vicinity of the Subject Lands does provide a gateway function to the City's Downtown while the Subject Lands are not so designated.

[34] Section 3.1.4 outlines the City's objectives for the Multi-Family High Density Residential designation which include:

- a) Supporting such development at locations which enhance the character and amenity of a residential area, and where arterial streets, public transit, shopping facilities, public open space and recreational facilities are easily available and where there are adequate municipal services.
- b) Provide opportunities for such development at locations adjacent to major public open space areas where compatibility with adjacent land uses can be achieved.

--	--

- c) Promote in the design of such developments sensitivity to the scale and character of adjacent land uses and to desirable natural features on or close to the site.

[35] The Board finds that the development proposal for the Subject Lands being on an arterial road, proximate to public transit, near shopping facilities, abutting the Coves, set in a non-residential area, conforms to this policy.

[36] Section 3.4 provides the Official Plan policies as they relate to Multi-Family High Density Residential designation. The introductory policy provides the following:

The Multi-Family, High Density Residential designation is intended to accommodate large-scale, multiple-unit forms of residential development. The preferred locations for this designation are lands adjacent to major employment centres, shopping areas, major public open space, transportation routes, and where high density development will not adversely affect surrounding land uses. This type of development provides for an efficient use of land, energy, and community services and facilities, and contributes to a broad range of choice in housing location, tenure, and cost throughout the municipality.

[37] The Board finds that the Subject Lands are located adjacent to a shopping area (500 m), immediately abut a major public open space, and are on two public transportation routes, and thus comply with this policy.

[38] Beyond the introductory words of s. 3.4 are details on the preferred locations and criteria for consideration of proposed Multi-Family High Density Residential sites in s. 3.4.2.

[39] Dealing first with the detail for preferred locations, the Official Plan provides that:

In addition to areas predominantly composed of existing or planned high density residential development, the preferred locations for the Multi-Family, High Density Residential designation shall include areas near the periphery of the Downtown that are appropriate for redevelopment; lands in close proximity to Enclosed Regional Commercial Nodes or New Format Regional Commercial Nodes or Community Commercial Nodes, or designated Open Space areas; and lands abutting or having easy access to an arterial or primary collector road. Other locations which have highly desirable site features and where surrounding land uses are not adversely affected may also be considered for high density residential

--	--

**File: OZ-8279
Planner: Mike Davis**

development.

[40] The Board finds that the Subject Lands abut a major designated Open Space area, and are located on an arterial road, and thus comply with the general locational criteria of s. 3.4.2.

[41] The section then provides five criteria to be considered: compatibility, municipal services, traffic, buffering, and proximity to transit and service facilities.

[42] There are no issues before the Board with regard to the adequacy of municipal services, traffic, and proximity to transit and service facilities. With regard to buffering, the Board notes that the net developable site is 0.85 ha, and that there are no immediate abutting low density residential uses. Low density residential uses are located to the interior of the lands to the south west and also north of the Subject Lands.

[43] The issue of compatibility was raised by the City. Thus the actual language of s. 3.4.2(i) is important:

Development of the site or area for high density residential uses shall take into account surrounding land uses in terms of height, scale and setback and shall not adversely impact the amenities and character of the surrounding area.

[44] The Board has previously described the immediate surrounding area with the Coves to the south and east, a City woodlot to the southwest, another auto oriented use abutting to the west, and arterial commercial uses on the north and south sides of Springbank Drive.

[45] With no immediate residential uses, there are no issues of privacy and overview. Any residential uses are at an interior location to the south west separated by the City woodlot or to the north, separated by Springbank Drive, and the arterial commercial uses located on the north side of Springbank Drive. The Board finds no adverse impact to the amenities and the character of the surrounding area.

[46] The City planner opined that the mass, scale, and bulk in light of the excessive

--	--

**File: OZ-8279
Planner: Mike Davis**

height was not appropriate for the location in contrast to the low rise form of adjacent development especially given the “perched site” location of the Subject Lands. He provided his “peanut butter jar argument” that there was a limit to the amount of peanut butter in the jar, (i.e. high density designations) and that it should not be spread all over, but rather it should be spooned out to achieve the greatest public benefit, and that had already been done in the Official Plan.

[47] The Board does not agree. It simply is not possible for any Official Plan no matter how well intended or drafted to identify or anticipate every possible redevelopment site. Moreover the specific wording of policy 3.4.2 recognizes this reality and anticipates applications for high density development at other sites, and provides criteria with which to assess such applications.

[48] With regard to the scale of development, that is dealt with in s. 3.4.3 of the Official Plan. Excluding bonusing, generally net residential densities will be up to 350 units per ha for the Downtown Area, up to 250 units per ha for Central London, and up to 150 for lands outside Central London.

[49] With regard to height, there is no definitive policy statement concerning height for the Multi-Family High Density Residential designation other than a reference to the height and density limitations that are specified in the Zoning By-law. In this case that height would normally not exceed 12 storeys, and not exceed 150 units per ha.

[50] To address the issue of height, Rand’s planner provided the Board with an array of previous Multi-Family, High Density development approvals (usually with bonusing) for three areas: the Downtown Area, Central London, and those outside Central London (like the Subject Lands).

[51] For those sites outside Central London, it is the intention of the City that there be a mix of housing types, building heights, and densities and that they would normally occur on sites greater than 3 ha, and meet the following criteria:

--	--

**File: OZ-8279
Planner: Mike Davis**

- a) Transition in scale,
- b) Diversity of housing,
- c) Oriented where possible closest to activity nodes (shopping and employment) and points of high accessibility (arterial roads and public transit) and with densities and building heights that decrease away from the activity nodes,
- d) Massive at grade or above grade parking areas shall not dominate the site, and
- e) Processed either via a secondary plan or a concept plan with final zoning approval held pending a public meeting on the site plan

[52] It is clear that the Subject Lands are not 3 ha in size, and the development application does not include other forms of housing, but it is a mixed use proposal including provision for a range of office/commercial uses. The development application is close to an activity node where shopping is available, is located on an arterial road, with transit services, proposes fully underground parking, and the draft ZBA provided to the Board as Exhibit 14 recommends a holding provision for site plan approval.

[53] The Board was also taken to Exhibit 6 illustrating approved development applications in the City for the Downtown Area, Central London, and areas outside Central London.

[54] Rand's planner made particular reference to B-16 at Exhibit 6 which is the site specific zoning for 909 Southdale Road West and 3045 Pomeroy Lane, a site outside Central London. The approved development anticipated two apartment towers at a maximum height of 50.5 m and a density of 207 units per ha. The zoning details of Exhibit 6 were embellished by the photos of the development in Exhibit 1, Tab 3. Rand's planner directed the Board to page 139 which demonstrated one residential tower virtually complete in its construction, the above grade parking garage seemingly

--	--

**File: OZ-8279
Planner: Mike Davis**

complete in its construction and the second tower erected to the fourth or fifth storey. It was noted that the height of the constructed tower was at least 14 storeys, which was both immediately across the street from a low density residential development and flanked a low density residential development with side yard interface estimated to be about 30 m. Moreover the photo clearly displays the above grade three storey parking garage apparently also flanking a low density residential development.

[55] The Board finds the height of 12 storeys to conform to the Official Plan and to be appropriate in these circumstances, as unlike the Pomeroy Lane development there is no residential development abutting the Subject Lands, the interface to the interior residential areas far exceeds 30 m, the Subject Lands are located on an arterial road, public transit is proximate, shopping is proximate, a major public open space abuts, and the Board finds there to be no adverse impacts from the height of 12 storeys.

[56] With regard to density, the Board notes that the City's recommended alternative with bonusing was at a density of 150 units per ha. The Board is satisfied that the site can easily accommodate such density.

[57] The City's planner also directed the Board to the Thames Valley Corridor Plan which he advised was a guideline document authorized by the Official Plan. Exhibit 10A contains the policy document and 10B has Figure 1 Land Use Context, and 10C had Figure 3a Main Branch.

[58] The Board has examined this plan. The Board notes firstly that the Subject Lands are located outside the defined corridor. Secondly the Board notes that the plan recommends that development guidelines should be prepared for urban development located within or adjacent to the corridor. No such development guidelines pursuant to the plan were tendered as an exhibit. Thirdly, the Board notes that a very modest sliver of land at the extreme eastern portion of the Subject Lands is identified as an "edge zone" where green development standards, natural buffer areas and the incorporation of public open space should be considered (p. 15-16). In this regard Rand is proposing to remediate this brownfield site, retain the existing top of bank vegetation, and convey

--	--

**File: OZ-8279
Planner: Mike Davis**

a linkage to the existing woodlot to the City as part of the development application. Moreover the Board notes from the December 11, 2013 memorandum from the urban designer the following comment:

Taking into account the site context, consider a "V" shaped building of a midrise form (4-6 storeys) parallel to both Springbank Drive and the Coves with the possibility of integrating a taller (up to 14 storey) point tower at the intersecting point.

[59] Thus the City's urban design staff suggested a point tower (up to 14 storeys) in close proximity of the edge zone from the Thames Valley Corridor Plan.

[60] In summary, the Board prefers the evidence of Rand's planner and approves in principle the proposed development proposal of the Subject Lands for a Multi-Family, High Density Residential designation to a height of 12 storeys and a density of 150 units per ha.

BONUSING

[61] The Board will now consider the bonusing provisions of the Official Plan as Rand seeks bonus zoning from the City to increase the proposed height of the two towers to 14 storeys from 12 storeys and to increase the density to 286 units per ha up from 150 units per ha.

[62] The Official Plan deals with bonusing under s. 3.4.3(ii) where certain criteria are met:

- a) The site or area shall be located at the intersection of two arterial roads or an arterial and primary collector road, and well served by public transit;
- b) The development shall include provision for unique attributes and/or amenities that may not be normally provided in lower density projects for public benefit such as, but not limited to, enhanced open space and recreational facilities, innovative forms of housing and architectural design

--	--

**File: OZ-8279
Planner: Mike Davis**

features;

- c) Parking facilities shall be designed to minimize the visual impact off-site, and provide for enhanced amenity and recreation areas for the residents of the development;
- d) Conformity with this policy and urban design principles in Section 11.1 shall be demonstrated through the preparation of a secondary plan or a concept plan of the site which exceeds the prevailing standards; and
- e) The final approval of zoning shall be withheld pending a public participation meeting on the site plan and the enactment of a satisfactory agreement with the City.

[63] The development proposal before the Board meets these criteria. The location is on an arterial road, and while not at an intersection, the City planner acknowledged that the City has previously approved bonusing in similar circumstances to that before the Board. The Board finds that the site is well served by public transit as there are two bus routes on Springbank Drive and a bus stop in immediate proximity to the Subject Lands.

[64] The Board finds that the proposed development provides an excellent opportunity to provide a linkage to the City woodlot to the southwest which is currently landlocked. Such potential access to a City amenity on the bank of the Coves would open to the public a City asset that has heretofore been inaccessible.

[65] Much testimony was heard by the Board with regard to the proposed underground parking. The genesis for that evidence is with the draft site plan drawings that have been the subject of comment by the Urban Design Review Panel, the City's urban designer, and the City's planner. The drawings appear to show the "underground" parking to be at least partially exposed. Rand's planner indicated that his client would ensure that the parking is fully underground, and provided a (revised) draft ZBA which in s. 2(3) states that two levels of "fully" underground parking will be

--	--

**File: OZ-8279
Planner: Mike Davis**

provided. The Board is satisfied that the ultimate site plan drawings will implement that intention.

[66] Rand has provided site plan drawings and elevations, and a front façade rendering of the proposal. Clearly such drawings especially with regard to the underground parking will need to be revised, but the necessary elements to comply with the required criteria have been produced, and with the expectation that the draft ZBA approval would be withheld pending the site plan process, and the development of an appropriate agreement with the City.

[67] Thus the Board finds that the development proposal meets the bonusing criteria of the Official Plan.

[68] As *obiter dicta* only the Board notes that the Rand development proposal also includes a “green” roof on the office/commercial podium for the use of the building residents, and that the buildings be Leadership in Energy and Environmental Design certified. The Board anticipates that these proposed elements will be expanded upon in the forthcoming site plan application.

APPROVALS IN PRINCIPLE

[69] The Board has reviewed the draft OPA as found at Exhibit 13, and finds that there are some drafting issues that need to be finalized (e.g. reference to that portion of the Subject Lands to be designated as Open Space), and thus the Board will approve in principle only the proposed development subject to being provided with a revised version of Exhibit 13, in form and content to the satisfaction of the City bearing in mind this decision of the Board. The Board directs that a revised version be provided to the Board within 60 days of the issuance date of this decision.

[70] With regard to the draft ZBA as found at Exhibit 14, as noted above, there are drafting revisions to be made. Additionally it appears that there are different urban design opinions with the draft site plan’s acute angle design and street

--	--

**File: OZ-8279
Planner: Mike Davis**

20

PL140423

orientation/connection that may be the subject of the site plan process.

[71] Thus the Board will approve in principle only a draft zoning by-law with a holding provision for the site plan process, a maximum height of 14 storeys (42.0 m) and a density of 286 units per ha. The final version of the draft zoning by-law will await the outcome of the site plan process.

[72] In order to facilitate that process, the Board directs that counsel shall provide to the Case Coordinator a revised Zoning By-law for issuance by the Board on or before September 30th, 2015 failing which the Board would expect to be in receipt of Rand's site plan referral pursuant to s. 41 of the *Planning Act*.

[73] The Board may be spoken to for case management purposes, scheduling permitting.

[74] This is the interim order of the Board.

"Blair S. Taylor"

BLAIR S. TAYLOR
MEMBER

If there is an attachment referred to in this document,
please visit www.elfo.gov.on.ca to view the attachment in PDF format.

Ontario Municipal Board
A constituent tribunal of Environment and Land Tribunals Ontario
Website: www.elfo.gov.on.ca Telephone: 416-212-6349 Toll Free: 1-866-448-2248