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M. Tomazincic
File #Z-7949

TO:	CHAIR AND MEMBERS PLANNING & ENVIRONMENT COMMITTEE
FROM:	JOHN M. FLEMING DIRECTOR, LAND USE PLANNING AND CITY PLANNER
SUBJECT:	APPLICATION BY: LINDA ANNE BRAND 1240 RICHMOND STREET NOTICE OF APPEAL TO THE ONTARIO MUNICIPAL BOARD MEETING ON MONDAY, FEBRUARY 6, 2012

RECOMMENDATION

That, on the recommendation of the Director, Land Use Planning and City Planner, in response to the letter of appeal to the Ontario Municipal Board, dated November 24, 2011 and submitted by Barry Card on behalf of Linda Anne Brand relating to Zoning By-law application No. Z-7856 concerning 1240 Richmond Street, the Ontario Municipal Board **BE ADVISED** that the Municipal Council has reviewed its decision relating to this matter and sees no reason to alter it.

PREVIOUS REPORTS PERTINENT TO THIS MATTER
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October 17, 2011 – Linda Anne Brand. This report recommended that the requested amendment to rezone the subject site from a Residential R1 Special Provision (R1-5(3)) Zone which permits one single detached dwelling to a Residential R2 (R2-3) Zone to permit single detached dwellings; semi-detached dwellings; duplex dwellings; and converted dwellings (maximum 2 dwelling units) **BE REFUSED** for the following reasons: i) the requested amendment is not consistent with the policies of the *Provincial Policy Statement, 2005* which encourage efficient development and land use patterns which sustain the financial well-being of the municipality; ii) the requested amendment is not consistent with the Residential Intensification policies of the Official Plan; iii) the requested amendment is not consistent with the intent of the North London/Broughdale Special Official Plan Policies which exist in this area to promote neighbourhood stability; and, iv) the requested amendment constitutes “spot” zoning for a site that is not unique and does not have any special attributes which would warrant a site specific amendment.

PURPOSE AND EFFECT OF RECOMMENDED ACTION

The recommended action would advise the OMB that Municipal Council is in agreement with their previous decision on October 24, 2011 to refuse the requested amendment to the Zoning By-law to permit the internal conversion of the existing single detached dwelling into 2 residential dwelling units.

BACKGROUND

In June 2010, the applicant was charged and convicted for permitting 2 separate self-contained units at this location. The conviction was handed down on June 28, 2010 and the owner was given a full year by the Justice of the Peace to bring the property into compliance with the Zoning By-law. The Prohibition Order was put forward to June 28, 2011.

On July 15, 2011, an application for a Zoning By-law amendment was submitted requesting that the subject site be rezoned to permit the internal conversion of the existing single detached dwelling into 2 residential dwelling units. The intent of the application was to legalize the conversion of the dwelling that had already occurred in contravention to the Zoning By-law.

Planning Staff recommended that the requested Zoning By-law amendment be refused because the requested amendment is not consistent with the policies of the *Provincial Policy Statement, 2005*; the requested amendment is not consistent with the Residential Intensification policies of the Official Plan; the requested amendment is not consistent with the intent of the North

Agenda	Item #	Page #

**M. Tomazincic
File #Z-7949**

London/Broughdale Special Official Plan Policies; and, the requested amendment constitutes “spot” zoning for a site that is not unique and does not have any special attributes which would warrant a site specific amendment. On October 24, 2011, Council supported the Staff recommendation to refuse the requested Zoning By-law amendment.

The policies of the PPS require municipalities to “*identify*” and “*promote*” opportunities for intensification and redevelopment where this can be accommodated. The City of London has fulfilled this PPS requirement by adopting the North London/Broughdale Neighbourhood special policies for this area which “*identify*” and “*promote*” opportunities for intensification along the Richmond, Oxford, and Adelaide Street corridors “...that are designated Multi-Family, High and Multi-Family Medium Density Residential”. The subject site is designated Low Density Residential which has not been identified as an area in which intensification is promoted in an effort to encourage neighbourhood stability.

Although the Official Plan Residential Intensification policies recognize that, “*Areas within the Low Density Residential designation may be zoned to permit the conversion of single detached dwellings to add one or more dwelling units*”, the policies also recognize the importance of considering a comprehensive planning approach by stating that, “*Site specific amendments to the Zoning By-law to allow dwelling conversions within primarily single detached residential neighbourhoods shall be discouraged.*”

The context of the surrounding established residential neighbourhood is one of single detached dwellings situated on lot sizes that are comparable to the subject site which are accessed by a rear laneway. The lot area of the subject site ranks it among the medium-sized lots along this block of single detached dwellings. The subject site is not unique within its context and does not have any special attributes which would warrant a site specific Zoning By-law amendment. Therefore, the requested amendment constitutes “spot” rezoning and is not considered appropriate in isolation from the surrounding neighbourhood. This request for a site specific “spot” zoning amendment is contrary to the residential intensification policies of the Official Plan.

During the public meeting of the Built and Natural Environment Committee on October 17, 2011, the issue of whether or not subject site has been brought into compliance with the Zoning By-law had been raised. In response to those concerns, By-law Enforcement Staff executed a search warrant on October 25, 2011 to determine whether the subject site had been brought into compliance as required. By-law Enforcement Staff determined that, notwithstanding the Prohibition Order, the subject site still contained two dwelling units with two groups of tenants occupying the building.

On November 24, 2011, an appeal was submitted by Barry Card, solicitor for Linda Brand, owner of 1240 Richmond Street, in opposition to Council’s refusal to adopt the requested Zoning By-law amendment. In the reason for the appeal of Council’s decision, the appellant states:

The proposed ZBA would be consistent with the Provincial Policy Statement and in particular, would facilitate the (modest) intensification of a dwelling at a location which: (a) has access to all required services; (b) would not have a negative impact on its environs; (c) offers appropriate amenities; and (d) will be adversely impacted for the lowest density forms of use, by the recently approved “Adobe” high density development, directly opposite.

The proposed ZBA conforms to application Official Plan policies, particularly those which apply to this segment of the Richmond Street (Highway 4) Corridor.

Copies of the appeal letter from Barry Card, and the reasons for the appeal, are attached as appendix “A” to this report. A date for the Ontario Municipal Board hearing has not yet been scheduled. Planning staff have reviewed the appeal letter and see no reason for Council to alter its decision relating to this matter.

Agenda Item # Page #

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**M. Tomazincic
File #Z-7949**

PREPARED BY:	SUBMITTED BY:
MICHAEL TOMAZINCIC, MCIP, RPP PLANNER II, COMMUNITY PLANNING AND URBAN DESIGN SECTION	JIM YANCHULA, MCIP, RPP MANAGER OF COMMUNITY PLANNING AND URBAN DESIGN SECTION
RECOMMENDED BY:	
JOHN M. FLEMING, MCIP, RPP DIRECTOR, LAND USE PLANNING AND CITY PLANNER	

January 24, 2012
MT/mt

Y:/shared/implemen/DEVELOPMENT APPS/2011 Applications 7854 to/7949Z - 1240 Richmond Street (MT)/Z-7949 - OMB Report

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File #Z-7949

APPENDIX "A"



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

City Clerk

Subject RE: Z-7949 **APPELLANT FORM (A1)**
Appeal to OMB #1240 **PLANNING ACT**
Richmond St

NOV 24 2011

SUBMIT COMPLETED FORM

Ref. Ldakin **MUNICIPAL APPROVAL AUTHORITY**

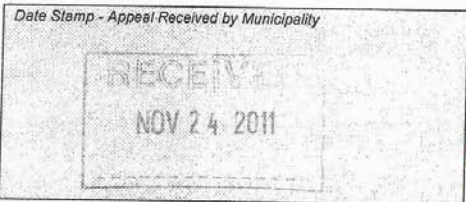
C.C. JPB J Planning M. P. King

Scando S. Saunders

Michael G. Gile

Receipt Number (OMB Office Use Only)

Date Stamp - Appeal Received by Municipality



COPY

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

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

Part 2: Location Information

1240 Richmond Street
Address and/or Legal Description of property subject to the appeal:

Municipality/Upper tier: City of London

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APPENDIX "A"

Part 3: Appellant Information

First Name: Linda Last Name: Brand

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

Professional Title (if applicable): _____

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

Daytime Telephone #: _____ Alternate Telephone #: _____

Fax #: _____

Mailing Address: 3739 15th Ave., P.O. Box 302 Smithers
Street Address Apt/Suite/Unit# City/Town

British Columbia V0J 2N0
Province Country (if not Canada) Postal Code

Signature of Appellant: Linda Brand [Signature] Date: Nov. 24, 2011
(Signature not required if the appeal is submitted by a law office.)

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

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

Part 4: Representative Information (if applicable)

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

First Name: _____ Last Name: _____

Company Name: _____

Professional Title: _____

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

Daytime Telephone #: _____ Alternate Telephone #: _____

Fax #: _____

Mailing Address: _____
Street Address Apt/Suite/Unit# City/Town

_____ Province Country (if not Canada) Postal Code

Signature of Appellant: _____ Date: _____

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

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

Agenda Item #	Page #

**M. Tomazincic
File #Z-7949**

APPENDIX "A"

Part 5: Language and Accessibility

Please choose preferred language: English French

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

Part 6: Appeal Specific Information

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

(Please print)
Refusal by City Council of a Zoning By-law Amendment application by L. Brand for the subject property.
City File No. Z-7949

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

(Please print)

- The proposed ZBA would be consistent with Provincial Policy and in particular, would facilitate the (modest) intensification of a dwelling at a location which: (a) has access to all required services; (b) would not have a negative impact upon its environs; (c) offers appropriate amenities; and (d) will be adversely impacted for the lowest density forms of use, by the recently approved "Adobe" high density development, directly opposite.
- The proposed ZBA conforms to application Official Plan policies, particularly those which apply to this segment of the Richmond Street (Highway 4) Corridor.

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

a) DATE APPLICATION SUBMITTED TO MUNICIPALITY: JULY 15, 2011
(If application submitted before January 1, 2007 please use the O1 'pre-Bill 51' form.)

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

See Explanatory Note attached.

Part 7: Related Matters (if known)

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

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

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

(Please print)

Agenda Item # Page #

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File #Z-7949**

APPENDIX "A"

Part 8: Scheduling Information

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

How many expert witnesses and other witnesses do you expect to have at the hearing providing evidence/testimony?
1

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

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

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

If yes, why? _____ to identify parties and issues

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

Considerable public interest noted.

Part 10: Required Fee

Total Fee Submitted: \$ 125.00

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

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

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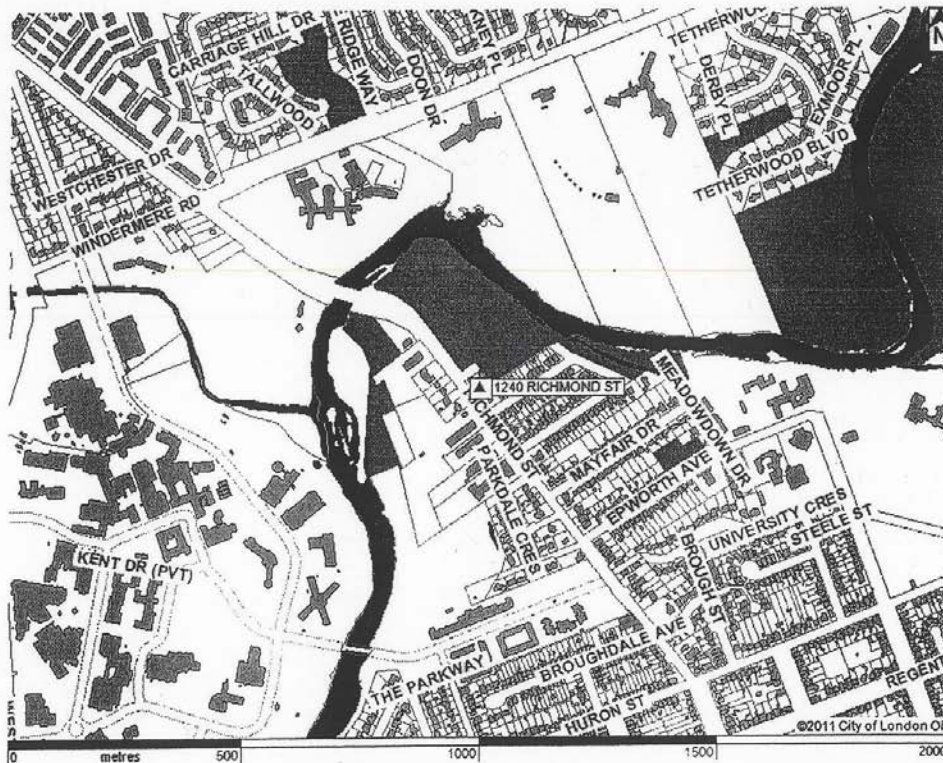
APPENDIX "A"

EXPLANATORY NOTE

Linda Brand submitted a request to amend City of London Zoning By-law No. Z.-1 concerning her property at 1240 Richmond Street. The request was to change the zoning of the subject lands from a Residential R1 Special Provision (R1-5(3)) Zone which permits one single detached dwelling subject to a special provision which restricts: maximum floor area; maximum floor area ratio; the minimum rear yard depth; and, restricts the location of parking areas to a Residential R2(R2-3) Zone to permit single detached dwellings; semi-detached dwellings; duplex dwellings; and converted dwellings (maximum 2 dwelling units). This request was refused by London City Council.

Linda Brand has appealed to the Ontario Municipal Board against this refusal.

The location of the subject property (1240 Richmond Street) is shown below:



Agenda Item # Page #

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**M. Tomazincic
File #Z-7949**

APPENDIX "A"



London
CANADA

300 Dufferin Avenue
P.O. Box 5035
London, ON
N6A 4L9

Barry R. Card

BARRISTER & SOLICITOR
Certified Specialist - Municipal Law
Local Government/Land Use Planning & Development Law

252 PALL MALL STREET, SUITE 200
LONDON, ONTARIO N6A 5P6
TELEPHONE (519) 433-5117 • FACSIMILE (519) 963-0285

Internet Address: cardlaw@rogers.com

OMB fee went
to OMB.
JoAnn &
Hayes
Admin Manager
has fee.