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June 9, 2016

BY EMAIL

City of London
London City Hall
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Attention: Mayor Brown (mayor@london.ca) and Members of Council
(citycouncillors@london.ca)

Dear Mayor Brown and Members of Council:

**Re: London Plan (Third Draft – May 2016)
Esam Construction Limited – Comments**

As you know, Aird and Berlis, LLP has been retained by Esam Construction Limited to assist with a review of the draft London Plan in respect of our client's lands (the "Esam Lands"). The Esam Lands are shown on the enclosed Appendix "A". We have also enclosed a number of other appendices (listed at the end of this letter), which provide policy context and support for the comments in this letter.

Of specific concern, the Esam Lands at 323 Oxford Street West have been draft plan approved since the 1990s for a 1506 unit mixed use development (see Appendix "C"). The development also contemplated and provided for significant public infrastructure including the extension of Beaverbrook Drive and the contribution of significant parkland beyond the requirements for the development. Our client has been actively engaged in attempting to clear the conditions of draft plan approval and to pursue the development. To our knowledge, the file has remained active and open at the City and has factored into the City's background planning including DC estimates and long term planning.

Our client's consultant team followed and participated in the London Plan from the release of the first draft on May 22, 2014. On March 23, 2015, our office submitted a letter to City staff setting out our client's preliminary comments on the first draft of the London Plan. A second draft of the London Plan (dated June 2015) was released on May 27, 2015. At this point, our client requested a meeting with City staff, and met with staff on August 14, 2015. A second letter was issued by our office, dated October 2, 2015, as a follow up on that meeting, and summarized our client's outstanding comments and concerns with respect to the June 2015 draft London Plan. Since then, a second meeting with City staff

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took place on March 10, 2016, at which point, our client was informed that the third draft of the London Plan will better address our client's concerns. The third draft of the London Plan (May 2016) was released on May 9, 2016. While we received formal notice of this release, we have not received any formal written response from City staff to any of our letters, requests or concerns throughout this entire process.

The purpose of this letter is to provide our client's comments in respect of the most recent draft of the London Plan. In summary, this recent draft represents a significant "down designation" of our client's lands and introduces new designations which, to our knowledge, are not supported by any analysis.

A. General Concerns with the Natural Heritage, Hazards and Natural Resources in the Plan

The draft Plan has introduced mapping related to natural heritage features that were not previously shown on our client's lands in either of the first or second drafts of the draft Plan. Our client is not aware of any study or analysis undertaken in the context of the London Plan process to assess the natural heritage features on the lands, nor considered in respect of same. Our client has not been asked, nor has it agreed to permit access to the City or its agents to undertake any studies for the purposes of the Plan.

We therefore request that the City provide our office with the studies/analysis undertaken in support of the new environmental mapping features contained in the Plan, the Council authorization for the work and the terms of reference/scope of work given to any outside consultants retained to undertake the work (if any). Currently, the inclusion of these features will alter the existing and proposed permissions for the active application for the subject lands.

The current Official Plan identifies a watercourse, maximum hazard line and unevaluated vegetation patches as being the only natural features prevalent on the ESAM Lands (Appendix "E-1"). Our client's concerns include the following:

1. General Natural Heritage Policies (Maps 5 and 6 of Plan):

Policy 1295 (page 345) stipulates that further assessment is required to evaluate the need for protection of Natural Heritage Features shown on Map 5 of the May 2016 draft London Plan that are not within the Green Space or Environmental Review Place Types. Later in the document, on page 363, Table 13 defines the "Trigger Distance Requiring Environmental Study and Area of Adjacent Lands" for various components of the Natural Heritage System. This distance is listed as 120 metres for Unevaluated Wetlands, Significant Valleylands, and Valleylands, all of which are features that appear on the ESAM Lands in the May 2016 draft London Plan. No rationale is provided for the 120 metre distance. The application of the 120 metre "Trigger Distance" impacts all of the ESAM Lands east of Proudfoot Lane, as shown on the Constraints Map provided in Appendix "H". Properties, including the Goodlife site, which was recently approved and is

currently under construction as mentioned above, will therefore require environmental study according to these new Natural Heritage policies.

Request: We request that the location and extent of the Natural Heritage features on Map 5, and the Hazards and Natural Resources on Map 6 of the May 2016 draft London Plan, as they relate to the ESAM Lands east of Proudfoot Lane, be deferred until Council has adopted the Mud Creek Environmental Assessment, which is currently underway. As noted above, our client is not aware of any work undertaken to support these policies and, if undertaken, have never been communicated to our client. These arbitrary lines will only serve to delay an already stalled development approvals process for the Beaverbrook Lands, and do not reflect the principles of a fair and transparent planning process.

2. Unevaluated Wetlands (Map 5 of the Plan):

Map 5 – Natural Heritage now shows an “Unevaluated Wetland” has been introduced to the Beaverbrook Lands, at 323 Oxford Street West. Our client is especially concerned with policy 1316 on page 348, which does not permit any “*development within and/or adjacent to an unevaluated wetland*” until further study in accordance with the “Ontario Wetlands Evaluation System”, to be approved by the MNRF.

As previously mentioned, with a buffer of 120 m defining the “Adjacent Area”, in accordance with Table 13 on page 363 of the draft London Plan, the majority of the draft approved lands at 323 Oxford Street West have been sterilized. The concessions that appear to have been provided through revisions in the Place Type and site specific policies mentioned in Section C of this letter are thwarted by the inclusion of these new Natural Heritage features that to date, have not been supported by any publically available scientific study of the subject lands.

Request: We request the removal of the Unevaluated Wetland from 323 Oxford Street West.

3. Significant Valleylands and Valleylands (Map 5 of the Plan):

Map 5 – Natural Heritage now shows “Significant Valleylands” and “Valleylands” have been identified on the ESAM Lands. These valleyland systems are not identified in the current London Official Plan, and were not introduced in prior drafts of the London Plan. To our knowledge, these features were not part of any of the public open houses (until the last one) nor shared with landowners affected. Policy 1331_2 of the draft Plan specifies that Significant Valleylands have a minimum width of 30 metres “on each side of the watercourse measured from the high water mark”. This 60 metre width is greatly expanded by the 120 metre trigger distance requiring environmental study (Table 13, page 363), adding up to a 300 metre distance along watercourses. When considering these constraints, these newly designated systems impact development on all of the ESAM Lands east of Proudfoot Lane. Furthermore, we query where the justification is for the 120 metre distance, as the UTRCA Environmental Policy Manual (June 28, 2006) specifies that

“adjacent lands for all valleylands is 50 metres” (Section 2.7.3.3, page 2-18). As previously mentioned, no rationale has been provided for the 120 metre trigger distance adjacent to natural heritage components, which requires environmental study in the May 2016 draft London Plan policies. Once again, it appears that the concessions provided through revisions to the Place Type and site specific policies mentioned in Section C of this letter are irrelevant as the inclusion of these Natural Heritage features sterilizes development on the ESAM Lands.

Request: We request the removal of new Significant Valleylands and Valleylands on the ESAM properties municipally known as 720 Proudfoot Lane, 323 Oxford Street West, and 92 Proudfoot Lane.

4. **Conservation Authority Regulatory Limit (Map 6 of Plan):**

We have noticed some inconsistencies in the City’s online mapping regarding the boundary of the Conservation Authority Regulatory Area. These inconsistencies occur between the City’s old CityMap Zoning platform and the new Zoning CityMap online tool (Appendices “D-1” and “D-2”). The new map shows expansions in the Conservation Authority Regulatory Area limits that are consistent with those shown on Map 6 – Hazards & Natural Resources. The rationale for or fact of these changes have never been communicated to our client and are especially troubling considering the status of the Mud Creek Environmental Assessment.

Request: We request that the location and extent of the Hazards and Natural Resources on Map 6 of the May 2016 draft London Plan, as they relate to the ESAM Lands east of Proudfoot Lane, be deferred until Council has adopted the Mud Creek Environmental Assessment.

B. General Concerns with Policies in the Plan

In general, our client remains concerned with the overall proposed restructuring of the City of London. The direction of the Plan to focus all heights and densities on future transit nodes and corridors without consideration to the existing structure seem incompatible with recent development application approvals, specifically to the Esam Lands. For example, our client’s Wonderland Road North properties have recently been approved for low-density, retail warehouse type development, ideal for an auto-oriented commercial corridor, and in line with their current Official Plan designations. The third draft of the London Plan continues to allocate some of the tallest buildings and highest densities in all of the City of London towards these lands, now identified as a Transit Village Place Type. While the minimum height for buildings within a Transit Village Place Type has been revised from three to two storeys in the May 2016 draft London Plan, our client remains of the view that the draft London Plan contains insufficient interim policies to permit an appropriate transition to the City’s vision over the long term and to assist in achieving that proposed vision and new policy direction in a manner that is compatible with existing and planned development.

In addition, we note that the May 2016 draft London Plan remains overly prescriptive and restrictive in its policies, without providing enough guidance to achieve the City's vision or intent. For example, the restriction of 20,000 sq. m of office uses within a Transit Village, at a maximum of 5,000 sq. m per building, could lead to the development of 4 buildings with 5,000 sq. m of office space each, or 8 buildings with 2,500 sq. m of office space. Each of these two scenarios would result in a different City fabric and day to day interactions. It is unclear which of these two scenarios is preferred by the draft London Plan, or how the City intends to regulate the ultimate distribution of office use, in terms of both scale and location, within the Transit Village Place Type.

Further, and as previously noted, terminology used in the May 2016 draft London Plan is inconsistent with terminology used in the current policy framework and Zoning By-law Z.-1, which results in ambiguities and room for interpretation. Examples of such ambiguities are provided in the comments below.

We find that policies relating to maximum permitted heights are unclear and confusing. The draft London Plan makes no reference to maximum permitted heights that do not require any type of bonusing. The summary table provided throughout the document identify "Standard Maximum Heights" as well as "Maximum Height with Type 2 Bonus", and do not explicitly identify the "Standard Maximum Heights" as requiring Type 1 Bonusing. However, an ambiguous note is provided for these tables which states: "*Note 1 – The heights shown in this table will not necessarily be permitted on all sites within the relevant place type*" (Table 8, page 187 used as an example). No criteria are provided for what constitutes an appropriate maximum permitted height for the Place Type that would not require any bonusing. Our concerns regarding the Bonusing policies of the draft London Plan will be discussed in greater detail in Section D of this letter.

Furthermore, the mapping of the Remnant High Density Residential from 1989 Official Plan (Map 2, enclosed in this letter as Appendix "J-2") seems inconsistent and misleading. The areas identified on Map 2 do not coincide with the existing high density lands on the Beaverbrook lands, for example. In addition, policies for these lands are only listed in the Neighbourhoods Place Type section of the London Plan (page 252), and designation of Remnant High Density Residential from 1989 lands that overlap any place type other than a Neighbourhoods Place Type seems to be irrelevant to the policies of the draft London Plan. This is the case, for example, for Block 2 of the Beaverbrook Lands (323 Oxford Street West). A more in depth description of our site specific concerns for these lands is provided in Section C, below.

C. Site specific Comments and Concerns in Respect of Place Type Designations

As previously advised in our letter dated October 2, 2015, our client's planning consultant, MBTW Group, has undertaken a review of the proposed policies that would apply to the Esam Lands. The following site specific comments arise from that review:

1. **Wonderland Road North Properties:**

a) **709 Wonderland Road North:**

Existing Conditions: The current Official Plan (1989) designates the site as Auto-Oriented Commercial Corridor, permitting a range of uses, which include automotive uses and other services and commercial uses that offer a service to the traveling public. The site currently contains a funeral home.

The June 2015 draft London Plan: The lands are designated as Transit Village, which permits service uses. A definition for “Service Uses” is provided in the June 2015 draft London Plan specific to their use in Table 12 “Range of Permitted Uses in the Neighbourhoods Place Type” as “neighbourhood-oriented services such as, but not limited to, personal services, restaurants, small-scale recreational uses, and public services” (policy 854, page 249).

The May 2016 draft London Plan: The lands continue to be designated as Transit Village, which permits service uses. A definition for “Service Uses” continues to be provided only in reference to the Neighbourhoods Place Type, specifically in relation to Table 10 “Range of Permitted Uses in the Neighbourhoods Place Type”. The definition provided in policy 912 (page 242) of the May 2016 draft London Plan is the same as the definition provided in policy 854 of the June 2015 draft London Plan, mentioned above.

Comments: We are concerned with the ambiguity of the term, “Service Uses”, as it relates to the Transit Village Place Type. It is unclear if a funeral home is included as a type of “Service Use”, and what the draft London Plan considers appropriate locations for funeral homes or other similar services that are offered to a “travelling public”.

b) **699 Wonderland Road North:**

Existing Conditions: The site contains a low density, single storey commercial plaza, with restaurant and retail uses, and an EMS Station (registered and approved on January 27, 2014). Further, as outlined below, the London Zoning By-law Z.-1 was amended on October 2, 2013 (By-law No. Z.-1-132237) to permit a gas bar (ASA5 Zone), which is connected to the Costco development on the adjacent property (at 693 Wonderland Road North). Site Plan Approval was granted in 2014.

The June 2015 draft London Plan: Permitted uses include restaurant and retail uses, in accordance with the aforementioned definition of Service Uses (policy 854, page 249), provided in the Neighbourhoods Place Type section of the June 2015 draft London Plan. Policies in the June 2015 draft London Plan, however, restrict the minimum height to three storeys or 12 metres (policy 756_1, page 208).

The May 2016 draft London Plan: The third draft of the London Plan continues to designate these lands as Transit Village, however, the minimum height permitted within

this Place Type, as prescribed by the May 2016 draft London Plan has been changed to two storeys or eight metres (policy 813_1, page 200).

Comments: Our client is concerned about the compatibility of development that is existing/approved/under construction with the overall vision for the Transit Village. The Transit Village Place Type as currently proposed appears inconsistent with Council's motions to approve the development of the gas bar and auto-oriented, single storey commercial and service buildings on these lands, and could restrict future development activity on these lands.

c) **693 Wonderland Road North:**

Existing Conditions: The site currently contains a Costco retail warehouse, and as noted above, an amendment to Zoning By-law Z.-1 (By-law No. Z.-1-132237) was approved on October 2, 2013 to permit a gas bar use on adjacent lands (at 699 Wonderland Road North), which is connected to and operates with the Costco retail warehouse. The site is currently designated as Auto-Oriented Commercial Corridor.

The June 2015 draft London Plan: The proposed Transit Village Place Type does not appear to permit a retail warehouse and/or wholesale outlet use on this site.

The May 2016 draft London Plan: No changes have been made from this regard in the third draft of the London Plan.

Comments: Our client is concerned that the Transit Village Place Type renders the existing Costco a legal non-conforming use, which would impact any potential applications for the site in the future. The Transit Village Place Type as currently proposed does not appear to permit the gas bar use or the retail warehouse and/or wholesale use, and therefore does not reflect the planned function of the site or support the intention of Council, which recently approved the development of the gas bar.

d) **665 Wonderland Road North:**

Existing Conditions: On June 24, 2014, Council passed By-law No. Z.-1-142312 to amend By-law No. Z.-1 to remove holding provision (h-25) from the zoning of these lands. A Site Plan approval for the development of a commercial plaza, including a grocery store, LCBO, and other small commercial shops, was granted on May 21, 2015. Four of the six new buildings constructed on site have a height of approximately 6 to 7 metres (one storey).

The June 2015 draft London Plan: In the second draft of the London Plan, the proposed Transit Village Place Type restricted heights to a minimum of three storeys (or 12 metres) and a maximum of 15 storeys (policy 756_1, page 208). It was also not clear that a grocery store use is permitted within this Place Type.

The May 2016 draft London Plan: In the third draft of the London Plan, the minimum permitted height has been changed to two storeys or 8 metres (policy 813_1, page 200). Currently, only 2 of the 6 buildings meet the minimum height restriction of 2 storeys or 8 metres (with only 1 of the 2 having a usable second storey space). The draft London Plan remains unclear as to whether a grocery store use is permitted within the Transit Village Place Type.

Comments: Our client is concerned with the ambiguity of permitted uses, and whether a grocery store is considered a service use as they relate to the Transit Village Place Type. The proposed designation is incongruent with recent approvals and development on the property. The lack of any transition policies further exacerbates the inconsistency, in our view.

Request: With respect to Esam's Wonderland Road North properties, we have the following requests:

- In our October 2, 2015 letter, we requested clarification regarding the permitted range of uses. In our view, the range of uses permitted within the Transit Village Place Type is vague, and unspecified. This continues to be the case in the May 2016 draft of the London Plan. For example, our client's understanding is that the funeral home use on site would be considered as a "Service Use", and consequently that this use conforms to the proposed Transit Village Place Type in the draft London Plan. No confirmation has been provided to date, despite our previous request. Once again, we request that City staff please confirm if a funeral home and grocery store are permitted uses, and provide some guidance or definitions to the broad range of uses permitted within the Transit Village Place Type.
- In our October 2, 2015 letter, we requested that a site specific policy be included for the Wonderland Properties. This request was not met and no sufficient rationale has been provided, in our view, for this response. Given the number of recent approved applications for these lands, there is no rationale for the uses on these lands to become legal non-conforming uses, or to be subject to the "Our Tools" Section of the May 2016 draft London Plan (specifically policy 1649 on page 418). We reiterate our request that these lands fall under a site specific designation (within the Transit Village Place Type), to permit current permitted uses, heights and densities:

665, 693, 699, and 709 Wonderland Road North

xxx_ The subject lands are located on the east side of Wonderland Road North, north of Oxford Street West, including the lands that are municipally known as 665, 693, 699 and 709 Wonderland Road North. These lands have recently undergone a series of development approvals for the expansion of low density commercial uses. It is intended

that the following site specific policies will permit the uses on these lands as legal as of right uses, in support of the *Zoning By-law* and the recent development history of the lands. The following site specific policies apply:

- For the lands located at 665, 693, 699, and 709 Wonderland Road North, the permitted uses shall include grocery stores; a mix of office uses; commercial recreation uses; convenience based uses; neighbourhood service uses; restaurants; retail stores; and other related commercial uses. For the lands located at 693 and 699 Wonderland Road North, the permitted uses shall also include retail warehouse and/or wholesale outlet uses; automobile repair garages; and automotive uses. A maximum gross floor area of 2,000 m² is permitted for all office uses.
- Notwithstanding the general Transit Village Place Type policies, a minimum height of 1 storey shall be permitted, subject to the regulations of the *Zoning By-law*.

2. 720 Proudfoot Lane:

Existing Conditions: As set out in previous correspondence, the Fleetway Centre currently operates on these lands which are designated as Open Space in the existing London Official Plan. On September 9, 2014, Council approved an Official Plan Amendment to permit a restaurant use within the existing building. Additional approvals were also granted from 2013 – 2015 for site alterations, including approvals for the construction of additional surface parking spaces. Most recently, in 2016, approved alterations to the site included a 748 sq. ft. patio and additional bike racks in place of 7 new parking spaces.

The May 2016 draft London Plan: We acknowledge site specific policy 775 (page 177) of the May 2016 draft London Plan, carried over from the June 2015 draft London Plan (previously policy 720 in section 8.2), which permits the fast food restaurant and restaurant in the existing building. **Our client seeks to maintain this site specific policy.**

Having said that, the site continues to be designated as a Green Space Place Type, which, in our view, is not a reasonable designation given the existing conditions on the ground, as well as principles of good planning for the area.

Request: In accordance with our October 2, 2015 letter, we request the following changes to the May 2016 draft London Plan:

- For the southern portion of the site: Convert proposed Green Space to Rapid Transit Corridor to complete the corridor; and,
- For the middle portion of the site: Convert proposed Green Space to Neighbourhood to provide a transition to the Beaverbrook Lands and improve connectivity in the area.

3. **710 Proudfoot Lane:**

Existing Conditions: In November 2014, a positive staff report was prepared by City staff, and on November 25, 2014 Council approved Official Plan and zoning by-law amendments to allow for the Goodlife Fitness recreation facility and offices. Throughout the early parts of 2015, a number of Minor Variance applications were also approved, dealing with parking provision on site. The Goodlife headquarters are currently under construction, and include approximately 4,850 sq. m of office space and approximately 1,400 sq. m for a fitness centre.

The June 2015 draft London Plan: The second draft of the London Plan proposed to designate these lands as Rapid Transit Corridor, and provided a site specific policy which permitted a commercial recreation establishment as an ancillary use to the office building (policy 810):

The May 2016 draft London Plan: The third draft of the London Plan maintains the designation of these lands as a Rapid Transit Corridor Place Type, but has removed the site specific policy for 710 Proudfoot Lane. Permitted uses in the Rapid Transit Corridor Place Type include office and recreational uses (policy 837_1, page 212). Policy 840_5 restricts office space to 2,000 sq. m for buildings located further than 100 metres from a rapid transit station (page 213).

We are satisfied that the Rapid Transit Corridor designation, together with a site specific policy, would address the November 25, 2014 Council approved Official Plan and zoning by-law amendments to allow for a Goodlife Fitness recreation facility and offices.

Request: We request that a site specific policy be reintroduced into the May 2016 draft London Plan within the Rapid Transit Corridor Place Type to ensure that 5,000 sq. m of office space and an ancillary recreational use are permitted uses at the address municipally known as 710 Proudfoot Lane. Such a specific policy has been provided for 450 Oxford Street West on page 221 of the May 2016 draft London Plan (policy 865), which is located on the south-east corner of the Oxford Street West and Proudfoot Lane intersection, within 150 metres of the Goodlife site.

4. **323 Oxford Street West:**

Existing Conditions: As noted in our March 2015 letter, and again in our October 2015 letter, our client is in the midst of undertaking a conceptual design review and update with respect to the 1999 approved draft plan (see Appendix "C") for these lands, also known as the Beaverbrook Lands. The lands are designated Multi-Family, High Density Residential; Multi-Family, Medium Density Residential and Open Space in the existing London Official Plan. Registration of the approved draft plan application for these lands has been stalled by the Mud Creek EA process, which has been ongoing for over a decade. Current Official Plan land use and zoning policies implement the 1999 approved draft plan in terms

of primary road circulation, public open space, heights and densities and encourage a range of compact housing forms.

The June 2015 draft London Plan: In the June 2015 draft London Plan, the Beaverbrook Lands are identified as Rapid Transit Corridor along Oxford Street West, approximately 200 metres into the property (Blocks 1, 6 and a portion of Block 2); the Neighbourhoods Place Type is shown from the 200 metre point to the railway; and a Green Space block is shown on the north-west edge of the lands (Block 7). A portion of the lands on the east edge of the property are also identified as Remnant High Density Lands (Block 2 and part of Block 3). In our October 2, 2015 letter, we provided an overview of the MBTW Group's analysis, demonstrating a significant loss in permitted heights across the Neighbourhoods designation (even taking into account the proposed Remnant High Density Overlay on portions of the lands), and therefore a significant reduction in overall unit yield (an updated analysis has been provided in Appendices "M-1" and "M-2").

The May 2016 draft London Plan: The changes in Place Type and site specific policies from the second draft of the London Plan to the third draft (May 2016) including:

- A portion of lands located at the north-west corner of Oxford Street West and Beaverbrook Avenue (Block 6) is identified as a Green Space Place Type (formerly a Rapid Transit Corridor in the June 2015 draft of the London Plan).
- A transit stop is located at the intersection of Oxford Street West and Beaverbrook Avenue (as shown on Map 3, enclosed in this letter as Appendix "K-2"). According to Table 9 "Maximum Height in the Rapid Transit and Urban Corridor Place Types" (page 213), properties located within 100m of a rapid transit station have are permitted to have a standard height of 12 storeys (Type 1 bonus) and a maximum height with Type 2 Bonus of 16 storeys (as opposed to the standard maximum height of 8 storeys, and maximum with Type 2 Bonus of 12 storeys). This impacts maximum permitted heights for a portion of Block 1.
- Site specific policies have been added for 323 Oxford Street West on page 272 of the May 2016 draft London Plan. These policies have been added to the Neighbourhoods section and state:
 - "1048_ *In the Neighbourhoods Place Type located at 323 Oxford Street West and 92 Proudfoot Lane, building heights up to 13 metres may be permitted for buildings along a Neighbourhood Connector.*
 - "1049_ *In the High Density Residential Overlay (from 1989 Official Plan) located at 323 Oxford Street West and 92 Proudfoot Lane, apartment buildings up to 13 storeys may be permitted"* (page 272).

Comments: The new policies in the May 2016 draft London Plan allow for some relief from the former restrictions in height proposed in the June 2015 draft. Nonetheless, proposed policies still show a loss in height on all but 3 developable parcels of land, in accordance with an analysis prepared by the MBTW Group (as shown in Appendices “M-1” and “M-2”). This loss is even more severe once the High Density Residential Overlay (from 1989 Official Plan) policies are removed, reflecting what the draft London Plan identifies as the City’s long-term vision to the year 2035 (policy 941, page 252). Furthermore, this density analysis is based on the Maximum Standard Heights provided for these Place Types through the May 2016 draft London Plan. These Maximum Standard Heights require Type 1 Bonusing, according to the “Our Tools” Section of the draft London Plan, and are not guaranteed, as stated in Note 1 of Table 9: “*The heights shown in this table will not necessarily be permitted on all sites within the Rapid Transit and Urban Corridor Place Types.*” (page 213). It is unclear what the permitted maximum heights not requiring bonusing are for any Place Types throughout the City of London. Our client continues to feel that these policies are inconsistent with the densities and regulations in the Zoning By-law which are appropriate, reflecting the 1999 approved draft plan, and represent a “down-designation” of our client’s lands without an appropriate planning rationale. The desire of the City to have slender point towers, at a maximum of 1,000 m² in accordance with policy 293 on page 70, will also result in the need for even greater height to maintain the approved densities and support the transit corridor. Further, the changes in heights proposed, particularly for the Neighbourhoods Place Type, would reduce the options for a range of grade related compact housing. This would not be supportive of the Provincial Policy Statement (2014) or the key directions established for the London 2035 vision. Compact and diverse housing forms are essential to providing accessible, affordable and sustainable neighbourhoods.

Request: We request the following changes to the May 2016 draft London Plan policies for the Rapid Transit Corridor and Neighbourhoods Place Types, and the relevant site specific policies, to maintain the integrity and intentions for the future development of these lands, in accordance with the 1999 approved draft plan of subdivision and the current zoning which is appropriate:

- As requested in our October 2, 2015 letter, we ask that the High Density Residential Overlay (from 1989 Official Plan) on Map 2 is extended south along the east edge of the subject lands (Block 1) to meet Oxford Street West, reflecting the current location of the Multiple-Family, High Density residential land use designation. The draft London Plan should also clarify that policies relating to the High Density Residential Overlay (from the 1989 Official Plan) should apply to all Place Types. Their current location in the Neighbourhoods Plans type limits their applicability on Rapid Transit Corridor Place Types, and other Place Types that may be affected;
- Introduce a site specific policy area for the Rapid Transit Corridor Place Type, stating the following:

323 Oxford Street West

xxx _ A maximum height of up to 15 storeys shall be permitted.

- Introduce a site specific policy area for the Neighbourhoods Place Type, stating the following:

323 Oxford Street West

xxx _ A maximum height of 4 storeys shall be permitted.

5. **92 Proudfoot Lane:**

Existing Conditions: The subject lands at 92 Proudfoot Lane are intended to be part of the Beaverbrook Estates (through different ownership). They are currently designated Multi-Family High Density Residential (south of Beaverbrook Avenue) and Multi-Family Medium Density Residential (north of Beaverbrook Avenue). Current zoning permits a height of 13 storeys on the southern portion of the lands and 4 storeys on the northern portion of the site.

The June 2015 draft London Plan: In the June 2015 draft London Plan, the subject lands were identified as being in the Neighbourhoods Place Type, with the southern portion of the site shown as Remnant High Density Residential lands on Map 2. The Remnant High Density category only allowed for a height of 12 storeys, which we raised in our October 2, 2015 letter as being less than the maximum permitted height according to the current zoning.

The May 2016 draft London Plan: While the Place Type designation and policies for 92 Proudfoot Lane remain unchanged in the May 2016 draft of the London Plan, site specific policies have been added on page 272, which state:

- "1048_ In the Neighbourhoods Place Type located at 323 Oxford Street West and 92 Proudfoot Lane, building heights up to 13 metres may be permitted for buildings along a Neighbourhood Connector.
- "1049_ In the High Density Residential Overlay (from 1989 Official Plan) located at 323 Oxford Street West and 92 Proudfoot Lane, apartment buildings up to 13 storeys may be permitted" (page 272).

Comments: We thank the City for addressing our concern regarding the discrepancy in height between the current zoning and the June 2015 draft of the London Plan for a portion of 92 Proudfoot Lane. However, in accordance with site specific policy 1048 of the May 2016 draft London Plan, any buildings not directly fronting onto Beaverbrook Avenue in the northern portion of the site continue to be deficient in height by at 1.5 storey (assuming

that Type 1 bonusing is applied), as the Standard Maximum Height for Neighbourhoods is 2.5 storeys, and a 4 storey height is permitted in the current zoning.

Request: We request modifying the text for site specific policy 1048, as they related to these lands, to permit the current heights in accordance with Zoning By-law Z.-1:

92 Proudfoot Lane

xxx_ In the Neighbourhoods Place Type located at 92 Proudfoot Lane, building heights up to 13 metres may be permitted.

6. **825 Proudfoot Lane:**

Existing Conditions: The subject lands at 825 Proudfoot Lane are currently designated for Multi-Family, High Density Residential, and current zoning permits a height of 4 storeys on these lands.

The June 2015 draft London Plan: Similar to the northern portion of 92 Proudfoot Lane, the proposed Neighbourhoods Place Type in the June 2015 draft London Plan resulted in a down designation of these lands.

The May 2016 draft London Plan: While the Place Type designation for 825 Proudfoot Lane remains unchanged, these lands have been added to the High Density Residential Overlay (from 1989 Official Plan) on Map 2 of the May 2016 draft London Plan. The maximum permitted height for these lands is 12 storeys (being located inside the Primary Transit Area as shown on Figure 3 on page 34), (policy 944_1, page 252), however the draft London Plan clarifies that High Density Residential Overlay areas do not represent the City's long-term vision to the year 2035 (policy 941, page 252)

Comments: We thank the City for adding these lands to the High Density Residential Overlay (from 1989 Official Plan) areas.

Request: We request the following changes to the May 2016 draft London Plan:

- Introduce a site specific policy for these lands (within the Neighbourhoods Place Type), to permit the current heights in accordance with Zoning By-law Z.-1:

825 Proudfoot Lane

xxx_ A maximum height of 4 storeys shall be permitted.

D. General Concerns with Policies in the “Our Tools” section of the Plan

Our client continues to have concerns and questions for City staff about certain of the proposed implementation policies, including, for example, the “city building” policies, “bonus zoning” policies, the “minor variance” policies, and the “guideline documents” policies.

The specific concerns are set out in the attached Table.

E. Inconsistencies in Existing Zoning By-law Regulations and the Proposed Policies of the May 2016 Draft London Plan

As mentioned in our October 2, 2015 letter, the MBTW Group had identified considerable inconsistencies between many of the proposed policies in the June 2015 draft London Plan and the current Zoning By-law, Z.-1. Most of these inconsistencies remain in the May 2016 draft London Plan. A number of these concerns are outlined in Sections A and C of this letter. We note proposed policy 1616 (p. 413) which describes a very wide ability and discretion for Council to amend the zoning by-law, but no clear indication of how and when this process may unfold. Once again, we would appreciate the opportunity to discuss with City staff how proposed policy 1616 is intended to be applied, including how the inconsistencies between the policies of the new London Plan and the existing zoning by-law will be addressed (i.e. to the extent that they remain outstanding after adoption of the new London Plan).

We trust that the detailed nature of these comments conveys to Council and to staff the importance which our client places on these matters and the significant impact which the proposed Plan will have on the approved development opportunities for the Esam Lands. Additionally, we wish to underline the important impact on the City’s own interests which these proposed policies and designations may have, in the context of already budgeted for infrastructure improvements, as well as the viability of the Beaverbrook extension.

For the reasons set out in this correspondence we urge Council to defer approval of the London Plan in its current form and to direct staff to meet with our client and its consultants to address the matters set out herein.

Additionally, we request that staff be directed to come to that meeting prepared to discuss modifications to the current draft of the London Plan which recognize the pre-existing development approvals for the Esam Lands, the already approved infrastructure to service the lands and the good faith actions of our client in funding (in part) the Mud Creek EA process.

June 9, 2016

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We appreciate Council's and City staff's attention to these comments. Please note that we will be in attendance to make a deputation on this item at the upcoming Committee meeting.

Yours truly,

AIRD & BERLIS LLP



per · Eileen P. K. Costello

EPKC/LD

Encl.

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Client

General Concerns with Policies in the “Our Tools” section of the Plan

Reference (May 2016 draft London Plan)	Comment
Policy 293 (p. 70)	This “city building” policy suggests that a typical floor plate target of approximately 1,000 m ² would help to achieve the City’s vision for slender towers that reduce shadow impact. This policy, combined with the height restrictions prescribed by the Place Type policies of the draft Plan, will inevitably reduce the permitted density on our client’s lands, and would necessitate that even greater heights are permitted in order to maintain the approved densities and support the transit corridor (especially with regards to the Beaverbrook Lands).
Policy 1608 (p. 411)	In accordance with the requirements of the <i>Planning Act</i> , the existing London Official Plan (policy 19.12.6) requires notice to landowners within a 120 metre radius of property that is the subject of a planning application. Proposed policy 1608 seeks to expand the notice requirements in a manner that is unnecessary and overly broad. No maximum radius is specified, only that it will not result in “an excessively large circulation area”.
Zoning By-law, policy 1616 (page 413)	According to policy 1616, Zoning By-law Amendments may be initiated by Council if the current Zoning seems “no longer appropriate”. This is concerning when read in the context of the draft London Plan, which has rendered the majority of zoning regulations on the Esam Lands as incompatible with the new London vision, and therefore can potentially be interpreted as “no longer appropriate”. This has occurred despite Council’s review and approval of various applications for these lands within the last five years. No process is provided for deeming regulations as being “no longer appropriate”.
Bonus Zoning, policies 1618-1635 (p. 414-415)	<p>The proposed Type 1 and Type 2 bonus zoning system does not exist in the current London Official Plan.</p> <p>Our client continues to view the proposed Type 1 bonusing, as it is currently characterized, as unnecessary and inappropriate. In other words, where a height or density is proposed – that is within the standard height or density limit for the zone or permitted by a site specific policy – a bonus should not be required.</p> <p>With respect to the proposed Type 2 bonusing, in our client’s</p>

	<p>view, it is not appropriate to place restrictions on the maximum heights that may be permitted through bonus zoning. According to policy 1629, Type 2 zoning “may allow for a height or density that exceeds the standard height or density limit permitted by the applicable Place Type”. In this respect, the following restrictions are proposed:</p> <ul style="list-style-type: none"> • Transit Village: A maximum standard permitted height of storeys may be increased to 22 storeys under Type 2 bonusing, as shown on Table 8 on page 187 (an increase of 2 storeys from draft 2 of the London Plan). • Rapid Transit Corridor: the May 2016 draft London Plan has added a two tier system for bonusing in Rapid Transit Corridors, depending on location. For properties located on a Transit Corridor, the maximum standard permitted height has been decreased to 8 storeys, and may be increased up to 12 storeys with Type 2 bonusing. For properties located on a transit corridor, and within 100 metres from stations or intersections with Civic Boulevards or Urban Thoroughfares, the maximum standard permitted height is 12 storeys may be increased to 16 storeys under Type 2 bonusing, as shown on Table 8 on page 187. • Neighbourhoods: in accordance with Table 11 on page 246, bonusing within the Neighbourhoods Place Type is dependent on location (frontage and intersecting streets). In general, the base condition as identified as having a maximum standard height of 2.5 storeys may only be increased to 4 or 6 storeys under Type 2 bonusing, depending on location. <p>In our client’s view, these maximum height restrictions are overly restrictive and may preclude a proposal that is both desirable and appropriate from the perspective of good planning.</p>
<p>Criteria for Reviewing (Minor Variance) Applications, policy</p>	<p>This policy remains unchanged from draft 2 of the London Plan. The criteria outlined in policy 1643, which the Committee of Adjustment is to consider when reviewing minor variance</p>

<p>1643 (p. 416)</p>	<p>applications, exceed the Committee’s authority under section 45 of the <i>Planning Act</i>.</p>
<p>Non-conforming uses, policy 1649 (p. 418)</p>	<p>This policy is of concern to our client. It states that “<i>certain non-conforming uses, particularly industrial or intensive commercial uses in residential areas that detract from the character and quality of a complete neighbourhood, will be encouraged to relocate or redevelop so that the subject land may be used in conformity with the policies of this Plan and the provisions of the Zoning By-law. Special attention will be given to the re-establishment of the use in a different location where it is able to exist under improved conditions, and in accordance with the policies of this Plan</i>”.</p> <p>This policy is particularly concerning for the Wonderland Road North Properties, as the low-density format of the commercial auto-oriented sites would be inconsistent with the proposed vision of the May 2016 draft London Plan for 15-storey, potentially 22-storey residential towers with secondary office and retail uses. The current auto-oriented uses are opposite of the proposed stated vision of a “Transit Village”, despite the approval of multiple development applications for these sites in the last 5 years, and up until this year.</p> <p>Further, unless the requested changes (identified in Section C of this letter) are made to the London Plan, many of the uses on the Esam Lands will become legal non-conforming uses.</p>
<p>Site Plan Control, policy 1655 (p. 418)</p>	<p>Proposed new policy 1655 states that “<i>Council may establish differentiated processes for site plan applications based on their complexity and scope</i>”. This policy requires clarification about what is being contemplated and how the policy is intended to be applied. Questions which arise include: What are the differentiated processes for site plan applications? When would those be contemplated? How complex does a project need to be? What is reasonable for a differentiated process?</p>
<p>Community Planning Permit System, policy 1664 (p. 421)</p>	<p>This is a proposed new section that does not exist in the current Official Plan. Our client requests further information about the areas within the City that may be subject to a development permit system, or “Community Planning Permit System” as it is now called, including how that development system is intended to operate, and when it is intended to be implemented.</p>

Guideline Documents (p. 428)	Our client is concerned about the breadth and open-endedness of the provisions (including conformity requirements) related to the extensive list of guideline documents (a number of which may be amended or revised at some point in the future) that are contemplated by the proposed draft London Plan.
Acquisition Policies (p. 434-438)	Our client is concerned about the open-endedness of the definition of highways. As described in the May 2016 London Plan, it appears that all streets on Map 3 and that cycling and pedestrian pathways on Map 4 are all considered Highways “for the purposes of the Planning Act” (policies 1728 and 1729, respectively). Policy 1745 (page 438) is of specific concern to the Beaverbrook Lands, especially considering the surprising expansion to the “Natural Heritage” system shown on Map 5. This policy states: “ <i>1745_Priorities for parkland acquisition will be based on all of the following: 1. Existing and proposed population densities. 2. Existing facilities and their accessibility to the neighbourhood residents. 3. The availability of funds for acquisition. 4. The suitability of lands available for sale. 5. Acquisitions that serve to create a more continuous or linked park system. 6. Acquisitions which will serve to create a more continuous or linked Natural Heritage System.</i> ” (emphasis added)

Attachment A – List of Schedules

Section 1 – The Esam Lands

- **Appendix “A”**: Map of the Esam Lands;
- **Appendix “B”**: Summary List of the land use, zoning and place types of the Esam Lands;
- **Appendix “C”**: The 1999 Approved Draft Plan of Subdivision for the Beaverbrook Lands
- **Appendix “D-1”**: Zoning By-law Z.-1 as it relates to the Esam Lands (retrieved May 2016 using the old CityMap interface)
- **Appendix “D-2”**: Zoning By-law Z.-1 as it relates to the Esam Lands (retrieved May 2016 using the new CityMap interface)

Section 2 – Comparison of the Natural Heritage, Hazards and Natural Resources Schedules of the current Official Plan with the Natural Heritage, Hazards and Natural Resources Maps of the draft London Plan (Drafts 2 and 3)

- **Appendix “E-1”**: Schedule B1 – Natural Heritage Features (Map No. 5 of the current London Official Plan), as it relates to the Esam Lands
- **Appendix “E-2”**: Map 4 – Natural Heritage Features (June 2015 draft London Plan), as it relates to the Esam Lands
- **Appendix “E-3”**: Map 5 – Natural Heritage (May 2016 draft London Plan), as it relates to the Esam Lands
- **Appendix “F-1”**: Schedule B2 – Natural Resources & Natural Hazards (Map No. 5 of the current London Official Plan), as it relates to the Esam Lands
- **Appendix “F-2”**: Map 5 – Hazard & Natural Resources (June 2015 draft London Plan), as it relates to the Esam Lands
- **Appendix “F-3”**: Map 6 – Hazards & Natural Resources (May 2016 draft London Plan), as it relates to the Esam Lands

Section 3 – MBTW Analysis of the Implications of the draft London Plan Natural Heritage, Hazards and Natural Resources policies

- **Appendix “G-1”**: May 2016 draft London Plan – MBTW Overlay of Map 1: Place Types, and Map 5: Natural Heritage, as it relates to the Esam Lands
- **Appendix “G-2”**: May 2016 draft London Plan – MBTW Overlay of Map 1: Place Types, and Map 6: Hazards & Natural Resources, as it relates to the Esam Lands
- **Appendix “H”**: Constraints Map of Natural Features and Buffers as prescribed by the policies of the May 2016 draft London Plan, as it relates to the Esam Lands

Section 4 – Comparison of the current Official Plan Land Use Schedule with the Proposed Place Type Maps in the draft London Plan (Drafts 2 and 3)

- **Appendix “I-1”**: Schedule A – Land Use (Map No. 5 of the current London Official Plan), as it relates to the Esam Lands
- **Appendix “I-2”**: Map 1 – Place Types (June 2015 draft London Plan), as it relates to the Esam Lands
- **Appendix “I-3”**: Map 1 – Place Types (May 2016 draft London Plan), as it relates to the Esam Lands
- **Appendix “J-1”**: Map 2 – Remnant High Density Residential from 1989 Official Plan (June 2015 draft London Plan), as it relates to the Esam Lands
- **Appendix “J-2”**: Map 2 – Remnant High Density Residential from 1989 Official Plan (May 2016 draft London Plan), as it relates to the Esam Lands
- **Appendix “K-1”**: Map 3 – Street Classifications (June 2015 draft London Plan), as it relates to the Esam Lands
- **Appendix “K-2”**: Map 3 – Street Classifications (May 2016 draft London Plan), as it relates to the Esam Lands
- **Appendix “L-1”**: Map 6 – Specific Policy Areas (June 2015 draft London Plan), as it relates to the Esam Lands
- **Appendix “L-2”**: Map 7 – Specific Policy Areas (May 2016 draft London Plan), as it relates to the Esam Lands

Section 5 – MBTW Analysis of the Place Type policies in the third draft of the London Plan

- **Appendix “M-1”:** An analysis of anticipated change in permitted heights as a result of the policies of the draft London Plan, including Remnant High Density Residential from 1989 Official Plan policies
- **Appendix “M-2”:** An analysis of anticipated change in permitted heights as reflected by the London Plan’s long-term vision for this area to the year 2035 (excluding Remnant High Density Residential from 1989 Official Plan policies)

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