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File: Z-8374
Planner: M. Tomazincic

TO:	CHAIR AND MEMBERS PLANNING & ENVIRONMENT COMMITTEE
FROM:	JOHN M. FLEMING MANAGING DIRECTOR, PLANNING AND CITY PLANNER
SUBJECT:	APPLICATION BY: YORK DEVELOPMENT GROUP MAI INC. 598, 600, 604 AND 608 SPRINGBANK DRIVE MEETING ON FEBRUARY 6, 2017

RECOMMENDATION

That, on the recommendation of the Managing Director, Planning and City Planner, the following report on the decision by the Ontario Municipal Board, relating to an appeal by Barry R. Card, Barrister and Solicitor on behalf of Denis Major concerning 598, 600, 604 and 608 Springbank Drive **BE RECEIVED** for information.

PREVIOUS REPORTS PERTINENT TO THIS MATTER
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October 5, 2015 Report to Planning and Environment Committee – 598, 600, 604 and 608 Springbank Drive (Z-8374) – This report recommended that the requested amendment to the Zoning By-law, submitted by York Development Group MAI Inc., intended to facilitate a redevelopment of the site by way of constructing a 13-storey (44m tall) apartment building containing 101 residential units be approved. The approved Zoning By-law included reductions to the front and exterior side yard setbacks allowing the building to locate closer to both the Springbank Drive and Wonderland Road North corridors and also contained a holding (h-5) provision to ensure that a public site plan review is conducted as part of the site plan approval process. An additional holding provision requires the owner of these lands to enter into a development agreement with the City of London for the provision of a future joint access with the property to the west, municipally known as 614 Springbank Drive, and the joint rights-of-way be registered on title.

BACKGROUND

In June of 2014, the City received an application for a Zoning By-law amendment for the subject lands to permit the development of an 18-storey apartment building containing 133 units (264 units per hectare), with ten (10) attached two-storey townhouses flanking Springbank Drive and Wonderland Road with a mix of at-grade and below-grade parking.

Subsequent to the City's formal notification of the original development proposal to the community, York Developments hosted a public information meeting in August 2014. City Staff also attended the meeting to assist in addressing questions from members of the public. Approximately 110 members of the public were in attendance. In view of the significant feedback received through the public consultation process, York Developments requested that City Staff put the application "on-hold" to allow them to consider a revised proposal which incorporates some of the comments received from the public.

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LOCATION MAP

Subject Site: **598-608 Springbank Dr**
 Applicant: **York Developments (London) Inc**
 File Number: **Z-8374**
 Planner: **Michael W Davis**
 Created By: **Michael Tomazincic**
 Date: **2017-01-26**
 Scale: **1:2000**

LEGEND

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



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In May of 2015, the City received a revised request for an amendment to the Zoning By-law to facilitate the development of a 13-storey apartment building that may, in accordance with the concept plan submitted by the applicant, contain up to 101 residential units. Reductions to the front and exterior side yard setbacks were also requested to:

- Allow for maximum retention of existing mature vegetation;
- Allow for maximum separation between the proposed new building and existing development located south and west of the subject site;
- Allow for all surface parking to be effectively screened from the public realm by the proposed building;
- Provide for a desirable urban design solution wherein the building is sited in a manner that pronounces the intersection of Wonderland and Springbank and frames the pedestrian realm.

At a meeting of the Planning and Environment Committee on October 5, 2015, Staff recommended support for the requested amendment to the Zoning By-law subject to two holding provisions requiring that a public site plan review be conducted and that the owner of the lands enter into an agreement with the City to ensure that any future redevelopment of the adjacent property to the west is permitted to have a shared access arrangement. The Committee endorsed the Staff recommendation and on October 14, 2015 Council passed By-law No. Z.-1-152432 adopting the Staff recommendations.

On November 11, 2015, a letter of appeal to the Ontario Municipal Board was submitted by Barry R. Card, Barrister and Solicitor on behalf of Denis Major in opposition to Zoning By-law Z.-1-152432.

In the reasons for the appeal of Council’s decision to amend the Zoning By-law, the appellant stated that:

- 1) The height provided for in By-law No. Z.-1-152432 is excessive, and
- 2) The setbacks are deficient.

The OMB appeal was heard on June 27-28, 2016. In its decision dated December 8, 2016, the OMB ordered that the appeal against Zoning By-law No. Z.-1-152432 be dismissed. In making its decision, the OMB noted that it accepts the evidence of the City stating that, “*The Board has greater confidence in the analysis provided by Mr. Davis. He provided the Board with a reasoned and well-articulated analysis of the planning considerations of this proposal...*”.

CONCLUSIONS

Having reviewed all of the evidence at the hearing, the OMB accepts the City’s evidence that the recommended Zoning By-law amendment will not result in an increase to the permissible residential density on the subject property but will provide for a level of intensity that provides for an efficient use of resources (land and services) consistent with the PPS and that the Zoning By-law amendment conforms to the City’s Official Plan. The OMB dismissed the appeal against City of London By-law No. Z.-1-152432. A copy of the OMB decision dated December 8, 2016 is attached to this report as Appendix "1".

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

January 24, 2017
Michael Tomazincic
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Appendix "1"

Ontario Municipal Board
 Commission des affaires municipales
 de l'Ontario



ISSUE DATE: December 08, 2016

CASE NO(S): PL151140

PROCEEDING COMMENCED UNDER subsection 34(19) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended

Appellant:	Denis Major
Subject:	By-law No. Z.-1-152432
Municipality:	City of London
OMB Case No.:	PL151140
OMB File No.:	L151140
OMB Case Name:	Major v. London (City)

Board Rule 107 states:

107. Effective Date of Board Decision A Board decision is effective on the date that the decision or order is issued in hard copy, unless it states otherwise.

Pursuant to Board Rule 107, this decision takes effect on the date that it is e-mailed by Board administrative staff to the clerk of the municipality where the property is located.

Heard: June 27 and 28, 2016 in London, Ontario

APPEARANCES:

<u>Parties</u>	<u>Counsel</u>
York Development Group MAI Inc.	Alan Patton
Denis Major	Barry Card
City of London	Nicole Hall

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DECISION DELIVERED BY H. JACKSON AND ORDER OF THE BOARD

BACKGROUND

[1] York Development Group MAI Inc. (the “Applicant”) is the owner of four contiguous properties located at 598 to 608 Springbank Drive (the “subject property”) in the City of London (the “City”). The Applicant originally submitted a proposal on June 18, 2014, for the development of an 18-storey apartment building containing 133 units and 10 attached two-storey townhouses at a density of 264 units per hectare (“uph”) on the subject property. Following a public consultation process, the proposal was revised and is now for a 13-storey apartment building with 101 units at a density of 150 uph. The City passed a zoning by-law amendment (“ZBLA”) on October 13, 2015, to allow for the proposed development.

[2] A nearby resident, Denis Major (the “Appellant”) has appealed the passing of this ZBLA on the basis that the height of the proposed building is excessive and the setbacks are deficient.

EVIDENCE

[3] William Pol, retained by the Appellant, provided expert land use opinion evidence at the hearing in opposition to the proposal. Michael Davis, a planner with the City, provided expert land use opinion evidence on behalf of the City in support of the proposal. The Applicant had both a planner and a traffic engineer in attendance at the hearing; however, neither of these witnesses was called to give evidence. The Applicant relied upon the evidence provided by the City. A number of residents spoke in opposition to the proposal and in support of the appeal made by Mr. Major.

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Location and Context

[4] The subject property is located at the southwest intersection of two arterial streets, Springbank Drive and Wonderland Road South, about 4 kilometres (“km”) west of downtown in an older area of the City. These streets function as high capacity roadways and major transportation routes, with Wonderland Road South representing a key gateway into the City. Springbank Road is a key route from the downtown west to the suburban areas and Byron.

[5] The easterly portion of the subject property is vacant. The westerly portion is occupied by two single detached homes. The subject property has about 54 metres (“m”) of frontage on Springbank Drive, a depth of about 90 m along Wonderland Road, and has an area of about 5,404 square metres (“sq m”).

[6] The subject property is surrounded by six-storey apartment buildings to the west, four-storey walk up apartment buildings to the east, and cluster townhouses to the south. Looking to the northeast from the subject property is a 13- or 14-storey apartment building with two- to three- storey office buildings in the foreground.

[7] To the north on the opposite side of Springbank Drive are Springbank Park and the Civic Gardens Complex, all within the Thames River Corridor. According to the evidence, the Civic Gardens Complex is a very popular location in the City for events and wedding photographs.

Proposed Development

[8] The subject property is designated Multi-Family, High Density Residential in the City’s in-force official plan. Low-rise and high-rise apartment buildings are permitted in this designation.

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[9] The current zoning is residential R5/Residential R7/Residential R9/Restricted Office Zone under Zoning By-law No. Z.-1. This zoning permits townhouses, special needs housing and apartment buildings with a maximum density of 150 uph and maximum height of 16 metres, and clinics, medical/dental offices and laboratories. The proposal is to amend the Zoning By-law to a Residential R9 Special Provision (R9-7(_)(H44) Zone which permits an apartment building up to a maximum height of 44 m (13 storeys). Special zoning provisions are proposed to permit a reduced front yard depth adjacent to Springbank Drive of 1.1 m and an exterior side yard depth of 3.8 m adjacent to Wonderland Road. The current zoning requires a setback of 8 m plus 1 m per 10 m of main building height.

[10] The building is to contain up to 101 residential units at a density of 150 uph, which complies with the current zoning provision for density. The bulk of the parking is to be provided in an underground parking structure.

[11] There are holding provisions which are intended to ensure that a public site plan review is conducted and that the owner of the lands enters into an agreement with the City to ensure that any future redevelopment of the adjacent property to the west is permitted to have a shared access arrangement.

[12] A draft site plan that provides the elements of the proposal was entered into evidence as Exhibit 11.

Basis of Appeal

[13] Mr. Pol provided evidence to support the Appellant's contention that the proposed tower at a height of 13 storeys and with reduced setbacks from the two arterial streets is not consistent with the Provincial Policy Statement (the “PPS”), and does not conform to the policies within the Planning Framework; the Multi-Family High Density Residential; and the Urban Design sections of the City's official plan.

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[14] As described by Mr. Pol, the character of the area is suburban and consists of buildings that are low- to mid-rise with ample setbacks from the arterial roads. Mr. Pol provided two examples of 13 storey apartment buildings in the vicinity; at 284 Wonderland Drive and 940 Springbank Road. He noted that these buildings have ample front yard setbacks and mature trees to minimize the impact on natural features and the pedestrian environment. This is in contrast to the proposal, where he said that the reduced setbacks will not allow for tree retention between the building and the road, and the underground parking will reduce the ability for mature trees to become established. He states that the required setback provides for landscaped open space to allow a transition from the high traffic arterial roads to the interior of the buildings. Additionally, the tower will block the views to the Thames Valley Corridor and Springbank Park and will damage the natural view westerly along Springbank Drive. The visual intrusion will be exacerbated by the reduced setback. Mr. Pol does not dispute that the subject property provides an appropriate location for intensification; however, it is his position that the proposed 13-storey tower with reduced setbacks is not appropriate for this suburban location.

[15] Mr. Pol alleges that the City planner failed to properly consider certain guideline documents in his planning analysis. He contends that the impact of this development to the surrounding context is unacceptable, and that this issue of context was not appropriately assessed by City staff, the consultants, and Council.

[16] Mr. Pol presented an alternative proposed development that in his view would have less impact to the neighbours and the Thames Valley Corridor. It would provide for 101 dwelling units in an eight-storey building with the setbacks as required by the existing zoning. This was entered into evidence as Exhibit 10.

[17] Mr. Pol acknowledges that there is a site plan approval process where the public can comment on the proposed design elements of the development; however, the concern of height and setback will be set by this ZBLA, and these are the components of the development that are of greatest concern to the Appellant and the neighbours.

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Residents’ Concerns

[18] Four residents spoke in opposition to the proposed development and in support of the appeal by Mr. Major. The issues raised by the residents relate predominately to the increase in traffic as a result of the proposed development and the concern that a 13-storey apartment building is incompatible with the existing neighbourhood context and the character of the City of London, which is commonly described as a ‘forest city’.

[19] The residents’ desire is for a building in the order of six storeys that would not extend above the tree line. This was the height that was agreed to in the previous zoning by-law and the residents believe that the six-storey height should be respected. The residents suggest that a 13-storey apartment building will have a negative impact on the use of Springbank Park and the Civic Gardens on the other side of the road as it will impact the view of nature that currently exists of the park and from the park when photographs are being taken.

[20] The residents testified that the traffic situation at the corner of Springbank Drive and Wonderland Road is very congested, in particular, during the morning and evening rush hour and that it is difficult to enter and exit into a driveway at this location. There was mention of accidents at the intersection in the past.

Traffic

[21] A traffic assessment report was prepared by Paradigm Transportation Solutions Limited in May 2014 (the “Traffic Report”). This report was entered into evidence as Exhibit 5. No transportation or traffic engineer testified at this hearing. The Traffic Report indicates that the intersection currently operates at a service level F and will continue to do so following this proposed development. This is consistent with the residents’ comments that traffic in this location is very heavy.

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[22] The Traffic Report also states that the intersection of Springbank Drive and the westerly residential driveway currently operates within an acceptable level of service during the a.m. and p.m. peak hours and will continue to do so following the proposed development.

[23] The proposed development is for a density of 150 uph which complies with the existing zoning. Therefore, the proposed ZBLA will not result in an increase in the anticipated traffic or place additional demand on services beyond what is already permitted. On the basis of the traffic assessment and the permitted density, the Board is satisfied that any increase in traffic as a result of the proposed development is appropriate and complies with official plan policies.

Planning Merit

Provincial Policy Statement 2014 (“PPS”)

[24] Mr. Pol testified that the PPS s. 1.5.1 Public Spaces, Recreation, Parks, Trails and Open Space subsection d) requires municipalities to “minimize the impact on protected areas”. He contends that Springbank Park, Reservoir Park and the Civic Garden Complex are protected from development through Official Plan policies; however, the proposed high-rise building with reduced setbacks will have a negative impact on the viewshed by obstructing the view of these features and therefore, the decision of Council is not consistent with the PPS.

[25] Mr. Davis disagrees with Mr. Pol’s analysis. Mr. Davis testified that the proposal is consistent with the PPS. In his opinion, this proposal has no negative impact on Springbank Park or on the viewshed. He said that heights and setbacks are local in nature and are dealt with in the official plan, not the PPS.

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[26] Mr. Davis testified that this proposal complies with s. 1.1.1 e) “promoting cost-effective development patterns and standards to minimize land consumption and servicing costs”. He said the 13-storey building placed closer to the street is an efficient use of the land, as it provides for a greater opportunity for landscaped open space. This form also provides for space to implement a higher density official plan designation in the future.

Official Plan

[27] The Planning Framework policies are provided in Chapter 2 of the City’s official plan. Mr. Pol’s view is that the proposal is contrary to s. 2.14.1 Heritage Goal that promotes the conservation of the City’s natural heritage resources to enhance the contribution of these resources to the form and character of the City. Section 2.14.2 Urban Design promotes a high standard of design that is sensitive to the character of the surrounding uses. He said the tower is not sensitive to the character of the surrounding uses being a tree canopy along Springbank Drive and the associated view, and it is not sensitive to the Civic Garden Complex and activities taking place in this area.

[28] Official plan s. 3.1 Objectives for Residential Land Use Designations lays out the objectives for each of the residential land use designations. Within the General Objectives for all Residential Designations, s. 3.1.1 vii) includes an objective to minimize the potential for land use compatibility problems which may result from an inappropriate mix of residential and non-residential land uses. Mr. Pol states that the proposed by-law allows an inappropriate mix of high density building height overtopping the mature tree canopy that creates a negative impact on the aesthetics and viewshed along Springbank Drive. He states that this is a suburban context and is not an appropriate location for reducing setbacks, particularly in this location where there will be a high volume of traffic generated noise.

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[29] Section 3.1.4 provides the Multi-Family High Density Residential Objectives. Among these are: 3.1.4 iii) “Promote, in the design of multi-family high density residential developments, sensitivity to the scale and character of adjacent land uses and to desirable natural features on, or in close proximity to, the site.” The existing scale and character of surrounding uses have heights of six storeys or less on all adjacent uses with generous setbacks and therefore, Mr. Pol’s view is that the proposal does not meet this objective.

[30] Mr. Davis testified that it is necessary to be mindful of the general policies provided by s. 3.1, but it is most important to conform to the detailed policies of s. 3.4, which apply to areas designated Multi-Family, High Density Residential, such as the subject lands. Outside of the Downtown Area, lands designated Multi-Family, High Density Residential are intended to accommodate the highest intensity residential uses within the City. Densities are normally 150 uph on lands outside Central London, such as these lands. This 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.”

[31] In accordance with s. 3.4.1 of the official plan, high-rise apartment buildings are a permitted use in this designation. The official plan does not provide explicit limits on building height within this designation. However; s. 3.4.3 Scale of Development applies specifically to Multi-Family High Density Residential dwellings, and contains policies to guide the scale of development on such lands, as follows:

- i) Outside of the Downtown and Central London areas it is Council’s intention that a mixing of housing types, building heights and densities shall be required in large designated Multi-Family, High Density Residential areas. Such areas, which will normally exceed 3 hectares (7.4 acres) in size, will be guided by the following criteria:

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- a) A transition in scale shall be encouraged, where appropriate, to avoid extremes in building height and bulk between the new development and the existing built fabric of adjacent properties;
- b) All areas shall include a diversity of housing forms such as midrise and low-rise apartments and multiple attached dwellings, in order to minimize the overwhelming effect of large high-rise developments;
- c) High-rise structures shall be oriented, where possible, closest to activity nodes (shopping and employment centres) and points of high accessibility (arterial roads, transit service) with densities and building heights decreasing as the distance from an activity node increases;
- d) Massive, at-grade or above-grade parking areas shall not dominate the site. Pedestrian circulation and access to transit services should be facilitated through site design and building orientation; and
- e) Conformity with this policy and the urban design principles in Section 11.1, shall be demonstrated through the preparation of a secondary plan or a concept plan of the site, and the final approval of zoning may be withheld pending a public participation meeting on the site plan, and the enactment of a satisfactory agreement with the City.

[32] Mr. Davis states that the subject property is within a large area designated as Multi-Family, High Density Residential centred on the intersection of Springbank Drive and Wonderland Road and therefore these policies apply and are met by this proposal. He said the intersection of Springbank Drive and Wonderland Road represents the activity node and is an appropriate location for a high-rise building.

[33] Mr. Davis states that the ZBLA is intended to permit an increase in height, allowing the development to have a reduced floor plate with the mass concentrated at the northeast corner of the subject property. The taller, more slender tower allows for the greatest provision of landscaping. This form also maximizes the separation distance and provides a transition in scale between the new development and the existing built fabric of the adjacent properties.

[34] The majority of the parking is provided below grade and not visible from the pedestrian realm.

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[35] This area contains a range and mix of existing built forms from low-rise multiple attached dwellings at the south, mid-rise (four to eight storeys) apartment buildings to the east and west, and a high-rise (13 or 14 storey) apartment building to the northeast. Mr. Davis stated that this proposal is part of the mixing of housing types and building heights. Given this mix of forms, the introduction of a 13-storey tower will not overwhelm its context and will not be inconsistent with the planned function of this designation. In his opinion, the transition from two to six to 13 storeys is an appropriate transition in height, and the landscaping intervening space on the south side of the subject property provides appropriate transition to the townhouses to the south.

[36] Mr. Pol disagrees that the proposed 13-storey building provides for an appropriate transition in height. His view is that the proposed building is much higher than the buildings to the west and south and does not provide for a moderate transition, as is required by s. 3.4.3 i) a) above. He said the draft site plan does not conform to the Urban Design Policies related to protecting natural features and open views because it obstructs and detracts from the view of Springbank Park and along Springbank Drive, as is required by s. 3.4.3 i) e) above.

[37] Section 3.4.3 iii) states:

On Individual sites within the Multi-Family High Density Residential designation, Council may require lower height and/or density limits than would normally be permitted, on the basis of any one of the following criteria:

.....

(d) to minimize the impact of high density residential development on significant natural features;

.....

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[38] It is Mr. Pol's opinion that because the Thames River Valley Corridor is a significant natural feature and extends along the north side of Springbank Drive, the building height will detract from the vista and view along Springbank Drive adjacent to this location and is therefore contrary to s. 3.4.3 iii)(d).

[39] Mr. Davis disagrees with Mr. Pol's opinion. Mr. Davis testified that the subject property has no significant natural features on site. There is no protection for the trees on site, and the subject property is not subject to the City's tree conservation by-law. He said that "all the trees on-site could be removed today"; and, "there is no difference between 13 storeys and five storeys in regards to tree protection at this site".

[40] Mr. Davis testified that he undertook a Planning Impact Analysis as is directed by s. 3.7 of the official plan. Section 3.7.2 Scope of Planning Impact Analysis states:

Where an Official Plan amendment and/or zone change application is being considered the following criteria may be considered:

....

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

(j) the potential impact of the development on surrounding natural features and heritage resources;

[41] With respect to (f), Mr. Davis testified that the Applicant did a viewshed analysis as provided in Exhibit 3, Tab 14. The projection of the proposed building is provided on the viewshed to assess the visual impact. A shadow study was also done, and was provided in Exhibit 3, Tab 13. Mr. Davis reviewed these two analyses and determined that there are no adverse unacceptable impacts on any adjacent land uses as a result of this proposal. He said the slender floor plate of the tower is a benefit as the shadow is smaller and moves more quickly.

[42] With respect to (j), Mr. Davis said that based on the location of the property, the siting of the building with respect to the Thames Valley Corridor, the viewshed analysis,

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the shadow study, and Exhibit 10; there is no obstructed view of the Thames Valley Corridor, given that this feature is located on the north side of the street.

[43] Mr. Pol stated that insufficient weight was given to the Thames Valley Corridor and Springbank Park and Springbank Drive in this analysis.

Urban Design Policies

[44] Section 11 Urban Design Principles, help to inform what to expect in the development of a site. Section 11.1.1 states:

Council shall promote the use of the following urban design principles in the preparation and review of development proposals and community improvement plan and programs.

- i. The form and design of new development shall complement and protect any significant natural features such as river valleys, ravines, wooded areas and parklands that form part of, or are located adjacent to, the site.
- ii. To the extent feasible, existing trees of desirable species should be retained and incorporated into the landscaping plans for new development through the adoption and implementation of tree preservation policies. Also, designs for new development will consider the need for suitable locations to accommodate the planting of street trees.
- iii. To the extent feasible, new development should minimize the obstruction of views of natural features and landmarks.
- iv.
- xxi. Gateways are important elements in the creation of a sense of place and arrival, and provide visual signals that both define and distinguish an area. Gateways occupy strategic and prominent locations, and are primarily associated with major entrances to the City, districts or to neighbourhoods. Gateways may be created through the placement of buildings, landscape features, or the design and architecture of the buildings or structures themselves that frame or create the gateway or entrance.

[45] Mr. Pol testified that these policies were not given sufficient weight. He said that the proposal will detract significantly from the 'gateway' that is provided by the landscape and green vista of Springbank Park for travellers into and out of the City. In

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his view, the staff focused on the immediate context of the building and failed to look at the larger context.

[46] Mr. Davis disagrees with Mr. Pol's assertion that the proposal inherently offends the Urban Design Policies. He testified that he did review these policies as part of his planning analysis. He said that the height and setback provisions can take a form that complements and protects the Thames Valley Corridor and Springbank Park. Additionally, he testified that the holding provisions in the ZBLA allow the residents to take part in the site plan approval process. He acknowledged that the City staff are the delegated approval authority for the site plan, however, staff must consider the issues raised by the public.

[47] Mr. Davis testified that the activity node is the intersection of Springbank Drive and Wonderland Road, and therefore the building with the greatest height should be accommodated at this location. It is Mr. Davis's view that the proposed building design animates the street and provides an appropriate pedestrian environment. In his view, this proposal conforms to the urban design guidelines that bring the building closer to the street. The proposed trees adjacent to Wonderland Drive provide shade and an appropriate pedestrian environment. With respect to s. 11.1.1 iii) Mr. Davis states that the evidence is clear that the building will not obstruct the views of the natural features and landmarks in the context of this site.

London Plan

[48] The London Plan is the new official plan for the City that was adopted by Council just days before this hearing. This plan, as described by the City and Appellant, is much different than the in-force official plan.

[49] The Board heard evidence regarding the direction that this plan takes with respect to the subject property. In general, intersections such as this one would be a 'place type' limited to buildings with six storeys, however, for 'legacy' areas such as this

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one, as it is a 'high density remnant parcel', have an overlay that in this site specific case permits up to 12 storeys.

[50] Mr. Pol acknowledged that the proposal conforms to the draft policies in the London Plan.

Thames Valley Corridor Plan

[51] Mr. Pol referenced the Thames Valley Corridor study that was prepared in response to recognition of the Thames River as a Canadian Heritage River. Mr. Pol testified that the subject property abuts the Thames Valley Corridor and therefore, the proposal must have regard to the Thames Valley Corridor Plan. The vision statement for the Plan includes the preservation and enhancement of cultural heritage resources. Mr. Pol took the Board to one of the Key Strategies in the Plan:

Formally recognize significant cultural heritage landscapes through designation, or policy. Previously identified candidate cultural heritage landscapes that should be recognized, include: the Springbank Cultural Heritage Landscape (including historic structures and sites, Reservoir Hill, lookout and the Thames Valley Golf course); Park Farm; and the Forks of the Thames...

[52] Mr. Pol stated that Council has not acted on the Heritage Designation for the site, but is aware of the importance of the site. His view is that the proposal has consequences for impact to the general public, and the neighbours across the street from the Park.

[53] In response to Mr. Pol's concern about the Thames Valley Corridor being classified as a cultural heritage landscape, Mr. Davis brought the Board to s. 13.5.5 of the official plan, which identifies the cultural heritage landscapes to be conserved in the City. Springbank Park and the Thames Valley Corridor are not identified in this list.

[54] According to Mr. Pol, the public experiences the view of a canopy of trees when travelling from home to the workplace and back. He said this transition is a public

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amenity. It is his opinion that this amenity will be negatively impacted by the presence of the 13-storey building because it will block and damage the natural views along Springbank Drive, including the view of Reservoir Hill in the distance.

[55] Mr. Davis disagrees. He testified that there is no impact on the park or other elements of the Thames Valley Corridor due to the increased height or the reduced setbacks as provided for in the ZBLA. He states that there is no obstruction of the Thames Valley Corridor as a result of the proposal, because the Corridor is on the north side of the road, and the building is separated from the corridor by a 36 m municipal road allowance. He stressed that whether there is an eight or 13-storey apartment building, there is no difference to the view of the green space of the vista, because the trees on the south side of the road are not protected in any way and are not significant with respect to any policy.

[56] Mr. Davis indicated that the design references that are provided in the Thames Valley Corridor Plan are recommendations that refer to situations when a development actually backs onto the corridor. In this situation, there is an intervening roadway between the development and the corridor. Further, Mr. Davis testified that during the site plan stage the design principles consisting of the building material, façade, orientation, etc., can be provided in a manner that is sensitive to the park. His opinion is that sensitivity can be provided in a 13-storey form.

Placemaking Guidelines

[57] Mr. Pol also referenced the City of London Placemaking Guidelines 2007. These guidelines express the importance of integrating the natural features into the community. Mr. Pol’s view is that the proposal would have the effect of reducing the potential integration of Springbank Park by impeding the view.

[58] Mr. Davis testified that the Placemaking Guidelines were considered in his planning analysis. He said that these guidelines are mostly used for greenfield sites,

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and predate the in-force zoning by-law. He testified that the height and setbacks proposed are consistent with these guidelines. He referred specifically to s. 5 – Sense of Place which states: “Buildings should be located close to the street and should be architecturally articulated to provide an appropriate level of detail that will visually animate the streetscape.” His opinion is that the building will establish an appropriate relationship with the street. He also looked to s. 7 – Mixing and Blending, which promotes a mix of buildings of different scale and density in the neighbourhood. He stated that the 13-storey building fits into the mix.

ANALYSIS AND FINDINGS

[59] The Board has carefully reviewed the evidence provided by the planners and residents in this hearing. The key concern that the Appellant has raised is that the proposed 13-storey tower that has reduced setbacks from the two adjacent roads is not consistent with the existing suburban context and it will negatively impact the natural view and vistas contrary to the intent and direction of adopted City plans (the Thames Valley Corridor Study, the Parks and Recreation Master Plan, and the Placemaking Guidelines), which recognize the importance of Springbank Park, as well as offending the PPS and the official plan. The Appellant alleges that the City failed to conduct a thorough planning analysis and that the City plans were not sufficiently considered by Council in their decision making.

[60] The Board is not persuaded that Mr. Davis failed to conduct a thorough and comprehensive Planning Impact Analysis of the proposed development. The allegation that staff did not have proper regard for the appropriate guideline documents is not supported by the evidence. Mr. Davis testified in this hearing as to his analysis of the guideline documents and testified that he indeed reviewed these documents prior to preparing his report to Council. He indicated that he did not reference all the guideline documents in his report; however, in the hearing he provided a cogent analysis of how these documents either applied or did not, and how his assessment of this proposal was informed by this analysis. He stated the he did not ‘spoon feed’ Council and the Board

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sees no reason to assume that Council did not have a good grasp of the issues at play in this matter. Indeed, the Board heard that this proposal was initially proposed to be more intense than what was finally approved by Council. This implies that Council and staff turned their mind to a comprehensive analysis of the planning merits and issues at play in this application. The Board is satisfied that Mr. Davis undertook an appropriate review of this development application including the guideline documents referenced by Mr. Pol.

[61] The Board notes that this location is designated as a Multi-Family, High Density Residential area, where high-rises are permitted. The Board looks to the key official plan policies that guide proposed development in such a designation, being s. 3.4.3, as described in the evidence. With respect to the policies within this section, the Board prefers the evidence of the City, as the Board has greater confidence in the comprehensive analysis provided by Mr. Davis in comparison to that of Mr. Pol. Mr. Pol's assessment depends overmuch on the contention that the 13-storey structure will 'ruin the view'; however, that analysis is rooted in a subjective assessment and a flawed analysis, given that the tower is not in an area of lands that are protected. It does not follow that the City intends that all lands that are in the vicinity of the Thames Valley Corridor be restricted in height to below the tree line – there is nowhere in the planning policies that have been brought to the Board's attention to suggest that the tree line is somehow a limit of development at this location. In fact, the subject lands are contemplated to have high-rise development. The Board considers that Mr. Pol is overly married to the principle that the view is everything, to the exclusion of providing an analysis of other aspects of the planning merits of the application. Mr. Davis, on the other hand, has provided a more even analysis of the application, leading the Board to conclude that his evidence is more comprehensive and is not biased. The Board agrees with Mr. Davis that the proposed development at a height of 13 storeys 'fits' within the existing context of mid-rise buildings to the east and west, and a high-rise building to the north; and provides for an appropriate transition as required by s. 3.4.3 i) a).

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[62] The Board agrees with Mr. Davis' analysis that the increased separation distance and opportunity for landscaping between the building and the low-rise buildings to the south provides a transition in scale in that direction, and that the high-rise building provides a diversity of housing forms as is required by s. 3.4.3 i) b). Mr. Pol has not considered this high rise to be a component of the mix of building type, contrary to the policy in s. 3.4.3 i) b), rather he considers the greatest offence of the proposal to be the height and the reduced setbacks. The Board finds that the reduced setbacks that place the building closer to the streets are appropriate in view of the official plan policy 3.4.3 i) c). Mr. Pol states that the reduced setbacks are partly an issue due to the noise generated by traffic that will be close to the residential high rise. This is simply an allegation, and there is no evidentiary basis to support this supposition.

[63] The Board is satisfied that Mr. Davis has addressed the urban design principles in the review of the draft site plan, as provided in Exhibit 11, and that the site plan process that provides for an opportunity for public input will provide a further opportunity to ensure that the design of the building will be complementary to its context. The holding provision in the ZBLA will assist in this regard. Mr. Pol asserts that the urban design principles are not met because this building is a tower that will be visible above the trees. He does not consider the urban design principles to any greater extent than this assertion. The thinness of his analysis suggests that he has not considered this aspect to any great extent. The Board prefers Mr. Davis' evidence that the proposal conforms to the urban design guidelines that bring buildings closer to the street and provide an appropriate pedestrian environment.

[64] The Board is not persuaded by Mr. Pol's opinion that this development offends the official plan policies and guideline documents that require the protection of 'natural features'. Mr. Pol did not successfully tie the protection of the subject property to the protection of 'natural features' being either Springbank Park, or the Thames Valley Corridor, or the vista of trees. The Board would need more compelling evidence to be convinced that the view of trees in the distance means that a high rise could not conform to the official plan on lands that permit high rises. The Board prefers Mr. Davis'

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opinion that Springbank Park will not be negatively impacted by this development, due in part to the fact that the park is on the north side of the road and separated by a 36 m road right-of-way. The right of way that separates the Thames Valley Corridor and the subject lands must be considered, as there is no question that this feature – a major arterial road – separates the two land uses. The Appellant’s planner has not addressed this feature in any of his analyses, with the exception of the roadway being the mechanism for the travelling public to ‘experience the amenity’ of the vista of trees as they travel either into or out of town. There is simply no connection and/or insufficient evidence to suggest that the subjective impairment of the view by the presence of a 13-storey building offends the official plan policies or any of the guideline documents.

[65] The amenity that the travelling public will experience will not be impacted in any measureable way from what currently exists. In fact, change occurs – it is a part of the development and evolution of a City. There is no protection that guarantees that the view will always be the same; and there is no view here that is protected. Mr. Pol would have us believe that looking down the Springbank Road there should only be a vista of trees. The Board is not convinced that there will be an undue negative impact to the green vista that the travelling public experiences on the drive along Springbank Road when driving west, and in any event, the building is on the south side of the street and not within a protected viewshed.

[66] The Board finds that the Placemaking Guidelines support the urban design elements that are expressed by this proposal, being a slender building with a smaller footprint and a location that is close to the street in order to engage with the street and animate the pedestrian environment. This is a different urban design than the “tower in the park” model that is common from developments that have occurred in the past. Mr. Pol prefers the suburban design model of the tower in the park; however, planning has moved beyond that model, as is expressed in many of the planning documents referenced in this hearing. The design proposed here, according to the evidence and the opinion of Mr. Davis, is consistent with the Placemaking Guidelines that promote design elements that engage the building and the street relationship.

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[67] Pursuant to s. 2.1 of the *Planning Act*, the Board must have regard for the Decision of Council. In this matter, the evidence is that City planning staff conducted a thorough planning analysis and recommended that the proposal be approved by Council. Council turned their mind to the issues and the analysis presented by staff and decided to approve the ZBLA. On the basis of the evidence presented at this hearing, the Board sees no basis to interfere in the decision that was made by Council with the benefit of a comprehensive planning analysis.

[68] The Board has greater confidence in the analysis provided by Mr. Davis. He provided the Board with a reasoned and well-articulated analysis of the planning considerations of this proposal; whereas, Mr. Pol has provided an analysis that is substantially limited to the contention that the 'view will be ruined' and has failed to elaborate beyond that assertion to provide the Board with a cogent assessment of how the application offends official plan policies particularly for lands that are contemplated in the official plan for high density residential uses and for high rise buildings.

[69] The Board accepts Mr. Davis' testimony that the recommended ZBLA will not result in an increase to the permissible residential density on the subject property but will provide for a level of intensity that provides for an efficient use of resources (land and services) consistent with the PPS and that the ZBLA conforms to the City's Official Plan.

[70] For the reasons provided above, the Board finds that the ZBLA that will permit the proposed development as provided in the draft site plan in Exhibit 11 is consistent with the PPS and conforms to the City's Official Plan.

ORDER

[71] The Board orders that the appeal against Zoning By-law No. Z.-1. of the City of London is dismissed.

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"H. Jackson"

H. JACKSON
MEMBER

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please visit www.elfo.gov.on.ca to view the attachment in PDF format.

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