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TO:	CHAIR AND MEMBERS PLANNING AND ENVIRONMENT COMMITTEE
FROM:	GEORGE KOTSIFAS, P.ENG. MANAGING DIRECTOR, DEVELOPMENT & COMPLIANCE SERVICES & CHIEF BUILDING OFFICIAL
SUBJECT:	APPEAL TO THE ONTARIO MUNICIPAL BOARD APPLICANT/APPELLANT: OLD OAK PROPERTIES INC. SITE PLAN APPLICATION - 3040 POMEROY LANE MEETING ON JUNE 6, 2017

RECOMMENDATION

That, on the recommendation of the Manager of Development Services and Planning Liaison, in response to an appeal to the Ontario Municipal Board dated March 14, 2017, submitted by Ferreira Law on behalf of Old Oak Properties Inc. in response to a non-decision by the City of London Approval Authority after 30 days from acceptance of a Site Plan application for lands located at 3040 Pomeroy Lane:

- a) Council **ADVISE** the Site Plan Approval Authority and the Ontario Municipal Board any comments or concerns they may have with respect to the Site Plan application, and whether they support the Site Plan application; and
- b) the City Solicitor, the Managing Director of Development & Compliance Services and Chief Building Official, and the Managing Director of Planning & City Planner, **BE DIRECTED** to provide legal and planning representation at the Ontario Municipal Board hearing to support the position of the Approval Authority.

PREVIOUS REPORTS PERTINENT TO THIS MATTER
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November 28, 2016 Report to PEC – Application by Old Oak Properties Inc. to amend the Official Plan by deleting Section 20.5.3.9(iii)(g) of the Southwest Area Secondary Plan.

PURPOSE OF REPORT & RECOMMENDED ACTION

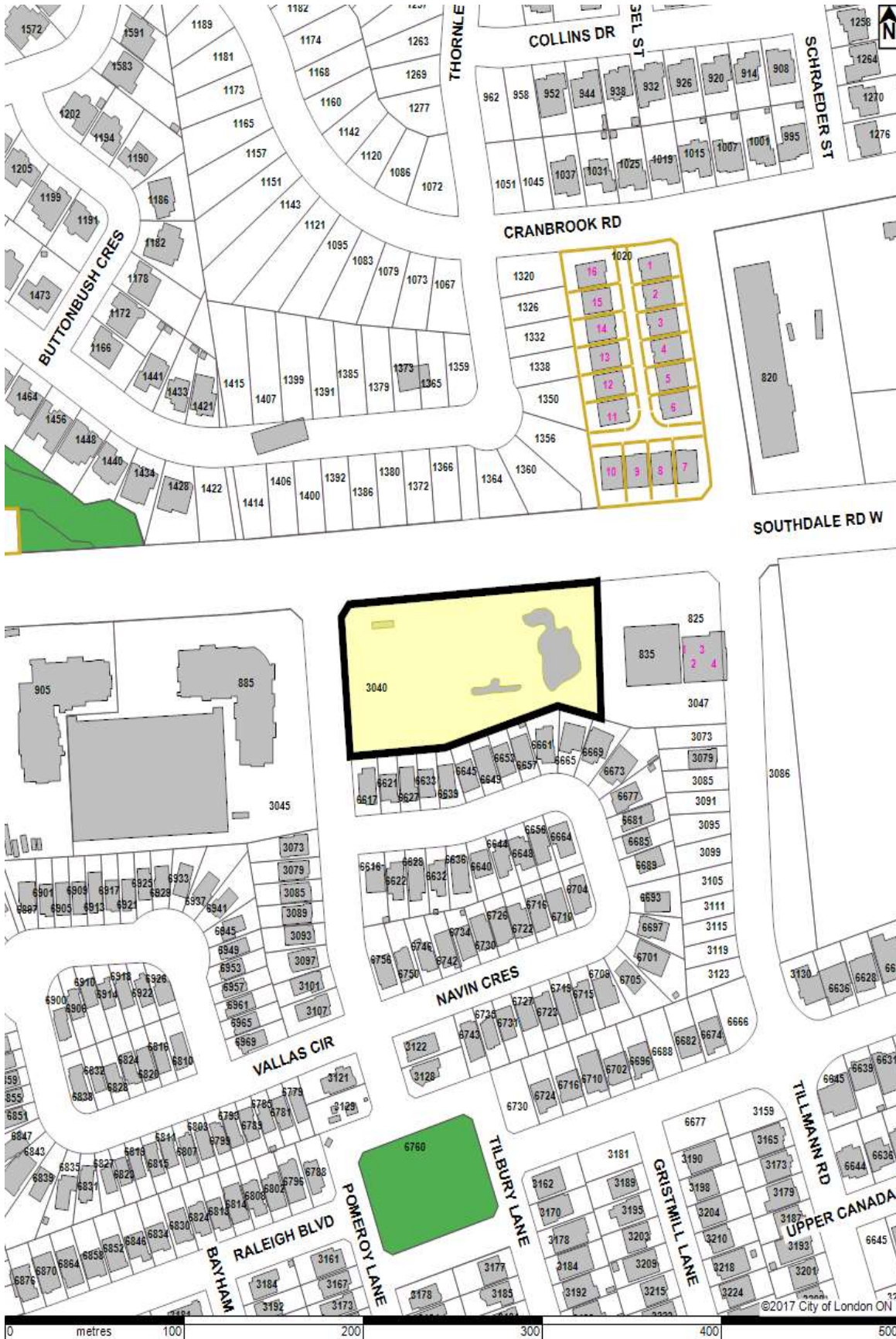
This report has been prepared to provide background and seek Municipal Council input on an appeal being considered by the Ontario Municipal Board for failure by the City Approval Authority to approve a Site Plan application at 3040 Pomeroy Lane, pursuant to Section 41(12) of the Planning Act.

Consultation for the application was undertaken in late 2015. The application, proposing development in the form of a 12 storey, 135 unit apartment building with 169 surface and below-grade parking spaces (File SP16-004), was accepted by the City on February 3rd, 2016. A revised proposal was received on March 2nd, 2017, for an 11 storey, 147 unit apartment building with 121 surface and 89 underground parking spaces. The proposed plans have not been approved since they are considered to be inconsistent with policy 20.5.3.9(iii)(g) of the Official Plan (Southwest Area Secondary Plan).

This report is submitted for consideration at PEC but the meeting is not a statutory public meeting under the *Planning Act*. As a result of the appeal, jurisdiction of the Approval Authority and Municipal Council to make decisions has been removed and the matter is now before the Ontario Municipal Board. A four (4) day hearing has been scheduled by the OMB, commencing on July 4th.

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LOCATION MAP



Subject Site: 3040 Pomeroy Lane
File Number: SP16-004

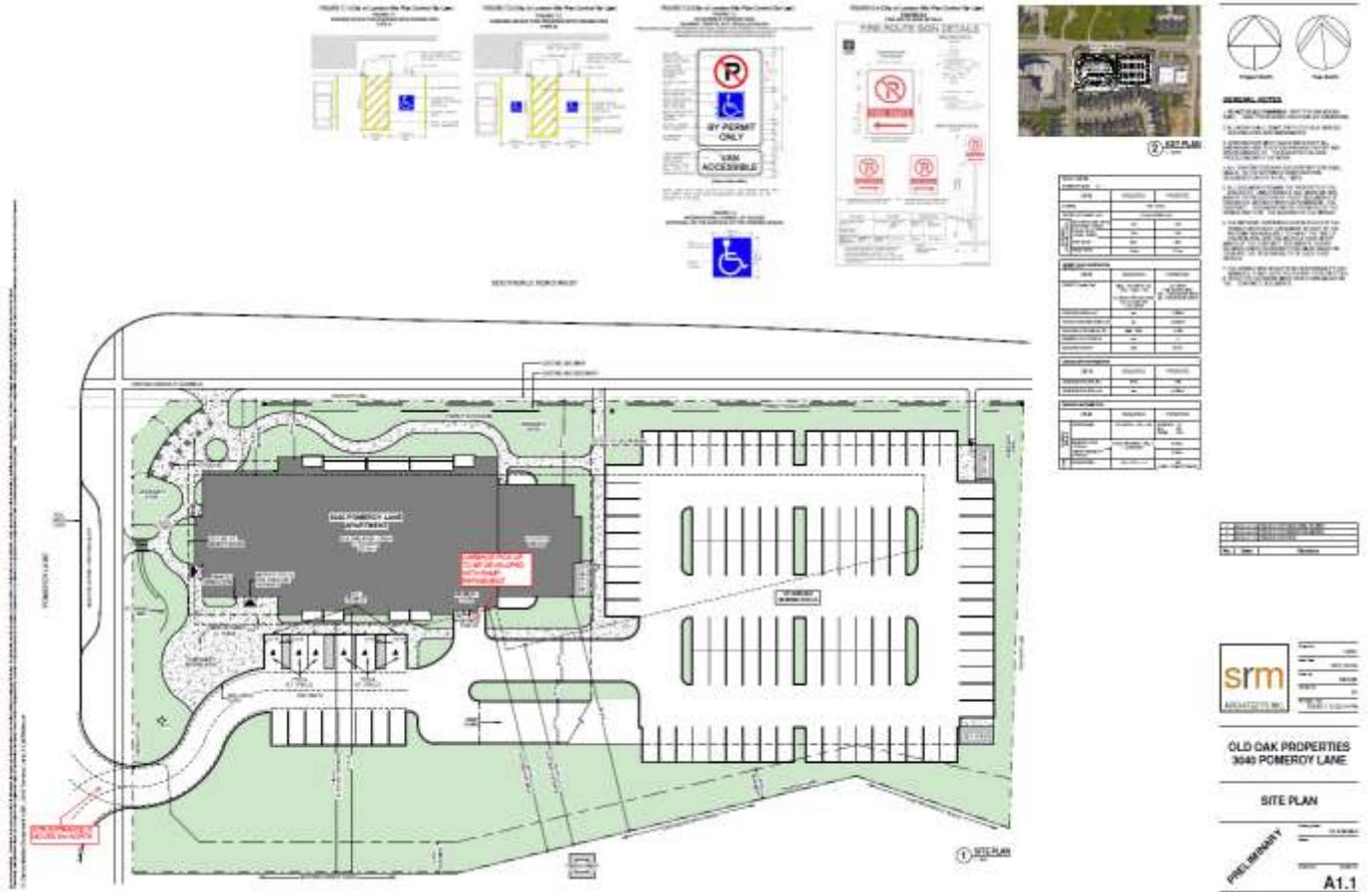
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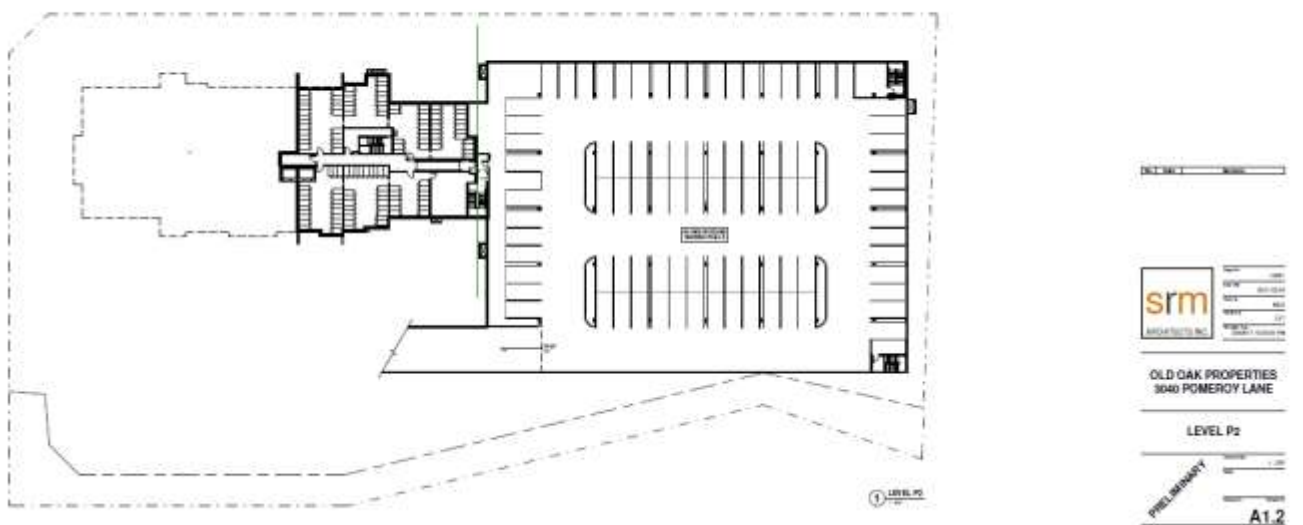
 Subject Site

PROPOSED SITE PLAN (February 2017)

Surface Level



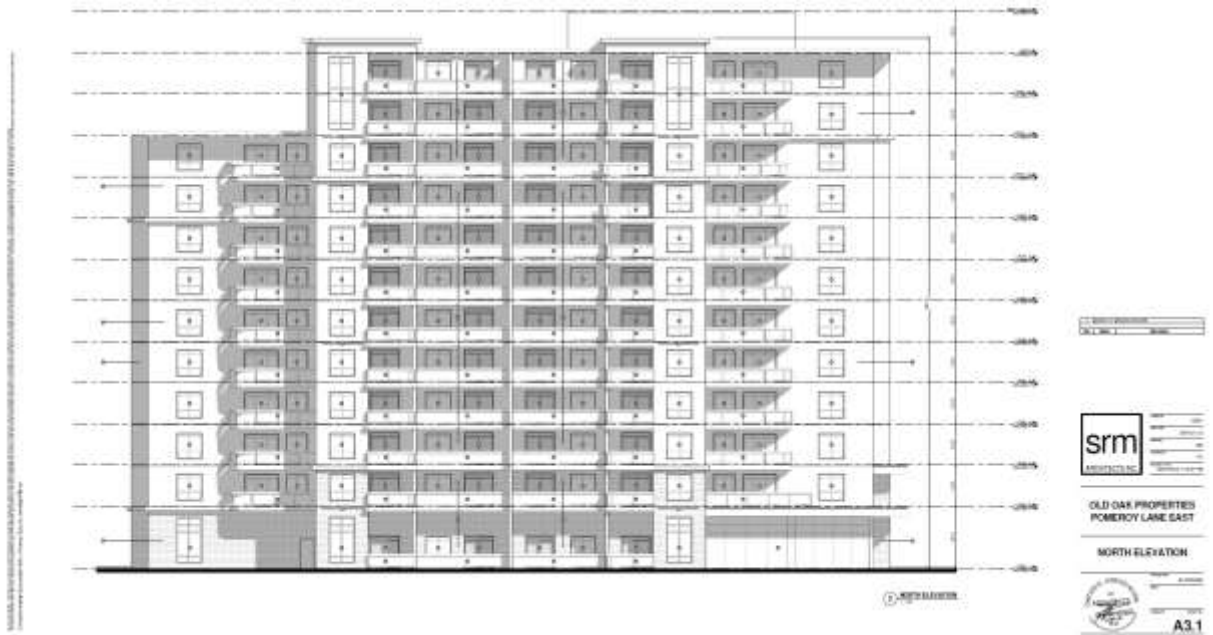
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Building Elevations (February, 2016)



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BACKGROUND

Application Summary:

Pre-consultation for the 12 storey, 135 unit apartment building with 169 surface parking spaces, was undertaken in late 2015 and the application was accepted by the City on February 3rd, 2016. Comments from the Urban Design Peer Review Panel (November 18, 2015) and Planning Services/Urban Design (February 18, 2016) noted that the proposal was not consistent with Official Plan (Southwest Area Secondary Plan) policy 20.5.3.9(iii)(g), which states:

“Off street parking areas shall be designed to reduce their visual impact on both the adjoining streetscape and on people using the site and/or facility by:

- *screening of the parking lot at the public right-of-way through the use of features such as low fences, walls and landscaping and in a manner which reflects the safe community design policies of this section;*
- *Locating the parking lot, within commercial or mixed-use developments, to the side or rear of the main building and permitting no or only minimal parking in front of the main building. Where large-format retail stores are proposed, design alternatives that contribute to the creation of a vibrant and active streetscape, may include, but not be limited to, locating large format retail structures in the interior or at the rear of commercial or mixed-use development blocks with smaller stores and buildings oriented to the surrounding public rights-of-way to create a strong street presence. Alternatively, the frontage of the large-format retail store facing the public right-of-way should be lined with smaller stores oriented to the streetscape. Parking areas will be integrated with development associated with large-format retail stores, in a manner designed to contribute to the objective of a vibrant and active streetscape;*
- *For all commercial office and mixed use and apartment building development proposals, appropriate buffering shall be provided between parking areas and “back of building” functions, such as loading/receiving areas and garbage/storage areas and adjacent land uses;*
- *for all office and apartment building development, parking shall be located underground in a structure integrated into the building;*
- *the use of landscaping or decorative paving to reduce the visual expanse of large parking areas;*
- *joint access to parking lots on adjoining properties, where feasible;*
- *provision of pedestrian walkways adjacent to stores, between building clusters, and to provide pedestrian access to transit stops, public sidewalks and adjacent developments. These walkways may need to cross parking lots to provide the required access;*
- *the interior of the site be designed to give pedestrian connections from the public right-of-way priority through the site/parking field, while enhancing the pedestrian environment and ensuring the site is easily navigable.”*

Policy 20.5.16.7, provides direction on the implementation of Site Plan applications within the Southwest planning area, as follows:

Any applications for site plan approval shall be subject to the policies of this Secondary Plan and applicable policies of the City of London Official Plan.

The applicant (Old Oak Properties Inc.) was advised that the Approval Authority was not in a position to approve the site plan, as proposed, since the provision of 169 surface parking spaces was not in conformity with the Southwest Area Secondary Plan (SWASP), which comprises part of the Official Plan. Discussions were undertaken between the applicant and the City but no resolution was reached on a parking plan that would be consistent with SWASP.

The City provided notice of the proposed Site Plan Application (SP16-004) to area residents on February 12th, 2016. This notice generated a significant volume of comments from the public with at least six written (e-mail/letter) submissions, including a petition signed by 93 residents of

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Talbot Village, all opposed to the proposed development. Stated reasons for the objections from the area residents were:

- Increased traffic volumes within the neighbourhood, and associated safety hazards for families & children in the area.
- Access to sunlight and privacy impacts on residential properties in the neighbourhood.
- Reduction in property values of residences located on Navin Crescent and other streets in Talbot Village.
- Parking will be inadequate, resulting in overflow parking on residential streets in the area.
- Levels of noise, dust and vibration will increase in the area as a result of this development.
- Levels of crime will increase in the area.
- Residents of the area were not told about the proposal prior to purchasing their homes and the current zoning permits too wide a range of uses and development forms.
- Traffic movements, headlight beams and idling cars associated with an above-ground parking structure will have negative impacts on the adjacent residential area.
- Underground parking will provide for additional green space on the site, less pollution, no obstruction of views, and a higher level of safety & security for building residents.

The applicant conducted a Neighbourhood Open House on March 8th, 2016 to provide information on the development proposal, and receive comments from area residents.

In November 2016 Old Oak applied for minor variances that were required to permit the proposed 12 storey apartment building with a reduced interior side yard setback for a portion of the proposed building, and “pergolas” (accessory structures) located within the required front yard (at the south-east corner of Southdale and Pomeroy). The variances were approved after having been considered by the Committee of Adjustment at a public participation meeting on November 14th, 2016. No appeals were filed and these variances are now in effect.

A Site Plan Public Participation Meeting was not scheduled since the application, as proposed (with a significant above-ground parking component), would not be in conformity with the Southwest Area Secondary Plan. Discussions occurred between the City and the applicant in an effort to reach a development form that was consistent with SWASP; however, an agreement could not be reached.

Zoning By-law Z-1:

The subject site is zoned Holding Restricted Office/Residential R9/Convenience Commercial (h-5*h-53*h-55*h-56*RO2/R9-7*H40/CC6, which permits offices, clinics, medical-dental offices, apartment buildings up to a maximum height of 40 metres and a maximum density of 150 units per hectare, and a range of convenience commercial uses. The holding provisions that apply include “h-5” (requires a public site plan meeting), “h-53” (requires street-oriented development, without noise walls), “h-55” (requires a traffic impact study) and “h-56” (requires a noise assessment report and noise attenuation measures).

The development, as proposed, is generally compliant with current Zoning By-law regulations, subject to the two minor variances that were granted in 2016. The current zoning neither requires nor prohibits underground parking in a structure that is integrated into the building.

Amendments to SWASP:

In September 2016, Old Oak Properties submitted an Official Plan Amendment application (File: O-8680) to delete the portion of Southwest Area Secondary Plan (SWASP) policy 20.5.3.9(iii)(g) that states: *“for all office and apartment building development, parking shall be located underground in a structure integrated into the building”*. This request was considered at PEC on November 28th, 2016. The request was refused by Council at its’ session on December 6th, and an alternative staff recommendation to replace policy 20.5.3.9(iii)(g) with alternative wording was referred to Administration for a report back at a future PEC meeting.

A report was subsequently presented to PEC on April 10th, 2017 (File: O-8741), which

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recommended an amendment to policy 20.5.3.9(iii)(g) by replacing the parking requirement for apartment, office and mixed-use development with a new policy consistent with the London Plan. This proposed change was supported by PEC and Official Plan Amendment No. 652 was adopted by Council on April 18th, 2017. The revised policy replaces the fourth bullet, which prohibits above-ground parking, with the following revised wording:

“Parking should be located underground for large buildings, such as high-rise residential buildings, office buildings, and mixed-use buildings.”

The amendment came into effect May 11th. While this revised wording provides some additional flexibility in on-site parking formats for smaller buildings, the hi-rise development proposal at 3040 Pomeroy Lane would, in the opinion of the Approval Authority, be subject to the requirement for underground parking to achieve the objective of reducing the visual impact of the parking area on both the adjoining streetscape and people using the site.

Nature of Appeal:

The appeal submitted on behalf of Old Oak Properties Inc. indicates that Council has failed to make a decision, and that the application should be approved because:

- a) it conforms to the City of London’s Site Plan Control By-law, Official Plan, Zoning By-law and the Provincial Policy Statement;
- b) it represents sound land use planning; and
- c) it complies with the Planning Act, including Section 41 (Site Plan Approval requirements).

The appeal letter and application form are attached as Appendix “A”

SUMMARY AND CONCLUSION

An appeal has been filed for the lack of decision on a Site Plan application for an 11 storey, 147 unit apartment building with 121 surface and 89 underground parking spaces at 3040 Pomeroy Lane. A decision to approve the development, as proposed, would not be in conformity with policy 20.5.3.9(iii)(g) of the Southwest Area Secondary Plan.

The owner has appealed the “non-approval” of this application and a hearing on the appeal has been scheduled by the OMB commencing on July 4th, 2017. The purpose of this report is to provide background information on the appeal and seek Municipal Council input prior to the hearing.

PREPARED & RECOMMENDED BY:	REVIEWED BY:
TERRY GRAWAY, MCIP, RPP MANAGER, DEVELOPMENT SERVICES & PLANNING LIAISON	ALLISTER MACLEAN MANAGER, DEVELOPMENT PLANNING DEVELOPMENT SERVICES
REVIEWED BY:	SUBMITTED BY:
LOU POMPILII MANAGER, DEVELOPMENT PLANNING	GEORGE KOTSIFAS, P.ENG. MANAGING DIRECTOR, DEVELOPMENT & COMPLIANCE SERVICES AND CHIEF BUILDING OFFICIAL

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Appendix "A"
Appeal from Old Oak Properties Inc.

2017-LO1



FERREIRA
LAW

City Clerk No. 0561
Subject OMB Appeal of Site Plan
SP16-004-3040 Pomeroy

MAR 14 2017

March 14, 2017

Via Courier

The Corporation of the City of London
300 Dufferin Avenue
London, ON N6B 1Z2

Attention: Approval Authority
c/o Cathy Saunders, Clerk

Re: 3040 Pomeroy Lane, OMB Appeal of Site Plan
Municipal File No. SP16-004

Ref. EConway
C.C. _____

RECEIVED BY
MAR 14 2017
CITY OF LONDON
DEVELOPMENT SERVICES

Please find enclosed a copy of the Site Plan Appeal with respect to the above noted matter which has been submitted to the Ontario Municipal Board today.

Yours Truly,

April MacPherson
Law Clerk to Analee J.M. Ferreira

Encl
/adm

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Part 3: Appellant Information (Landowner)

First Name: _____ Last Name: _____

Old Oak Properties Inc.
 Company Name or Association Name (Association must be incorporated – include copy of letter of incorporation)

Professional Title (if applicable): _____

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

Daytime Telephone #: _____ Alternate Telephone #: _____

Mailing Address: _____
 Street Address Apt/Suite/Unit# City/Town
 Province Country (if not Canada) Postal Code

Signature of Appellant: _____ Date: _____
(Signature not required if the appeal is submitted by a law office)

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

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

Part 4: Representative Information (if applicable)

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

First Name: Analee Last Name: Ferreira

Company Name: Ferreira Law

Professional Title: Lawyer

E-mail Address: analee@ferreiralaw.ca Fax #: _____
By providing an e-mail address you agree to receive communications from the OMB by e-mail.

Daytime Telephone #: 519-200-3776 Alternate Telephone #: _____

Mailing Address: P.O. Box 21007 London
 Street Address Apt/Suite/Unit# City/Town
Ontario N6K 0C7
 Province Country (if not Canada) Postal Code

Signature of Appellant:  Date: March 14, 2017

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

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

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Part 5: Language and Accessibility

Please choose preferred language: English French

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

Part 6: Appeal Specific Information

1. Please provide the Municipal File Number: SP16-004

2. Outline the nature of your appeal and the reasons for your referral. Be specific.
**if more space is required, please continue in Part 9 or attach a separate page.

(Please print)
1. The Appellant applied for Site Plan Approval on January 22, 2016. Revised plans were submitted on March 1, 2017.
2. Council has failed to make a decision on the Application.
3. The Application should be approved as it:
a. Conforms to the City of London's Site Plan Control By-law, Official Plan, Zoning By-law, and the Provincial Policy Statement 2014.
b. Represents sound land use planning.
c. Complies with the Planning Act, including section 41.
4. Such further and other reasons as Counsel may advise.

3. Provide a brief explanatory note regarding the proposed use of the land and a description of the lands under appeal:
**If more space is required, please continue in Part 9 or attach a separate page.

(Please print)
The Appellant is proposing one twelve story apartment building on a vacant parcel of land located at 3040 Pomeroy Lane, having a lot area of 10,000 square metres, frontage of 74 square metres and irregular depth.

Part 7: Related Matters

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

Are there other planning matters related to this appeal? YES NO

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

(Please print)

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Part 8: Scheduling Information

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

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

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

Land use planner

Do you believe this matter would benefit from a prehearing conference? YES NO

If yes, why? Establish issues list and deadlines for witness lists and witness statement exchange

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

A large rectangular area with horizontal lines, intended for providing additional information or attaching separate pages.

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Part 10: Required Documentation (Please check boxes to indicate document included in filing)

I confirm that I have attached the following items to this form.

Signature of Appellant/Representative:  Date: March 14, 2017

The following material must be attached to this form where applicable, in the order which it is listed:

- A copy of the application for site plan approval.
- Board fee of \$300 made payable to the Minister of Finance. The appeal will not be processed without this fee.
- A copy of any plans, drawings or agreements which are the subject of this referral.
- A copy of any planning report considered by Council.
- If applicable, a copy of the decision of the approval authority.
- An affidavit or sworn declaration, certifying that copies of all material listed above, as well as a copy of this form, have been sent to the approval authority having jurisdiction to approve the site plan and that the approval authority has been informed of the filing of this referral.

Bill 73 requirements for records that are forwarded to the OMB on or after July 1, 2016:

1. Does the record include all information and material that the municipal council or approval authority considered in making their decision and/or received in relation to the matter such as any written or oral submissions from the public relating to the planning matter? Examples:
 - Hard copies of any written submissions
 - Minutes containing oral submission records
 - Electronic/Video (Thumb drive)
 - Other
 - None

Part 11: Required Fee

Total Fee Submitted: \$ 300.00

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

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

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Site Plan Approval Application
 The Corporation of the City of London
 Planning, Engineering & Environmental Services
 Development Approvals Business Unit

For office use only	
Application received date (YYYY MM DD)	
Application acceptance date (YYYY MM DD)	
SITE PLAN FILE NUMBER	

Applicant information					
APPLICANT's name Old Oak Properties Inc.		Telephone number	SOLICITOR's name		Telephone number
Street address 465 Richmond Street, Suite 600		Fax numberE-mail	Street address		Fax numberE-mail
City London	Province ON	Postal Code N6A 5P4	City	Province	Postal Code
OWNER's name Same as above		Telephone number	AGENT's name Zelinka Priamo Ltd.		Telephone number 474-7137
Street address		Fax numberE-mail	Street address 318 Wellington Road		Fax numberE-mail 474-2284
City	Province	Postal Code	City London	Province ON	Postal Code N6C 4P4
Send communications to (check one only): <input type="checkbox"/> Applicant <input type="checkbox"/> Owner <input type="checkbox"/> Solicitor <input checked="" type="checkbox"/> Agent					

Property information			
Street address 3040 Pomeroy Lane			Dimension of property Frontage (m) 74
Nearest cross street(s) Southdale Road West			Depth (m) Irregular
Legal description of lands subject of application PLAN 33M621 PT BLK 140 RP 33R17853 PARTS 1 TO 3		Registered plan number 33R17853	Lot/Block number PARTS 1 TO 3
Present use of land Vacant			
Lot area (sq m) 10,000			

Property development			
Does the proposed development include the demolition of existing buildings? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	No. of residential units to be demolished. 0	Has an application been submitted for: Rezoning (Planning)? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Variance (Committee of Adjustment)? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Nature of proposed development (uses) <input type="checkbox"/> Commercial <input type="checkbox"/> Industrial <input type="checkbox"/> Institutional <input checked="" type="checkbox"/> Apartment <input type="checkbox"/> Townhouse <input type="checkbox"/> Zero lot line/SFD			
One (1) 12-storey apartment building			
Number of storeys 12	Building height 38.5m	Building area (ground floor area) 1,113	Gross floor area (total of all floors, including basement) 12,940
Number of buildings 1	Number of residential units 135	Coverage (%) 11.1	Number of parking spaces (total) 176 (plus 17 tandem)

Attachments			
<input type="checkbox"/> Plan of survey (requirement may be waived)	No. of Plans	Minimum Application Requirement	No. of Plans
<input checked="" type="checkbox"/> Site plan (to include location plan & existing conditions)	14	1 14 full size (folded) Plus one reduction 8 1/2"x14"	8 Plus one reduction 8 1/2"x14"
<input checked="" type="checkbox"/> Building elevations	4.57m	4 Plus one reduction 8 1/2"x14"	4 Plus one reduction 8 1/2"x14"
<input checked="" type="checkbox"/> Site services/grading			1
<input checked="" type="checkbox"/> Landscape			1
<input checked="" type="checkbox"/> Digital submission			1
<input checked="" type="checkbox"/> Record of consultation			1

Reference should be made to the City of London Site Plan Control By-law and Policies before proceeding with the preparation of any plans. Plans should be folded to a size not to exceed 21.6 cm (8 1/2") x 35.6 cm (14") and in electronic PDF format. Additional plans may be requested. A separate application for a building permit is required. Applications left unattended by the applicant for more than three months will be cancelled.

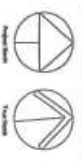
NOTE: Failure to complete any part of this form may result in its being returned to the Applicant. Measurements are to be provided in metric units.

I, Michelle Doornbosch hereby declare that the statements made herein are to the best of my belief and knowledge, a true and complete representation of the purpose and intent of this application.

Applicant's signature _____ Date (Year, Month, Day) January 22, 2016

Return application to: Development Approvals Business Unit, City Hall, 300 Dufferin Avenue, P O Box 5035, London, Ontario N6A 4L9

OFFICE USE ONLY - APPLICATION FEE				
Residential	Non-residential	Amendment	Fire route application	TOTAL FEE

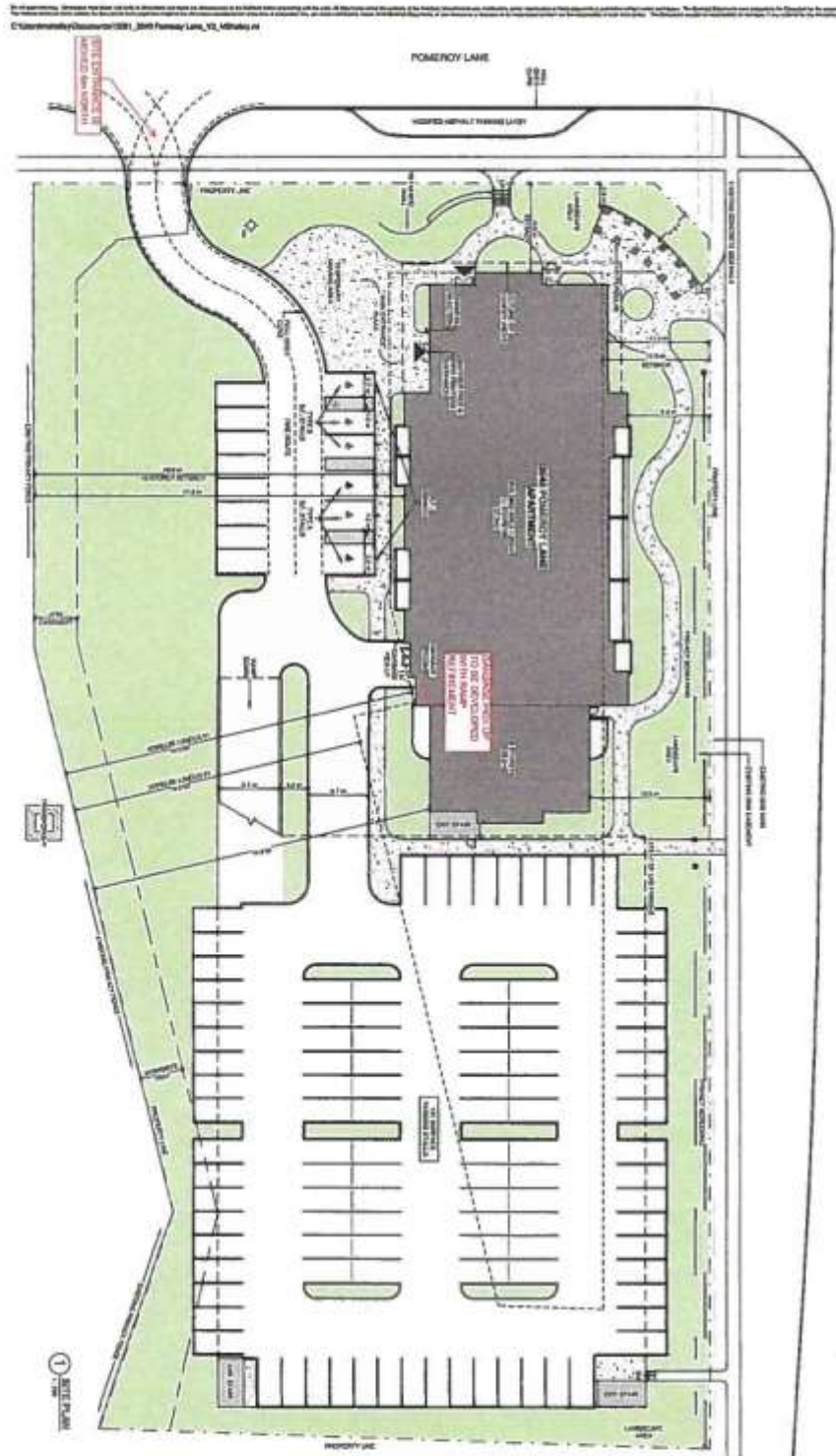


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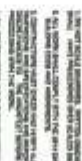
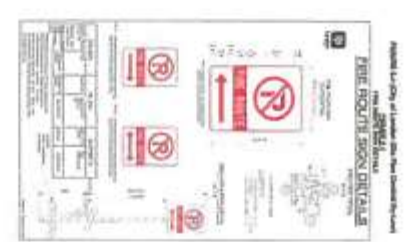
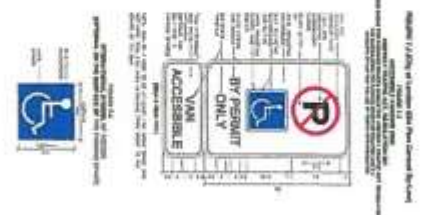
NO.	DATE	DESCRIPTION	BY	CHKD.
1	10/15/2024	PRELIMINARY SITE PLAN	SRM	SRM
2	10/15/2024	REVISED SITE PLAN	SRM	SRM
3	10/15/2024	REVISED SITE PLAN	SRM	SRM
4	10/15/2024	REVISED SITE PLAN	SRM	SRM
5	10/15/2024	REVISED SITE PLAN	SRM	SRM
6	10/15/2024	REVISED SITE PLAN	SRM	SRM
7	10/15/2024	REVISED SITE PLAN	SRM	SRM
8	10/15/2024	REVISED SITE PLAN	SRM	SRM
9	10/15/2024	REVISED SITE PLAN	SRM	SRM
10	10/15/2024	REVISED SITE PLAN	SRM	SRM

SRM
 ARCHITECTS INC.
 3040 POMEROY LANE
 SUITE 100
 WASHINGTON, DC 20007
 TEL: 202-462-1100
 FAX: 202-462-1101
 WWW.SRMARCHITECTS.COM

PRELIMINARY
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3	10/15/2024	REVISED SITE PLAN	SRM	SRM
4	10/15/2024	REVISED SITE PLAN	SRM	SRM
5	10/15/2024	REVISED SITE PLAN	SRM	SRM
6	10/15/2024	REVISED SITE PLAN	SRM	SRM
7	10/15/2024	REVISED SITE PLAN	SRM	SRM
8	10/15/2024	REVISED SITE PLAN	SRM	SRM
9	10/15/2024	REVISED SITE PLAN	SRM	SRM
10	10/15/2024	REVISED SITE PLAN	SRM	SRM

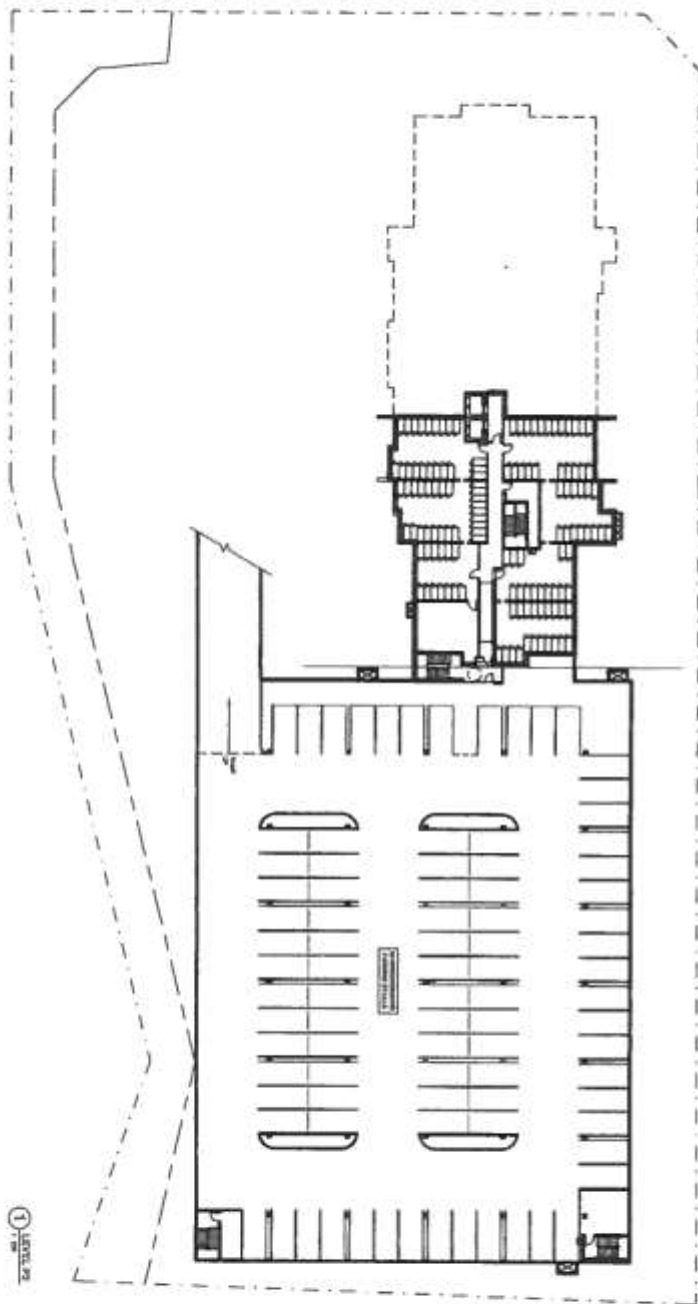
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 ARCHITECTS INC.
 3040 POMEROY LANE
 SUITE 100
 WASHINGTON, DC 20007
 TEL: 202-462-1100
 FAX: 202-462-1101
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PRELIMINARY
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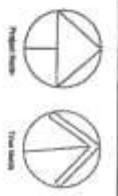
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① LEVEL P2



sr
ARCHITECTS INC.

DATE:	10/14/16
OWNER:	SRM
PROJECT:	3040 POWEROY LANE
SCALE:	AS SHOWN
DESIGNER:	SRM
REVISION:	REVISION 1

OLD OAK PROPERTIES
3040 POWEROY LANE

LEVEL P2

PRELIMINARY
A1.2