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File No.: OZ-7985
Planner: A. MacLean

TO:	CHAIR AND MEMBERS PLANNING AND ENVIRONMENT COMMITTEE
FROM:	G. KOTSIFAS, P.ENG. CHIEF BUILDING OFFICIAL & DIRECTOR, DEVELOPMENT AND COMPLIANCE DIVISION
SUBJECT:	APPLICATION BY: FOXWOOD DEVELOPMENTS (LONDON) INC. 1602 SUNNINGDALE RD W MEETING ON JULY 16, 2012

RECOMMENDATION

That, on the recommendation of the Senior Planner, Development Planning in response to the letters of appeal to the Ontario Municipal Board, dated May 16, 2012, as submitted by Alan Patton on behalf of Old Oak Properties, relating to Official Plan and Zoning By-law No. Z.-1 amendments concerning the property located at 1602 Sunningdale Road West, the Ontario Municipal Board **BE ADVISED** that the Municipal Council has reviewed its position relating to this matter and maintains its original position.

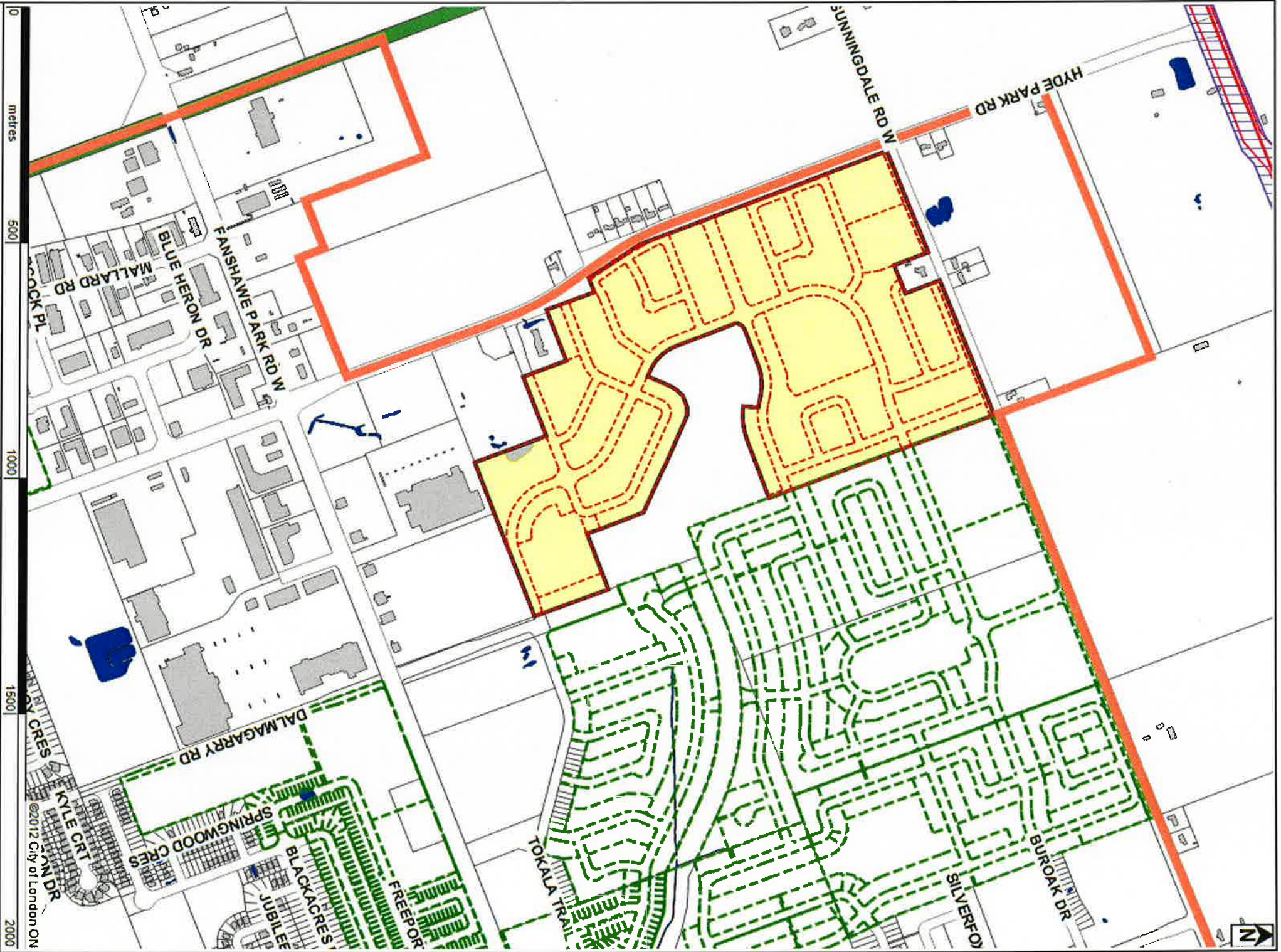
PREVIOUS REPORTS PERTINENT TO THIS MATTER
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March 26, 2012 –public meeting relating to the Draft Plan of Subdivision, Official Plan & Zoning By-law Amendment (39T-11503/OZ-7985).

BACKGROUND

On March 26th, 2012, a public meeting was held for the above noted application. Immediately prior to the meeting, staff received correspondence from Zelinka Priamo Planning Consultants on behalf of Old Oak Properties outlining their concerns relating to the proposed high density block which is adjacent to Old Oak's lands and the implications this draft plan would have on servicing in the area (see attached letter). Staff recommended that the maximum height of 45 metres, as requested by the applicant, be approved, subject to holding provisions. One of these holding provisions, h-123, requires that the property owner provide an urban design brief and submit their proposal to the Urban Design Peer Review Panel to address the design of any proposed building.






At the March 26, 2012 meeting, the Planning and Environment Committee (PEC) recommended approval of the Official Plan and Zoning by-law amendments as proposed by staff. This was subsequently supported by Municipal Council on April 10, 2012. These applications were appealed by Alan Patton on behalf of Old Oak Properties on May 16, 2012.



LOCATION MAP

Subject Site: 1602 Sunningdale Rd W
 Applicant: Foxwood Development (London) Inc.
 File Number: 39T-11503
 Planner: Allister MacLean
 Created By: Allister MacLean
 Date: 2012-06-25
 Scale: 1:10100

LEGEND

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




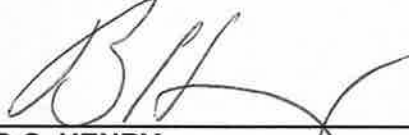
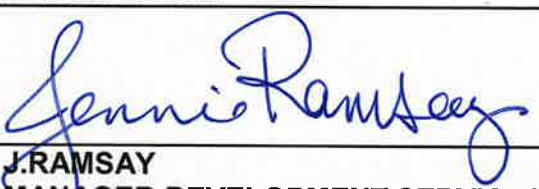

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The basis of the Old Oak appeal relates to concerns regarding staff's planning analysis and justification for the Zoning By-law amendment for the future high rise development on Foxwood's lands which provides for a maximum height of 45 metres. It is also Old Oak's position that there have been changes to the servicing scheme that would negatively impact the ability to develop their lands consistent with the Community Plan and in a cost effective and timely manner. The letters of appeal are attached in Appendix "A".

It is staff's opinion that the planning justification for the Zoning By-law amendment is sound and the proposed servicing scheme for the Foxwood development is consistent with the Foxhollow EA and its addendums. Therefore, it is recommended that the Ontario Municipal Board be advised that the Municipal Council has reviewed its decision relating to this matter and maintains its original position.

The OMB hearing has not yet been scheduled.

RECOMMENDED BY:	REVIEWED BY:
	
ALLISTER MACLEAN SENIOR PLANNER-DEVELOPMENT PLANNING	B.C. HENRY MANAGER - DEVELOPMENT PLANNING
REVIEWED BY:	SUBMITTED BY:
	
J. RAMSAY MANAGER-DEVELOPMENT SERVICES	G. KOTSIFAS CHIEF BUILDING OFFICIAL & DIRECTOR, DEVELOPMENT COMPLIANCE DIVISION

July 6, 2012
AM/am
"Attach"

Y:\Shared\Sub&Spec\SUBDIV\2011\39T-11503 - 1602 Sunningdale Rd W (AM)\OMB\OMB report to PEC.doc

CC: Janice Page, Legal
Alan Patton, Patton Cormier and Associates
Greg Priamo, Zelinka Priamo
G. Bierbaum, Old Oak Properties.
Bob Stratford, Stratford Consulting

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File No.: OZ-7985
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Appendix "A"
Letter from Zelinka Priamo to the PEC Chair



ZELINKA PRIAMO LTD
A Professional Planning Practice

March 26, 2012

Planning and Environment Committee
City of London
300 Dufferin Avenue
London, ON N6A 4L9

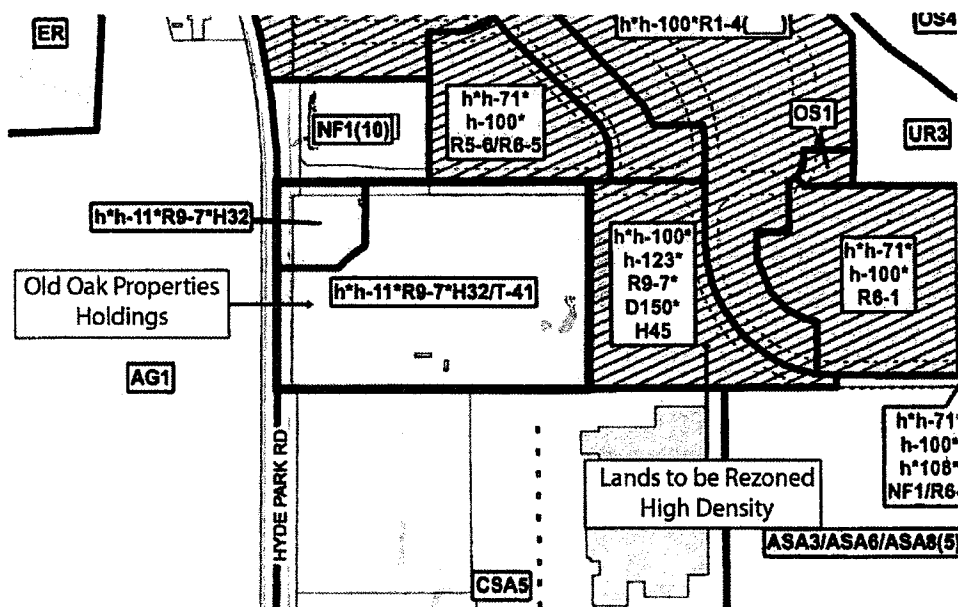
Attention: Councillor Bud Polhill, Chair and Ms. Heather Lysynski, Secretary-Treasurer

Dear Mr. Polhill and Ms. Lysynski:

Re: Application by Foxwood Development (London) Inc. 39T-11503/OZ 7985

Zelinka Priamo Ltd. is the planning consultant for Old Oak Properties with respect to their holding on Hyde Park Road north of the existing Lowes Home Improvement outlet. We have only recently been made aware of this application and are attempting to review all of the information included in the staff report.

We note that the plan calls for the re-designation and rezoning of lands directly abutting our client land to the east to high-density residential. These lands are currently designated medium-density in the existing community plan and Official Plan. While our client does not necessarily oppose the above-noted re-designation, they do note that the implementing zoning contemplates a maximum building height of 45 metres where Old Oak Properties holdings to the west are limited to 32 metres. In this regard, Old Oak Properties would like to confirm that the analysis, brief as it may be in the staff report, supporting the enhanced height provision on the subject lands is applicable and appropriate for the Old Oak holdings as well. Other than noting our client's current height restriction, there is no analysis to support the higher height other than adjacency to commercial which our client's lands enjoy as well. Assuming this is fundamentally the basis for the increased height, then we are certain staff could confirm our view that with the appropriate application(s), such heights would be considered appropriate on the Old Oak Properties land as well. If such assurances can't be provided, at least in principal, then our client has a concern with the proposed high-density residential zoning adjacent to their lands.



Further, we note that this is a large development proposal and the required servicing plan for such is complicated and extensive. Having only received the report on Friday, March 23, 2012, our client's consulting engineers have been unable to review all the servicing proposed to determine if the proposed works will have a negative impact on our client's ability to develop their lands in a cost effective and timely manner. As such, while we do not oppose these applications at this time, we wish to be recorded as having concerns with respect to servicing in the event our investigations uncover any issues that will need the cooperation of the application and the City of London to resolve.

We trust the enclosed is satisfactory for the Committee's review. Should you have any questions or require additional information, please feel free to contact our office.

Yours very truly,

ZELINKA PRIAMO LTD.

Greg Priamo, BES, MCIP, RPP
Principal Planner

GAP/ld

cc Greg Bierbaum, Old Oak Properties
Alan Patton, Patton Cormier & Associates

Agenda Item #	Page #

File No.: OZ-7985
Planner: A. MacLean

Appendix "B"
Letters of Appeal to the OMB

PATTON CORMIER & ASSOCIATES
LAWYERS

<p>Alan R. Patton, B.A., LL.B. Analee J.M. Fernandez, B.A., LL.B.</p>	<p>Elizabeth K. Cormier, B.A., LL.B. R. Arti Sanichara, Hons. B.E.S., LL.B.</p>
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May 16, 2012
via hand delivered

The Corporation of the City of London
City Hall
300 Dufferin Avenue
London, ON N6A 4L9

Attention: **Clerk**

Dear Clerk:

Re: **Old Oak Properties, Notice of Appeal, s. 17, Planning Act**
Official Plan Amendment No. 523

We are the lawyers for Old Oak Properties ("Old Oak") the owner of land municipally known as 2179 and 2201 Hyde Park Road. The land is located at the southeast corner of Hyde Park Road and Dyer Drive and is approximately 4.72 hectares in size. Old Oak's land is designated Multi-Family High Density Residential in the Official Plan and is zoned R9-7H32 to permit apartment buildings at a density of 150 uph (60 upa).

Old Oak's land is immediately adjacent to and abutting lands owned by Foxwood Development (London) Inc. ("Foxwood") the Applicant for the amendment to the City's Official Plan, now being Official Plan Amendment No. 523.

Old Oak, through its land use planning consultant, Zelinka Priamo Ltd., submitted correspondence to the City of London's Planning and Environment Committee meeting held March 26, 2012. In that correspondence Old Oak raised a number of concerns regarding the amendments sought by Foxwood to the Official Plan including concerns with respect to increase to permitted height of development on Foxwood's lands, the lack of planning analysis and justification for the increases and also the lack of information provided and thus the resultant justification for the amendments to the Foxhollow Community Plan and the servicing proposal and scheme to be undertaken on the Foxwood lands. The changes to servicing scheme would negatively impact Old Oak's ability to develop its lands in a manner consistent with the Community Plan and in a cost effective and timely manner.

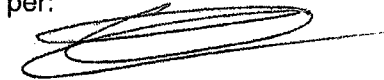
Old Oak and its planning consultants did not receive a response to the concerns put forward with respect to the Official Plan Amendment.

Patton Cormier & Associates
Page 2

The Basis for Official Plan Amendment No. 523 contained the adopted amendment does not address the legitimate concerns of Old Oak and fails to provide justification for amendments to the servicing proposal and scheme as contained in the Foxhollow Community Plan.

Official Plan Amendment No. 523 is premature, is inconsistent with a comprehensive and fair servicing scheme, is detrimental to Old Oak, and lacks proper land use justification.

Yours truly
PATTON CORMIER & ASSOCIATES
per:



Alan R. Patton

ARP/dr
Encl.

apatton@pattoncormier.ca

cc: *Old Oak - Att: Greg Bierbaum - Via Email: gb@oldoak.ca
Zelinka Priamo - Via Email: greg.p@zpplan.com*



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

**APPELLANT FORM (A1)
 PLANNING ACT**

**SUBMIT COMPLETED FORM
 TO MUNICIPALITY/APPROVAL AUTHORITY**

Date Stamp - Appeal Received by Municipality

Receipt Number (OMB Office Use Only)

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

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

Part 2: Location Information

1602 Sunningdale Road West
 Address and/or Legal Description of property subject to the appeal:

Municipality/Upper tier: City of London

Part 3: Appellant Information

First Name: _____ Last Name: _____

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

Professional Title (if applicable): _____

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

Daytime Telephone #: (519) 661-0215 Alternate Telephone #: _____

Fax #: _____

Mailing Address: 465 Richmond Street, Suite 600, London, ON N6A 5P4

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: **Alan** Last Name: **Patton**

Company Name: **Patton Cormier & Associates**

Professional Title: **Lawyer**

E-mail Address: **apatton@pattoncormier.ca**
By providing an e-mail address you agree to receive communications from the OMB by e-mail.

Daytime Telephone #: **519 432-8282** Alternate Telephone #: _____

Fax #: **519 432-7285**

Mailing Address: **Suite 1512 – 140 Fullarton Street, London, ON N6A 5P2**

Signature of Appellant: _____ Date: **May 16, 2012**

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.

Part 5: Language and Accessibility

Please choose preferred language: English French

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

Part 6: Appeal Specific Information

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

(Please print)

Official Plan Amendment No. 523, City File: O/Z 7985

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

(Please print)

See attached letter.

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

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

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

[Empty box for explanatory note]

Part 7: Related Matters (if known)

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

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

(For example: A consent application connected to a variance application)

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

(Please print)

**Zoning By-law Amendment No. Z.1-122100
Draft Plan of Subdivision 39T-11503**

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?

Two

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

Land Use Planner, Engineer

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

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

If yes, why? _____

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

Part 10: Required Fee

Total Fee Submitted: \$ 125.00

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

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

PATTON CORMIER & ASSOCIATES
LAWYERS

Alan R. Patton, B.A., LL.B.

Analee J.M. Fernandez, B.A., LL.B.

Elizabeth K. Cormier, B.A., LL.B.

R. Arti Sanichara, Hons. B.E.S., LL.B.

May 16, 2012
via hand delivered

The Corporation of the City of London

City Hall
300 Dufferin Avenue
London, ON N6A 4L9

Attention: **Clerk**

Dear Clerk:

Re: **Old Oak Properties, Notice of Appeal, s. 34 (19), *Planning Act***
Zoning By-law No. Z-1-122100

We are the lawyers for Old Oak Properties ("Old Oak") the owner of land municipally known as 2179 and 2201 Hyde Park Road. The land is located at the southeast corner of Hyde Park Road and Dyer Drive and is approximately 4.72 hectares in size. Old Oak's land is designated Multi-Family High Density Residential in the Official Plan and is zoned R9-7H32 to permit apartment buildings at a density of 150 uph (60 upa).

Old Oak's land is immediately adjacent to and abutting lands owned by Foxwood Development (London) Inc. ("Foxwood") the Applicant for the amendment to the City's Official Plan, now being Official Plan Amendment No. 523 and a zoning amendment, now being Zoning By-law No. Z-1-122100.

Old Oak, through its land use planning consultant, Zelinka Priamo Ltd., submitted correspondence to the City of London's Planning and Environment Committee meeting held March 26, 2012. In that correspondence Old Oak raised a number of concerns regarding the amendments sought by Foxwood to the Official Plan and Zoning By-law including concerns with respect to increase to permitted height of development on Foxwood's lands, the lack of planning analysis and justification for the increases and also the lack of information provided and thus the resultant justification for the amendments to the Foxhollow Community Plan and the servicing proposal and scheme to be undertaken on the Foxwood lands. The changes to servicing scheme would negatively impact Old Oak's ability to develop its lands in a manner consistent with the Community Plan and in a cost effective and timely manner.

Old Oak and its planning consultants did not receive a response to the concerns put forward with respect to the Official Plan Amendment and Zoning Amendment.

Patton Cormier & Associates
Page 2

Zoning By-law No. Z-1-122100 is premature and inappropriate. It does not address the legitimate concerns of Old Oak and fails to provide justification for amendments.

Zoning By-law No. Z-1-122100 is premature, is inconsistent with a comprehensive and fair servicing scheme, is detrimental to Old Oak, and lacks proper land use justification.

Yours truly
PATTON CORMIER & ASSOCIATES
per:



Alan R. Patton

ARP/dr
Encl.

apatton@pattoncormier.ca

cc: *Old Oak - Att: Greg Bierbaum - Via Email: gb@oldoak.ca
Zelinka Priamo - Via Email: greg.p@zpplan.com*



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

**APPELLANT FORM (A1)
 PLANNING ACT**

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Professional Title (if applicable): _____

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

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Mailing Address: **465 Richmond Street, Suite 600, London, ON N6A 5P4**

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

First Name: **Alan**

Last Name: **Patton**

Company Name: **Patton Cormier & Associates**

Professional Title: **Lawyer**

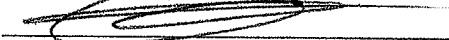
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(Please print)

See attached letter.

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(If application submitted before January 1, 2007 please use the O1 'pre-Bill 51' form.)

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

[Empty box for explanatory note]

Part 7: Related Matters (if known)

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

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

(For example: A consent application connected to a variance application)

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

(Please print)

**Official Plan Amendment No. 523
Draft Plan of Subdivision 39T-11503**

Part 8: Scheduling Information

How many days do you estimate are needed for hearing this appeal? half day 1 day 2 days 3 days
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How many expert witnesses and other witnesses do you expect to have at the hearing providing evidence/testimony?

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

Land Use Planner, Engineer

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

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

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Total Fee Submitted: \$ 125.00

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

- The payment must be in Canadian funds, **payable to the Minister of Finance.**
- **Do not send cash.**
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