

November 19, 2018

Via E-mail

City Clerk's Office
Planning and Environment Committee
City of London
300 Dufferin Avenue
London, ON N6A 4L9

John S. Doherty
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File no. K0560683

Dear Sir / Madam:

Re: Our Clients: Catherine Bradbury, Lance Howard and 2072231 Ontario Limited
Letter of Concern: Supervised Consumption Facility Location (446 York Street)

We are counsel on behalf of Catherine Bradbury, Lance Howard, and 2072231 Ontario Limited ("207"), the owner of properties municipally known as 330 Burwell Street and 444 York Street in London, Ontario (the "Subject Properties").

We write further to the correspondence of Mr. Howard and Ms. Bradbury dated April 27, 2018 and May 3, 2018, attached hereto, regarding concerns about the Middlesex Health Unit ("MHU")'s proposed Supervised Consumption Facility ("SCF"), to be located at 446 York Street (the "Proposed Facility").

As set out in our clients' prior correspondence, their business is located at 444 York Street, and their property at 330 Burwell Street contains residential apartments. Both of the Subject Properties are adjacent to the Proposed Facility, and as such, our clients are concerned that the SCF will cause a land use conflict with these existing uses and others nearby. Further concerns have been raised about the proximity to two Secondary Schools and their active space.

In light of these concerns, and after making a number of written submissions and attending the April 30, 2018 public gallery, our clients were shocked to learn that shortly thereafter on May 22, 2018 City Council adopted Official Plan Amendment No. 679, without sending prior notice to those who submitted comments.

Our clients are not opposed to the use of SCFs in principle, but the Proposed Facility at 446 York Street would be located adjacent to incompatible commercial and residential uses, and with insufficient separation distance from local schools.

Proposed Supervised Consumption Facility (the "Use")

The intended site for this Use is situated in the wrong location. The property is located in a transitioning neighbourhood in close proximity to the Downtown. The transition to an urban neighbourhood is evident from a review of the land use mapping (attached) of the London Official Plan (the "Plan") - the former designation is "*Office Residential*", the approved designation is "*Neighbourhoods*").

As noted by London planning staff in their Report of May 14 2018, the intended use is a unique use, one that is *not* compatible with residential areas, which is precisely the land use designation of the property and its current planning context.

Consider the policy direction of the Plan for its *Neighbourhoods*:

Urban Regeneration (Section 154.8) –facilitate intensification “*where it is deemed to be appropriate and in a form that fits well within the existing neighbourhood*”. We strongly believe that the proposed Use at this location is not appropriate as the “character” of the Use does not fit well with the prevailing character of the Neighbourhood.

The general policy approach to planning of this Use through Amendment 679 is that the chosen location should avoid land use conflicts. We find it incomprehensible that lands designated *Neighbourhoods* would be considered for such Use.

Section 937 of the Plan requires that any neighbourhood intensification “*must be undertaken well, in a manner that adds value to the neighbourhood rather than to undermine its character, quality and sustainability....and must represent a good fit in the receiving neighbourhood*”. We submit that the operation of the Use at this location would constitute a land use conflict and therefore is inconsistent and contrary to Section 937.

To establish the Use at this *Neighbourhoods* location would be contrary to the following “*Our Strategy*” policy objectives of the Plan:

Direction #3 – “*Revitalize London’s downtown, urban main streets, “and their surrounding urban neighbourhoods to serve as the hubs of London’s cultural community*”

Direction #5.3 – “*Sustain, enhance and revitalize.... our urban neighbourhoods*”.

Direction #7 – “*Build strong, healthy and attractive neighbourhoods for everyone*”.

Direction #8 8 – “*Avoid current and future land-use conflicts*”.

Direction #8.9 – “*Ensure new development is a good fit within the context of an existing neighborhood*”.

The intended Use at this *Neighbourhoods* location is also contrary to the following “*City Building*” policies of the Plan:

Policy 193.2 – *Development that is well designed to be a good fit and compatible within its context*; and Policy 193.9 – “*neighbourhoods that promote a sense of place and character*”.

This dual policy direction stresses good urban design, consistent with, and complementary to, the existing neighbourhood. It is highly questionable whether this direction can be achieved given the intention to purposely orient the building in a manner that provides for “discrete” entry and for an essentially barren streetscape in order to allow easy visual surveillance and avoid opportunities for loitering.

In short, we fail to see how the intended Use at this neighbourhood location fulfills the “placemaking” objectives of the Plan, which are aimed at creating “*safe walkable and healthy communities and a sense of place and character*”.

The locational evaluation criteria of Amendment 679, also require that such use be separated from “*busy commercial areas*” or “*active public spaces*” We submit that the intended site is located in immediate proximity to both space types. Consider the following:

- There are 17 businesses within 500 metres of the proposed site, many of which rely on significant foot traffic for their growth and success. Moreover, there is significant high density residential existing within 250 metres of the proposed site
- In immediate proximity are the Catholic Central Secondary School and HB Beal Secondary School and its adjoining public space area, which frames the westerly edge of this neighbourhood. The proposed Use would be located approximately 100 metres from the active public space associated with the HB Beal Secondary School, and approximately 250 metres from Catholic Central Secondary School. These community facilities are used for a multitude of high school sports events and is available to community groups for public use. In short, contrary to Amendment 679, if approved, the Use would be in close proximity to two schools and active public space capable of generating significant pedestrian traffic and large crowds from time to time.
- Nor would the Use be separated from key pedestrian corridors as required by Amendment 679. Map 3 of the Official Plan (attached) designates King Street (which is also in close proximity to the proposed Use), as a designated *pedestrian and cycle route*, the policy direction of which is to promote “*heightened levels of mobility such as cycling and walking*” and offering “*strong connection to urban neighbourhoods*”.
- Moreover, York Street is designated on Map 4 as a *Civic Boulevard* (attached). The *Civic Boulevard* designation places “*priority on pedestrian and cycling movements along a very high quality pedestrian realm with a very high standard of urban design*”.

Therefore, contrary to Amendment 679, if approved, the Use at this location would not be separated from, but in fact would front on, and be in close proximity to, two pedestrian oriented corridors, the future vision of which is to be supported by “*a strong network of high quality civic infrastructure*”.

We submit therefore, that the intended York Street location fails to conform to the policy guidance of Amendment 679 respecting *pedestrian corridor separation* and constitutes a use that will not implement key policies of the Plan targeting the pedestrian enhancement and business attraction of these urban main streets.

Noteworthy is policy 154.4 of the Plan, which seeks to “*encourage the economic revitalization and enhance the business attraction of the city’s urban main streets*”. The Plan’s urban regeneration policies at Section 154.5 also speak to strengthening the City’s core by nurturing the development of the downtown “*and the urban neighbourhoods that surround it*”. We do not believe that developing the Use at this location would meet the policy objectives of enhancing the attraction of business on this main street or the objective of nurturing this urban neighbourhood.

Policy 199 - "All planning and developments proposals within an existing neighbourhood will be required to articulate the neighbourhood's character and demonstrate how the proposal has been designed to fit within that context.

We have not seen any evidence to substantiate how the design of the Use will respect and reinforce the abutting heritage property, or contextually fit within the balance of the neighbourhood. In our view, the proposed rezoning application is premature at best, and should not be advanced in the absence of a public site plan process per s. 1089.

In our opinion, the proposed Use will function no differently and will attract the same type of individual as a *Methadone Clinic*, the latter being governed by the Plan's land use planning framework at Section 1094, which for a new Methadone Clinic includes the evaluation criteria provided at s. 1089 of the Plan. We believe that good planning dictates that the same approved evaluation criteria regulating the establishment of Methadone Clinics should equally apply to the proposed Use as in all practical terms, the proposed Use also constitutes a new *Institutional Place Type*.

Referring to Section 1089.1 of the Plan, we submit that all other opportunities for development or re-development of lands for institutional uses should first be explored before a final decision is made on the subject site. This should include a review of the opportunities that have been created at appropriate locations in the form of vacant land, vacant space and existing buildings and expansion, re-development and intensification opportunities on existing institutional sites.

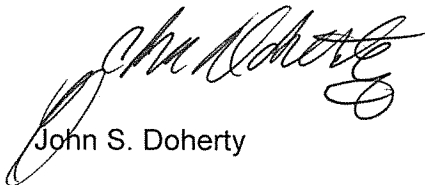
We strongly advocate the application of the Plan's Section 1089 evaluation to the proposed application as a first step before any further consideration is given to the subject site given the site's clear policy non-compliance with Amendment 679.

In summary, the rezoning application to establish the Use at 446 York Street should be refused as it does not conform to the key locational policy criteria of Amendment 679. The application is not adequately separated from busy commercial areas, from active pedestrian corridors, or from school and related public space. The proposed location also lies within an urban neighbourhood. To approve the application at this location would, in our respectful opinion, amount to an inappropriate intrusion of an incompatible land use which would undermine the planned function of this receiving neighbourhood.

Please keep our office advised of all future meetings and reports regarding this proposed SCF Use.

Yours very truly,

Gowling WLG (Canada) LLP



John S. Doherty

JSD:hp

cc: *Brian Parker and Jonathan Minnes, Gowling WLG (Canada) LLP*
Client

April 27, 2018

Dear Councilor,

The Middlesex Health Unit has proposed a Supervised Consumption Facility for opioids to be located at 446 York St. I write this letter to convey that I am strongly opposed to this location.

My business is located at 444 York St. and I own the building as well. Additionally I own the building at 333 Burwell which has residential apartments. Our business has been here for 13 years. It is a full service financial planning and investment counseling firm. We have over 600 clients; 95% come to our office for their meetings. We have invested heavily in preserving the heritage of the buildings as well as the upkeep. We maintain business hours from 8am to 5pm.

The TVDSB and the Separate School Board have conveyed to the Middlesex Health Board that they do not support this proposed location as it is within 300 meters of Beal. Paul Sydor, Superintendent of TVDSB, was at the meeting on April 26th at 399 Ridout St. Hosted by the Health Unit and stated this information. We are in complete agreement with the School Boards that this location is too close to Beal.

There are 17 businesses within 500 meters of this proposed site and it is proposed to be placed in the middle of 7 businesses that rely significantly on foot traffic for the success and ongoing viability of their business.

There are a number of high density residential apartments within 250 meters of the proposed site. At the meeting on April 26th, the tenants that attended expressed grave concern with this location.

York St. is a significant east/west vehicle artery into downtown with large volumes of traffic. Being located right beside the proposed site we wish to inform council that jay walking is an everyday occurrence. Vehicles must take evasive maneuvers to avoid people crossing to the men's mission, either by braking, swerving around the jaywalker or changing lanes. We are very concerned that this location will have an increase of impaired jaywalkers putting both pedestrians and drivers at risk.

The City has invested significant money in the Convention Center and supports the expansion of Western Fair. These are tourist areas and York St. is a major travel route for people attending either facility or commuting between the two. Increasing the density of homeless and impaired drug users in this area during business hours is not appropriate.

There has been significant investment by the local businesses in their properties in the last number of years and it is proposed that there be a more. This is a revitalized community.

At the meeting, the Health Unit used a slide to show property values in Vancouver near the Supervised Consumption Facility on the east side of Vancouver have increased over the last 10 years. Respectfully, that is not valid or relevant to London, as the Vancouver real estate market is an anomaly in Canada. We

have real concerns about our property values and the ability to get property insurance or being subject to increased rates. The property owners have retained counsel and if 446 York St. is approved will be applying to MPAC for a reduction in their property taxes.

A community is an ecosystem and currently there is a precarious balance between the men's mission, businesses, property owners, residents and customers visiting the area of the proposed site. There are real issues with the mission, however, the community embraces the need for the mission and deals with these problems as part to this ecosystem. The addition of an influx of people at 446 York St has a real risk of throwing the community out of balance.

The community was notified on April 23rd that the Health Unit would be holding a meeting on April 26th at 399 Ridout St to discuss their proposed site. There has been no consultation with the community. In fact, the proposal to the Planning and Environment Committee scheduled to be heard by Council on April 30th was posted to the Health Units website before the first community meeting.

The speed in which the Health Unit is moving to force the approval of this location is not appropriate. There has not been proper study or debate. This is a serious issue and the community needs to be properly consulted and respected.

For these reasons I urge you to not support the location of a supervised Consumption Facility at 446 York St and to modify the Health Unit's proposal to reflect that.

We understand what the Health Unit is trying to accomplish, however, this is not the right location.

Lance Howard

444 York St

May, 3 2018

City Clerk's Office

City of London
300 Dufferin Avenue
London, Ontario
N6A 4L9

Letter via email and hand delivered to City Clerk

Attention: Mayor Brown and all members of City Council

Re: **Letter of Concern: Planning and Environment Committee for the Supervised Consumption Facility Location (446 York Street) – Scheduled Item 3.6, Delegation by Dr. C. Mackie, Middlesex London Health Unit**

Dear Mayor Brown & Members of the City Council:

We were in attendance in the public gallery for the above noted meeting held at City Hall at 5:30 pm on April 30.

We send this letter to express our concern to City Council regarding the process that is being followed by the Planning and Environment Committee(Planning Committee) , the lack of data submitted to the Planning Committee by the Middlesex London Health Unit, the lack of stakeholder consultation sought from the affected parties before the endorsement was made and finally the adversity to the landowners (including potential reduction in property values and reduction of market rents due to being located directly beside a safe injection site) by the implied approval of this land use change before a proper application has been submitted.

Dr. Mackie made a slide presentation with remarks to the Planning Committee in order to justify the request for an endorsement for the approval of 446 York St as one of two permanent facilities to function as a Supervised Consumption facility (SCF). He referenced a January 2018 consultant's report from the Center for Organizational Effectiveness titled Supervised Consumption Facilities. Neighborhood safety was a prime concern expressed in the Consultant's report. One of Dr. Mackie's main suggestions was there would be 24-hour security on site. No financial plan has been filed with Health Canada or presented to the Planning Committee. How do we know the funds are available for this? There has been no staffing plan filed with Health Canada, again we cannot confirm if there will be provisions for security. The use of security was a major selling point to the Planning Committee.

As property owners and landlords we have a concern about the security of the site and the potential devaluation of our property and rent rolls. Dr. Mackie put forward an argument about the property values of East Vancouver that have no bearing on the City of London. We will have to secure our properties, spend on infrastructure to accomplish this and it will be financial hardship on us, caused by this facility.

We have concerns about the lack of procedure being followed by the Planning Committee and the London Middlesex Health Unit, as no application had been submitted to the Planning Committee at the time delegation status was granted to the London Middlesex Health Unit. It appears the Planning Committee and the London Middlesex Health Unit are trying to circumvent the established rules. I wonder how other businesses, developers and individuals feel about this precedent being set. Imagine a builder asking for Delegation Status and then saying, I don't have zoning in place, I don't have a building plan or business plan, however will you approve a by-law change? That would be completely inappropriate and we feel that is the case here.

One member of the Planning Committee asked about site selection criteria. The consultant's report laid out several criteria necessary for a successful SCF location, none of this was discussed at the Planning Meeting. The committee endorsed the proposal without verifying the criteria had been met. We do not feel 446 York St. meets the criteria for an appropriate SCF noting its proximity to schools, location of commercial businesses and foot traffic associated with those businesses, high density residential units, tourist areas and volume of traffic. Also, this location is not discrete, thereby not protecting the anonymity of clients entering the facility.

Both the TVDSB and Separate School Board have stated that they do not approve of 446 York St. as it is 100 meters from Beal and 300 meters from CCH. The proposed location at 446 York is directly in the middle of 7 businesses that rely almost exclusively on customers and clients walking into their place of business. There are 17 businesses within 500 meters of this location and if the old Free Press building is redeveloped then there is potential for significantly more.

There are 4 high density residential units within 250 meters of this proposed site and many ground floor apartments in houses surrounding the area.

The volume of traffic is substantial on York St as it is a major east /west artery in the city. Jaywalking is an everyday occurrence to and from the mens mission, given its location in the middle of the block. Cities that currently have a SCF have had to lower the speed limit around their facilities as the users of the facility when leaving due to their impairment are not able to distinguish between sidewalk and road. To place these people and the drivers of vehicles on York in this risky situation is fool hardy.

The City of London has invested significant money into the Convention Center and the Western Fair District. This District is drawing more trade shows to their facilities and the Casino is expanding. York St. is the logical route for travel between these destinations.

Finally, the building at 446 is wide open and clearly visible by all cars and pedestrians that travel along York St. It is not discrete in the least.

This location fails on all the major criteria that the consultant's report put forward as considerations when selecting a site. It appears the only thing it has going for it is an owner that is willing to lease the building to the Middlesex Health Unit.

For clarity, we are disappointed and very upset that Dr. Mackie of the London Middlesex Health Unit was permitted to address the Planning Committee. This is highly irregular and creates a positive bias for and prejudice to any opposition to this proposed (assumed) land use change.

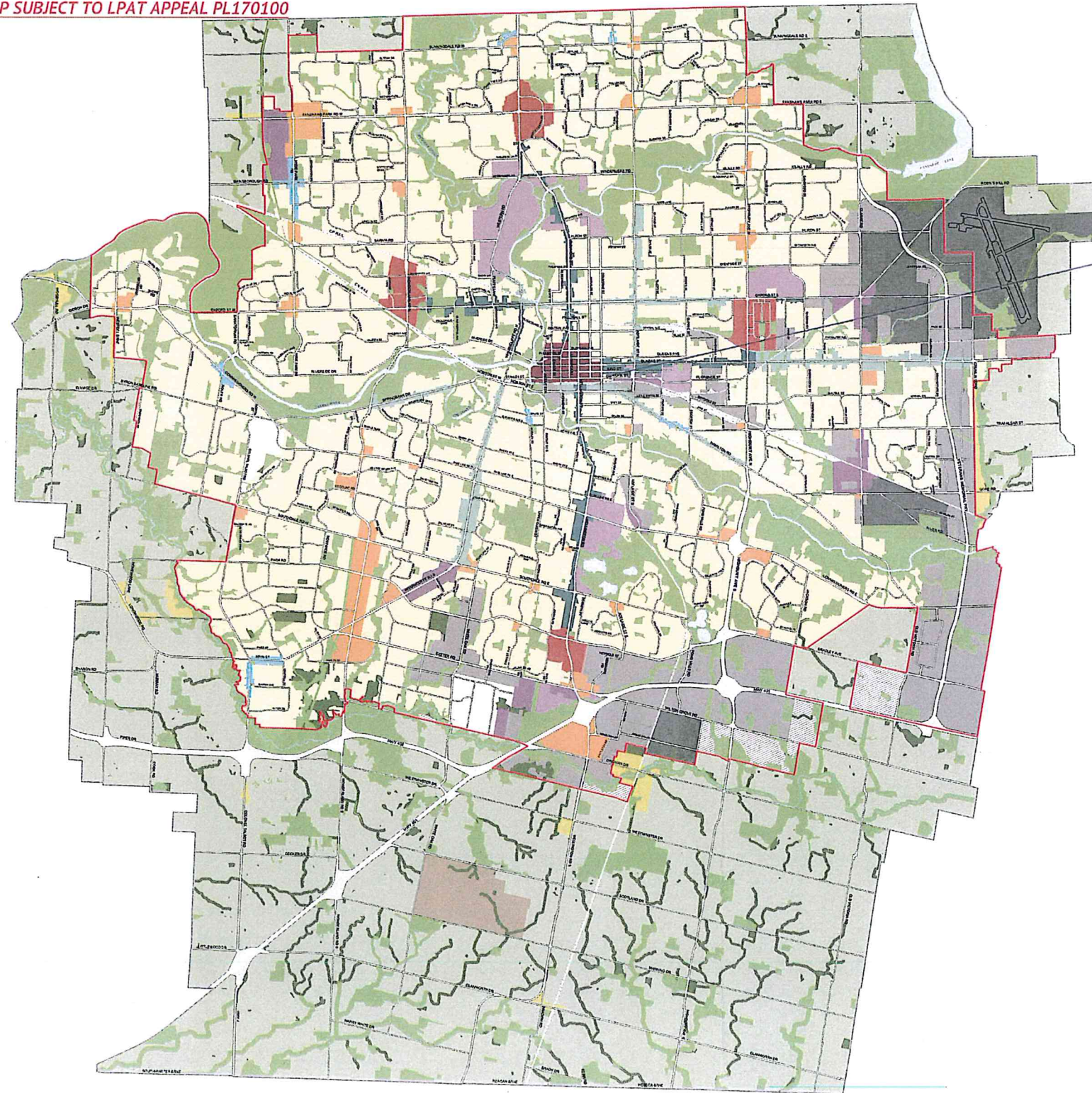
There was a constant theme put forward by Dr. Mackie and by the Planning committee in that there is an urgency to get a permanent location in place. Commendable, however, there is proper and due process that must be followed. It appears that this is being ignored for political expediency which is inappropriate. Council should act to make sure the rules are followed or precedent will be created that could have long term serious implications to the running of the City.

Sincerely,

Lance Howard and Catherine Bradbury
Business owners and Property Owners
444 York St. and 330 Burwell St.

MAP 1 - PLACE TYPES

MAP SUBJECT TO LPAT APPEAL PL170100



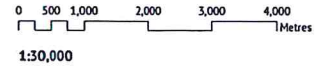
LEGEND

PLACE TYPES

	Green Space		Heavy Industrial
	Environmental Review		Light Industrial
	Downtown		Commercial Industrial
	Transit Village		Future Community Growth
	Rapid Transit Corridor		Future Industrial Growth
	Urban Corridor		Farmland
	Shopping Area		Rural Neighbourhoods
	Main Street		Waste Management Resource Recovery Area
	Neighbourhoods		Urban Growth Boundary
	Institutional		

BASE MAP FEATURES

	Streets (See Map 3)
	Railways
	Water Courses/Ponds



ADOPTED BY COUNCIL ON JUNE 23, 2016
 APPROVED BY THE PROVINCE ON DECEMBER 28, 2016

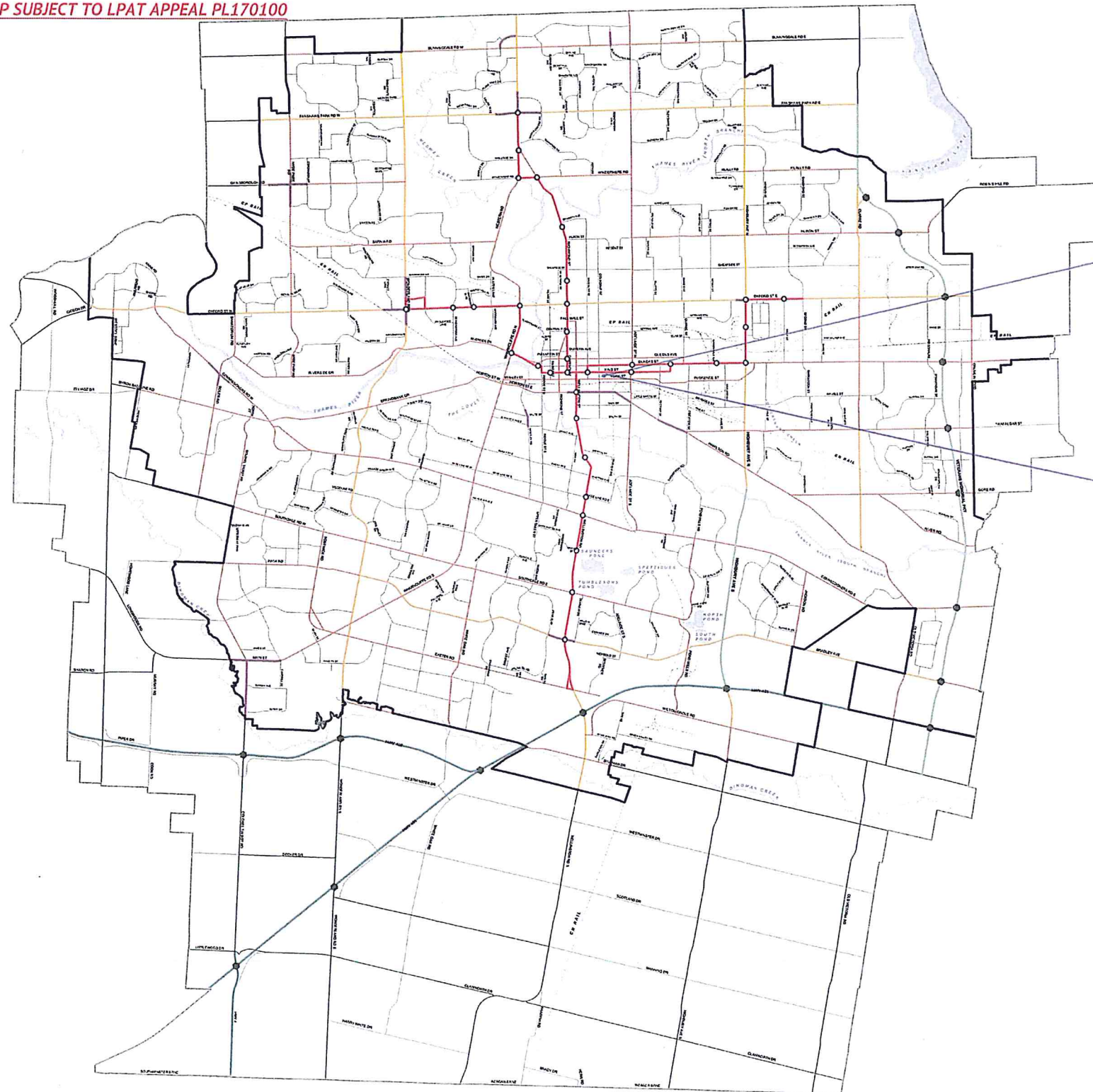
THIS MAP MUST BE READ IN CONJUNCTION
 WITH THE TEXT OF THE LONDON PLAN

NOTE: At the time of the printing of this map, the Rapid Transit EA is in progress. It is expected that a rapid transit alignment will be known before The London Plan is approved. This map shows the Rapid Transit Corridors and Urban Corridors to recognize potential alignments. These Place Types will be modified to align with the results of the EA process for the final version of The London Plan.

While every effort has been made to ensure that the mapping is accurate, a reader should verify all information contained in this map before acting upon it by contacting the City Clerk's Office, Suite 308, 300 Dufferin Avenue, London, Ontario, N6B 1Z2 or by calling (519) 561-2500 extension 4929.

MAP 3 - STREET CLASSIFICATIONS

MAP SUBJECT TO LPAT APPEAL PL170100



YORK STREET

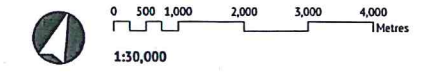
LEGEND

STREET CLASSIFICATIONS

- Provincial Highway
- Expressway
- Urban Thoroughfare
- Rapid Transit Boulevard
- Civic Boulevard
- Main Street
- Neighbourhood Connector
- Rural Thoroughfare
- Rural Connector
- Interchanges
- Rapid Transit Stations

BASE MAP FEATURES

- Railways
- Urban Growth Boundary
- Water Courses/Ponds



ADOPTED BY COUNCIL ON JUNE 23, 2016

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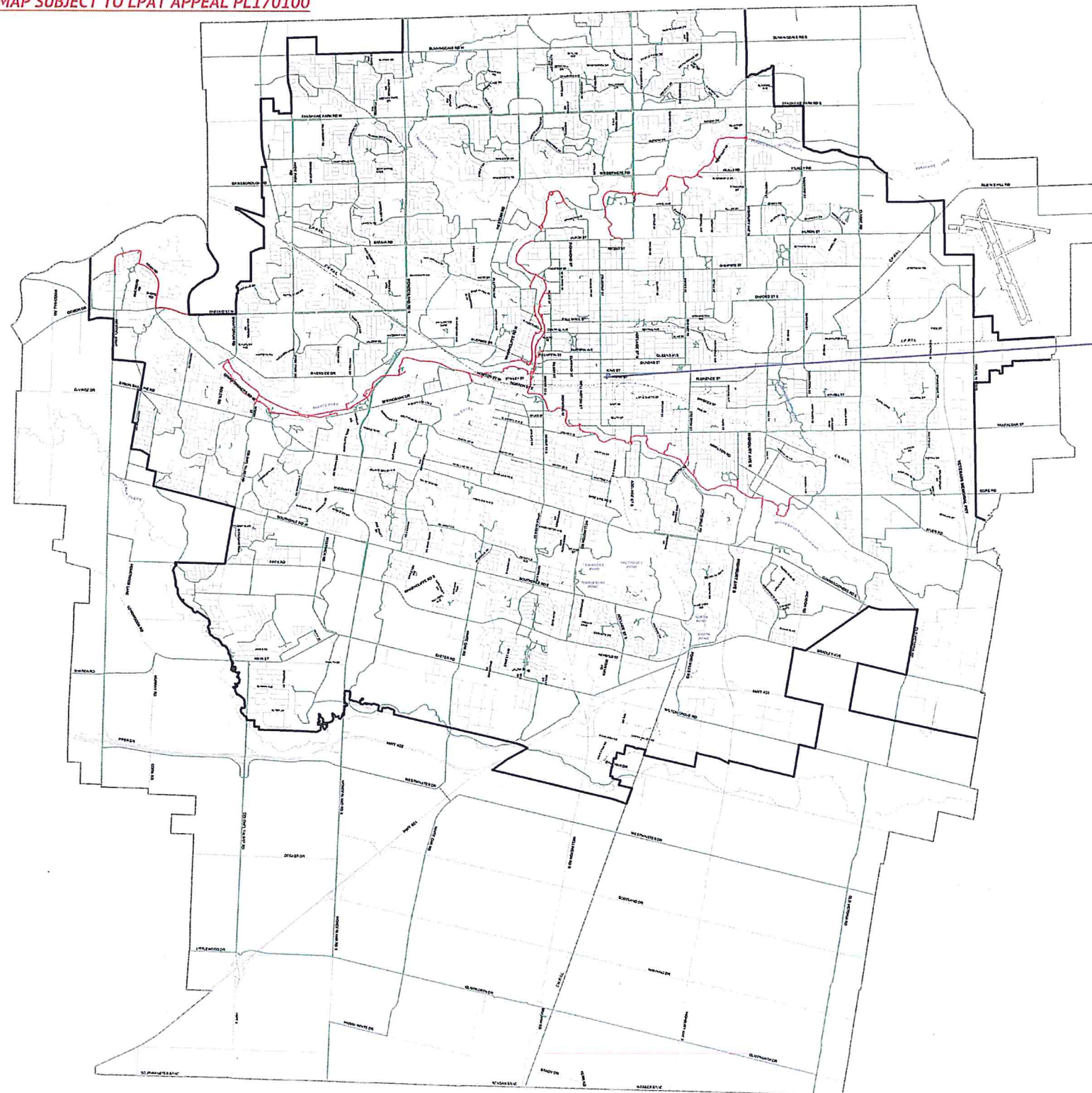
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MAP 4 - ACTIVE MOBILITY NETWORK

MAP SUBJECT TO LPAT APPEAL PL170100



London
CANADA

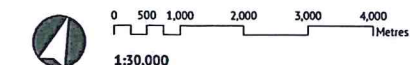


LEGEND

- Thames Valley Parkway
- Cycling and Walking Routes

- ### BASE MAP FEATURES
- Streets (See Map 3)
 - Railways
 - Urban Growth Boundary
 - Water Course/Ponds

KING ST.



ADOPTED BY COUNCIL ON JUNE 23, 2016
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