

	CHAIR AND MEMBERS
TO:	PLANNING & ENVIRONMENT COMMITTEE
FROM:	JOHN M. FLEMING DIRECTOR, LAND USE PLANNING AND CITY PLANNER
SUBJECT:	SOUTHWEST AREA SECONDARY PLAN OFFICIAL PLAN AMENDMENT NO. 541 NOTICE OF APPEAL TO THE ONTARIO MUNICIPAL BOARD MEETING ON MONDAY, JANUARY 22, 2013

#### **RECOMMENDATION**

That, on the recommendation of the Director, Land Use Planning and City Planner, in response to letters of appeal to the Ontario Municipal Board (OMB) relating to By-law No. C.P.-1284-(st)-331 to approve Official Plan Amendment 541, the Southwest Area Secondary Plan, the following actions **BE TAKEN**:

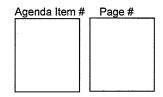
- a) The Ontario Municipal Board **BE REQUESTED** to amend Sections 20.5.3.3 ii), 20.5.9.1 ii), and 20.5.10.1ii) to delete the last sentence "Drive-through commercial uses shall not be permitted." from those policies;
- b) The City Solicitor's Office **BE REQUESTED** to retain a land use planner and to retain Hermann J. Kircher, Land Use and Retail Economist to provide evidence in support of Council's approval of the "Wonderland Road Community Enterprise Corridor" land use designation and related policies; and,
- c) The Ontario Municipal Board **BE ADVISED** that the Municipal Council has reviewed its decision relating to this matter and sees no reason to alter it.

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PREVIOUS REPORTS PERTINENT TO THIS MATTER		
October 24, 2012	Information report to Planning and Environment Committee to provide a response to several questions raised by the Committee on October 15, 2012.	
October 15, 2012	Public Participation Meeting before Planning and Environment Committee to adopt the Southwest Area Secondary Plan.	
June 18, 2012	Information report to Planning and Environment Committee on proposed revised land use concept plan, the proposed amendments to Schedules "A" – Land Use, "B-1" – Natural Heritage Features, and "C" - Transportation of the City Official Plan, and the draft Secondary Plan for the Southwest Area.	
April 30, 2012	Information report to Strategic Priorities and Policy Committee on the Southwest Area Plan Servicing Strategy and how it fits into the City's Growth Management Implementation Strategy (GMIS).	
December 12, 2011	Information report to Planning and Environment Committee on how four key public issues identified by Council have been addressed, including	

servicing and phasing strategy; and to obtain Council direction to circulate

the revised SWAP plan to the public for review and feedback.



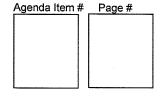
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Sept. 20, 2011	Presentation to Committee of the Whole on a revised servicing and phasing strategy for the Southwest study area, as recommended by Civic Administration.
Sept. 13, 2010	Report to Planning Committee on the public comments received on the draft Southwest Area Plan report, preferred land use plan, and associated background studies.
June 15, 2010	Report to Planning Committee on interim public comments received on the draft Southwest Area Plan report and associated background studies.
April 26, 2010	Report to Planning Committee on the release of the draft Southwest Area Plan report and associated background studies.
July 20, 2009	Information report to Planning Committee on the landowner interviews, public visioning session and stakeholder workshop held in May and June of 2009.
May 6, 2009	Information report to Planning Committee on the Draft Public Participation Program.
February 9, 2009	Report to Planning Committee recommending approval of the Terms-of-Reference.

#### **BACKGROUND**

Following a comprehensive public consultation and planning review process, the Director of Land Use Planning & City Planner brought forward a report to the Planning and Environment Committee on October 15, 2012, recommending the adoption of the Official Plan amendment to add the Southwest Area Secondary Plan to the Official Plan for the City of London. The purpose and effect of this recommendation was to put Official Plan policies and Schedules in place to provide a framework for decisions affecting future land uses, urban design, preservation of environmental features, municipal servicing infrastructure, road networks, and phasing of development in the Southwest Area Secondary Plan area.

On November 20, 2012, Municipal Council passed By-Law No. C.P.-1284-(st)-331 to approve Official Plan Amendment 541 ("the Decision") and resolved:

- 2. That, further to the direction of Municipal Council at its meeting held on June 25, 2012, with respect to the application by the City of London for an Official Plan Amendment to change the existing land uses designations and to adopt a Secondary Plan for the area generally bounded by Southdale Road West, White Oak Road, Exeter Road, Wellington Road South, Green Valley Road, and the Urban Growth Boundary, the following actions be taken:
- a) the <u>attached</u>, revised, proposed by-law **BE INTRODUCED** at the Municipal Council meeting on November 20, 2012 to:
  - i) amend Chapter 20-Secondary Plans, **BY ADDING** "Southwest Area Secondary Plan" to the list of Secondary Plans adopted by the Municipal Council in Section 20.2 of the Official Plan for the City of London;
  - ii) amend Chapter 20-Secondary Plans, **BY ADDING** the <u>attached</u> revised Section 20.5-Southwest Area Secondary Plan to the Official Plan for the City of London which reflects an amendment to section 20.5.6.3 iii) a) to delete the part in its entirety and replace it with the following:
    - 20.5.6.3 iii) a) Development shall occur at a minimum density of 15 units per hectare. A residential density exceeding 30 units per hectare may



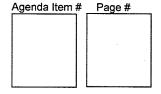
be permitted through a site specific zoning by-law, site plan application and urban design review;

it being noted that the Lambeth area, including the area on Wonderland Road South, west of the Hydro corridor and the area immediately north and adjacent to Lambeth Walk, will be designated Low Density Residential, with a density of 15 to 30 units per hectare;

- iii) amend Chapter 4-Commercial **BY ADDING** a new land use designation "Wonderland Road Community Enterprise Corridor" to be applied along the Wonderland Road corridor between Southdale Road West and Hamlyn Street to permit a broad range of commercial, residential, office and institutional uses; subject to servicing and financing plans being provided to support development to ensure that it is economically viable, subject to Council approval;
- change the land use designation of the subject lands within the Southwest Area Planning Area on Schedule "A"- Land Use of the Official Plan FROM "Urban Reserve- Community Growth", "Urban Reserve- Industrial Growth", "Environmental Review", "Agriculture", "Low Density Residential", "Multi-family, Medium Density Residential", "Auto-oriented Commercial Corridor", "Light Industrial", and "Open Space" TO "Urban Reserve- Community Growth", "Urban Reserve- Industrial Growth", "Environmental Review", "Low Density Residential", "Multi-family, Medium Density Residential", "Multi-family, High Density Residential", "Community Facility", "Auto-oriented Commercial Corridor", "Main Street Commercial Corridor", "Neighbourhood Commercial Node", "Community Commercial Node," "New Format Regional Commercial Node", "Office Area", "Light Industrial", "Community Facility", "Open Space", "Rural Settlement" and "Wonderland Road Community Enterprise Corridor";
- v) change to the southerly and easterly limits of the Urban Growth Boundary in the vicinity of the Brockley Area on Schedule "A"-Land Use of the Official Plan to remove a portion of the lands in the "Urban Reserve Industrial Growth" designation, generally located north and south of Dingman Drive, and west of easterly limit of the Urban Growth Boundary;
- vi) change Schedule "B-1"-Natural Heritage Features of the Official Plan by adding "Environmentally Significant Area (ESA)", "Potential ESAs", "Significant Woodlands", "Woodlands", "Unevaluated Vegetation Patches", "Significant Corridors", "Locally Significant Wetlands", and "Potential Naturalization Areas";
- vii) change Schedule "C"-Transportation Corridors of the Official Plan by adding Primary Collector Roads, and Secondary Collector Roads; and,
- viii) change Schedule "D"- Planning Areas of the Official Plan to add the naming and delineation of the Southwest Area Secondary Plan;
- ix) the property located at 457 Southdale Road West, the property located at 3080 Bostwick Road and the properties located at 491 and 499 Southdale Road West be designated "Multi-Family, High Density Residential";

it being noted that any changes to Schedule "B-1" Natural Heritage features will be subject to the completion of an Environmental Impact Study (EIS) to the satisfaction of the City; it being further noted that the Secondary Plan will be amended to remove reference to the 57 metre road width along Wonderland Road South, noting that the road grid in the Secondary Plan is conceptual, and it being also noted that the extension of the Wonderland Road Community Enterprise Corridor south of Exeter Road to Hamlyn Street will provide for high density residential uses on the east side of Wonderland Road and complimentary commercial uses on the east side of Wonderland Road;

b) the proposed Official Plan Amendment to delete references to the Southside Pollution Control Plant and interim servicing policies, (File O-7971), **BE CIRCULATED** for public review and comment in advance of a public participation meeting to be scheduled at a future Planning and Environment Committee meeting;



c) pursuant to Section 34(17) of the Planning Act, as determined by the Municipal Council, no further notice **BE GIVEN** in respect of the proposed by-law;

it being noted that the Planning and Environment Committee reviewed and received the following communications:

- a communication, dated October 18, 2012, from L. Kirkness, Kirkness Consulting Inc.;
- a communication, dated October 23, 2012, from J.W. Harbell, Stikeman Elliott;
- a communication, dated October 23, 2012, from C. Wiebe, MHBC Planning; communications, dated October 19 and October 22, 2012, from R. Zelinka, Zelinka Priamo Ltd. (2012-D11-09/2) (AS AMENDED) (2/27/PEC)

Nineteen appeals were filed with the City Clerk from the Decision. Attached as Appendix "A" is the list of the appellants and their respective counsel/agents as prepared by the City Clerk's Office. Appendix "C" are the letters of appeal.

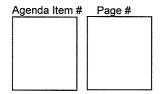
The Southwest Area Secondary Plan (Official Plan Amendment 541) is not in full force and effect, as it appears that the appeal of the London Development Institute appeal is in respect to the entire Southwest Area Secondary Plan. The appeal of the London Development Institute states that "The text of the proposed Official Plan amendment is weak, incomplete and incapable of providing the direction expected of a secondary plan." As a result, until the Ontario Municipal Board orders otherwise, any application made on lands within the Southwest Area Secondary Plan would be evaluated under the current Official Plan policies, and will not take into consideration the policies of OPA 541.

The balance of the issues raised in the appeals appear to range from a variety of site specific land use and mapping issues to various general policies in the Southwest Area Secondary Plan, such as the "Wonderland Road Community Enterprise Corridor" designation; the Wonderland Boulevard Neighbourhood; open space and natural heritage; parks; drive-through facilities; light industrial; medium density residential; urban design; transportation; servicing; phasing; financial; and requirements for a complete application. A location map of the identified site specific properties is attached in Appendix "B".

Five of the Appellants, A&W Food Services of Canada, Inc., Wendy's Restaurants of Canada, Inc., Ontario Restaurant Hotel & Motel Association (OMHRA), The TDL Group Corp., and McDonald's Restaurants of Canada Limited have appealed the reference to drive through facilities found in three policies of the Secondary Plan. The City has no concerns regarding the deletion of these references to drive through facilities in these policies, specifically, the last sentence "Drive-through commercial uses shall not be permitted." The affected policies of the Secondary Plan are Section 20.5.3.3 Neighbourhood Central Activity Nodes, ii) Permitted Uses; Section 20.5.9.1 Low and Medium Density Residential, ii) Permitted Uses.

The City's Drive-Through Policies of Section 4.10 of the Official Plan shall apply to all lands within the Southwest Area. These policies relate to the location of drive-through facilities within Commercial land use designations. The policies under appeal are all polices applicable to permitted uses within Residential land use designations. The intent of including these references to drive-through facilities in these locations was for clarity, however, as these lands are proposed to be designated for Residential land uses, the specific reference to drive-through uses, which are considered under the policies of Commercial land uses, is not necessary.

With the exception of the reference to drive-through commercial uses noted above, Planning staff have reviewed the appeal letters and see no reason for Council to alter its decision relating to the Southwest Area Secondary Plan.



The report also recommends that the City Solicitor's Office retain outside professional planning advice as it relates to the appeals regarding the Wonderland Road Economic Enterprise Corridor land use designation and policies, as these were not recommended by Staff. It is also recommended that Mr. Hermann Kircher be retained to address the matters related to the commercial analysis undertaken for the Southwest Area Secondary Plan.

No hearing dates have been set to hear these appeals. The City Solicitor's Office has advised the City Clerk's Office to request a pre-hearing conference with the Ontario Municipal Board for various purposes, including consolidating the appeals, identifying the parties, clarifying the issues, and scheduling the hearing of the appeals.

PREPARED BY:	SUBMITTED BY:	
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HEATHER MCNEELY /() SÉNIOR PLANNER POLICY PLANNING AND PROGRAMS	GREGG BARRETT, AICP MANAGER, POLICY PLANNING AND PROGRAMS	
RECOMMENDED BY:		
Aufluncy		
JOHN M. FLEMING, MCIP, RPP DIRECTOR, LAND USE PLANNING AND CITY PLANNER		

January 10, 2013 GB/hmcn

"Attach

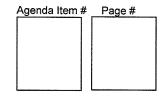
cc: J. Barber, City Solicitor

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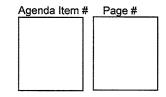
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# Appendix "A" List of Appellants

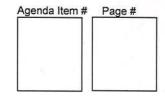
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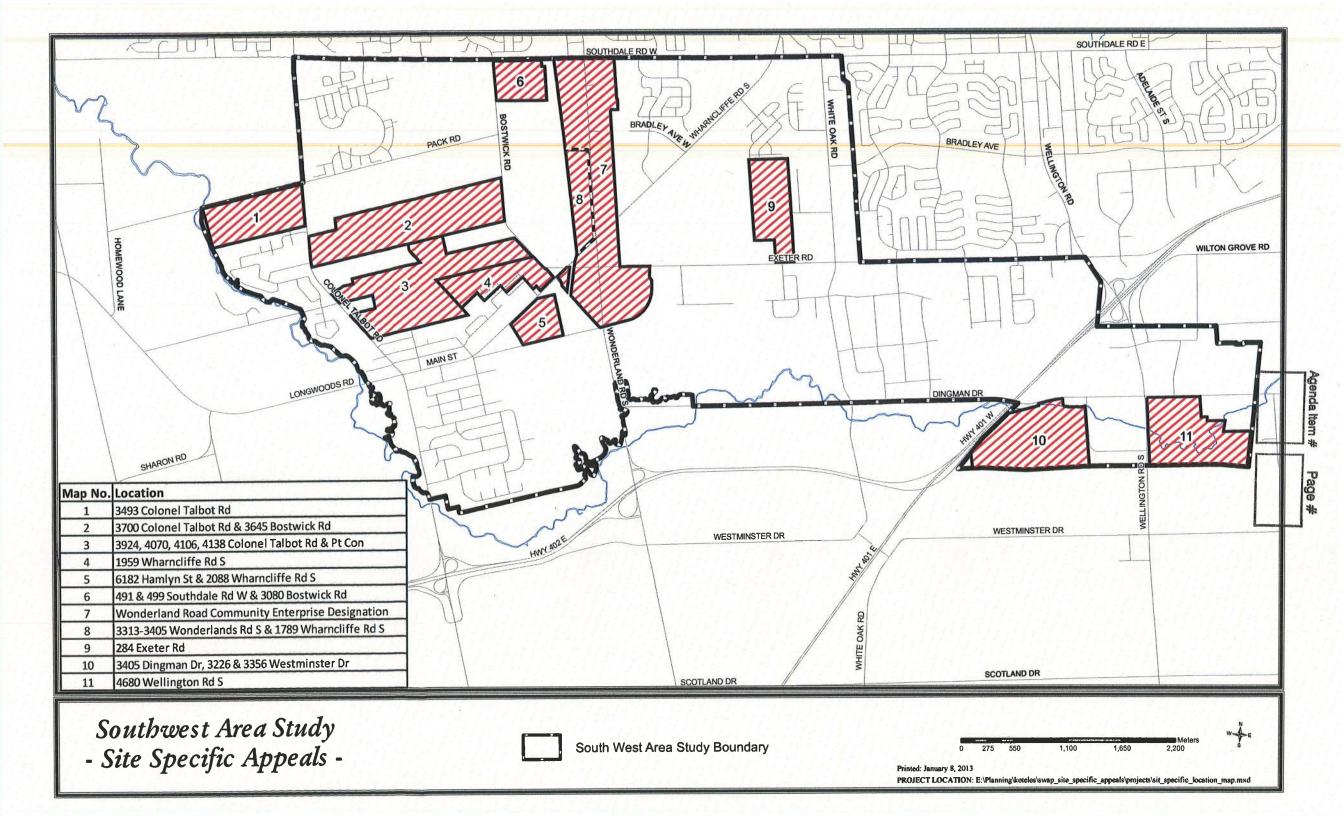
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**BY COURIER** 

The Corporation of the City of London City Hall 300 Dufferin Avenue PO Box 5035 London, ON N6A 4L9

Attention: Catherine Saunders, City Clerk

Dear Ms. Saunders:

December 18, 2012 File No.: 129002.1001

City Clerk No. 407
Subject Re: Notice of Appeal

DEC 19 2012

Ref. JNetherott SCANNED

2012-011-09

Re: Notice of Appeal of the Southwest Area Secondary Plan Official Plan Amendment No. 541

We are counsel to Mr. Lloyd Courtney (c/o York Developments Inc.) (the "Appellant"), the owner of the lands municipally known as 3493 Colonel Talbot Road, City of London (the "Property"). On behalf of the Appellant, we hereby appeal Official Plan Amendment No. 541, adopted by City of London Council on November 20, 2012, approving the Southwest Area Secondary Plan (the "SWAP").

MHBC, on behalf of the Appellant, has participated in the consultation process with respect to the SWAP, including the submission of correspondence containing recommendations for amending SWAP policies, dated March 29, 2012, August 30, 2012 and October 12, 2012.

The Appellant continues to have concerns with the SWAP, as adopted, with respect to its Property, including the following concerns:

Sections 20.5.1.3, 20.5.1.4(iv)(a), 20.5.3.4(i)(a) and (c), 20.5.4.3(i) and (ii)(c); Schedules 2,4 and 9; Appendix 1, Proposed Schedule "A" Amendments: The characteristics and function of the main drainage channel traversing the property may not warrant an "Open Space" designation, or inclusion in the "enhanced" open space system of the SWAP. The designation should be removed or an "Environmental Review" designation should be applied until further evaluation is carried out. Fair compensation should be given to landowners.

TORONTO

MONTREAL

OTTAWA

CALGARY

VANCOUVER NEW YORK

LONDON

SYDNEY

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- Sections 20.5.1.3, 20.5.1.4(iv)(a), 20.5.3.4(i)(a) and (c), 20.5.4.3(i) and (ii)(c); Schedules 2,4 and 9; Appendix 1, Proposed Schedule "A" and "B1" Amendments: The minor drainage tributary should not be identified on Schedule "B1" or designated as "Open Space" on Schedule "A" given that this feature is not currently identified on Schedule "B1" of the Official Plan and was not evaluated in detail in conjunction with AECOM's Natural Heritage Study. Additionally, this feature should not form part of the "enhanced" open space system of the SWAP.
- Sections 20.5.3.4(ii)(c) and 20.5.4.3(ii)(b): The provisions requiring (1) urban parks to generally have a minimum size of 2,500 square metres and (2) at least one urban park be provided per new residential neighbourhood should be removed. The size and number of parks should be established in proportion to property size and should consider parkland dedication requirements.
- Sections 20.5.1.3, 20.5.3.6(i)(c) and (d): Policies prescribing a 30 metre development buffer from natural heritage features delineated on Schedule "B1" should specify that the ultimate buffer width may be established through further environmental evaluation. Fair compensation should be given to landowners.
- Section 20.5.3.6(i)(e): The policy requires the first 10 metres of the 30 metre buffer as environmentally significant lands with the balance obtained in exchange for development credit. The ultimate buffer width should be established through further environmental evaluation rather than an arbitrary width. Moreover, the development credit policy needs to reflect fair compensation to landowners.
- Sections 20.5.3.7 and 20.5.16.10(i)(h): The requirement that, for a complete
  application, the owner shall confirm if school boards require a school site
  within a proposed residential development plan should be removed. School
  boards should continue to review all elements of a complete application prior
  to commenting on the need for a new school site.
- Section 20.5.3: An additional policy should be included within the SWAP to permit "Open Space" features to be provided at alternate on-site locations, where it can be demonstrated that these features and functions can be effectively replicated.

In light of the foregoing, we are hereby appealing Official Plan Amendment No. 541 approving the SWAP. As well, through this appeal, we expressly reserve the right to submit or raise such other concerns, objections or issues as may become apparent whether related to the above specific concerns or other provisions of the SWAP.

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We enclose a cheque in the amount of \$125.00, payable to the Minister of Finance, which represents the required filing fee for this appeal and a completed Ontario Municipal Board Appellant Form (A1). Should you have any questions with respect to the matters discussed herein, kindly contact the undersigned.

Yours very truly,

James W. Harbell

JWH/mc

cc. Ali Soufan, York Developments Inc. Carol Wiebe, MHBC

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Environment and Land Tribunals Ontario
Ontario Municipal Board
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www.elto.gov.on.ca

APPELLANT FORM (A1) PLANNING ACT

# SUBMIT COMPLETED FORM TO MUNICIPALITY/APPROVAL AUTHORITY

Date Stamp	RECEIVED  DEC 1 9 2012	
·	DEC 13 2012	

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	Appeal a decision	45(12)
	Appeal a decision	
Consent/Severance	Appeal conditions imposed	53(19)
	Appeal changed conditions	53(27)
	Failed to make a decision on the application within 90 days	53(14)
	Appeal the passing of a Zoning By-law	34(19)
Zoning By-law or Zoning By-law Amendment	Application for an amendment to the Zoning By-law – failed to make a decision on the application within 120 days	34(11)
	Application for an amendment to the Zoning By-law – refused by the municipality	
Interim Control By-law	Appeal the passing of an Interim Control By-law	38(4)
	Appeal a decision	17(24) or 17(36)
	Failed to make a decision on the plan within 180 days	17(40)
Official Plan or Official Plan Amendment	Application for an amendment to the Official Plan – failed to make a decision on the application within 180 days	22(7)
	Application for an amendment to the Official Plan – refused by the municipality	
	Appeal a decision	51(39)
Plan of Subdivision	Appeal conditions imposed	51(43) or 51(48)
	Failed to make a decision on the application within 180 days	51(34)

. Wit mit modulion (information)	
3493 Colonel Talbot Road	
Address and/or Legal Description of property subject to the appeal:	
Municipality/Upper tier: City of London	
A1 Revised April 2010	

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	Personantian					
Part 3: App	cellant Information					
	•	-				
First Name: _	All	Last	Name: <u>Soufan</u>			
Mr. Lloyd	Courtney (c/o York De	evelopments Inc.)		4		
Company Na	me or Association Name	(Association must be	incorporated – include co	opy of lette	er of incorporation)	
Professional	Title (if applicable): <u>Pr</u>	esident				
E-mail Addre	ss: <u>ali.soufan@yorkde</u>	ev.ca				
	By providing	an e-mail address you ag	ree to receive communications	s from the O	MB by e-mail.	
Daytime Tele	phone #: (519) 433-75	87 x231	Alternate Telephone #:	(519) R	40.8988	
	nome of the state			101070		
Fax #: <u>(519)</u>	433-4409					
Mailing Addre	ss: 233 Horton Stree	ət			London	
	Street Address		Apt/Suite/Unit#		City/Town	
	Ontario				N6B 1L1	
	Province		Country (if not Canad	ta)	Postal Code	
Signature of A	ppellant:		ppeal is submitted by a la		Date:	
	(Signatui	re not required if the a	ppeal is submitted by a la	aw office.)		
Please note: quote your C	You must notify the O MB Reference Number	ntario Municipal Bo r(s) after they have b	ard of any change of adeen assigned.	dress or t	elephone number in v	vriting. Please
	available to the public. resentative Informat	ion (if annilogable)				
	· ·				•	
I hereby aut	horize the named co	ompany and/or ind	ividual(s) to represent	it me:		
First Name: _	Jim	L	ast Name: <u>Harbell</u>			W-1-1-1-1-1-1-1-1-1-1-1-1-1-1-1-1-1-1-1
Company Nar	ne: <u>Stikeman Elliott L</u> l	<u>LP</u>				
Professional 1	itle: <u>Partner</u>					•
E-mail Addres	s: <u>iharbell@stike</u> ma	n.com				
	By providing	an e-mail address you ag	ree to receive communications	s from the O	MB by e-mail.	
Daytime Tele	hone #: <u>(416) 869-56</u>	90	Alternate Telephone	e #:		
Fax #: <u>(41</u>	6) 947-0866					
Mailing Addre	ss: 199 Bay Street	530	00 Commerce Court West	t .	Toronto	
	Street Address		Apt/Suite/Unit#		City/Town	
	Ontario (				M5L 1B9	
	Province		Country (if not Canad	ia)	Postal Code	
Cianatura of A	an at anti	Hu	<b>~</b> •	Date:	December 18, 2012	
Signature of A	phenaur					
Please note: required by the	if you are representing the Board's Rules of Pra-	the appellant and a ctice and Procedure,	re NOT a solicitor, pleas to act on behalf of the a	se confirm appellant.	that you have written Please confirm this by	authorization, as checking the box
I certify to behalf an	hat I have written author d I understand that I ma	ization from the appe y be asked to produce	lant to act as a represent	tative with time.	respect to this appeal o	on his or her

Page 3 of 5

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	4.						
Part 5: Lai	nguage and Accessibility						
Please choo	ose preferred language:	English	French				
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Part 6: App	peal Specific Information						
1. Provide Number	specific information about (s), Official Plan Number(s) of	what you are or Subdivision N	appealing. Foundation	r example:	Municipal	File Nun	nber(s), By-law
(Please print)		<u>:</u>			·	· · · · · · · · · · · · · · · · · · ·	
Official Plan	Amendment No. 541 (See th	ne attached cov	er letter for more	details).			
(lor exa	the nature of your appeal and mple: the specific provisions peal - if applicable). **If more	. sections and/o	or policies of the	Official Plan	a or By-Jay	v which an	a the cubiact of
(Please print)							
Please see t	he attached cover letter.						
THE FOLLO	owing sections (a&b) 4(11) of the <i>Planning A</i>	APPLY <u>ONLY</u> CT.	TO APPEALS C	F ZONING	BY-LAW	AMENDA	MENTS UNDER
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(If applicati	ion submitted <u>before</u> January	1, 2007 please	use the O1 'pre-	Bill 51' form	.)		
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	ated Matters (if known)			I	1		
	er appeals not yet filed with	· •	?	YES	NO	, V	
	ner planning matters related to a consent application cons		nce application)	YES '	NO	<b>3</b>	
If yes, please	provide OMB Reference Nu	ımb <b>er</b> (s) and/or	Municipal File No	umber(s) in	the box be	low:	٠ .
(Please print)					· · · · · · · · · · · · · · · · · · ·		
	ls are being submitted on bei respect to Official Plan Ame		elopments Inc. p	ertaining to	other prop	erties in the	e City of
A1 Revised Apri	il 2010						Page 4 of 5

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Stikeman Elliott LLP Barristers & Solicitors

5300 Commerce Court West, 199 Bay Street, Toronto, Canada M5L 1B9 Tel: (416) 869-5500 Fax: (416) 947-0866 www.stikeman.com

James W. Harbell

Direct: (416) 869-5690

E-mail: jharbell@stikeman.com

2012-011-09

BY COURIER

The Corporation of the City of London
City Hall

300 Dufferin Avenue PO Box 5035

London, ON N6A 4L9

Attention: Catherine Saunders, City Clerk

.

December 18, 2012 File No.: 129002.1001

City Clerk

No. 40/3

Subject Re: Notice of Appear -OPA NO. 541 "SWAP"

DEC 19 SCANNED

Whercoff DATE: 12/12/12

Dear Ms. Saunders:

Re: Notice of Appeal of the Southwest Area Secondary Plan Official Plan Amendment No. 541

We are counsel to 731675 Ontario Limited (York Developments Inc.) (the "Appellant"), the owner of the lands municipally known as 491 & 499 Southdale Road West/3080 Bostwick Road, City of London (the "Property"). On behalf of the Appellant, we hereby appeal Official Plan Amendment No. 541, adopted by City of London Council on November 20, 2012, approving the Southwest Area Secondary Plan (the "SWAP").

MHBC, on behalf of the Appellant, has participated in the consultation process with respect to the SWAP, including the submission of correspondence containing recommendations for amending SWAP policies, dated March 29, 2012, August 30, 2012 and October 12, 2012.

The Appellant continues to have concerns with the SWAP, as adopted, with respect to its Property, including the following concerns:

• Sections 20.5.1.3, 20.5.1.4(iv)(a), 20.5.3.4(i)(a) and (c), 20.5.4.3(i) and (ii)(c); Schedules 2,4 and 8; Appendix 1, Proposed Schedule "A" Amendments: The characteristics and function of the Thornicroft Drain may not warrant an "Open Space" designation, or inclusion in the "enhanced" open space system of the SWAP. The designation should be removed or an "Environmental Review" designation should be applied until further evaluation is carried out. Fair compensation should be given to landowners.

Sections 20.5.3.4(ii)(c) and 20.5.4.3(ii)(b): The provisions requiring (1) urban parks
to generally have a minimum size of 2,500 square metres and (2) at least one
urban park be provided per new residential neighbourhood should be removed.

TORONTO

MONTREAL

CALGARY

VANCOUVER

NEWYORK

LONDON

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The size and number of parks should be established in proportion to property size and should consider parkland dedication requirements.

- Sections 20.5.1.3, 20.5.3.6(i)(c) and (d): Policies prescribing a 30 metre development buffer from natural heritage features delineated on Schedule "B1" should specify that the ultimate buffer width may be established through further environmental evaluation. Fair compensation should be given to landowners.
- Section 20.5.3.6(i)(e): The policy requires the first 10 metres of the 30 metre buffer
  as environmentally significant lands with the balance obtained in exchange for
  development credit. The ultimate buffer width should be established through
  further environmental evaluation rather than an arbitrary width. Moreover, the
  development credit policy needs to reflect fair compensation to landowners.
- Sections 20.5.3.7 and 20.5.16.10(i)(h): The requirement that, for a complete
  application, the owner shall confirm if school boards require a school site within a
  proposed residential development plan should be removed. School boards should
  continue to review all elements of a complete application prior to commenting on
  the need for a new school site.
- Section 20.5.3: An additional policy should be included within the SWAP to permit "Open Space" features to be provided at alternate on-site locations, where it can be demonstrated that these features and functions can be effectively replicated.

In light of the foregoing, we are hereby appealing Official Plan Amendment No. 541 approving the SWAP. As well, through this appeal, we expressly reserve the right to submit or raise such other concerns, objections or issues as may become apparent whether related to the above specific concerns or other provisions of the SWAP.

We enclose a cheque in the amount of \$125.00, payable to the Minister of Finance, which represents the required filing fee for this appeal and a completed Ontario Municipal Board Appellant Form (A1). Should you have any questions with respect to the matters discussed herein, kindly contact the undersigned.

Yours very truly,

James W. Harbell

JWH/mc

cc. Ali Soufan, York Developments Inc. Carol Wiebe, MHBC

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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

DEC 1 9 2012

Date Stamp - Appeal Received by Municipelity
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#### **SUBMIT COMPLETED FORM** TO MUNICIPALITY/APPROVAL AUTHORITY

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

SUBJECT	OF APPEAL	TYPE OF APPEAL	PLANNING ACT REFERENCE (SECTION)	
Minor Variane	<b>9</b> :	Appeal a decision	45(12)	
Account of the second		Appeal a decision		
Consent/Seve	rance	Appeal conditions imposed	53(19)	
and the state of t		Appeal changed conditions	53(27)	
100000000000000000000000000000000000000		Failed to make a decision on the application within 90 days	53(14)	
A A A A A A A A A A A A A A A A A A A		Appeal the passing of a Zoning By-law	34(19)	
Zoning By-law		Application for an amendment to the Zoning By-law – failed to make a decision on the application within 120 days	34(11)	
Zoning By-law Amendme	Amendment	Application for an amendment to the Zoning By-law – refused by the municipality		
nterim Contro	l By-law	Appeal the passing of an Interim Control By-law	38(4)	
aminus provinciones a minor		Repeal a decision	17(24) or 17(36)	
положения		Failed to make a decision on the plan within 180 days	17(40)	
Official Plan o Official Plan A		Application for an amendment to the Official Plan – failed to make a decision on the application within 180 days	22(7)	
A PARTICION AND A PARTICION AN		Application for an amendment to the Official Plan – refused by the municipality		
		Appeal a decision	51(39)	
Plan of Subdiv	ision	Appeal conditions imposed	51(43) or 51(48)	
and A service of the Control of the		Failed to make a decision on the application within 180 days	51(34)	

491 & 499 Southdale	Road West / 3080 Bostwick Road
Address and/or Legal De	scription of property subject to the appeal:
Municipality/Upper tier:_	City of London

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Part 3: Appo	ellant Information		·		l
First Name:	Ali	Last Name: S	Outen		
•			Otiaii		
Company Nam	tario Limited (York Developme e or Association Name (Associat	ents Inc.) tion must be inco	rporated - include copy	of letter of incorporation)	
	tle (if applicable): President		,	- voltor or moorporationy	
	:ali.soufan@yorkdev.ca				
E-Mail Addies:	By providing an e-mail a	ddress you agree to	receive communications from	m the OMB by e-mail.	
Daytime Telepl	none #: <u>(519) 433-7587 x231</u>	Alterr	rate Telephone #: (9	519) 640-8968	
Fax #: <u>(519) 4</u>				0107 050-0300	
<del>-</del>		-			
Maining Addres	s: 233 Horton Street Street Address		pt/Suite/Unit#	London City/Town	
	Ontorio		,	•	
	Ontario Province		Country (if not Canada)	N6B 1L1 Postal Code	
Signature of Ap	pellant:			Date	
•	(Signature not requ	uired if the appea	l is submitted by a law o	ffice.)	
Personal inform	IB Reference Number(s) after to	collected under the	assigned.  ee provisions of the Plan	ss or telephone number in writing. I	nended
may become a	railable to the public.	90, C. O. 26 as a	mended. Alter an appea	ll is filed, all information relating to this	appear
Part 4: Repre	esentative Information (if ap	plicable)	;		
I hereby auth	orize the named company a	and/or individu	al(s) to represent me	<b>e:</b>	
First Name:	im	Last N	ame: <u>Harbell</u>		
Company Name	e: Stikeman Elliott LLP				
Professional Til	le: Partner				_
E-mail Address					
	By providing an e-mail ad	idress you agree to	receive communications from	n the OMB by e-mail.	
Daytime Teleph	one #: <u>(416) 869-5690</u>		Alternate Telephone #:	to the second se	
Fax #: <u>(416</u>	947-0866				
Mailing Address			mmerce Court West	Toronto	<del></del>
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	Ontario \			M5L 1B9	<del></del>
	Province \	1/.	ountry (if not Canada)	Postal Code	
Signature of Ap	pellant	. +/	D	ate: <u>December 18, 2012</u>	
		•			
Please note: If required by the below.	you are representing the appearance and learning statements and learning statements.	ilant and are No Procedure, to ac	OT a solicitor, please of t on behalf of the appel	onfirm that you have written authorize lant. Please confirm this by checking	ation, as the box
	at I have written authorization from			e with respect to this appeal on his or h	er

Page 3 of 5

Part 5: Lan	guage and Accessibility
Please choo	se preferred language: English French
	Professional French
We are come any accessit	mitted to providing services as set out in the Accessibility for Ontarians with Disabilities Act, 2005. If you have bility needs, please contact our Accessibility Coordinator as soon as possible.
Part 6: App	eal Specific Information
1. Provide Number(	specific information about what you are appealing. For example: Municipal File Number(s), By-laws), Official Plan Number(s) or Subdivision Number(s):
(Please print)	
Official Plan	Amendment No. 541 (See the attached cover letter for more details).
(tor exan	e nature of your appeal and the reasons for your appeal. Be specific and provide land-use planning reasons nple: the specific provisions, sections and/or policies of the Official Plan or By-law which are the subject of eal - if applicable). **If more space is required, please continue in Part 9 or attach a separate page.
(Please print)	
Please see the	ne attached cover letter.
	WING SECTIONS (a&b) APPLY ONLY TO APPEALS OF ZONING BY-LAW AMENDMENTS UNDER (11) OF THE PLANNING ACT.
a) DATE API	PLICATION SUBMITTED TO MUNICIPALITY:
(If application	on submitted <u>before</u> January 1, 2007 please use the O1 'pre-Bill 51' form.)
	brief explanatory note regarding the proposal, which includes the existing zoning category, desired zoning
	the purpose of the desired zoning by-law change, and a description of the lands under appeal:
ii more s	vacca in required, misses continue in Part A ar attack a consusta page
	space is required, please continue in Part 9 or attach a separate page.
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Part 7: Rela	space is required, please continue in Part 9 or attach a separate page.  ted Matters (if known)
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Are there oth	ted Matters (if known)
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Are there oth Are there oth (For example If yes, please (Please print) Other appeal	ted Matters (if known)  er appeals not yet filed with the Municipality?  er planning matters related to this appeal?  A consent application connected to a variance application)
Are there oth Are there oth (For example If yes, please (Please print) Other appeal	ted Matters (if known)  er appeals not yet filed with the Municipality?  er planning matters related to this appeal?  A consent application connected to a variance application)  provide OMB Reference Number(s) and/or Municipal File Number(s) in the box below:  s are being submitted on behalf of York Developments Inc. pertaining to other properties in the City of
Are there oth Are there oth (For example If yes, please (Please print) Other appeal	er appeals not yet filed with the Municipality?  er planning matters related to this appeal?  A consent application connected to a variance application)  provide OMB Reference Number(s) and/or Municipal File Number(s) in the box below:  s are being submitted on behalf of York Developments Inc. pertaining to other properties in the City of respect to Official Plan Amendment 541.

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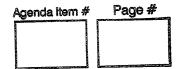
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Part 8: Sc	heduling Information					
How many	days do you estimate are needed for hearing this appeal?  1 week — More than 1 week – please speci			-	2 days	
•	more than 1 work ploage speed					
How many Three	expert witnesses and other witnesses do you expect to have	at the hea	aring p	roviding	evidence/te -	stimony?
Describe ex Land Use	spert witness(es)' area of expertise (For example: land use planner, Transportation Consultant, Environmental Consult	anner, ard ant	chitect,	engine	er, etc.):	
Do you beli (Mediation is	eve this matter would benefit from mediation?  generally scheduled only when all parties agree to participate)	YES	F	NO	<b>T</b>	
Do you beli Prehearing o	eve this matter would benefit from a prehearing conference? conferences are generally not scheduled for variances or consents)	YES	V	NO	Γ.	
f yes, why?	To scope issues under appeal and to establish party and	participan	t status	\$		····
Part 9: Oth	ner Applicable Information **Attach a separate page if mo	ore space	is req	uired.		
Please see	the attached cover letter.			***************************************	· · · · · · · · · · · · · · · · · · ·	
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Part 10: Re	equired Fee					
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	The payment must be in Canadian funds, payable to the Mi	nister of	Financ	:e.		
• 1	Do not send cash.					

PLEASE ATTACH THE CERTIFIED CHEQUE/MONEY ORDER TO THE FRONT OF THIS FORM.

A1 Revised April 2010



Stikeman Elliott LLP Barristers & Solicitors

5300 Commerce Court West, 199 Bay Street, Toronto, Canada M5L 189 Tel: (416) 869-5500 Fax: (416) 947-0866 www.stikeman.com

James W. Harbell

Direct: (416) 869-5690

E-mail: jharbell@stikeman.com

2012- D1-09

BY COURIER

The Corporation of the City of London City Hall 300 Dufferin Avenue PO Box 5035 London, ON N6A 4L9

Attention: Catherine Saunders, City Clerk

December 18, 2012 File No.: 129002.1001

City Clerk

Subject Re: Notice of Appeal
OPA NO. 541 - "SWAP"

DEC 19 2012

Ref. JNetherroft DATE: 12/19/12/17

Dear Ms. Saunders:

Re: Notice of Appeal of the Southwest Area Secondary Plan Official Plan Amendment No. 541

We are counsel to 1640209 Ontario Limited (York Developments Inc.) (the "Appellant"), the owner of the lands municipally known as 1959 Wharncliffe Road South, City of London (the "Property"). On behalf of the Appellant, we hereby appeal Official Plan Amendment No. 541, adopted by City of London Council on November 20, 2012, approving the Southwest Area Secondary Plan (the "SWAP").

MHBC, on behalf of the Appellant, has participated in the consultation process with respect to the SWAP, including the submission of correspondence containing recommendations for amending SWAP policies, dated March 29, 2012, August 30, 2012 and October 12, 2012.

The Appellant continues to have concerns with the SWAP, as adopted, with respect to its Property, including the following concerns:

Schedules 4 and 8; Appendix 1, Proposed Schedule "A" Amendments: The "Multi-Family, Medium Density Residential" designation for the east portion of the Property would not optimize the use of these lands and would not support the planned development concept. Schedule "A" should be modified to include "Multi-Family, High Density Residential" and "Auto-Oriented Commercial Corridor" designations for the Property.

TORONTO

MONTREAL

OTTAWA

CALGARY

VANCOUVER

NEWYORK LONDON

SYDNEY

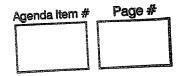
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- Figure 1; Schedules 2 through 6 and 8; Appendix 1, Proposed Schedule "A", "B1" and "C" Amendments: The realignment of Bostwick Road will fragment the eastern portion of the Property and severely limit its development potential. The realignment was not established through a proper environmental assessment process and unfairly prejudices the Property. The current arterial road allowance should be maintained and/or widened.
- Sections 20.5.3.4(ii)(c), and 20.5.4.3(ii)(b): The provisions requiring (1) urban parks to generally have a minimum size of 2,500 square metres and (2) at least one urban park be provided per new residential neighbourhood should be removed. The size and number of parks should be established in proportion to property size and should consider parkland dedication requirements.
- Sections 20.5.1.3, 20.5.3.6(i)(c) and (d): Policies prescribing a 30 metre development buffer from natural heritage features delineated on Schedule "B1" should specify that the ultimate buffer width will be established through further environmental evaluation. Fair compensation should be given to landowners.
- Section 20.5.3.6(i)(e): The policy requires the first 10 metres of the 30 metre buffer as environmentally significant lands with the balance obtained in exchange for development credit. The ultimate buffer width should be established through further environmental evaluation rather than an arbitrary width. Moreover, the development credit policy needs to reflect fair compensation to landowners.
- Sections 20.5.3.7 and 20.5.16.10(i)(h): The requirement that, for a complete application, the owner shall confirm if school boards require a school site within a proposed residential development plan should be removed. School boards should continue to review all elements of a complete application prior to commenting on the need for a new school site.

In light of the foregoing, we are hereby appealing Official Plan Amendment No. 541 approving the SWAP. As well, through this appeal, we expressly reserve the right to submit or raise such other concerns, objections or issues as may become apparent whether related to the above specific concerns or other provisions of the SWAP.

We enclose a cheque in the amount of \$125.00, payable to the Minister of Finance, which represents the required filing fee for this appeal and a completed Ontario Municipal Board Appellant Form (A1). Should you have



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any questions with respect to the matters discussed herein, kindly contact the undersigned.

Yours very truly,

James W. Harbell

JWH/mc

Ali Soufan, York Developments Inc. Carol Wiebe, MHBC cc.

Agenda Item #	Page #



# 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

DEC 1 9 2012

Date Stamp - Appeal Received by Municipality

RECEIVED

APPEL	LANT	<b>FORM</b>	(A1)
	PLAN	INING	ÀCŤ

# SUBMIT COMPLETED FORM TO MUNICIPALITY/APPROVAL AUTHORITY

Receipt Number (OMB Office Use Only)				

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

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

1959 Wharncliffe Road South	
Address and/or Legal Description of property subject to the appeal:	
Municipality/Upper tier: City of London	
A1 Revised April 2010	

Agenda item #	Page #

Part 3: App	ellant Information	
First Name: _	AliLast Name: Soufan	
<del></del>		
1640209 C	Ontario Limited (York Developments Inc.)  ne or Association Name (Association must be incorporated – include copy of le	
•	·	
Protessional I	ritle (if applicable): President	
E-mail Addres	s: <u>ali.soufan@yorkdev.ca</u> By providing an e-mail address you agree to receive communications from the	
	by provious an e-mail adultess you agree to receive communications from the	OMB by e-mail.
Daytime Teler	phone #:(519) 433-7587 x231Alternate Telephone #:(519)	640.9069
·		0-10-0-50-0
Fax #: _(519)	433-4469	
Mailing Addres	ss: 233 Horton Street	London
	Street Address Apt/Suite/Unit#	City/Town
	Ontario	N6B 1L1
	Province Country (if not Canada)	Postal Code
Signature of A	ppellant: (Signature not required if the appeal is submitted by a law office	Date:
Dianas mates		•
quote your O	You must notify the Ontario Municipal Board of any change of address of MB Reference Number(s) after they have been assigned.	r telephone number in writing. Please
and the Ontari	mation requested on this form is collected under the provisions of the <i>Planning Municipal Board Act</i> , R.S.O. 1990, c. O. 28 as amended. After an appeal is to available to the public.	Act, R.S.O. 1990, c. P. 13, as amended, iled, all information relating to this appeal
,		
Part 4: Rep	resentative Information (if applicable)	
	The state of the s	
I hereby auti	norize the named company and/or individual(s) to represent me:	
First Name:	JimLast Name:Harbell	
Company Nam	ne: Stikeman Elliott LLP	
Professional T	itle: Partner	
E-mail Address		A350 h
•	By providing an e-mail address you agree to receive communications from the	OMB by e-mail.
Daytime Telep	hone #:Alternate Telephone #:	
Fax #:(416	3) 947-0866	
Mailing Addres	ss: 199 Bay Street 5300 Commerce Court West	Toronto
widning reduced	Street Address Apt/Suite/Unit#	City/Town
	Ontario (	M5L 1B9
	Province / Country (if not Canada)	Postal Code
Signature of A	ppellant: Date:	December 18, 2012
Orginature or A	Donard Sun.	
Please note: I	f you are representing the appellant and are NOT a solicitor, please confir	m that you have written authorization, as
required by the below.	Board's Rules of Practice and Procedure, to act on behalf of the appellant.	Please confirm this by checking the box
	at I have written authorization from the appellant to act as a representative wit	h respect to this appeal on his or her

A1 Revised April 2010

Page 3 of 5

Part 5: Language and Accessibility		,		
We are committed to providing services as set out in the Accessibility any accessibility needs, please contact our Accessibility Coordinator a	<i>for Ontarians w</i> as soon as poss	ith Disabilitie ible.	es Act, 2005. If	you have
Part 6: Appeal Specific Information	•		-	
Provide specific information about what you are appealing.     Number(s), Official Plan Number(s) or Subdivision Number(s):	For example:	Municipal	File Number(s	), By-law
(Please print)		· · · · · · · · · · · · · · · · · · ·		
Official Plan Amendment No. 541 (See attached cover letter for more	details).			
	· · · · · · · · · · · · · · · · · · ·			
Outline the nature of your appeal and the reasons for your appeal (for example: the specific provisions, sections and/or policies of your appeal - if applicable). **If more space is required, please co	the Official Plan	or By-law	which are the	g reasons subject of
(Please print)				
Please see the attached cover letter.	•			
•	S OF ZONING	By-LAW	AMENDMENTS	UNDER
THE FOLLOWING SECTIONS (a&b) APPLY ONLY TO APPEAL				
THE FOLLOWING SECTIONS (a&b) APPLY ONLY TO APPEAL SECTION 34(11) OF THE PLANNING ACT.				
SECTION 34(11) OF THE <i>PLANNING ACT</i> .  a) DATE APPLICATION SUBMITTED TO MUNICIPALITY:				
	pre-Bill 51' form	.)		
SECTION 34(11) OF THE PLANNING ACT.  a) DATE APPLICATION SUBMITTED TO MUNICIPALITY:	udes the existin	g zoning cat e lands und		zoning
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A1 Revised April 2010 6045138 vi Page 4 of 5

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Agenda Item #

Agenda Item #	Page #

Part 8: Scheduling Information	•				
How many days do you estimate are needed for hearing this appeal?	half da	уГ	1 day	7 2 days	s 3 days
4 days 1 week More than 1 week - please specif			•	•	
How many expert witnesses and other witnesses do you expect to have a Three	at the he	aring p	roviding	evidence/te	estimony?
Describe expert witness(es)' area of expertise (For example: land use pla Land Use Planner, Transportation Consultant, Environmental Consulta	anner, ar int	chitect	engine	er, etc.):	
Do you believe this matter would benefit from mediation?  Mediation is generally scheduled only when all parties agree to participate)	YES	P	ЙО	r	
Do you believe this matter would benefit from a prehearing conference?  Prehearing conferences are generally not scheduled for variances or consents)	YES	V	NO		
yes, why? To scope issues under appeal and to establish party and	particip	ant sta	tus		
Part 9: Other Applicable Information **Attach a separate page if mo	re space	e is rec	uired.		
Please see the attached cover letter.					
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Part 10: Required Fee					
Fotal Fee Submitted: \$ 125					
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The payment must be in Canadian funds, payable to the Mire	nister of	Finan	ce.		
Do not send cash.					

PLEASE ATTACH THE CERTIFIED CHEQUE/MONEY ORDER TO THE FRONT OF THIS FORM.

Agenda l	tem#	Page	#
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Stikeman Elliott LLP Barristers & Solicitors

5300 Commerce Court West, 199 Bay Street, Toronto, Canada M5L 1B9 Tel: (416) 869-5500 Fax: (416) 947-0866 www.stikeman.com

James W. Harbell Direct: (416) 869-5690

E-mail: jharbell@stikeman.com

BY COURIER

The Corporation of the City of London City Hall 300 Dufferin Avenue PO Box 5035 London, ON N6A 4L9

Attention: Catherine Saunders, City Clerk

December 18, 2012 File No.: 129002.1001

**City Clerk** 

Subject Be: Notice

DEC 19 2012

Dear Ms. Saunders:

Re: Notice of Appeal of the Southwest Area Secondary Plan Official Plan Amendment No. 541

We are counsel to 1279059 Ontario Inc. (York Developments), CLF 1 (Wonderland Road) Inc., 1699259 Ontario Inc., and E. and E. McLaughlin (collectively, the "Appellant"), the owners of the lands municipally known as 3313-3405 Wonderland Road South, City of London (the "Property"). On behalf of the Appellant, we hereby appeal Official Plan Amendment No. 541, adopted by City of London Council on November 20, 2012, approving the Southwest Area Secondary Plan (the "SWAP").

We have participated, on behalf of the Appellant, in the consultation process with respect to the SWAP, including a deputation at the meeting held on October 15, 2012 and a submission of a letter containing our proposed modifications to the SWAP, dated October 23, 2012. Additional correspondence was submitted by MHBC, on behalf of the Appellants, dated March 29, 2012, August 30, 2012 and October 12, 2012.

Updated applications to redesignate and rezone the Property for "new format" commercial uses were submitted to the City in June 2012 (File Nos. OZ-7072/OZ-7073). The initial Official Plan Amendment and Zoning By-law Amendment applications for the Property were submitted in 2005 and were held in abeyance pending completion of the SWAP.

The Appellant continues to have concerns with the SWAP, as adopted, with respect to its Property, including the following concerns:

TORONTO

MONTREAL

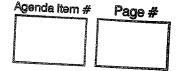
OTTAWA

CALGARY

VANCOUVER

NEW YORK

LONDON SYDNEY



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- Sections 20.5.1.3, 20.5.2, 20.5.3.8(iv) and 20.5.6(ii); Figures 2 through 10: The non-standard, six-lane road cross section proposed for Wonderland Road South represents a significant burden to the Appellant and should not proceed without adequate compensation. Further, the "slip-off" lanes associated with the "main street" design would create an inefficient land use pattern that promotes the channelization of through traffic. This design configuration will limit the viability of the Property for commercial enterprises and will not foster a "pedestrian friendly" environment. Additionally, the success of this concept is contingent upon a commitment from the City to complete the road reconstruction in the near term.
- Sections 20.5.3.9(i) and (iii); 20.5.3.8(i)(j) and 20.5.6.1(i) and (iii); Figure 1: The SWAP proposes a local road network to ultimately connect into the Wonderland Road South corridor. These local road connections are shown to traverse the Property, which is intended to develop as a mixed commercial centre. The policy requiring the dedication of road rights-of-way to facilitate the conceptual local street network should not be applied to "first generation" development plans.

In light of the foregoing, we are hereby appealing Official Plan Amendment No. 541 approving the SWAP. As well, through this appeal, we expressly reserve the right to submit or raise such other concerns, objections or issues as may become apparent whether related to the above specific concerns or other provisions of the SWAP.

We enclose a cheque in the amount of \$125.00, payable to the Minister of Finance, which represents the required filing fee for this appeal and a completed Ontario Municipal Board Appellant Form (A1). Should you have any questions with respect to the matters discussed herein, kindly contact the undersigned.

Yours very truly

James W. Harbell

JWH/mc

cc. Ali Soufan, York Developments Inc.
Carol Wiebe, MHBC
Paolo Rovazzi, North American Development Group
Simon Smith, North American Development Group

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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	<b>FORM</b>	(A1)
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# SUBMIT COMPLETED FORM TO MUNICIPALITY/APPROVAL AUTHORITY

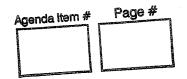
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## Part 1: Appeal Type (Please check only one box)

SUBJECT OF APPEAL	TYPE OF APPEAL	PLANNING ACT REFERENCE (SECTION)	
Minor Variance	Appeal a decision	45(12)	
	Appeal a decision		
Consent/Severance	Appeal conditions imposed	53(19)	
	Appeal changed conditions	53(27)	
	Failed to make a decision on the application within 90 days	53(14)	
	Appeal the passing of a Zoning By-law	34(19)	
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	Appeal a decision	17(24) or 17(36)	
	Failed to make a decision on the plan within 180 days	17(40)	
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Plan of Subdivision	Appeal conditions imposed	51(43) or 51(48)	
	Failed to make a decision on the application within 180 days	51(34)	

3313-3405 Wonderlar	nd Road South	
Address and/or Legal De	escription of property subject to the appeal:	
Municipality/Upper tier:_	City of Landon	
mamorpanty opper uer	City of Loridon	· · · · · · · · · · · · · · · · · · ·



art 3: Appellant Information		
rst Name: Ali	Last Name: <u>Soufan</u>	
1279059 Ontario Inc. (York Developments impany Name or Association Name (Association	<ul><li>b) CLF 1 (VVonderland Road) Inc., 169</li><li>c) must be incorporated – include copy of l</li></ul>	<u>19259 Ontario Inc., and E. McLaugh</u> letter of incorporation)
ofessional Title (if applicable): President		· · · · · · · · · · · · · · · · · · ·
mail Address: <u>ali,soufan@yorkdev.ca</u>		
By providing an e-mail add	fress you agree to receive communications from the	ne OMB by e-mail.
aytime Telephone #:(519) 433-7587 x231	Alternate Telephone # (519	a) 640_8068
** #: _(519) 433-4469	, statistic ( diophono ir	7 0-10-0000
	-	
ailing Address: 233 Horton Street Street Address	Apt/Suite/Unit#	London City/Town
-	r po outer of the	City/ I OWII
<u>Ontario</u>		N6B 1L1
Province	Country (if not Canada)	Postal Code
gnature of Appellant:		Date:
(Signature not requi	red if the appeal is submitted by a law offic	e. <i>)</i>
ay become available to the public.		
art 4: Representative Information (if app	plicable)	
nereby authorize the named company ar	nd/or individual(s) to represent me:	
rst Name:	Last Name: Harbell	
ompany Name: Stikeman Elliott LLP		
ofessional Title: Partner	•	,
mail Address: iharbell@stikeman.com		
By providing an e-mail add	lress you agree to receive communications from th	e OMB by e-mail.
aytime Telephone #:(416) 869-5690	Alternate Telephone #:	
ex #: (416) 947-0866		
ailing Address: 199 Bay Street Street Address	5300 Commerce Court West Apt/Suite/Unit#	Toronto City/Town
Ontario \ Province	Country (if not Canada)	M5L 1B9 Postal Code
gnature of Appellant:	— · Date	e: <u>December 18, 2012</u>
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lease note: If you are representing the appell equired by the Board's Rules of Practice and F	ant and are NOT a solicitor, please conf Procedure, to act on behalf of the appellar	firm that you have written authorization t. Please confirm this by checking th
alow.		
orienta de la companya del companya de la companya del companya de la companya d		

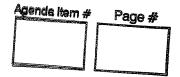
I certify that I have written authorization from the appellant to act as a representative with respect to this appeal on his or her behalf and I understand that I may be asked to produce this authorization at any time.

A1 Revised April 2010

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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 any accessibility needs, please contact our Accessibility Coordinator as s	Ontarians with a	Disabilities Act, 2005 a.	5. If you have
Part 6: Appeal Specific Information			
<ol> <li>Provide specific information about what you are appealing. Fo Number(s), Official Plan Number(s) or Subdivision Number(s):</li> </ol>	r example: M	unicipal File Numb	er(s), By-law
(Please print)			
Official Plan Amendment No. 541 (See the attached cover letter for more	details).		
Outline the nature of your appeal and the reasons for your appeal. Be (for example: the specific provisions, sections and/or policies of the your appeal - if applicable). **If more space is required, please contin	Official Plan or	r By-law which are t	he subject of
(Please print)			
Please see the attached cover letter.			
THE FOLLOWING SECTIONS (a&b) APPLY ONLY TO APPEALS (	OF ZONING B	Y-LAW AMENDME	NTS UNDER
SECTION 34(11) OF THE PLANNING ACT.			
a) DATE APPLICATION SUBMITTED TO MUNICIPALITY:  (If application submitted <u>before</u> January 1, 2007 please use the O1 'pre	-Bill 51' form.)		<del></del>
b) Provide a brief explanatory note regarding the proposal, which include category, the purpose of the desired zoning by-law change, and a des **If more space is required, please continue in Part 9 or attach a separation	cription of the la		red zoning
Part 7: Related Matters (if known)			
	YES 💆	NO T	
Are there other planning matters related to this appeal?	YES T	NO F	
Are there other planning matters related to this appeal? (For example: A consent application connected to a variance application)		110	
If yes, please provide OMB Reference Number(s) and/or Municipal File N	lumber(s) in the	box below:	
(Please print)			
Other appeals are being submitted on behalf of York Developments Inc. p London, with respect to Official Plan Amendment 541.	pertaining to oth	ner properties in the	City of

Agenda Item #

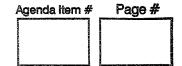
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Part 8: Scheduling Information					
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low many expert witnesses and other witnesses do you expect to have Three	at the he	aring pro	viding (	evidence/tes -	timony?
Describe expert witness(es)' area of expertise (For example: land use particle Land Use Planner, Transportation consultant, Environmental Consultant	olanner, ar tant	chitect, e	nginee	r, etc.):	
Oo you believe this matter would benefit from mediation?  Mediation is generally scheduled only when all parties agree to participate)	YES	Þ	NO		
Do you believe this matter would benefit from a prehearing conference?  Prehearing conferences are generally not scheduled for variances or consents	YES	<b>▽</b>	NO		
f yes, why? To scope issues under appeal and to establish party ar	nd particip	ant status	<u> </u>		
art 9: Other Applicable Information **Attach a separate page if m	ore space	e is requi	ired.		
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art 10: Required Fee		·			
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The payment must be in Canadian funds, payable to the N	finister of	Finance	<b>).</b>		
Do not send cash.					

PLEASE ATTACH THE CERTIFIED CHEQUE/MONEY ORDER TO THE FRONT OF THIS FORM.

Page 5 of 5





2011-09

Scott Snider
Professional Corporation
15 Bold Street
Hamilton Ontario Canada L8P 1T3
Direct Line 905 526-6183 ext. 289
Receptionist 905 529 3476 (905 LAW-FIRM)
Facsimile 905 529 3663
ssnider@tmalaw.ca

December 19, 2012

Corporation of the City of London **Attention: Catharine Saunders, City Clerk** 3<sup>rd</sup> floor, 300 Dufferin Avenue London, Ontario N6B 1Z2

Dear Ms Saunders:

Colvin McCourt - Groal
DEC 20 2012
Ventures inches Equity Corp.
Ref. The field out - Granned
C.C.
DATE: 12/2012

Re: Official Plan Amendment No. 541 to the Official Plan for the City of London Part of Lots 16 and 17, Concession 3, Geographic Twp of Westminster (Now the City of London), 3130-3260 Dingman Drive

We represent Goal Ventures Inc. ("Goal Ventures") and PenEquity Realty Corporation ("PenEquity"). Goal Ventures owns approximately 31.5 hectares of land near the northwest corner of Wellington Road South and Dingman Drive in the City of London, immediately south of and adjacent to Highway 401. The Goal Ventures lands are located in the Southwest Area Plan Area ("SWAP") which forms part of Official Plan Amendment No. 541 to the City of London Official Plan ("OPA No. 541"). PenEquity manages these lands on behalf of Goal Ventures.

Written submissions in respect of SWAP were sent to the City on behalf of Goal Ventures and PenEquity by Carol Wiebe of MHBC Planning Urban Design and Landscape Architecture on March 26, 2012. On behalf of Goal Ventures and PenEquity, we are appealing OPA No. 541 pursuant to Section 17(24) of the *Planning Act*. Attached please find the OMB Appellant Form with the required filing fee in the amount of \$125.

Our client is concerned with SWAP policies respecting the scope of commercial lands available for development and the elimination of the draft phasing strategy for development of these lands. The Secondary Plan as amended prior to its adoption does not provide

Agenda I	tem#	Page #	
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Attn: Ms. Catharine Saunders December 19, 2012

Page 2

appropriate measures for ensuring orderly development of the Plan area. There is insufficient justification to support the volume of commercial lands approved for development and no policy basis to support the planning horizon for that development. The southern extension of the Wonderland Road Community Enterprise Designation by the City in the Wonderland Boulevard Neighbourhood into proposed residential lands further exacerbates these issues. Goal Ventures is particularly concerned with the practical application of the proposed Development Phasing and Servicing policies as well as the Fair Distribution of Responsibilities and Resources policy on the orderly development of SWAP.

The specific policies of concern are set out below:

- 1. Section 4.8 Wonderland Road Community Enterprise Corridor
- 2. Section 20.5 Southwest Area Secondary Plan "Schedule 5" as follows:
  - a. 20.5.1.3 Vision
  - b. 20.5.2 Community Structure Plan
  - c. Schedule 4 Southwest Area Land Use Designations
  - d. Schedule 5 Wonderland Boulevard Land Use Designations
  - e. 20.5.6 Wonderland Boulevard Neighbourhood and particularly ss. 20.5.6.1
  - f. 20.5.16 Implementation
  - g. Appendix 3 Growth Estimate
- 3. Schedule "A" Land Use Designations and particularly, Schedule 1-k (Wonderland Boulevard)

Unfortunately, we were unable to access the final amended version of the Plan during the course of preparing this appeal. As such, out of an abundance of caution we are appealing the entire OPA No. 541. We would be pleased to work towards refining this appeal with the City once we have the proper opportunity to review the final adopted document.

We trust that this appeal will be forwarded to the Board in accordance with Section 17(29) of the *Planning Act*. In the interim, if you have any questions, please do not hesitate to contact us.

Yours truly

2002: Scott Snider

Sssknd Encl. 13479/1

Agenda It	em#	Page #
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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

	SUBMIT	COMPL	ETED	FORM

TO MUNICIPALITY/APPROVAL AUTHORITY

**APPELLANT FORM (A1)** 

**PLANNING ACT** 

Date Stamp - A	ppeal Received by Municipality
	RECEIVED
	DEC 2 0 2012

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	Appeal a decision	45(12)
	Appeal a decision	
Consent/Severance	Appeal conditions imposed	53(19)
	Appeal changed conditions	53(27)
	Failed to make a decision on the application within 90 days	53(14)
	Appeal the passing of a Zoning By-law	34(19)
Zoning By-law or	Application for an amendment to the Zoning By-law – failed to make a decision on the application within 120 days	34(11)
Zoning By-law Amendment	Application for an amendment to the Zoning By-law – refused by the municipality	
Interim Control By-law	Appeal the passing of an Interim Control By-law	38(4)
	X Appeal a decision	17(24) or 17(36)
	Failed to make a decision on the plan within 180 days	17(40)
Official Plan or Official Plan Amendment	Application for an amendment to the Official Plan – failed to make a decision on the application within 180 days	22(7)
	Application for an amendment to the Official Plan – refused by the municipality	
	Appeal a decision	51(39)
Plan of Subdivision	Appeal conditions imposed	51(43) or 51(48)
	Failed to make a decision on the application within 180 days	51(34)

# Part 2: Location Information

Part of Lots 16 and 17, Concession 3, Geographic Twp of Westminster (Now the City of London), 3130-3260 Dingman Drive

Address and/or Legal Description of property subject to the appeal:

Agenda Item #	Page #
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Municipality/L	Jpper tier:		
	ellant Information		
First Name:	Calvin	Last Name: McCo	out.
Gool			ourt
Name or Asso	Ventures Inc. and PenEquity Fociation Name (Association Mu	Realty Corporation ust be incorporated – include copy of lette	or of incomparation)
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	resentative Information (if		
-	_	ny and/or individual(s) to represent	me:
First Name:	Scott	Last Name: <u>Snider</u>	
Company Nam	ne: Turkstra Mazza /	Associates	
Professional Ti	itle: Lawyer		
E-mail Addres:	s: ssnider@tma	alaw.ça ail address you agree to receive communications	
	By providing an e-ma	ail address you agree to receive communications	from the OMB by e-mail.
Daytime Telep	hone #: <u>905.529.3476</u>	Alternate Telephone #:	
Fax #:90	5.529.3663	Language or and the state of th	
Mailing Addres	ss: 15 Bold Street		Hamilton
	Street Address	Apt/Suite/Unit#	City/Town
	Ontario		L8P 1T3
	Province	Country (if not Canada	a) Postal Code
Signature of A	ppellant:		Date:
Please note: required by the below.	If you are representing the a se Board's Rules of Practice a	appellant and are NOT a solicitor, pleas and Procedure, to act on behalf of the ap	e confirm that you have written authorization, opellant. Please confirm this by checking the

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: Lang	guage and Accessibility
Please choos	se preferred language: X English French
We are comr any accessib	nitted to providing services as set out in the Accessibility for Ontarians with Disabilities Act, 2005. If you have illity needs, please contact our Accessibility Coordinator as soon as possible.
Part 6: App	eal Specific Information
Provide     Number(	specific information about what you are appealing. For example: Municipal File Number(s), By-law s), Official Plan Number(s) or Subdivision Number(s):
(Please print)	
Official Plan a Southwest A	Amendment No. 541 to the Official Plan for the City of London Planning Area 1989, including adoption of the rea Secondary Plan
2. Outline th	ne nature of your appeal and the reasons for your appeal. Be specific and provide land-use planning reasons
(for exan	nple: the specific provisions, sections and/or policies of the Official Plan or By-law which are the subject of eal - if applicable). **If more space is required, please continue in Part 9 or attach a separate page.
(Please print)	
The entire C following poli	PA No. 541 is being appealed as further explained in the attached letter. Of particular concern are the cies, sections and schedules of the OPA and Southwest Area Secondary Plan:
	tion 4.8 Wonderland Road Community Enterprise Corridor on 20.5 Southwest Area Secondary Plan "Schedule 5" as follows:
	a. 20.5.1.3 Vision
i .	20.5.2 Community Structure Plan
	Schedule 4 Southwest Area Land Use Designations  Schedule 5 Wonderland Boulevard Land Use Designations
	2. 20.5.6 Wonderland Boulevard Neighbourhood and particularly ss. 20.5.6.1
f	20.5.16 Implementation
<del></del>	Appendix 3 Growth Estimate  dule "A" Land Use Designations and particularly, Schedule 1-k (Wonderland Boulevard)
3. 3GIE	A Land Use Designations and particularly, ochedule 1-k (Worderland Dodlevard)
	wing sections (a&b) apply <u>only</u> to appeals of Zoning By-Law Amendments under 4(11) of the <i>Planning Act</i> .
a) DATE AP (If applicat	PLICATION SUBMITTED TO MUNICIPALITY:
category.	brief explanatory note regarding the proposal, which includes the existing zoning category, desired zoning the purpose of the desired zoning by-law change, and a description of the lands under appeal: space is required, please continue in Part 9 or attach a separate page.
и тисте	Space is required, prease continue in real of an arms of a arms of a present present
Part 7: Rela	ated Matters (if known)
Are there oth	er appeals not yet filed with the Municipality?
Are there of	ner planning matters related to this appeal?
(For example	e: A consent application connected to a variance application)

Page 4 of 6

Agenda Item #

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

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Part 8: Sche	duling Information						
How many da	ays do you estimate are needed for hearing this appeal?  X 1 week  More than 1 week – please specify				□ 20	lays [	3 days
How many ex	pert witnesses and other witnesses do you expect to have a 3-4				evidenc	e/testim	ony?
Describe exp	ert witness(es)' area of expertise (For example: land use pland in the plant in the plant is a plant in the plant in th	nner, ar t	chitect	, engined	er, etc.):		
Do you believ (Mediation is g	e this matter would benefit from mediation? enerally scheduled only when all parties agree to participate)	YES		NO	x		<del>_</del>
Do you believ (Prehearing co	e this matter would benefit from a prehearing conference? inferences are generally not scheduled for variances or consents)	YES	x	NO			
If yes, why?_	To clarify the issues for the hearing						
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Part 9: Othe	r Applicable Information **Attach a separate page if mo	re space	e is rec	quired.			ì
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Page 5 of 6

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ı	Agenda item #	Page #



Plan of Subdivision

# 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

51(43) or 51(48)

51(34)

# SUBMIT COMPLETED FORM TO MUNICIPALITY/APPROVAL AUTHORITY

Receipt Number (OMB Office Use Only	
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Date Stamp - Appeal Received by Municipality

RECEIVED DEC 2 0 2012

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

SUBJECT OF APPEAL	TYPE OF APPEAL	PLANNING ACT REFERENCE (SECTION)
Minor Variance	Appeal a decision	45(12)
	Appeal a decision	
Consent/Severance	Appeal conditions imposed	53(19)
	Appeal changed conditions	53(27)
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Zoning By-law or	Application for an amendment to the Zoning By-law – failed to make a decision on the application within 120 days	34(11)
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	Failed to make a decision on the plan within 180 days	17(40)
Official Plan or Official Plan Amendment	Application for an amendment to the Official Plan – failed to make a decision on the application within 180 days	22(7)
	Application for an amendment to the Official Plan – refused by the municipality	
	Appeal a decision	51(39)

Part 2: Location Information	
3700 Colonel Talbot Road (Con ETR Pt Lots 74 & 75); 3645 Bostwick Road (Con ETR Pt Lot 74 RP33R/405 Part 1)  Scuth LUST HREA Plan	
Address and/or Legal Description of property subject to the appeal:	
Municipality/Upper tier: <u>City of London</u>	·
A1 Revised April 2010	Page 2 of 5

Failed to make a decision on the application within 180 days

Appeal conditions imposed

Agenda Item #	Page #
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Part 3: A	ppellant Information		
First Name		Last Name:	
W3 Lambet	h Farms Inc.	Cast Name.	
Company	Name or Association Name (Association Name)	iation must be incorporated - include copy of k	of incompanies)
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uote you	r OMB Reference Number(s) afte	Municipal Board of any change of address or r they have been assigned.	r telephone number in writing. Please
	, public	1990, c. O. 28 as amended. After an appeal is	
art 4: Re	epresentative Information (if a	applicable)	
hereby a	uthorize the named company	and/or individual(s) to represent me:	
irst Name:	:	Last Name: Young	
		Last Name. Toung	
	ame: Stantec Consulting Ltd.		
rofessiona	Title: <u>Senior Planner</u>		
-mail Addr	ess: dan.young@stantec.com  By providing an a-mell	address you agree to receive communications from the	Office and the second s
avtime Tel	lephone #. <u>519.645.2007</u>		-
		Alternate Telephone #. 226,448	2391
BX #: <u>519.6</u>	93.03/3		
ailing Add	ress:171 Queens Ave.	Suite 800,	London
	Street Address	Apt/Suite/Unit#	City/Town
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Augurie o	Appellant		Date: _/ / _ /
lease note equired by elow.	e: If you are representing the app the Board's Rules of Practice and	pellant and are NOT a solicitor, please confin d Procedure, to act on behalf of the appellant.	n that you have written authorization, a Please confirm this by checking the bo
I certify	that I have written authorization fr	om the appellant to act as a representative with ed to produce this authorization at any time.	respect to this appeal on his or her
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Page 3 of 5

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Part 5: Language	and Accessibility
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Part 6: Appeal Sp	pecific Information
Provide specification     Number(s), Off	fic information about what you are appealing. For example: Municipal File Number(s), By-law ficial Plan Number(s) or Subdivision Number(s):
(Please print) Official Plan Amendi (By-law No. C.P128	
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(for example: ti	ure of your appeal and the reasons for your appeal. Be specific and provide land-use planning reasons he specific provisions, sections and/or policies of the Official Plan or By-law which are the subject of applicable). **If more space is required, please continue in Part 9 or attach a separate page.
(Please print) With regards to Office properties municipal	cial Plan Amendment 541, the appeal is with respect to the application of the Open Space designation on the ly identified as 3700 Colonel Talbot Road and 3645 Bostwick Road. The reason for the appeal is that we
from Urban Reserve	s a technical mapping error or oversight that arbitrarily re-designated lands between two Vegetative Patches Community Growth to Open Space whereas the lands should have been designated Low Density Residential in
keeping with the day	ICCEPTE LATIO ILSES. IN DATRICULAR THE LAND USE IS denicted on Schedule L.a. of the Official Diam on amounted
locate the identifier f	jacent land uses. In particular, the land use is depicted on <u>Schedule 1-a of the Official Plan</u> as amended chedule 2 to Southwest Area Secondary Plan ~ Multi-Use Pathways and Parks ~ would be amended to correctly or Proposed Neighbourhood Parks from its location near Bostwick Road to a position near-to the two vegetative
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subsequent to this, Solocate the identifier for patches.  THE FOLLOWING SECTION 34(11)  a) DATE APPLICA (If application subsequent to the patches)  b) Provide a brief of category, the putter space  Part 7: Related M  Are there other application example: A confirmation of the patches are the patches ar	Checkle 2 to Southwest Area Secondary Plan ~ Multi-Use Pathways and Parks ~ would be amended to correctly for Proposed Neighbourhood Parks from its location near Bostwick Road to a position near-to the two vegetative SECTIONS (a&b) APPLY ONLY TO APPEALS OF ZONING BY-LAW AMENDMENTS UNDER OF THE PLANNING ACT.  THON SUBMITTED TO MUNICIPALITY:  Committed before January 1, 2007 please use the O1 'pre-Bill 51' form.)  Explanatory note regarding the proposal, which includes the existing zoning category, desired zoning propose of the desired zoning by-law change, and a description of the lands under appeal: is required, please continue in Part 9 or attach a separate page.  Authorized The Planning American Section 1. No proposed to the Municipality?  The proposed Neighbourhood Parks from its location near Bostwick Road to a position near-to the two vegetative near-to the two vegeta
Subsequent to this, Solocate the identifier for patches.  THE FOLLOWING SECTION 34(11) of a DATE APPLICA (If application subsequently the push of the category, the push of the patch of th	Checkle 2 to Southwest Area Secondary Plan ~ Multi-Use Pathways and Parks ~ would be amended to correctly for Proposed Neighbourhood Parks from its location near Bostwick Road to a position near-to the two vegetative SECTIONS (a&b) APPLY ONLY TO APPEALS OF ZONING BY-LAW AMENDMENTS UNDER OF THE PLANNING ACT.  THON SUBMITTED TO MUNICIPALITY:  Committed before January 1, 2007 please use the O1 'pre-Bill 51' form.)  Explanatory note regarding the proposal, which includes the existing zoning category, desired zoning propose of the desired zoning by-law change, and a description of the lands under appeal: is required, please continue in Part 9 or attach a separate page.  Authorized The Planning American Section 1. No proposed to the Municipality?  The proposed Neighbourhood Parks from its location near Bostwick Road to a position near-to the two vegetative near-to the two vegeta
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100		
Describe e	xpert witness	(es)' area of expertise (For example: land use planner, architect, engineer, etc.):
Land Use P	lanner, Enginee	er and or expertise (if or example, land use planner, architect, engineer, etc.):
Do you be	lieve this matte	ter would benefit from mediation?
(Mediation i	is generally sch	eduled only when all parties agree to participate)
Do vou be	lieve this math	er would benefit from a prehearing conference? YES NO
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If yes, why	? City staff ha	ave already acknowledged a mapping error and only need a resolution to bring back to Council for
<u>plan revisi</u>	on.	The state of the s
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Part 9: Ut	ner Applicab	le Information **Attach a separate page if more space is required.
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Part 10: F	Required Fee	
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Total Fee	Submitted:	\$ 125  Certified cheque Money Order Solicitor's general or trust account cheque t must be in Canadian funds, payable to the Minister of Finance.

Page 5 of 5

Agenda Item #	Page #
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December 14, 2012

Environment and Land Tribunals Ontario Ontario Municipal Board 655 Bay Street, Suite 1500 Toronto, ON, M5G 1E5

Dear Sir/Madam:

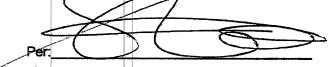
Reference: OMB Appeal – Authorization of Representation

Please be advised that Stantec Consulting Ltd. is hereby authorized to act as our agent/representative for the submission of this Appellant Form with regards to the Official Plan Amendment 541.

If you have any questions regarding this authorization, please do not hesitate to contact me.

Sincerely,

W3 Lambeth Farms Inc.



Agenda Item #	# Page#	_
T. C.		<b>MICORCA</b>

Environment and Land Tribunals Ontario
Ontario Municipal Board
655 Bay Street Strib 1500 Toyotto Ostario M5G 1

655 Bay Street, Suite 1500 Toronto, Ontario M5G 1E5 TEL: (416) 212-6349 or Toll Free: 1-866-448-2248 FAX: (416) 326-5370

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# SUBMIT COMPLETED FORM TO MUNICIPALITY/APPROVAL AUTHORITY

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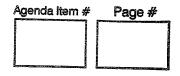
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#### Part 1: Appeal Type (Please check only one box) SUBJECT OF APPEAL TYPE OF APPEAL **PLANNING ACT** REFERENCE (SECTION) Minor Variance Appeal a decision 45(12) Appeal a decision 53(19) Consent/Severance Appeal conditions imposed Appeal changed conditions 53(27) Failed to make a decision on the application within 90 days 53(14) Appeal the passing of a Zoning By-law 34(19) Application for an amendment to the Zoning By-law - failed to Zoning By-law or make a decision on the application within 120 days 34(11) Zoning By-law Amendment Application for an amendment to the Zoning By-law - refused by the municipality Appeal the passing of an Interim Control By-law 38(4) Interim Control By-law X Appeal a decision 17(24) or 17(36) Failed to make a decision on the plan within 180 days 17(40) Official Plan or Official Plan Amendment Application for an amendment to the Official Plan - failed to make a 22(7) decision on the application within 180 days Application for an amendment to the Official Plan - refused by the municipality 51 (39) Appeal a decision 51(43) or 51(48) Plan of Subdivision Appeal conditions imposed 51(34) Failed to make a decision on the application within 180 days

## Part 2: Location Information

3234 and 3274 Wonderland Road South and other lands as identified herein Address and/or Legal Description of property subject to the appeal:

Municipality/Upper tier: City of London



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Part.3: Appe	llant Informat	ion		
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Southside Company Nam	Group of C	ompanies Name (Association must b	e incorporated – include copy of le	tter of incorporation)
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Mailing Addres	**************************************			
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				g Act, R.S.O. 1990, c. P. 13, as amended, filed, all information relating to this appeal
may become a	vailable to the pu	ıblic.		
Part A: Renr	ecentative Inf	ormation (if applicable)		
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I hereby auth	orize the nam	ned company and/or in	dividual(s) to represent me:	
First Name: A	lan	Las	st Name: Patton	
Company Nam	e: Patton C	ormier & Associate	) <b>S</b>	
Professional Ti	le: Lawyers			
E-mail Address	: apatton@	pattoncormier.ca		
	Вур	roviding an e-mail address you a	agree to receive communications from the	e OMB by e-mail.
Daytime Telepi	none #: 519-4	32-8282 Alt	ernate Telephone #: N/A	
Fax #: 519-4	32-7285			
Mailing Addres	s: Suite 15	2-140 Fullarton Str	reet, London, ON N6A	5P2
Signature of A	pellant:			Date: December 19, 2012
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Part 5: Language and Accessibility	
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We are committed to providing services as set out in the Accessibility for Ontarians with Disabilities Act, 2005. If you	have
any accessibility fleeds, 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), B. Number(s), Official Plan Number(s) or Subdivision Number(s):	/-law
(Please print) City of London Official Plan Amendment No. 541.	
2. Outline the nature of your appeal and the reasons for your appeal. Be specific and provide land-use planning rea (for example: the specific provisions, sections and/or policies of the Official Plan or By-law which are the subjective your appeal - if applicable). **If more space is required, please continue in Part 9 or attach a separate page.	sons ect of
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See Schedule A attached hereto.	
THE FOLLOWING SECTIONS (a&b) APPLY ONLY TO APPEALS OF ZONING BY-LAW AMENDMENTS UN	DER
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	ıg
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.	
Part 7: Related Matters (if known)	
Are there other appeals not yet filed with the Municipality?	
Are there other planning matters related to this appeal?  YES  NO X	
(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:	
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A1 Revised April 2010 Page	4 of 5

Agenda Item #

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Land Use Plan	ner, Biologist				
	s matter would benefit f	rom mediation? all parties agree to participate,	YES	П МО	X
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A1 Revised April 2010					Page 5 of 5

Agenda Item #

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# **SCHEDULE A**

# The reasons for the appeal are:

- 1. The Natural Heritage policies of the Plan, and the related extent of the Open Space designation, are inappropriate and unjustifiable and more specifically: policies requiring a minimum 50 metre wide corridor on each side of the Dingman Creek and a minimum 30 metre corridor on each side of any other natural heritage feature are inappropriate, arbitrary, and not based on science.
- 2. Policies requiring dedication of Open Space lands, and particularly of these corridor lands, are unjustifiable and are not in accordance with the *Planning Act*.
- 3 Specifically with respect to the lands at 3234 and 3274 Wonderland Road South, the Amendment fails to include the easterly part of these lands in the same "Wonderland Road Enterprise Corridor" designation that applies to the westerly portion of the lands, but rather leaves these lands in a Medium Density Residential designation, isolated from any residential community.
- 4. The Amendment introduces many detailed design and development policies and many requirements for the Southwest area which are not specifically related to the area, but rather should be considered in the context of their appropriateness for the City as a whole. (For example, Section 20.5.3(ii) adds new requirements for a complete application.)
- 5. The Transportation policies and, in particular, the design for Wonderland Road South, are inappropriate. The policies for the Wonderland Boulevard Neighbourhood include policies which are onerus and unrealistic, such as the requirements for local street connections through commercial blocks, based on the Conceptual Road Network.
- 6. Community Structure policies requiring a "fine urban grid street network" are not appropriate in commercial corridor areas.
- 7. The extension of the Wonderland Community Enterprise Corridor south of Exeter Road to Hamlyn Street represents an unjustifiable increase in the commercial land inventory for the southwest part of the City. It establishes more commercial land inventory than can possibly be used, even well beyond the planning period, and will result in inefficient "leap-frogging" commercial development rather than logical extensions of the commercial corridor.
- 8. Such further and other reasons as counsel may advise.

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Environment and Land Tribunals Ontario
Ontario Municipal Board

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Chique # 10188
APPELLANT FORM (A1)
PLANNING ACT

# SUBMIT COMPLETED FORM TO MUNICIPALITY/APPROVAL AUTHORITY

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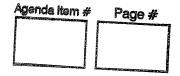
#### Part 1: Appeal Type (Please check only one box) SUBJECT OF APPEAL TYPE OF APPEAL **PLANNING ACT** REFERENCE (SECTION) Minor Variance Appeal a decision 45(12) Appeal a decision 53(19) Consent/Severance Appeal conditions imposed Appeal changed conditions 53(27) Failed to make a decision on the application within 90 days 53(14) Appeal the passing of a Zoning By-law 34(19) Application for an amendment to the Zoning By-law - failed to Zoning By-law or make a decision on the application within 120 days 34(11) Zoning By-law Amendment Application for an amendment to the Zoning By-law - refused by the municipality Interim Control By-law Appeal the passing of an Interim Control By-law 38(4) X Appeal a decision 17(24) or 17(36) Failed to make a decision on the plan within 180 days 17(40) Official Plan or Official Plan Amendment Application for an amendment to the Official Plan - failed to make a decision on the application within 180 days 22(7) Application for an amendment to the Official Plan - refused by the municipality 51(39) Appeal a decision 51(43) or 51(48) Appeal conditions imposed Plan of Subdivision 51(34) Failed to make a decision on the application within 180 days

## Part 2: Location Information

3405 Dingman Drive

Address and/or Legal Description of property subject to the appeal:

Municipality/Upper tier: City of London



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Part 3: App	ellant Informa	tion			
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Company Nam	e or Association	Name (Association mu	st be incorporated – include co	any of letter of incorporation)	_
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	Province		Country (if not Canada	a) Postal Code	-
Signature of Ap	pellant:	Named in the second if it	he appeal is submitted by a law	Date:	_
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Part 4: Repr	esentative Inf	formation (if applicat	ole)		
I hereby auth	orize the nan	ned company and/or	individual(s) to represent	t me:	
First Name: A	lan		Last Name: Patton		
Company Nam	e: Patton C	ormier & Associa	ates		
Professional Ti	tle: Lawyers	,			
E-mail Address	apatton@	pattoncormier.ca	u agree to receive communications	trom the GMR by a-mail.	
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Daytime Telepi	none #: 519-4	32-8282	Alternate Telephone #: N/A		
Fax #: 519-4	32-7285				
Mailing Addres	s: Suite 15	12-140 Fullarton S	Street, London, ON	N6A 5P2	
Signature of Ap	pellant:			Date: <b>December 19, 201</b> 2	2
Please note: It required by the below.	f you are repre Board's Rules	senting the appellant ar of Practice and Proced	nd are NOT a solicitor, pleas ure, to act on behalf of the ap	e confirm that you have written authorization, ppellant. Please confirm this by checking the b	as ЮX
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Page 3 of 5

Part 5: Language and Accessibility	
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# 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

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Charges ≠ 10127 APPELLANT FORM (A1) PLANNING ACT

# SUBMIT COMPLETED FORM TO MUNICIPALITY/APPROVAL AUTHORITY

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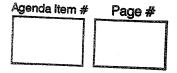
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# Part 2: Location Information

284 Exeter Road

Address and/or Legal Description of property subject to the appeal:

Municipality/Upper tier: City of London



Part 3: Appe	ellant Informa	tion			
First Name: N	lolly Ann		Last Name:	Johnstone	,
Company Nam	e or Association	Name (Association must be	e incorporated – in	nclude copy of letter of	incorporation)
Professional Ti	tle (if applicable	):			
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Part 6: App	eal Specific Ir	nformation	
1. Provide Number(	specific infons), Official Pla	mation about what you are appealing. For example: Municipal Fite in Number(s) or Subdivision Number(s):	Number(s), By-law
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Page 5 of 5

Agenda Item #	Page #
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### **SCHEDULE A**

# The reasons for appeal are:

- 1. The Official Plan Amendment ("OPA") designates an excessive and unjustified area of the subject land as Environmental Review ("ER") on Schedule A Land Use. The Appellant has completed studies and reports which demonstrate that the proposed ER area should be much smaller in area. The designation should be amended to Low Density and Medium Density Residential.
- 2. The OPA does not acknowledge the existing municipal roads of Dowell Drive and Beck Avenue should be extended from the east and south respectively, to provide proper collector road access to the subject Appellant lands.
- 3. The OPA identifies northerly portions of the lands as Significant Woodlands on Schedule B-1 that includes the future Bradley Avenue extension corridor and Multi Family Medium Density Residential lands. The City's own 2005 Environmental Study shows the area to contain neither significant woodlands nor wetlands.
- 4. Schedule B-1 identifies Significant Corridors, and Section 20.5.3.6 of the Amendment sets a minimum width of 30 metres from each side of the natural feature and 10 metres of the Corridor be dedicated as environmentally significant. This is not required nor justified and will result in inappropriate land use planning because:
  - a. It is excessively prescriptive, excessive and wasteful of land resources;
  - Development setbacks and natural open space corridor width should be determined at more specific stages of development (i.e. subdivision and/or rezoning) through an Environmental Impact Study;
  - c. The natural feature in areas has not been properly justified or identified on the basis of scientific or field study.
- 5. Section 20.5.16.10 Complete Applications is opposed, specifically item c) Sustainability / Green Development Reports as no clear definition of requirements is provided.
- 6. Such further and other reasons as Counsel may advise.

Agenda Item #	Page #

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APPELLANT FORM (A1)
PLANNING ACT

SUBMIT COMPLETED FORM



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

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TO MUNICIPALITY/APPROVAL AUTHORITY

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

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

# Part 2: Location Information

4680 Wellington Road South

Address and/or Legal Description of property subject to the appeal:

Municipality/Upper tier: City of London

Agenda Item #	Page #

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Part 3: Appel	ant Informat	ion		
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Part 4: Repre	ailable to the p	ublic. formation (if applicable)		It is filed, all information relating to this appeal
First Name: A	lan	Las	Name: Patton	
Company Name	: Patton C	Cormier & Associate	s	
Professional Tit	e: Lawyers			
E-mail Address:	apatton@	pattoncormier.ca	gree to receive communications fro	m the OMB by e-mail.
Daytime Teleph	one #: 519-4	<b>32-8282</b> Alte	ernate Telephone #: N/A	
Fax#: 519-4	32-7285			
Mailing Address	: Suite 15	12-140 Fullarton Str	eet, London, ON No	A 5P2
Signature of Ap	pellant:		<del></del>	Date: December 19, 2012
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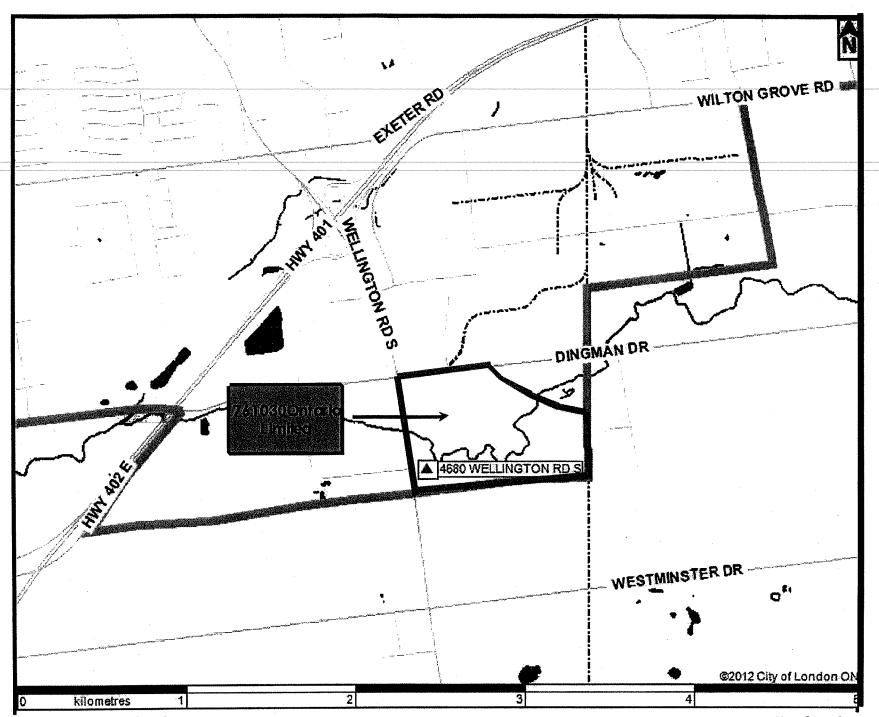
Agenda Item #

Agenda Item #	Page #

#### **SCHEDULE A**

The reasons for the appeal are:

- 1. The Natural Heritage policies of Section 20.5.3.6, and the associated extent of the Open Space designation, are inappropriate and unjustifiable, and specifically:
  - a. Policies requiring a minimum 50 metre corridor on each side of the Dingman Creek and a minimum 30 metre corridor on each side of any other natural heritage feature are inappropriate, arbitrary, and not based on science;
  - b. Policies requiring dedication of these corridor lands are unjustifiable and are not in accordance with the *Planning Act*.
- 2. As it applies to the lands at 4680 Wellington Road specifically, the Land Use Schedule should designate developable lands south to the Dingman Creek "Light Industrial" and should not leave the lands in an "Urban Reserve" designation.
- 3. As they apply to the lands at 4680 Wellington Road South the policies of 20.5.14 and 20.5.14.1 for Industrial Lands are inappropriately restrictive and the requirement for a setback of 40 metres from the Brockley Rural Settlement boundary is an arbitrary and unnecessary constraint of the efficient use of urban land.
- 4. Such further and other reason as Counsel may provide.



<sup>\*</sup> Poundation are announted

Agenda Item #	Page #

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City Clerk

C.C.

HAND DELIVERED

Our File: P-375-09 R

December 20, 2012

Ms. Cathy Saunders, City Clerk City of London, City Hall 300 Dufferin Avenue, London, ON. Room 308, 3<sup>rd</sup> Floor London, ON.

N6B 1Z2

Dear Ms. Saunders:

Notice of Appeal to the Ontario Municipal Board City of London Official Plan Amendment No. 541

Southwest Area Secondary Plan

Adopted by City Council on November 20, 2012

We are solicitors for the The TDL Group Corp. In accordance with Section 17 of the Planning Act and on behalf of our client, we hereby appeal the above noted proposed City of London Official Plan Amendment (OPA) No. 541 - "Southwest Area Secondary Plan".

The grounds for this appeal relate to the interests of our client arising out of its restaurant operations, and more particularly the operation of drive-through facilities ("DTF") associated with those restaurants, and which form an extremely important aspect of our client's business. The reasons for this appeal also relate to the authority of the municipality to adopt certain elements of the City of London OPA No. 541 and the failure of the municipality to investigate, study and justify the proposed specific prohibitions of DTF in certain sections of the Council approved OPA No. 541.

Our objection to the City of London Official Plan Amendment 541 relates specifically to three policies contained within the Secondary Plan as follows:

- Policy 20.5.3.3 Neighbourhood Central Activity Nodes, ii) Permitted Uses (the last sentence) "Drive-through commercial uses shall not be permitted".
- Policy 20.5.9.1 Low and Medium Density Residential (in the Bostwick Residential Neighbourhood) ii) Permitted Uses (the last sentence) "Drive-through commercial shall not be permitted".

OTT LAW\ 3440780\1 Gowling Lafleur Henderson up · Lawyers · Patent and Trade-mark Agents 160 Ligh Street Suits 2600 Oblave Omado - KJR 103 Capado T 6.3-(09-1761 F 6.3-688-9869 gowlings.com

Agenda Item #	Page #

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Policy 20.5.10 – Low and Medium Density Residential (North Lambeth, Central Longwoods and South Longwoods Residential Neighbourhoods) ii) Permitted Uses (the last sentence) "Drive-through commercial uses shall not be permitted".

2

It is our position, upheld in prior Ontario Municipal Board (OMB) and Court decisions that official plan provisions are not to be used to prohibit specific uses such as DTF. Official Plans may, of course, offer guidance on the broad types of uses in a given area (employment uses in employment designations and residential uses in residential designations, for example). What an Official Plan may not do is descend into detail on what satisfies the requirements, nor pick and choose among them. An Official Plan may not, for example, prohibit townhouses in an area designated for residential uses, nor may it prohibit certain types of commercial uses (DTF, for example) in an area that otherwise permits commercial uses. The location and configuration of a DTF in any part of the City is, at law, a matter best left for regulation by Zoning By-laws, Site Plan Approval and Urban Design Guidelines and not prohibition at the level of the Official Plan.

We have reviewed the material available regarding this draft secondary plan and the staff report being considered later today on this matter and note that there are no related studies or detailed planning justification as to why this specific prohibition of DTF within this Secondary Plan is specifically noted justified.

Finally, our client takes the position, as has been found at the Ontario Municipal Board, that the presence of DTF is more consistent with the Growth Plan and the Provincial Policy Statement, than is the parking lot alternative.

Based on the foregoing, particularly the related case law on this matter which was previously considered by the City's Legal and Planning Departments and the fact that the parent Official Plan already has a clear accepted policy on DTF, we object to the above noted specific prohibition in the Southwest Area Secondary Plan – OPA No. 541.

Based on the above noted and other related matters that may arise directly from our appeal, we request that the City of London submit this appeal to the Ontario Municipal Board for its considerations. This notice of appeal includes the prescribed fee of \$125.00 payable to the Minister of Finance.

Thank you for your attention to this matter.

Yours very truly,

Michael S. Polowin

Partner

cc: Client

OTT\_LAWA 3440780\1

Agenda Item #	Page #



Ontario Municipal Board Commission des affaires municipales de l'Ontario 655 Bay Street, Suite 1500 Toronto, Ontario M5G 1E5 TEL: (416) 326-6800 or Toll Free: 1-866-887-8820 FAX: (416) 326-5370

**APPELLANT FORM (A1)** PLANNING ACT - Bill 51

www.omb.gov.on.ca

## (SUBMIT TO MUNICIPALITY/APPROVAL AUTHORITY)

## Instructions:

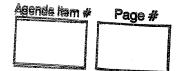
- Complete one form for each type of appeal you are filing.
- A filing fee of \$125 is required for each type of appeal you are filing. To view the Fee Schedule, visit the Board's website.
- The filing fee <u>must</u> be paid by certified cheque or money order, in Canadian funds, payable to the Minister of Finance.
- Do not send cash.
- Submit your completed appeal form(s) and filing fee(s) to either the Approval Authority or Municipality, as applicable, by the required filing deadline. The Approval Authority/Municipality will forward your appeal(s) and fee(s) to the Ontario Municipal Board.
- Please print clearly throughout the appeal form.
  The Planning Act and the Ontario Municipal Board Act are available at www.omb.gov.on.ca.

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

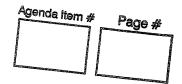
SUBJECT OF APPEAL	TYPE OF APPEAL	PLANNING ACT REFERENCE (SECTION)
Minor Variance	Appeal a decision	45(12)
	Appeal a decision or conditions imposed	53(19)
Consent	Appeal conditions imposed	53(27)
	Failed to make a decision on the application within 90 days	53(14)
	Appeal the passing of a Zoning By-law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

Page 1 of 5



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Part 2: Location Informa	ation		
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	ast Name: Polowin		
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Company Name: Gowling L	effeur Henderson LLP		
Professional Title: Lawyer			
E-mail Address: michael.po	olowin@gowlings.com		
	By providing an e-mail addres	ss you agree to receive communications fro	m the OMB by e-mail.
Daytime Telephone #:613	786-0158 Alternati	e Telephone #: 613 233- 1781	
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A1 (Bill 51) Rev. 23/01/2007			Page 2

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HAND DELIVERED

Our File: P-375-09 R

December 20, 2012

Ms. Cathy Saunders, City Clerk
City of London, City Hall
300 Dufferin Avenue, London, ON.
Room 308, 3<sup>rd</sup> Floor
London, ON.
N6B 1Z2

City Clerk	No. 4084
Subject PPPER	X - OPA 541
- "SWAP"	-0-7609
- wendy	
	20 2012 SCANNED
Ref. Inether	STATE: TOLOUR

Dear Ms. Saunders:

Re:

Notice of Appeal to the Ontario Municipal Board City of London Official Plan Amendment No. 541 Southwest Area Secondary Plan Adopted by City Council on November 20, 2012

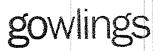
We are solicitors for the Wendy's Restaurants of Canada, Inc. In accordance with Section 17 of the Planning Act and on behalf of our client, we hereby appeal the above noted proposed City of London Official Plan Amendment (OPA) No. 541 - "Southwest Area Secondary Plan".

The grounds for this appeal relate to the interests of our client arising out of its restaurant operations, and more particularly the operation of drive-through facilities ("DTF") associated with those restaurants, and which form an extremely important aspect of our client's business. The reasons for this appeal also relate to the authority of the municipality to adopt certain elements of the City of London OPA No. 541 and the failure of the municipality to investigate, study and justify the proposed specific prohibitions of DTF in certain sections of the Council approved OPA No. 541.

Our objection to the City of London Official Plan Amendment 541 relates specifically to three policies contained within the Secondary Plan as follows:

- Policy 20.5.3.3 Neighbourhood Central Activity Nodes, ii) Permitted Uses (the last sentence) "Drive-through commercial uses shall not be permitted".
- Policy 20.5.9.1 Low and Medium Density Residential (in the Bostwick Residential Neighbourhood) ii) Permitted Uses (the last sentence) "Drive-through commercial shall not be permitted".

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	Section 2		



Policy 20.5.10 - Low and Medium Density Residential (North Lambeth, Central

Longwoods and South Longwoods Residential Neighbourhoods) ii) Permitted Uses (the last sentence) "Drive-through commercial uses shall not be permitted".

2

It is our position, upheld in prior Ontario Municipal Board (OMB) and Court decisions that official plan provisions are not to be used to prohibit specific uses such as DTF. Official Plans may, of course, offer guidance on the broad types of uses in a given area (employment uses in employment designations and residential uses in residential designations, for example). What an Official Plan may not do is descend into detail on what satisfies the requirements, nor pick and choose among them. An Official Plan may not, for example, prohibit townhouses in an area designated for residential uses, nor may it prohibit certain types of commercial uses (DTF, for example) in an area that otherwise permits commercial uses. The location and configuration of a DTF in any part of the City is, at law, a matter best left for regulation by Zoning By-laws, Site Plan Approval and Urban Design Guidelines and not prohibition at the level of the Official Plan.

We have reviewed the material available regarding this draft secondary plan and the staff report being considered later today on this matter and note that there are no related studies or detailed planning justification as to why this specific prohibition of DTF within this Secondary Plan is specifically noted justified.

Finally, our client takes the position, as has been found at the Ontario Municipal Board, that the presence of DTF is more consistent with the Growth Plan and the Provincial Policy Statement, than is the parking lot alternative.

Based on the foregoing, particularly the related case law on this matter which was previously considered by the City's Legal and Planning Departments and the fact that the parent Official Plan already has a clear accepted policy on DTF, we object to the above noted specific prohibition in the Southwest Area Secondary Plan - OPA No. 541.

Based on the above noted and other related matters that may arise directly from our appeal, we request that the City of London submit this appeal to the Ontario Municipal Board for its considerations. This notice of appeal includes the prescribed fee of \$125.00 payable to the Minister of Finance.

Thank you for your attention to this matter.

Yours very truly,

Michael S. Polowin

Partner

cc: Client

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Agenda	tem#	Page	#
OD ORGO			



Ontario Municipal Board Commission des affaires municipales de l'Ontario 655 Bay Street, Suite 1500 Toronto, Ontario M5G 1E5 TEL: (416) 326-6800 or Toll Free: 1-866-887-8820 FAX: (416) 326-5370

(SUBMIT TO MUNICIPALITY/APPROVAL AUTHORITY)

www.omb.gov.on.ca

# **APPELLANT FORM (A1)** PLANNING ACT - Bill 51

# Instructions:

Complete one form for each type of appeal you are filing.
A filing fee of \$125 is required for each type of appeal you are filing. To view the Fee Schedule, visit the Board's website.

- The filing fee must be paid by certified cheque or money order, in Canadian funds, payable to the Minister of Finance.
- · Do not send cash.
- Submit your completed appeal form(s) and filing fee(s) to either the Approval Authority or Municipality, as applicable, by the required filing deadline. The Approval Authority/Municipality will forward your appeal(s) and fee(s) to the Ontario Municipal Board.
- Please print clearly throughout the appeal form.
- The Planning Act and the Ontario Municipal Board Act are available at www.omb.gov.on.ca.

Receipt Number (OMB Office Use Only):					
Date Stamp	- Appeal Received by Municipality				
	RECEIVED DEC 2 0 2012				

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

SUBJECT OF APPEAL	TYPE OF APPEAL	PLANNING ACT REFERENCE (SECTION)	
Minor Variance	Appeal a decision	45(12)	
	Appeal a decision or conditions imposed	53(19)	
Consent	Appeal conditions imposed	53(27)	
	Failed to make a decision on the application within 90 days	53(14)	
	Appeal the passing of a Zoning By-law	34(19)	
Zoning By-law/Amendments	Application for an amendment to the Zoning By-law – failed to make a decision on the application within 120 days	34(11)	
	Application for an amendment to the Zoning By-law – refused by the municipality		
Interim Control By-law	Appeal the passing of an Interim Control By-law	38(4)	
	Appeal a decision	17(24) or 17(36)	
	Failed to make a decision on the application within 180 days	17(40)	
Official Plan or Official Plan Amendment	Application for an amendment to the Official Plan – refused by the municipality	22(7)	
	Application for an amendment to the Official Plan – failed to make a decision on the application within 180 days	22(7)	
	Appeal a decision	51(39)	
Subdivision	Appeal conditions imposed	51(43) or 51(48)	
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Professional Titi	o. Lawyei				
E-mail Address:	michael.polowin@gov	rlings.com			
	By providing	an e-mail address you as	ree to receive communications from	n the OMB by e-mail.	
oaytime Teleph	one #:613 786-0158	Alternate Telep	hone #: 613 233- 1781		
ax #: 613 788-	3485				
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M (Bill 51) Rev. 2	3/01/2007				Page 2 of

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Signature o	f Annellant:			
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- The payment must be in Canadian funds, payable to the Minister of Finance.
- Do not send cash.

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Our File: P-375-09 R

December 20, 2012

Ms. Cathy Saunders, City Clerk City of London, City Hall 300 Dufferin Avenue, London, ON. Room 308, 3<sup>rd</sup> Floor London, ON. N6B 1Z2

City Clerk	No. 4085
Subject APPER	-10-1609
- "SWAP"	-20-71609
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Dear Ms. Saunders:

Re: Notice of Appeal to the Ontario Municipal Board City of London Official Plan Amendment No. 541 Southwest Area Secondary Plan Adopted by City Council on November 20, 2012

We are solicitors for the A & W Food Services of Canada Inc. In accordance with Section 17 of the Planning Act and on behalf of our client, we hereby appeal the above noted proposed City of London Official Plan Amendment (OPA) No. 541 - "Southwest Area Secondary Plan".

The grounds for this appeal relate to the interests of our client arising out of its restaurant operations, and more particularly the operation of drive-through facilities ("DTF") associated with those restaurants, and which form an extremely important aspect of our client's business. The reasons for this appeal also relate to the authority of the municipality to adopt certain elements of the City of London OPA No. 541 and the failure of the municipality to investigate, study and justify the proposed specific prohibitions of DTF in certain sections of the Council approved OPA No. 541.

Our objection to the City of London Official Plan Amendment 541 relates specifically to three policies contained within the Secondary Plan as follows:

- Policy 20.5.3.3 Neighbourhood Central Activity Nodes, ii) Permitted Uses (the last sentence) "Drive-through commercial uses shall not be permitted".
- Policy 20.5.9.1 Low and Medium Density Residential (in the Bostwick Residential Neighbourhood) ii) Permitted Uses (the last sentence) "Drive-through commercial shall not be permitted".

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Policy 20.5.10 — Low and Medium Density Residential (North Lambeth, Central Longwoods and South Longwoods Residential Neighbourhoods) ii) Permitted Uses (the last sentence) "Drive-through commercial uses shall not be permitted".

It is our position, upheld in prior Ontario Municipal Board (OMB) and Court decisions that official plan provisions are not to be used to prohibit specific uses such as DTF. Official Plans may, of course, offer guidance on the broad types of uses in a given area (employment uses in employment designations and residential uses in residential designations, for example). What an Official Plan may not do is descend into detail on what satisfies the requirements, nor pick and choose among them. An Official Plan may not, for example, prohibit townhouses in an area designated for residential uses, nor may it prohibit certain types of commercial uses (DTF, for example) in an area that otherwise permits commercial uses. The location and configuration of a DTF in any part of the City is, at law, a matter best left for regulation by Zoning By-laws, Site Plan Approval and Urban Design Guidelines and not prohibition at the level of the Official Plan.

We have reviewed the material available regarding this draft secondary plan and the staff report being considered later today on this matter and note that there are no related studies or detailed planning justification as to why this specific prohibition of DTF within this Secondary Plan is specifically noted justified.

Finally, our client takes the position, as has been found at the Ontario Municipal Board, that the presence of DTF is more consistent with the Growth Plan and the Provincial Policy Statement, than is the parking lot alternative.

Based on the foregoing, particularly the related case law on this matter which was previously considered by the City's Legal and Planning Departments and the fact that the parent Official Plan already has a clear accepted policy on DTF, we object to the above noted specific prohibition in the Southwest Area Secondary Plan – OPA No. 541.

Based on the above noted and other related matters that may arise directly from our appeal, we request that the City of London submit this appeal to the Ontario Municipal Board for its considerations. This notice of appeal includes the prescribed fee of \$125.00 payable to the Minister of Finance.

Thank you for your attention to this matter.

Yours very truly,

Michael S. Polowin

Partner

cc: Client

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Agenda Item #	Page #



Ontario Municipal Board Commission des affaires municipales de l'Ontario 655 Bay Street, Suite 1500 Toronto, Ontario M5G 1E5 TEL: (416) 326-6800 or Toll Free: 1-866-887-8820 FAX: (416) 326-5370

**PLANNING ACT - Bill 51** 

APPELLANT FORM (A1)

www.omb.gov.on.ca

(SUBMIT TO MUNICIPALITY/APPROVAL AUTHORITY)

#### Instructions:

- Complete one form for each type of appeal you are filing.
  A filing fee of \$125 is required for each type of appeal you are filing. To view the Fee Schedule, visit the Board's website.
  The filing fee <u>must</u> be paid by certified cheque or money order, in Canadian funds, payable to the Minister of Finance.
- Do not send cash.
- Submit your completed appeal form(s) and filing fee(s) to either the Approval Authority or Municipality, as applicable, by the required filing deadline. The Approval Authority/Municipality will forward your appeal(s) and fee(s) to the Ontario Municipal Board.
- Please print clearly throughout the appeal form.

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

The Planning Act and the Ontario Municipal Board Act are available at www.omb.gov.on.ca.

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

Appeal conditions imposed

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hereby autho	rize the named company	y and/or individual(s) to represent me:	
irst Name: Mich	ael Last Name: Polowir	•	
Company Name:	Gowling Lefleur Henderson	<u>ш</u>	
Professional Title	: Lawyer	·	
E-mail Address:	michael.polowin@gowlings.c	æm	
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Signature of Appellant: Date: 19/12	10.0
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Part 5: Appeal Specific Information	
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HAND DELIVERED

Our File: P-375-09 R

December 20, 2012

Ms. Cathy Saunders, City Clerk City of London, City Hall 300 Dufferin Avenue, London, ON. Room 308, 3<sup>rd</sup> Floor London, ON. N6B 1Z2

City Clerk	No. 4081
Subject APP	EAL-OFA
541 -	"SWAP" - 0-7609
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DE	C 20 2012 SCANNED
Ref. Ineth	ercon ""

Dear Ms. Saunders:

Re: Notice of Appeal to the Ontario Municipal Board City of London Official Plan Amendment No. 541 Southwest Area Secondary Plan Adopted by City Council on November 20, 2012

We are solicitors for the McDonald's Restaurants of Canada Limited. In accordance with Section 17 of the Planning Act and on behalf of our client, we hereby appeal the above noted proposed City of London Official Plan Amendment (OPA) No. 541 - "Southwest Area Secondary Plan".

The grounds for this appeal relate to the interests of our client arising out of its restaurant operations, and more particularly the operation of drive-through facilities ("DTF") associated with those restaurants, and which form an extremely important aspect of our client's business. The reasons for this appeal also relate to the authority of the municipality to adopt certain elements of the City of London OPA No. 541 and the failure of the municipality to investigate, study and justify the proposed specific prohibitions of DTF in certain sections of the Council approved OPA No. 541.

Our objection to the City of London Official Plan Amendment 541 relates specifically to three policies contained within the Secondary Plan as follows:

- Policy 20.5.3.3 Neighbourhood Central Activity Nodes, ii) Permitted Uses (the last sentence) "Drive-through commercial uses shall not be permitted".
- Policy 20.5.9.1 Low and Medium Density Residential (in the Bostwick Residential Neighbourhood) ii) Permitted Uses (the last sentence) "Drive-through commercial shall not be permitted".

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Policy 20.5.10 – Low and Medium Density Residential (North Lambeth, Central Longwoods and South Longwoods Residential Neighbourhoods) ii) Permitted Uses (the last sentence) "Drive-through commercial uses shall not be permitted".

It is our position, upheld in prior Ontario Municipal Board (OMB) and Court decisions that official plan provisions are not to be used to prohibit specific uses such as DTF. Official Plans may, of course, offer guidance on the broad types of uses in a given area (employment uses in employment designations and residential uses in residential designations, for example). What an Official Plan may not do is descend into detail on what satisfies the requirements, nor pick and choose among them. An Official Plan may not, for example, prohibit townhouses in an area designated for residential uses, nor may it prohibit certain types of commercial uses (DTF, for example) in an area that otherwise permits commercial uses. The location and configuration of a DTF in any part of the City is, at law, a matter best left for regulation by Zoning By-laws, Site Plan Approval and Urban Design Guidelines and not prohibition at the level of the Official Plan.

We have reviewed the material available regarding this draft secondary plan and the staff report being considered later today on this matter and note that there are no related studies or detailed planning justification as to why this specific prohibition of DTF within this Secondary Plan is specifically noted justified.

Finally, our client takes the position, as has been found at the Ontario Municipal Board, that the presence of DTF is more consistent with the Growth Plan and the Provincial Policy Statement, than is the parking lot alternative.

Based on the foregoing, particularly the related case law on this matter which was previously considered by the City's Legal and Planning Departments and the fact that the parent Official Plan already has a clear accepted policy on DTF, we object to the above noted specific prohibition in the Southwest Area Secondary Plan – OPA No. 541.

Based on the above noted and other related matters that may arise directly from our appeal, we request that the City of London submit this appeal to the Ontario Municipal Board for its considerations. This notice of appeal includes the prescribed fee of \$125.00 payable to the Minister of Finance.

Thank you for your attention to this matter.

Yours very truly,

Michael S. Polowin

Partner

cc: Client

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Ontario Municipal Board Commission des affaires municipales de l'Ontario 655 Bay Street, Suite 1500 Toronto, Ontario M5G 1E5 TEL: (416) 326-6800 or Toll Free: 1-866-887-8820 FAX: (416) 326-5370

PLANNING ACT - Bill 51

(SUBMIT TO MUNICIPALITY/APPROVAL AUTHORITY)

**APPELLANT FORM (A1)** 

www.omb.gov.on.ca

#### Instructions:

- Complete one form for each type of appeal you are filing.
  A filing fee of \$125 is required for each type of appeal you are filing. To view the Fee Schedule, visit the Board's website.
  The filing fee <u>must</u> be paid by certified cheque or money order, in Canadian funds, payable to the Minister of Finance.
- Do not send cash.
- Submit your completed appeal form(s) and filling fee(s) to either the Approval Authority or Municipality, as applicable, by the required filling deadline. The Approval Authority/Municipality will forward your appeal(s) and fee(s) to the Ontario Municipal Board.
- Please print clearly throughout the appeal form.
- The Planning Act and the Ontario Municipal Board Act are available at www.omb.gov.on.ca.

Receipt	Number (OMB Office Use Only):
Date Sta	mp - Appeal Received by Municipality
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### Part 1: Appeal Type (Please check only one box)

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

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First Name: I				
Company Na	me: Gowling Lefleur Henderson LLF			
Professional	Title: Lawyer			
E-mail Addre	ss: michael.polowin@gowlings.com			
	By providing an e-mail add	fress you agree to receive communications from the (	OMB by e-mail.	
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- Do not send cash.

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2017-011-09

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#### **HAND DELIVERED**

Our File: P-375-09 R

December 20, 2012

Ms. Cathy Saunders, City Clerk City of London, City Hall 300 Dufferin Avenue, London, ON. Room 308, 3<sup>rd</sup> Floor London, ON. N6B 1Z2

City Clerk	No.	4083
Subject APPEAL	_ OP	1534
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-ORHMA		
DEC 21	0 2012	

Ref. Trether cont SCANNED C.C.

Dear Ms. Saunders:

Notice of Appeal to the Ontario Municipal Board City of London Official Plan Amendment No. 541 Southwest Area Secondary Plan Adopted by City Council on November 20, 2012

We are solicitors for the Ontario Restaurant Hotel & Motel Association (ORHMA), the industry group representing among others, operators of restaurants. In accordance with Section 17 of the Planning Act and on behalf of our client, we hereby appeal the above noted proposed City of London Official Plan Amendment (OPA) No. 541 - "Southwest Area Secondary Plan".

The grounds for this appeal relate to the interests of our client arising out of its restaurant operations, and more particularly the operation of drive-through facilities ("DTF") associated with those restaurants, and which form an extremely important aspect of our client's business. The reasons for this appeal also relate to the authority of the municipality to adopt certain elements of the City of London OPA No. 541 and the failure of the municipality to investigate, study and justify the proposed specific prohibitions of DTF in certain sections of the Council approved OPA No. 541.

Our objection to the City of London Official Plan Amendment 541 relates specifically to three policies contained within the Secondary Plan as follows:

- Policy 20.5.3.3 Neighbourhood Central Activity Nodes, ii) Permitted Uses (the last sentence) "Drive-through commercial uses shall not be permitted".
- Policy 20.5.9.1 Low and Medium Density Residential (in the Bostwick Residential Neighbourhood) ii) Permitted Uses (the last sentence) "Drive-through commercial shall not be permitted".

Agenda item #	Page #
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# gowlings

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 Policy 20.5.10 – Low and Medium Density Residential (North Lambeth, Central Longwoods and South Longwoods Residential Neighbourhoods) ii) Permitted Uses (the last sentence) "Drive-through commercial uses shall not be permitted".

It is our position, upheld in prior Ontario Municipal Board (OMB) and Court decisions that official plan provisions are not to be used to prohibit specific uses such as DTF. Official Plans may, of course, offer guidance on the broad types of uses in a given area (employment uses in employment designations and residential uses in residential designations, for example). What an Official Plan may not do is descend into detail on what satisfies the requirements, nor pick and choose among them. An Official Plan may not, for example, prohibit townhouses in an area designated for residential uses, nor may it prohibit certain types of commercial uses (DTF, for example) in an area that otherwise permits commercial uses. The location and configuration of a DTF in any part of the City is, at law, a matter best left for regulation by Zoning By-laws, Site Plan Approval and Urban Design Guidelines and not prohibition at the level of the Official Plan.

We have reviewed the material available regarding this draft secondary plan and the staff report being considered later today on this matter and note that there are no related studies or detailed planning justification as to why this specific prohibition of DTF within this Secondary Plan is specifically noted justified.

Finally, our client takes the position, as has been found at the Ontario Municipal Board, that the presence of DTF is more consistent with the Growth Plan and the Provincial Policy Statement, than is the parking lot alternative.

Based on the foregoing, particularly the related case law on this matter which was previously considered by the City's Legal and Planning Departments and the fact that the parent Official Plan already has a clear accepted policy on DTF, we object to the above noted specific prohibition in the Southwest Area Secondary Plan – OPA No. 541.

Based on the above noted and other related matters that may arise directly from our appeal, we request that the City of London submit this appeal to the Ontario Municipal Board for its considerations. This notice of appeal includes the prescribed fee of \$125.00 payable to the Minister of Finance.

Thank you for your attention to this matter.

Yours very truly,

Michael S. Polowin

Partner

cc: Client

Agenda Item #	Page #



Ontario Municipal Board Commission des affaires municipales de l'Ontario 655 Bay Street, Suite 1500 Toronto, Ontario M5G 1E5 TEL: (416) 326-6800 or Toll Free: 1-866-887-8820 FAX: (416) 326-5370

**APPELLANT FORM (A1)** PLANNING ACT - Bill 51

(SUBMIT TO MUNICIPALITY/APPROVAL AUTHORITY)

## Instructions:

www.omb.gov.on.ca

Complete one form for each type of appeal you are filing.
 A filing fee of \$125 is required for each type of appeal you are filing. To view the Fee Schedule, visit the Board's website.

 The filing fee <u>must</u> be paid by certified cheque or money order, in Canadian funds, payable to the Minister of Finance.

Do not send cash.

- Submit your completed appeal form(s) and filing fee(s) to either the Approval Authority or Municipality, as applicable, by the required filing deadline. The Approval Authority/Municipality will forward your appeal(s) and fee(s) to the Ontario Municipal Board.
- Please print clearly throughout the appeal form.

  The Planning Act and the Ontario Municipal Board Act are available at www.omb.gov.on.ca.

Receipt N	umber (OMB Office Use Only):
Date Stan	p - Appeal Received by Municipality
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# Part 1: Appeal Type (Please check only one box)

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

Agenda Item #	Page #

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Part 2: Location Information	· · · · · · · · · · · · · · · · · · ·		
Area as defined by the Southwest Area Secondary	•		,
Address and/or Legal Description of property subjections	ct to the appeal:		•
Municipality: City of London			
Part 3: Appellant Information			
First Name:	Last Name:		<del>5.5</del>
Ontario Restaurant Hotel and Motel Association (ORI	IMA) (See Representative information	ition below for contact pu	rposes)
Company Name or Association Name (Association must			
Professional Title (if applicable):			·
E-mail Address:  By providing an e-mail address you	agree to receive communications from the	OMO No.	4
Daytime Telephone #:			
ax #	· ·		
Aailing Address: Street Address	Apt/Suite/Unit#	<u> </u>	
·	white control to the	City/Town	
Province	Country (if not Canada)	Postal Code	
Signature of Appellant:		Date:	
Please note: You must notify the Ontario Municipal Equate your OMB Reference Number(s) after they have	Soard of any change of address of been assigned.	r telephone number in wri	ting. Please
Personal information requested on this form is collected und the <i>Ontario Municipal Board Act</i> , R.S.O. 1990, c. O. nay become available to the public.	under the provisions of the <i>Planning</i> 28 as amended. After an appeal is t	r Act, R.S.O. 1990, c. P. 13, filed, all information relating	as amended, to this appeal
Part 4: Representative Information (if applicable	2		
hereby authorize the named company and/or in	idividual(s) to represent me:	•	
irst Name: Michael Last Name: Polowin	•		
company Name: Gowling Lefleur Henderson LLP		- ·	
Professional Title: Lawyer			
-mail Address: michael.polowin@gowlings.com			
By providing an e-mail address you	agree to receive communications from the	OME by e-mail.	
Daytime Telephone #:613 786-0158 Alternate Tele	ephone #: 613 233- 1781		
Fax #: 613 788-3485			
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A1 (Bill 51) Rev. 23/01/2007			Page 2 of 5

Agenda I	item# Page#	
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Ontario Egiil Street	Apt/Suite/Unit# 2600	City/Town: Ottawa
Province	Country (if not Canada)	K1P 1C3
	Country (ii not Carlada)	Postal Code
Signature of Appellant		Date: 19/12/2012
Please note: If you are represented the appellant and a		
Please note: If you are representing the appellant and an required by the Board's Rules of Practice and Procedure, the below.	e NOT a solicitor, please con to act on behalf of the appella	
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I certify that I have written authorization from the appelled behalf and I understand that I may be asked to produce	ant to act as a representative this authorization at any time	with respect to this appeal on his or her
Part 5: Appeal Specific Information	and and the state of the state	
<ol> <li>Provide specific information about what you a Number(s), Official Plan Number(s) or Subdivision</li> </ol>	are appealing. For example Number(s):	ple: Municipal File Number(s), By-law
(Please Print)		
Official Plan Amendment No. 541, City of London -	- "Southwest Area Secon	idary Plan"
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<ol> <li>Outline the nature of your appeal and the reasons (for example: the specific provisions, sections are your appeal - if applicable). **If more space is requ</li> </ol>	d/or policies of the Official	Plan or By-law which are the subject of
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Please see attached letter.		,
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**The following sections (a&b) apply only to appear Planning Act.	ls of Zoning By-law Amer	ndments under Section 34(11) of the
a) DATE APPLICATION SUBMITTED TO MUNICIPAL (If application submitted on or after January 1, 2007)	LITY:	51' form.)
b) Provide a brief explanatory note regarding the prop category, the purpose of the desired zoning by-law **If more space is required please continue in Part 8	osal, which includes the ex change, and a description	isting zoning category, desired zoning of the lands under appeal:

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Payment Method:

Certified cheque

Money Order

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

Agenda Item #	Page #
	TO A COLOR

2012-011-09

December 17, 2012

Sergio E. Pompilii & Assoc. Ltd. 301 Oxford Street W., Suite 24138 London, ON N6H 5C4

Attention:

Mr. Sergio Pompilii

City Clerk	No. 40/8
Subject APPE	AL-OPA-541
"SWAP"-	0-7/009
- Late	19 2012
Ref. JNethe	xcott
C.C.	300 0 0 0 0 0 0 0

Re:

OMB Appeal of the Corporation of the City of London By-law No. C.P.-1284(st)-331 & Official Plan Amendment No. 541 6182 Hamlyn Street & 2088 Wharncliffe Road S. Properties

Dear Mr. Pompilii:

As the appellant of the above referenced By-law and Official Plan Amendment, this letter is providing written authorization that your firm act as my representative with respect to this appeal on my behalf.

Yours truly,

Salvatore Latella Owner of 6182 Hamlyn Street

& 2088 Wharncliffe Road S.

Agenda Item #	Page #
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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

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

SUBJECT OF APPEAL	TYPE OF APPEAL	PLANNING ACT REFERENCE (SECTION)
Minor Variance	Appeal a decision	45(12)
	Appeal a decision	
Consent/Severance	Appeal conditions imposed	53(19)
	Appeal changed conditions	53(27)
	Failed to make a decision on the application within 90 days	53(14)
• .	Appeal the passing of a Zoning By-law	34(19)
Zoning By-law or Zoning By-law Amendment	Application for an amendment to the Zoning By-law – failed to make a decision on the application within 120 days	34(11)
	Application for an amendment to the Zoning By-law – refused by the municipality	
Interim Control By-law	Appeal the passing of an Interim Control By-law	38(4)
	Appeal a decision	17(24) or 17(36)
OM-1-1 Discussion	Failed to make a decision on the plan within 180 days	17(40)
Official Plan or Official Plan Amendment	Application for an amendment to the Official Plan – failed to make a decision on the application within 180 days	22(7)
	Application for an amendment to the Official Plan – refused by the municipality	
	Appeal a decision	51(39)
Plan of Subdivision	Appeal conditions imposed	51(43) or 51(48)
	Failed to make a decision on the application within 180 days	51(34)

Part 2: Location Information
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6182 Hamlyn Street & 2088 Wharncliffe Road S.

Address and/or Legal Description of property subject to the appeal:

Municipality/Upper tier: London, Ontario

A1 Revised April 2010

Page 2 of 6

	Agenda Item #	Page #

Company Name o	or Association Name (Ass	sociation must be incorporated – include copy of I	letter of incorporation)
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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:	Languag	e and Ac	cessibility

Please	choese	preferred	language:
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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)

Southwest Area Plan Official Plan Amendment By-law C.P.-1284(st) and Official Plan Amendment No. 541

 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)

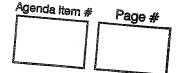
The three appealed issues are consistent to what my consultant/representative presented before the Planning and Environment Committee at its October 15, 2012 Statutory Public Meeting, dealing with the approval of the Southwest Area Secondary Plan. A description of the appealed issues is as follows:

The two separate road networks, as depicted in the attached Figure 1: Conceptual Road Network and Appendix 1: Official Plan Extracts (Proposed Schedule C Amendments) maps creates an unnecessary and wasteful use of land and results in an economic loss in developable land for my land holdings through the second westerly connection of Wharncliffe Road S. to Hamlyn Street. The Savoy Street extension through the subject properties provides the required collector road connection between Wharncliffe Road S. and Hamlyn Street, and the proposed additional westerly collector road connection is an unwarranted duplication within a small land area. The Corporation of the City of London should relocate the subject westerly road connection further west, along Hamlyn Street.

The internal grid road network within my land holdings, as depicted in the attached Figure 1: Conceptual Road Network map, will unfairly reduce the future developable envelope of the subject properties, are unnecessary because of the two existing public roads (i.e. Wharncliffe Road S. and Hamlyn Street) and the proposed extension of Savoy Street allows ample exterior road connections for the size and form of future development. In addition, the design and final placement of internal road accesses, within the subject properties, should be determined at the time of development. Doing so now is premature, restrictive and will cause an economic loss for me.

It is important to note that at the October 24, 2012 second public meeting dealing with the approval of the Southwest Area Secondary Plan before the Planning & Environment Committee, staff and the Committee further discussed that the above referenced Figure 1: Conceptual Road Network map (proposed internal road network) and the Appendix 1: Official Plan Extracts Proposed Schedule C Amendments (secondary road system throughout the subject Southwest Secondary Plan) would be further reviewed by staff and the Committee at a future public meeting(s) before they are finalized.

The Multi-Family, Medium Density Residential designation within my land area along the east side of the Savoy Street extension that was achieved through the Southwest Area Secondary Plan process, as depicted in the attached Amendments to Schedule A: East Side of Savoy Street map, should allow intensified residential development (i.e. D 100 / Page 4 of 6



7-9 storeys maximum building unit and height intensities). The identification of the requested intensified medium density development for the identified area has been discussed and written documentation exists with City of London Planning staff as a compromise to the originally requested High Density Residential designation, note attached minutes of meeting. It should be noted that at that time, I was still pursuing the possibility of establishing the above referenced Multi-Family – High Density Residential designation. However, there is no written documentation and mapping of this within the approved November 20, 2012 Southwest Area Secondary Plan. As a result, the subject identified land area should be treated as a special case, in order to allow the above density and building heights because it would provide an ideal stepping up and a stepping down to and from the Wonderland Boulevard Neighbourhood, and utilize the vistas of the Thornicroft Drain and future Wharncliffe and Wonderland Road transit areas. Not doing so would result in an economic loss for my subject identified land area. In addition, City Council, at its November 20, 2012 meeting, approved the extension of the Wonderland Road Community Enterprise Corridor, south of Exeter Road to Hamlyn Street, in very close proximity to the east of my subject identified land area. Based on this decision, there is unquestionable justification that my subject identified land area receiving intensified medium density residential development, similar to what has been established for Multi-Family, Medium Density Residential land tracks that abut the west side of the Wonderland Road Community Enterprise Corridor, north of Wharncliffe Road S.

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 'pro	e-Bill 51' form.)		
<ul> <li>b) Provide a brief explanatory note regarding the proposal, which include category, the purpose of the desired zoning by-law change, and a des **If more space is required, please continue in Part 9 or attach a sepa</li> </ul>	scription of the la	oning category ands under app	, desired zoning peal:
Part 7: Related Matters (if known)			
Are there other appeals not yet filed with the Municipality?	YES T	NO P	
Are there other planning matters related to this appeal? (For example: A consent application connected to a variance application)	YES [7	NO P	
If yes, please provide OMB Reference Number(s) and/or Municipal File N	Number(s) in the	box below:	
(Please print)	,		
Part 8: Scheduling Information			
ratio. Scheduling mornation			
How many days do you estimate are needed for hearing this appeal?	half day	1 day   C   2	days 3 days
4 days 1 week More than 1 week - please specif	fy number of day	/s:	· · · · · · · · · · · · · · · · · · ·
How many expert witnesses and other witnesses do you expect to have	at the hearing p	roviding evider	ice/testimony?
One			
Describe expert witness(es)' area of expertise (For example: land use plant	anner, architect	, engineer, etc.	):
Land Investment & Development	Strategist		

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Do you believe this matter would benefit from mediation? (Mediation is generally scheduled only when all parties agree to participate)	YES	<b>F</b>	NO	T.
Do you believe this matter would benefit from a prehearing conference?	YES	₩.	NO	Ţ

If yes, why? If municipal staff can provide direction to remove all three above noted appeal issues, subject to City Council approval, there is the possibility of the appeal being removed by me.

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

Note attached mapping information, in terms of the appealed issues of the Corporation of the City of London passing
By-law No. C.P.-1284(st)-331 and their adoption of Amendment No. 541 of the Official Plan for the City of London
Planning Area – 1989 on November 20, 2012. The appealed issues are as follows:

1. The westerly secondary collector road, depicted within the attached Schedules to the Official Plan (1-a, 1-f, 1-g, 1-k,
3-a, 3-b, 3-c, 3-d, 3-e, 3-f, and 4) that are contained within Southwest Area Plan Official Plan Amendment By-law No.
C.P.-1284(st)-331

2. The westerly secondary collector road and grid pattern, as depicted within the attached Figure 1 (Page 21)
Conceptual Road Network of the Council-approved November 2012 Southwest Area Secondary Plan Document.
3. The portion of lands that are designated Multi-Family, Medium Density Residential that lie along the east side of the Savoy Street extension between the Wharncliffe Road Commercial (Auto-Oriented Commercial Corridor)
and Hamlyn Street, as depicted within the attached Schedule 6 (Page 66) of the Southwest Area Secondary Plan and Schedule 1-f to the Official Plan, should possess an intensified building density (D100) and height of up to 7 to 8 storeys.

Part 10: Required Fe	е				
Total Fee Submitted:	\$_	125.00			
Payment Method:	V	Certified cheque	Г	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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Supportive Mapping Information For Part 6: Appeal Specific Information

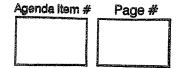
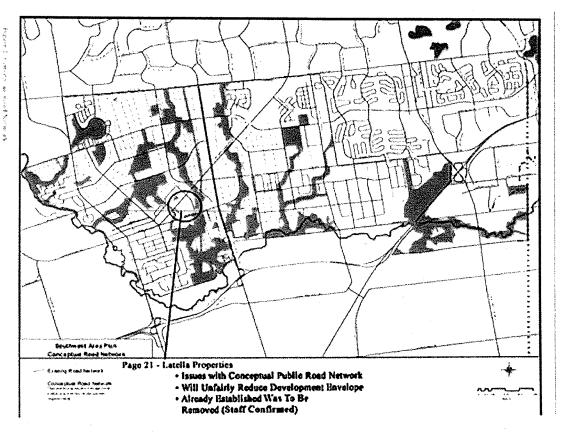
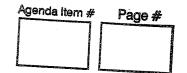


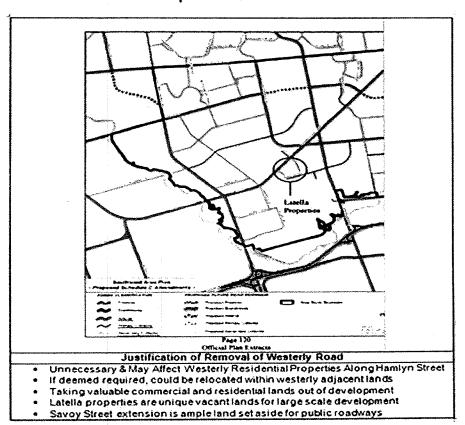
Figure 1: Conceptual Road Network



Sergio I. Dompilii & Associlled



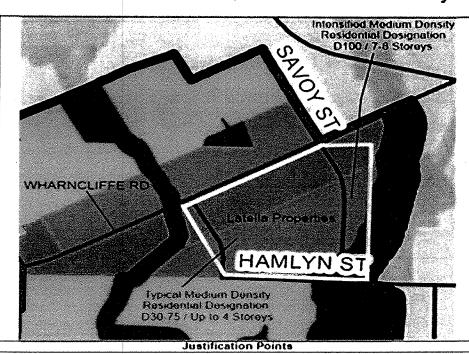
# Appendix I: Official Plan Extracts Proposed Schedule C Amendments



Sergio I. Dempilii & Assect Ud

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# Amendments to Schedule A: East Side of Savoy Extension



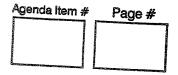
- Landa Along East Side of Savoy Street Extension
  Staff acknowledges that this area should be intensified medium density block
  Intensified block will provide the ideal stepping up and downfrom the
  Wonderland Boulevard Neighbourhood
  Intensified block will utilize the vistas of the Thornicroft Drain
  Intensified block will utilize the future. Wharnchife and Wonderland Road transit

Sorgio E. Dompilii & Assoc, Ital

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Minutes of May 16, 2012 Meeting

Latella Land Holdings – SWAP Process



Page 1 of 1

# Sergio Pompilii

From:

Date:

To:

Cc:

Attach:

Subject:

"Sergio Pompilii" <associates@sepompilii.ca>
May-30-12 9:39 AM
"Heather McNeely" <HMcNeely@London.ca>
"Gregg Barrett" <GBarrett@London.ca>
Minutes of Meeting Sal Latella, May 16, 2012.docx
Latella Properties (6182 Hamlyn St. and 2088 Wharncliffe Rd. S.) - Minutes of Meeting

Heather,

Further to last week's meeting, please find attached my firm's minutes of meeting for your review and comments. It should be noted that my client has requested that I provide within these minutes, his additional comments subsequent to last week's meeting, i.e. as italicised in "note†after each subsection.

Lastly, he has requested your Department's response as soon as possible, i.e. he suggested within a week or so.

Regards,

Sergio

Sengo L Donpair

Dreaders, Dinner/Analyst

M.A. Dipl. A.A. Urban Deegn

MCID, DDD

# Sergio E. Dompilii & Assoc. Ltd.

301 Oxford &L. W. &utc 24138

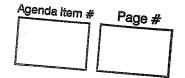
London, ON NOT 5C4

Tel: (519) 473-4773

Para (519) 473-9917

Limite sergio@seposipision.cs

Web: \*\*\*.seponosica



# Minutes of Meeting Latella Land Holdings – SWAP Process May 16, 2012

cipants: Gregg Barrett, Manager of City Planning and Research

Heather McNeely, Senior Planner – City Planning and Research

Salvatore Latella, Owner of 6182 Hamlyn St. and 2088 Wharncliffe Rd. S. Properties Serglo Pompilii, Sergio E. Pompilii & Assoc. Ltd.

Gregg Barrett and Heather McNeely advised the following, in terms of my client's outstanding issues within the SWAP Process:

a) Extension of Savoy St. from Wharncliffe Rd. S. to Hamlyn St. through the Latella land holdings:

Ultimate alignment will be determined at the plan of subdivision stage i.e. location within Latella properties and connection point to Hamlyn St.

Thus, there is flexibility in the future delineation of commercial and residential land uses/blocks

New Savoy/Wharncliffe intersection will be signalized, in order to address existing and future residential development for the land area, along the north side of Wharncliffe Rd. S., i.e. area directly north of Latella properties

New signalized intersection will become the primary access for the Latella properties

Note: Upon further reflection, my client is requesting information on the proposed extension of Savoy St. through his land holdings, such as:

- i) Who will pay for the road?
- ii) Is there cost sharing?
- iii) Physical makeup of the road, i.e. width of the road allowance, sidewalks, etc.
- b) Potential westerly rerouting of Hamlyn St. to Wharncliffe Rd. S. if the existing Hamlyn/Campbell road connection is terminated:

Stated that the ideal location for the new Hamlyn/Wharncliffe Rd. S. road connection would remain at the far westerly limits of the Latella properties within the SWAP recommended Official Plan — Schedule C (Transportation Corridors)

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In order to allow the equal sharing of land area that is required to meet a local street road allowance width requirement with the westerly abutting property owner, i.e. 20m (66 ft.)

Note: Upon further reflection after last week's meeting, my client is of the opinion that the Campbell/Hamlyn connection should not be removed

Given that my client has already committed to providing a secondary road connection from Wharncliffe Rd. S. to Hamlyn St. via the Savoy St. extension through his land holdings; thus he is not in favor of rerouting Hamlyn St. to Wharncliffe Rd. S. through any portion of the westerly section of his property

He views this direction as being unnecessary and unfair for him to lose additional land for a public road, where at our late February 2012 meeting with Ms. Annette Drost, Mr. Barrett advised that if my client agreed to the extension of Savoy St. through his properties, there would be no need for the second westerly Hamlyn St. connection to Wharncliffe Rd. S.

Moreover, he further submits that if the Corporation wishes to pursue the second westerly Hamlyn/Wharncliffe connection, it must be placed to the west of the Latella properties

In addition, my client wishes to advise that a second access point should be provided within the westerly section of his land holdings for the Auto Oriented Commercial Corridor block along Wharncliffe Rd. S. and its ultimate location will be determined at the time of development. It should be noted that my client presently possesses the requested westerly access along his Wharncliffe Rd. S. frontage for the farm operation use

Lastly, he is of the opinion that the recommended Multi-Family, Medium Density Residential block, west of the proposed Savoy St. extension and south of his Wharncliffe Rd. S. commercial block, possesses up to two access points along Hamlyn St.

c) Community Character Areas as identified within the February 7, 2012 SWAP Presentation to Stakeholders:

Will remove the present Village Core Lambeth designation that now extends along the full Latella properties` Wharncliffe Rd. S. frontage

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Agreed that existing commercial development immediately west of the Latella properties' Wharncliffe Rd. S. frontage has already established a precedent for non-traditional village (at street) commercial development

Recognized that the Wharncliffe Rd. S. frontage northeast of Campbell St. is physically separated from the existing traditional Lambeth "Main Street Commercial Corridor"

Concurred that the existing and SWAP recommended Auto-Oriented Commercial Corridor designation can be linked to the typical commercial development with parking at the street edge and buildings internally within properties

As a result, the Latella properties' Wharncliffe Rd. S. frontage will receive a Transit Oriented Corridor (TOC) Wharncliffe Rd. S. designation, in terms of its identification as a Community Character Area

Confirmed that staff has already been discussing this amendment

Stated there will be no additional internal public roadways within the Latella properties, except for the two above referenced potential connections

d) Higher Density designation for the extreme eastern area of the Latella properties. More specifically, lands immediately south of Wharncliffe Rd. S., existing and SWAP recommended Auto-Oriented Commercial Corridor designation, east of the future Savoy St. extension, north of Hamlyn St. and abutting the adjacent Thornicroft Drain:

> Agreed that the maximum allowable units and building heights within the Multi-Family, Medium Density Residential designation will be recommended for this block of land

However, will not support a Multi-Family, High-Density Residential designation for the same land area

Note: Upon further reflection after last week's meeting, my client is of the opinion that his consideration of the above proposed intensified Multi-Family, Medium Density Residential designation will be subject to planning staff providing specific details on what will be the maximum allowable units and building heights

Subsequent to receiving the requested additional background information, he will then decide whether to withdraw his original request for a Multi-Family, High Density Residential designation

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e) Potential servicing of the Latella properties through the SWAP Interim Servicing Options that were established before the Strategic Priorities & Policy Committee's April 30, 2012 meeting:

Will investigate with Engineering staff the possibility of including the Latella properties within the recently adopted City Council SWAP Interim Servicing Strategy – Scenario B (North to South Servicing) Stage 3

Where the Latella properties would be included within the future Southland PCP – Force Main Sanitary Sewer that will be placed along Campbell and Hamlyn Streets to Wonderland Rd. S. and eventually to the Wonderland Pumping Station

Advised that Scenario B (North to South Servicing) Stage 3 could delay the development of the Latella Properties within a 10 year horizon

Stated that Scenario C (South to North Servicing) Stage 2 within the SWAP Interim Servicing Strategy is the ideal servicing option that addresses the full serviceability and a shortened timing of development for the Latella properties

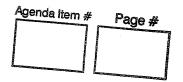
Note: Upon further review, my client wishes to convey that he is interested in achieving the most expeditious servicing scenario because his properties' commercial frontage lands are strategically located to immediately serve the existing Lambeth Community, as outlined in my firm's November 15, 2010 SWAP Planning/Market Justification Report for the Latella holdings. Thus, his Wharncliffe Rd. S. frontage is not tied to short or long-term greenfield development lands

f) Removal of the Latella properties from the Phase 3 Sanitary Servicing timeline, as outlined in planning staff's December 12, 2011 Information Report (Figure 4 – Proposed Three Phase Servicing Option Overlay)

Stated that if the Latella properties are included within the present City Council endorsed SWAP Interim Servicing Strategy - Scenario B (North to South Servicing) Stage 3, the Latella properties will be removed from the above referenced Phase 3 Servicing timeline, as depicted in the December 12, 2011 Information Report

Note: Upon further review, my client wishes to convey that he is interested in achieving the most expeditious servicing scenario because his properties' commercial frontage lands are strategically located to immediately serve the existing Lambeth Community, as outlined in my firm's November 15, 2010 SWAP Planning/Market Justification Report for the Latella holdings. Thus, his

Wharncliffe Rd. S. frontage is not tied to short or long-term greenfield development lands



Supportive Mapping Information For

Part 9: Other Applicable Information

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# Southwest Area Plan Official Plan Amendment

C.P.-1284(st) - Effective November 20, 2012

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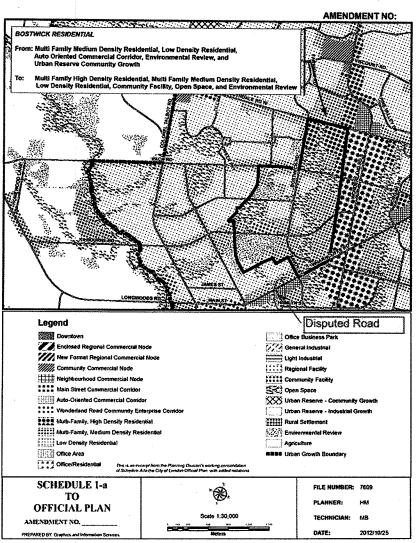
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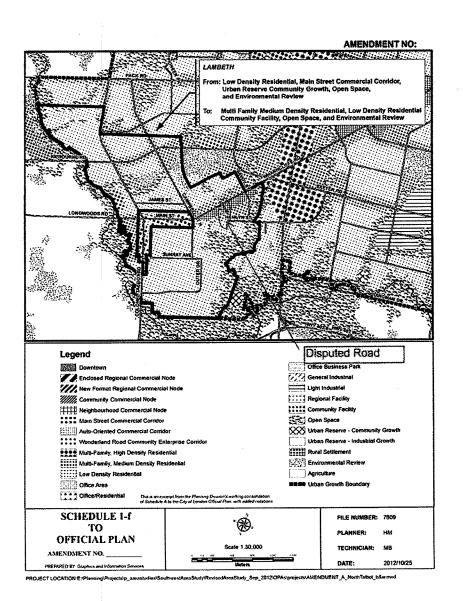


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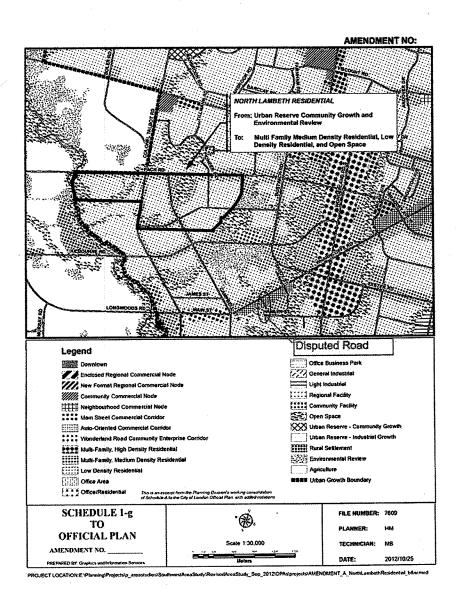


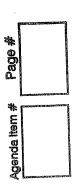
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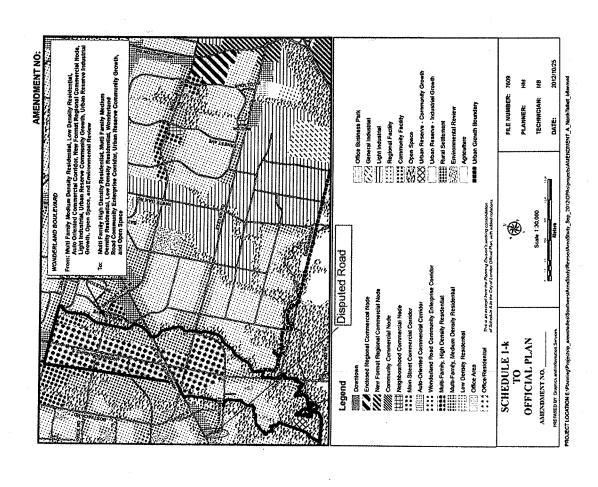
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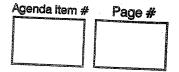


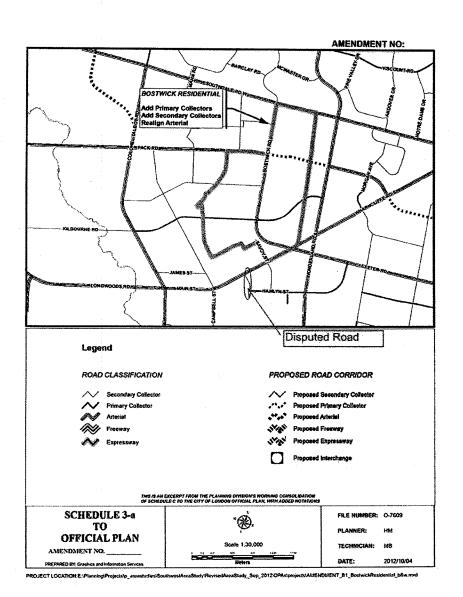
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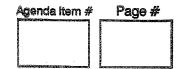


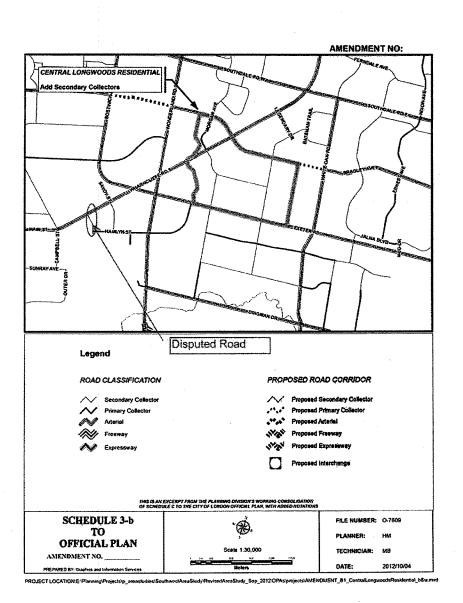




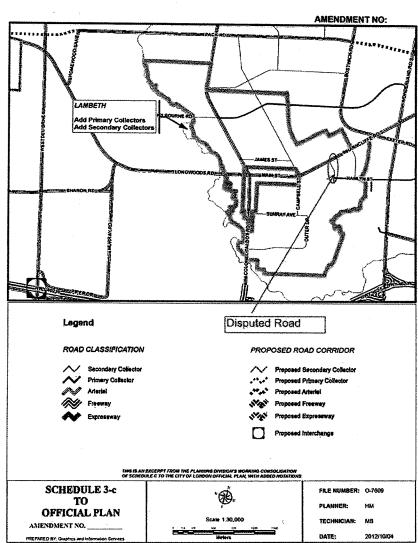




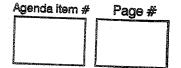


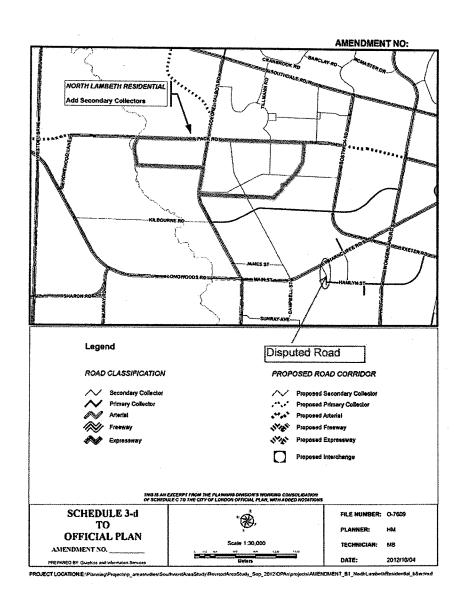


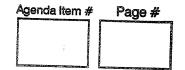
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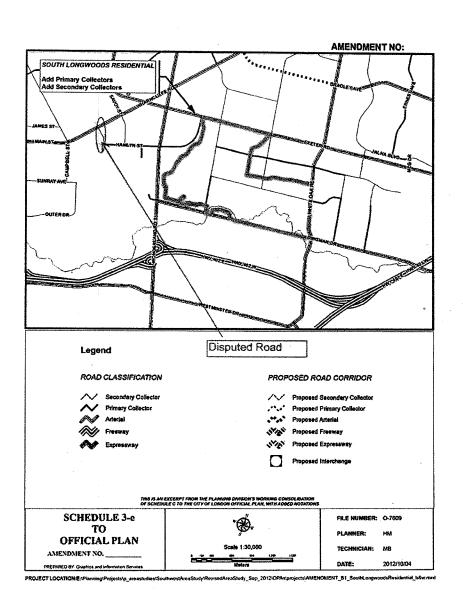


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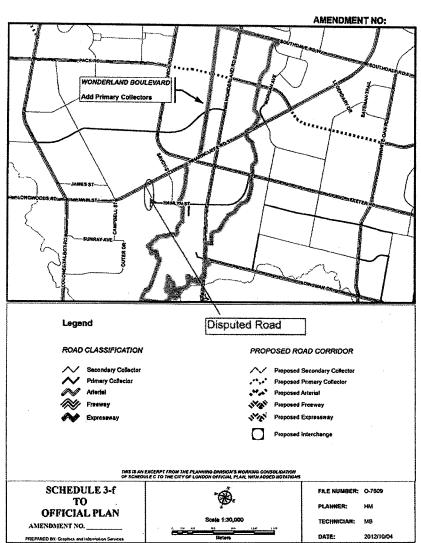




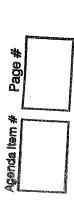


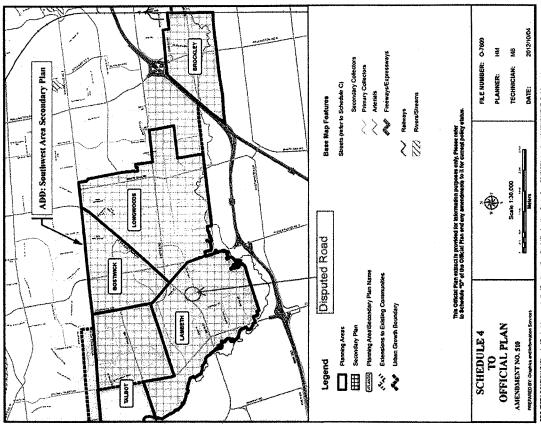


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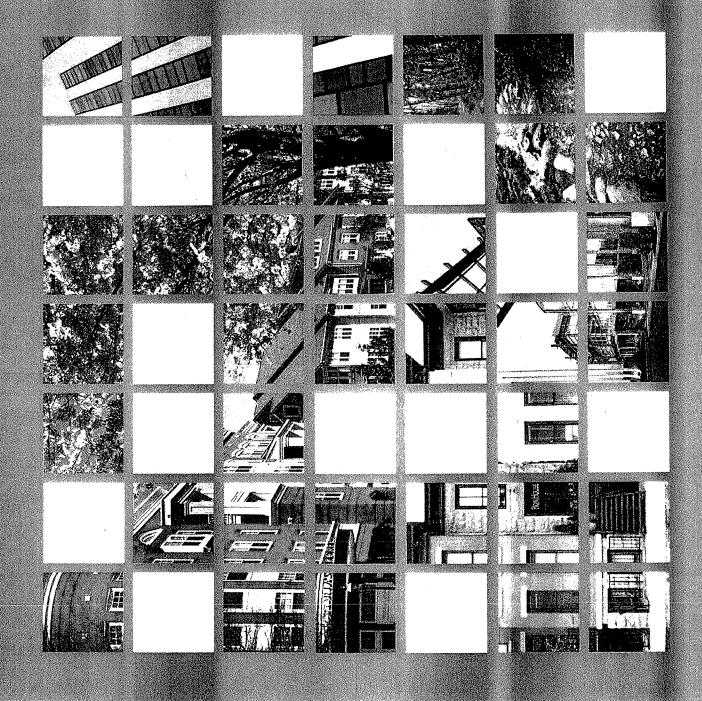




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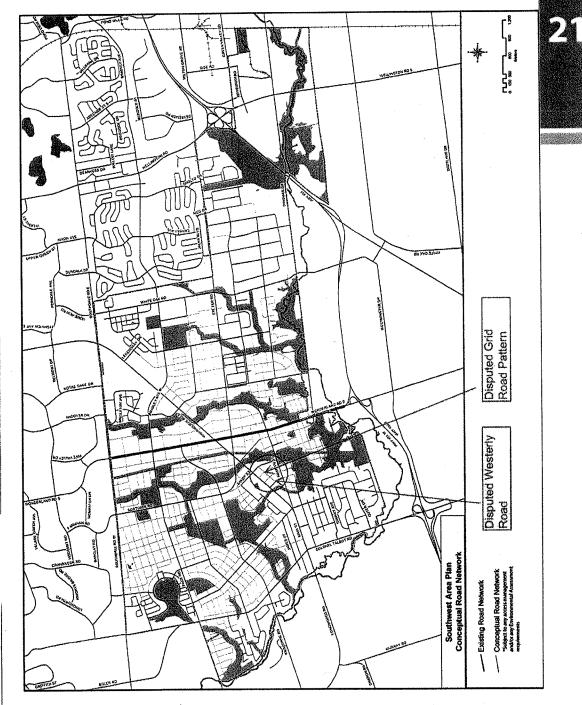


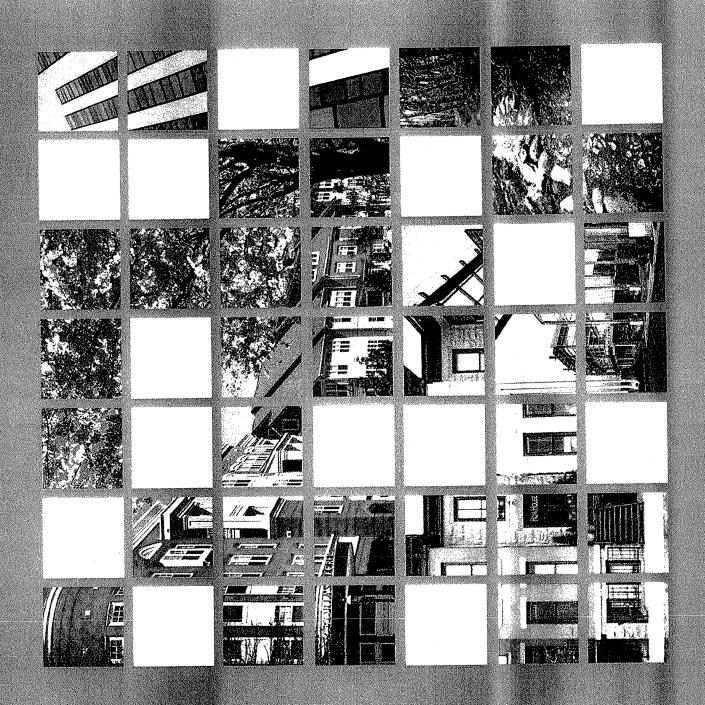
Figure 1: Conceptual Road Network

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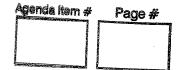
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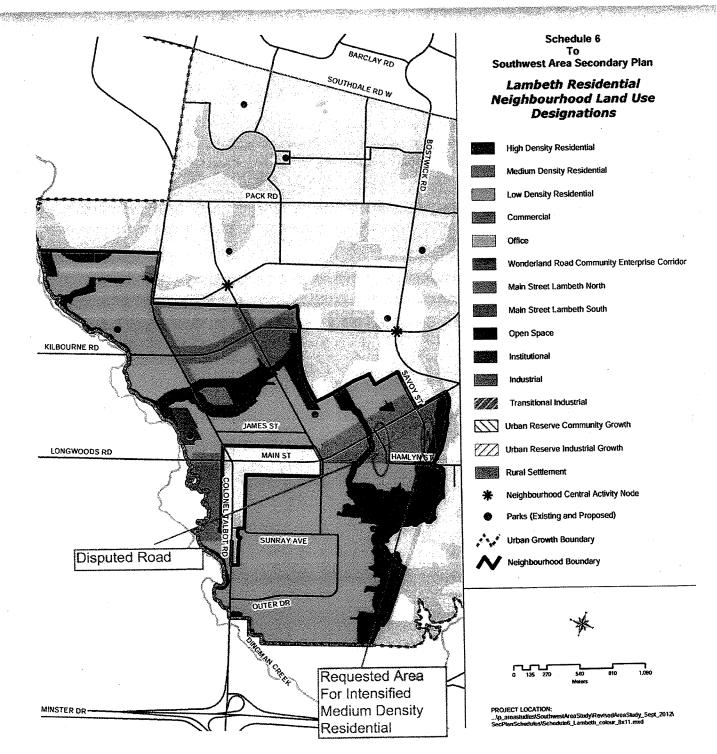
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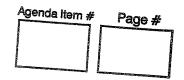
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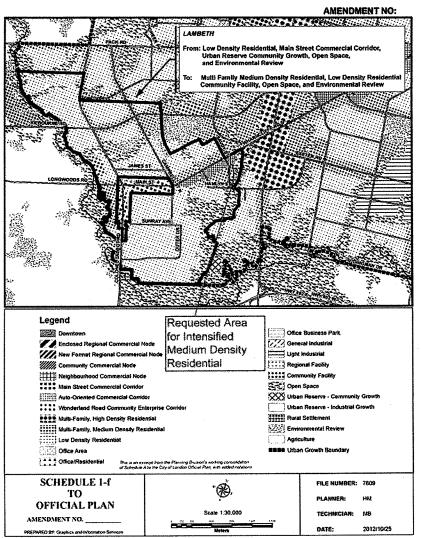


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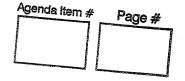








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# Barry R. Card

BARRISTER & SOLICITOR
Certified Specialist - Municipal Law: Local Government/ Land Use Planning & Development Law

568 RIDGEWOOD CRESCENT LONDON, ONTARIO N6J 3J2 TELEPHONE (519) 433-5117 • FACSIMILE (519) 963-0285

Internet Address: cardlaw@rogers.com

December 18, 2012

2012-D11-09

## **DELIVERED**

Catharine Saunders, City Clerk Corporation of the City of London City Hall, Room 308 255 Dufferin Avenue London, Ontaric N6B 1Z2

Dear Ms. Saunders

Subject APPEAL - OPANO.541
- "SWAP" - O-7609 Landon Land Developers
DEC 19 2012
ASSOCIATION . SCANNED
Ref. JNetherott DATE: 121912 m
C.C.

Re: Appeal to the Ontario Municipal Board
Official Plan Amendment No. 541 ("SWAP")
London Land Developers Association ("LDI")

I am the solicitor for the London Land Developers Association (the "LDI"). On behalf of my client, I enclose an appeal against Official Plan Amendment No. 541. Also enclosed is a money order in the sum of \$125.00 payable to the *Minister of Finance*.

If anything further is required to permit the City to forward this appeal to the Board, please let me know.

Yours very truly,

Bary Card / gmy

Barry R. Card

BRC:jmh Encls.

cc: Ontario Municipal Board - 1-416-326-5370 London Development Institute

Agenda Item #	Page #
PRESIDENCE PRODUCE PRO	



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

MUNICIPALITY/APPROVAL **AUTHORITY** 

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Receipt Number (OMB Office	e Use Only)
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# Part 1: Appeal Type (Please check only one box)

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

# Part 2: Location Information

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Address and/or Legal Description of property subject to the appeal:

Municipality/Upper tie	or City Of Luridon		
Part 3: Appellant in	formation		
irst Name:		Last Name:	
London Land Develop	ers Association ("Londor	n Development Institute"), c/o Barry R. Ca	rd, Barrister and Solicitor
ompany Name or Ass	ociation Name (Associat	tion must be incorporated – include copy of	of letter of incorporation)
rofessional Title (if app	plicable):		
-mail Address:	cardlaw@roge	ers.com ddress you agree to receive communications from	
	By providing an e-mail a	ddrass you agree to receive communications from	n the OMB by e-mail.
aytime Telephone #:	519-433-5117	Alternate Telephone #:	
ax #:	519-963-0285		
Mailing Address: 568	Ridgewood Crescent		London
	et Address	Apt/Suite/Unit#	City/Town
	tario 🔷		N6J 3J2
	ince	A Country (if not Canada)	Postal Code
ignature of Appellant:	< 100	uired if the appeal is submitted by a law of	Date: <u>Dec./3/2012</u>
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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.

Agenda Item # Page #					
I certify that I have written authorization from the appellant to act as a represe behalf and I understand that I may be asked to produce this authorization at ar	ntative w	vith respe	ct to this	appeal or	n his or her
Part 5: Language and Accessibility		٠.		:	
Please choose preferred language: X English French					
We are committed to providing services as set out in the Accessibility for C any accessibility needs, please contact our Accessibility Coordinator as so	Ontarian on as p	s with D ossible.	isabilitie	s Act, 20	05. If you have
Part 6: Appeal Specific Information					
<ol> <li>Provide specific information about what you are appealing. For Number(s), Official Plan Number(s) or Subdivision Number(s):</li> </ol>	examp	ole: Mui	nicipal I	File Nun	nber(s), By-law
(Please print)					
Official Plan Amendment No. 541 of the City of London – Southwest Area	Second	ary Plan			
Outline the nature of your appeal and the reasons for your appeal. Be (for example: the specific provisions, sections and/or policies of the your appeal - if applicable). **If more space is required, please continu	Official	Plan or	By-law	which ar	e the subject of
(Please print)					
The issues for appeal are set out in Attachment 1 to this Appeal.					
THE FOLLOWING SECTIONS (a&b) APPLY ONLY TO APPEALS OF SECTION 34(11) OF THE PLANNING ACT.	F ZON	IING B	/-LAW	AMEND	MENTS UNDER
a) DATE APPLICATION SUBMITTED TO MUNICIPALITY:  (If application submitted before January 1, 2007 please use the O1 'pre-	Bill 54'	form )			
b) Provide a brief explanatory note regarding the proposal, which include:			nina ca	teaorv. d	esired zoning
category, the purpose of the desired zoning by-law change, and a desc**If more space is required, please continue in Part 9 or attach a separ	cription	of the la	nds und	er appea	d:
Part 7: Related Matters (if known)		F7			
Are there other appeals not yet filed with the Municipality?	YES	<b>D</b>	NO NO		
Are there other planning matters related to this appeal?  (For example: A consent application connected to a variance application)	. — -		NÜ	<b>A</b>	
If yes, please provide OMB Reference Number(s) and/or Municipal File N	lumber(	s) in the	box bei	ow:	
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Page 4 of 5

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Part 8: Scheduling Information						
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How many days do you estimate are needed for hearing this appeal?						3 days
4 days 1 week x More than 1 week – please specif	y number o	of days				
How many expert witnesses and other witnesses do you expect to have	e at the he	aring p	roviding	evide	nce/testin	nony?
Describe expert witness(es)' area of expertise (For example: land use planner and engineer	olanner, ar	chitect,	engine	er, etc	:.): 	
Do you believe this matter would benefit from mediation? (Mediation is generally scheduled only when all parties agree to participate)	YES		NO	X		
Do you believe this matter would benefit from a prehearing conference (Prehearing conferences are generally not scheduled for variances or consents	? YES	X	NO			
If yes, why? settle issues and other procedural matters with various ap						
Part 9: Other Applicable Information **Attach a separate page if n	ore space	e is rec	uired.			
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Part 10: Required Fee						·-
Total Fee Submitted: \$ 125.00	_		-			
Payment Method: Certified cheque Money Order		Solicito	r's gene	ral or	trust acco	unt cheque
The payment must be in Canadian funds, payable to the	Minister o	f Finar	ice.			

• PLEASE ATTACH THE CERTIFIED CHEQUE/MONEY ORDER TO THE FRONT OF THIS FORM.

Page 5 of 5

• Do not send cash.

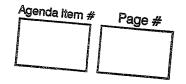
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# Attachment 1 to the Appeal by the London Land Developers Association

# Part 6: Appeal Specific Information

## 2. Reasons for Appeal:

- 1. The text of the proposed Official Plan amendment is weak, incomplete and incapable of providing the direction expected of a secondary plan. It should not be approved.
- 2. The map schedules are based upon faulty analysis and consideration and should not be approved.
- 3. The map schedules propose to create designations which are not adequately supported by policy direction and conflict, rather than enhance the Official Plan.
- 4. In the alternative, it is respectfully submitted that:
  - a. 20,5.1 The "principles" for the secondary plan policies are vague and, in some cases, mistaken. They should be removed or edited.
  - b. 20.5.2 The functionality and private ownership rights for existing municipal drainage works are proposed to be appropriated as "open space systems without justification". The policy should be restricted in application (to confirmed natural heritage features).
  - c. 20.5.3 The whole of this policy should be deleted in favour of the general policies of Chapters 8 and 15 of the Official Plan. The proposed SWAP policies do not reflect the requirements of specific features or functions. They propose to create barriers to efficient urban land use in the absence of justification and do not strike an appropriate balance. They are gratuitous, unsupported and inconsistent with the PRS.
  - d. 20.5.4 The linkage objective is vague and unreasonable. Environmental, parkland and open space objectives have not been clearly expressed.



# Barry R. Card

BARRISTER & SOLICITOR
Certified Specialist - Municipal Law: Local Government/ Land Use Planning & Development Law

568 RIDGEWOOD CRESCENT LONDON, ONTARIO N6J 3J2 TELEPHONE (519) 433-5117 • FACSIMILE (519) 963-0285

Internet Address: cardlaw@rogers.com

December 18, 2012

2012-011-09

# **DELIVERED**

Catharine Saunders, City Clerk Corporation of the City of London City Hall, Room 308 255 Dufferin Avenue London, Ontario N6B 1Z2

Dear Ms. Saunders

City Clerk

Subject APPEAL - OPA NO. 541

- "SWAP" - 0-7609 
Colonel Tolloot Developments

Inc / Crich Holding & Building

Ref. Interpretation

SCANNED

DATE: 101

Re: Appeal to the Ontario Municipal Board
Official Plan Amendment No. 541 ("SWAP")
Auburn Developments Inc., acting as agent for

Colonel Talbot Developments Inc. and Crich Holdings & Buildings Limited

I am the solicitor for the Auburn Developments Inc. On behalf of my client, I enclose an appeal against Official Plan Amendment No. 541. Also enclosed is a certified cheque in the sum of \$125.00 payable to the *Minister of Finance*.

If anything further is required to permit the City to forward this appeal to the Board, please let me know.

Yours very truly,

Barry Coud/ gm/A Barry R. Card

BRC:jmh Encls.

cc: Ontario Municipal Board - 1-416-326-5370 Auburn Developments Inc.

Agenda Item #	Page #
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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** 

MUNICIPALITY/APPROVAL AUTHORITY

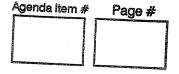
ate Stamp	- Appeal Received by Municipality
	DEC 1 9 2012

Rece	ipt Number	(OMB C	Office Use C	Only)	
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## Part 1: Appeal Type (Please check only one box)

SUBJECT OF APPEAL	TYPE OF APPEAL	PLANNING ACT REFERENCE (SECTION)
Minor Variance	Appeal a decision	45(12)
	Appeal a decision	53(19)
Consent/Severance	Appeal conditions imposed  Appeal changed conditions	53(27)
	Failed to make a decision on the application within 90 days	53(14)
	Appeal the passing of a Zoning By-law	34(19)
Zoning By-law or	Application for an amendment to the Zoning By-law – failed to make a decision on the application within 120 days	34(11)
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Interim Control By-law	Appeal the passing of an Interim Control By-law	38(4)
	X Appeal a decision	17(24) or 17(36)
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Official Plan Amendment	Application for an amendment to the Official Plan – failed to make a decision on the application within 180 days	22(7)
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	Failed to make a decision on the application within 180 days	51(34)

## Part 2: Location Information



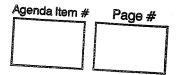
Address and/or Legal Description of property subject to the appeal:

Auburn Developments Inc., acting as agent for Colonel Talbot Developments Inc., Crich Holdings & Buildings Limited, c/o Barry R. Card, Barrister and Solicitor Company Name or Association Name (Association must be incorporated – include copy of letter of incorporation)  Professional Title (if applicable):  E-mail Address:  Cardlaw@rogers.com  By providing an e-mail address you agree to receive communications from the OMB by e-mail.  Daytime Telephone #:519-433-5117	Crich Holdings & Buildings Limited, copy of letter of incorporation)  Ins from the OMB by e-mail.  Ine #:  London City/Town  N6J 3J2  ada) Postal Code Date: Dec. 12, 2012  Iaw office.)  Address or telephone number in writing. Please  the Planning Act, R.S.O. 1990, c. P. 13, as amendappeal is filed, all information relating to this app
Company Name or Association Name (Association must be incorporated – include copy of letter of incorporation)  Professional Title (if applicable):	London City/Town  N6J 3J2 ada) Postal Code Date: Dec. 1, 2012 law office.)  address or telephone number in writing. Please e Planning Act, R.S.O. 1990, c. P. 13, as amend appeal is filed, all information relating to this app
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Mailing Address: 519-963-0285  Mailing Address: 568 Ridgewood Crescent	London City/Town  N6J 3J2 ada) Postal Code Date: Dec. 12, 2012 law office.)  address or telephone number in writing. Please Planning Act, R.S.O. 1990, c. P. 13, as amend appeal is filed, all information relating to this app
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Apt/Suite/Unit# London  Street Address Apt/Suite/Unit# City/Town  Ontario Province Country (if not Canada) Postal Code  Signature of Appellant:  (Signature not required if the appeal is submitted by a law office.)  Barry R. Card  Please note: You must notify the Ontario Municipal Board of any change of address or telephone number in writing 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 and the Ontario Municipal Board Act, R.S.O. 1990, c. O. 28 as amended. After an appeal is filed, all information relating to the street of the provision of the planning Act, R.S.O. 1990, c. O. 28 as amended. After an appeal is filed, all information relating to the street of the provision of the planning Act, R.S.O. 1990, c. O. 28 as amended. After an appeal is filed, all information relating to the planning Act, R.S.O. 1990, c. O. 28 as amended.	City/Town  N6J 3J2  ada) Postal Code  Date: Dec. 15, 2012  law office.)  address or telephone number in writing. Please  e Planning Act, R.S.O. 1990, c. P. 13, as amend appeal is filed, all information relating to this app
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Part 4: Representative Information (if applicable)	
hereby authorize the named company and/or individual(s) to represent me:	
First Name:Last Name:	
Company Name:	
Professional Title:	
E weil Address:	
E-ITIAN AGUIESS.	ons from the OMB by e-mail.
By providing an e-mail address you agree to receive communications from the OMB by e-mail.	
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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.

Agenda Item # Page #					
I certify that I have written authorization from the appellant to act as a represent behalf and I understand that I may be asked to produce this authorization at any	tative w	ith respec	et to this a	appeal on his	s or her
Part 5: Language and Accessibility					
Please choose preferred language: X English French					
We are committed to providing services as set out in the Accessibility for Or any accessibility needs, please contact our Accessibility Coordinator as sec	ntarians on as po	s with Dis ossible.	sabilities	Act, 2005.	If you have
Part 6: Appeal Specific Information					
<ol> <li>Provide specific information about what you are appealing. For Number(s), Official Plan Number(s) or Subdivision Number(s):</li> </ol>	examp	le: Mun	icipal F	ile Numbe	r(s), By-law
(Please print)					
Official Plan Amendment No. 541 of the City of London - Southwest Area S	Seconda	ary Plan			
					-
					:
<ol> <li>Outline the nature of your appeal and the reasons for your appeal. Be     (for example: the specific provisions, sections and/or policies of the 0     your appeal - if applicable). **If more space is required, please continue.</li> </ol>	Official	Plan or i	∃y-law v	vhich are tr	ne subject of
(Please print)					
The "text" issues for appeal are set out in Auburn Developments Inc.'s let Appeal as Schedule "A".	ter date	ed Septe	mber 14	l, 2012, atta	ached to this
This Appeal also applies to all mapping (schedules) proposed by the OPA policies which this appeal calls into question.	, as the	e mappir	ng is the	product of	the land use
policies which this appear cans into question.					
THE FOLLOWING SECTIONS (a&b) APPLY ONLY TO APPEALS O SECTION 34(11) OF THE PLANNING ACT.	F ZON	ING BY	-LAW	AMENDME	NTS UNDER
a) DATE APPLICATION SUBMITTED TO MUNICIPALITY:  (If application submitted before January 1, 2007 please use the O1 'pre-					
<ul> <li>b) Provide a brief explanatory note regarding the proposal, which includes category, the purpose of the desired zoning by-law change, and a desc</li> <li>**If more space is required, please continue in Part 9 or attach a separate</li> </ul>	ription	of the lar	ning cat nds unde	egory, desi er appeal:	ed zoning
					· · · · · · · · · · · · · · · · · · ·
Part 7: Related Matters (if known)					
Are there other appeals not yet filed with the Municipality?	YES		NO	X	
Are there other planning matters related to this appeal? (For example: A consent application connected to a variance application)	YES		NO	<b>X</b>	
If yes, please provide OMB Reference Number(s) and/or Municipal File No	umber(	s) in the	box belo	w:	

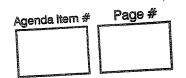
Page 4 of 6



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Part 8: Scheduling Information						
How many days do you estimate are needed for hearing this appeal?  1 4 days  1 week  X More than 1 week – please specify  How many expert witnesses and other witnesses do you expect to have	number	of days	:		·	3 days
Describe expert witness(es)' area of expertise (For example: land use pland use planner and engineer	anner, aı	rchitect	, engine	er, etc.):		
Do you believe this matter would benefit from mediation? (Mediation is generally scheduled only when all parties agree to participate)	YES		NO	X	********	
Do you believe this matter would benefit from a prehearing conference? (Prehearing conferences are generally not scheduled for variances or consents)	YES	X	NO	ū		
If yes, why? settle issues and other procedural matters with various app	eliants					
Part 9: Other Applicable Information **Attach a separate page if mo	re spac	e is rec	quired.			
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Part 10: Required Fee						
Total Fee Submitted: \$ 125.00						
Payment Method:	O s	olicitor'	s genera	ıl or trust a	ccount	cheque

- Do not send cash.
- PLEASE ATTACH THE CERTIFIED CHEQUE/MONEY ORDER TO THE FRONT OF THIS FORM.

A1 Revised April 2010



#### **SCHEDULE "A"**

## VIA EMAIL AND COURIER

September 14, 2012

City of London Planning Division City of London 204/205 Dundas Street London, ON N6A 4L9

Attention: Ms. Heather McNeely - Policy Planner

Re:

Draft Southwest Area Plan – Secondary Plan June 2012 ('SWAP') Comment of Auburn Developments Inc.

Auburn Developments Inc. has actively followed the Southwest London Area Study and Southwest Area Plan ('SWAP'). We have reviewed the draft Secondary Plan 20.5 and have the following comments:

- 1. The Southwest Area Plan does not comply with the Council-adopted Terms of Reference for the Study. In some areas it falls to fulfill its mandate (eg. Servicing), while in other areas it oversteps its mandate (eg. Redesignation of lands in the Lambeth community). It leaves undone many studies which the City and individual developers will have to undertake and pay for in the future? Many of the intended benefits of the project have not materialized.
- 2. The proposed SWAP will make it difficult to achieve the goal of "diverse and unique neighbourhoods", since it seeks to establish prescriptive policies which apply to the entire area. Moreover, many of these policies (as illustrated by the photos in the Report) have no connection with the established character of the existing communities in the area.
- 3. The Vision (Section 20.5.1.3) of the plan does not consider the economics of development in the study area.
  - 4. The principles of Section 20.5.1.4 should be applied in the context of encouraging growth and development. These are principles that can be accomplished through growth, not in the absence of growth. The need to facilitate development and to provide for opportunities for economic prosperity needs to be acknowledged. The focus on the public realm is misplaced, and should be adjusted to enable the fulfillment of those public desires through the facilitation of development. The absence of any discussion of development approvals

Agenda Item #	Page #
POLICE	

September 14, 2012

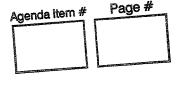
suggests a bias towards obtaining the beneficial by-products of growth without acknowledging the need for such growth.

- 5. In regard to Housing Choices Section 20.5.1.4.2, the general principle is lost in the later chapters as the range referred to in these sections means only the limited range prescribed within each designation. It is normally expected that the range of housing will be based on meeting identified needs and market demaind. This is lacking in SWAP. The objective should be to facilitate attracting all segments of the housing market given the size and breadth of this area plan.
- 6. The Green and Attractive Environment policies of Section 20.5.1.4.4 speak to integration of natural and built settings. However, the SWAP designates existing vegetation as Open Space, which doesn't promote integration. This is neither practical nor responsible, and should be properly analyzed. Not all vegetation provides a benefit when weighed against other economic and social benefits. The bias towards preservation in all situations is not one that is supportable, nor is it a principle that should be endorsed. The Plan should be revised to designate areas as Environmental Review, with policies identifying the analysis required.
- 7. With regard to Section 20.5.1.4.5, A Model of Sustainable Growth Management, "sustainability" is an overused term that is not very well defined. This term should also be applied in considering the allocation of all land uses and infrastructure, and development of policy. The term loses credibility when the bies toward preservation of vegetation leads to inefficient land utilization and additional infrastructure costs, and ultimately causes unnecessary expansion of settlement areas. At the same time, the Growth Management policies call for efficient development patterns that minimize land consumption and servicing costs. The designation of large Open Space areas that displace development lands should be tested against these policies.
- 8. In regard to Section 20.5.2, Community Plan Structure, the structure identified is too prescriptive. There is no agreement on the forms of development that provide the best communities. This debate should not be forgone in favour of an idealized view of grid patterns and road linkages that have yet to be vetted through the development approval process. The identification of major road networks seems to be lacking justification, as well as being at odds with the principle of minimizing external traffic within local road networks. This is a matter that requires further debate, and one which should not be prescribed for the area, as it is not an approach that can be applied consistently across the community.

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September 14, 2012

- 9. In section 20.5.3.4, Community Parkland and Trail Network, it would appear that the desire to create uninterrupted trails and parkland linkages was not weighed against any competing land uses, and was not viewed objectively. The ability to support this desired infrastructure is directly attributable to the ability to develop lands for profitable land uses. It would seem that in the allocation of land uses in the Plan this has been overlooked. The proposed plan is not a sustainable or practical approach to the allocation of land uses. It needs to be addressed through a review of alternatives and the costs associated with implementation. Also, it appears that the SWAP proposals for increased densities relate at least in part to a strategy for the municipality to obtain a greater component of parkland dedication. However, the marketability of these higher density housing forms is limited in this area and should not be the basis for the designation of additional lands for open space. Additionally, the proposal that the lands identified as Open Space "shall be dedicated" (Section 20.5.3.5) is offensive and requires deletion. These are private lands, and the municipality has no additional rights to ownership by designating them as Open Space. The determination of appropriate ownership and appropriate comidor widths and sizes is not properly decided at the secondary plan level. The proposed policies show an apparent desire to sterilize private lands for public acquisition. This policy bias needs to be addressed.
- 10. With regard to Section 20.5.3.8, Transportation, the hierarchy of the transportation network requires additional evaluation. The desire to have so many higher level toads is not supportable. The proposed network requires clarification. The costs associated with these works are not local and should be referred to the Development Charges Review Committee. The proposed policy to have land owners convey and construct such facilities as primary collectors goes beyond the mandate of this document and requires removal, as it implies that it would be at the landowners expense, which is not the case. The issue returns to sustainability, and the desire to artificially increase densities to support the higher standard in road construction, all without studying the needs of the future community: where they are going and how best to get them there without adversely impacting neighbourhoods (i.e. not bisecting communities and creating nuisances.) The schematics identify an incredible road cross section. Some of it is to facilitate traffic and some of it is to support an urban design approach.
- 11. With respect to the Urban Design policies of Section 20.5.3.9, the public realm should be supported by the public purse. There is suggestion in the policies that this is a requirement of the individual development applicants. This is not



supportable. The Design policies are again prescriptive, and they only reflect the desires of the Report's authors, not necessarily shared by individual developers. Flexibility should be permitted. The encouragement of the various design attributes is not offensive; but the requirement is, and it should be deleted from the policies. Additionally, the idea that public spaces require single- or no-loaded roads is seriously flawed.

12. The cumulative impacts of all these policies render all developments unfeasible. The City needs to understand that land development must be able to support these attributes.

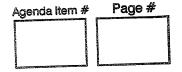
The Report's author identifies a vision of the built form that is so prescriptive and weighted with so many required attributes that it becomes unworkable. The design of the private realm should be left to the private sector. The critical view the author has articulated against traditional forms of housing is not supportable. Such forms contribute to the ability to compete in the housing market. The risk that is accepted by the development industry should not be further complicated through policies that are being proposed within this document. Encouragement is acceptable; prescription is not. The magnitude of the prescribed intensity of uses is something that is not supported in any market in London at the scale of the SWAP. There are opportunities for this increase in intensity; it just can't be accomplished on the scale suggested. This will require additional evaluation and revision

There are a number of items that suggest a complete lack of appreciation of the economics of land development: the ability to provide underground parking being just one, LEED being another. Development must be viable to happen; which means there have to be customers willing to pay for these costly features. This is not reflected in the document. The market financing and in the result of the support this proposed approach in the City of London.

We thank you for this opportunity to comment on the SWAP proposals. Yours very truly,

#### AUBURN DEVELOPMENTS INC.

cc. Mr. Gregg Barrett – City of London (via email)
Mr. Terry Grawey – City of London (via email)



# AIRD & BERLIS LLP

Barristers and Solicitors

Steven A. Zakem Direct: 416.865.3440 E-mail: szakem@airdberils.com

2010-011-09

December 18, 2012

BY COURIER

Ms. Catharine Saunders, City Clerk City Clerk's Office Room 308, 3<sup>rd</sup> Floor London City Hall 300 Dufferin Avenue P.O. Box 5035 London, ON N6B 1Z2

Dear Ms. Saunders:

Our File No. 113938

City Clerk

No. 4071

No. 541 - Southwest

Area Secondary Plan
DEC. 19 2012

0-7609 Ref. TNetherrotty SCANNED

DATE: BIGIDAN

Re:

**Notice of Appeal** 

Amendment No. 541 to the Official Plan for the City of London Planning

Area - 1989 ("OPA 541")

Southwest Area Secondary Plan

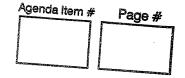
Municipal File No. O-7609

We are the solicitors for Sifton Properties Limited ("Sifton") with respect to the abovenoted matter. Sifton owns a 10.08 hectare (24.91 acre) parcel of property known municipally as 1311 and 1451 Wharncliffe Road South within the area encompassed by the Southwest Area Plan ("SWAP"). Our client recently filed Official Plan and Zoning Bylaw Amendment applications in order to modify existing land use permissions for their property and to provide a detailed proposal concerning their vision for the future development of their property.

Sifton has actively participated in the process of the SWAP, which was initiated by the City of London in 2009. The planning for this area resulted in the release of a draft Secondary Plan document in June 2012 which was presented at a public open house on June 27, 2012. Sifton supports the thrust of the June 2012, draft of the Secondary Plan.

The draft Secondary Plan was subsequently modified in response to a Council direction to "include an enterprise designation along the Wonderland Road corridor, from Bradley Road to Exeter Road, that would allow for, and encourage, a broad range in mix of commercial, residential, office and institutional uses with an emphasis on ensuring quality urban design; ...". Civic administration was also directed to consider implementation policies through SWAP "...through the use of flexible or performance zoning that emphasizes urban design and is more flexible with respect to land use regulations."

Sifton has expressed concerns with the approach of the SWAP suggested by the Council Direction through participation in the June 27, 2012 public open house; through a deputation at the October 30, 2012 Council Meeting; and through written correspondence to the City dated August 31, 2012, September 14, 2012 and October 15, 2012. These letters are attached to this notice of appeal for your reference. Nevertheless, City of



December 18, 2012 Page 2

London planning staff modified the SWAP in response to the Council Direction and Council further modified the SWAP at its meeting of October 30, 2012. The modified SWAP was adopted as OPA 541 on November 20, 2012.

The purpose of this letter is to appeal to the Ontario Municipal Board Council's decision to approve Amendment No. 541 to the Official Plan for the City of London Planning Area – 1989, pursuant to subsection 17(36) of the *Planning Act, R.S.O* 1990, c. P.13. Please accept this letter; the attached letters filed with the City of London providing the basis for this appeal; the attached Appellant Form; and the enclosed cheque in the amount of \$125, payable to the Ministry of Finance, as Sifton's appeal of Official Plan Amendment No. 541 in its entirety.

OPA 541, as adopted, is not based on the best planning advice collected over the course of the SWAP. In our view, the June 2012 version of the SWAP was an appropriate culmination of an extensive and lengthy public consultation process and was a plan that could be supported by City of London planning staff. Furthermore, the introduction of the Wonderland Road Enterprise Corridor with its flexible approach to land use designation represents a fundamental departure from the approach adopted in the City of London Official Plan. The creation of this new land use designation should have, but did not result in the creation of new Official Plan polices to alter the structure of the City of London Official Plan. As a result, this decision creates uncertainty with respect to future public and private decisions both within the area of the SWAP and the City as a whole. The Wonderland Road Enterprise Corridor represents a critical structural element of the Secondary Plan for which, as a result of its hasty inclusion into the Secondary Plan, there has not been sufficient consideration to address the essential planning and financial concerns necessary to ensure the orderly development of this area.

We remain prepared to meet with appropriate City Officials to discuss Sifton's concerns in greater detail.

Should you require any further information or clarification respecting any aspects of this appeal, please do not hesitate to contact the undersigned, or Emily Elliott, Land Use Planner, of this office at 416-865-3069. Acknowledgement of receipt of this appeal would be greatly appreciated. Please provide any further notices associated with this appeal to the undersigned.

Yours truly,

AIRD & BERLIS LLP

Steven A. Zaken

SAZ/ee

cc. Phil Masschelein, Sifton Properties Limited

Encl. 13580029.1

Agenda Item #	Page #



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

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## SUBMIT COMPLETED FORM TO MUNICIPALITY/APPROVAL AUTHORITY

Rec	eipt Number	(OMB Of	fice Use C	only)		

Date Starrip - Appear	Keceivea	by Municipality

RECEIVED DEC 1 9 2012

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

SUBJECT OF APPEAL	TYPE OF APPEAL	PLANNING ACT REFERENCE (SECTION)
Minor Variance	Appeal a decision	45(12)
	Appeal a decision	
Consent/Severance	Appeal conditions imposed	53(19)
	Appeal changed conditions	53(27)
	Failed to make a decision on the application within 90 days	53(14)
	Appeal the passing of a Zoning By-law	34(19)
Zoning By-law or	Application for an amendment to the Zoning By-law – failed to make a decision on the application within 120 days	34(11)
Zoning By-law Amendment	Application for an amendment to the Zoning By-law – refused by the municipality	
Interim Control By-law	Appeal the passing of an Interim Control By-law	38(4)
	Appeal a decision	17(24) or 17(36)
Official Plan or	Failed to make a decision on the plan within 180 days	17(40)
Official Plan Amendment	Application for an amendment to the Official Plan – failed to make a decision on the application within 180 days	22(7)
	Application for an amendment to the Official Plan – refused by the municipality	
	Appeal a decision	51(39)
Plan of Subdivision	Appeal conditions imposed	51(43) or 51(48)
Part 2: Location Informatio	Failed to make a decision on the application within 180 days	51(34)

<u>Area</u>	encompassed by	the Official Plan	Amendment 451.	the	Southwest	Area P	'lan

Address and/or Legal Description of property subject to the appeal:

Municipality/Upper tier: City of London

AIRD & BERLIS LLP

Agenda Item #	Page #

Part 3: Appellant Information		·
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irst Name:	Last Name:	
Sifton Properties Limited		
ompany Name or Association Name (Associatio		
rofessional Title (if applicable):		
-mail Address:		
By providing an e-mail add	ress you agree to receive communications from the	e OMB by e-mail.
aytime Telephone #:	Alternate Telephone #	
ax #:		
ailing Address: 195 Dufferin Avenue Street Address	Apt/Suite/Unit#	London
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aytime Telephone #: 416.865.3440  ax #: 416.863.1515  ailing Address: 181 Bay Street	licable)  Id/or individual(s) to represent me:  Last Name: Zakem  Last Name: Zakem  Alternate Telephone #:  Suite 1800  Apt/Suite/Unit#  Country (if not Canada)	OMB by e-mail.  Toronto City/Town  M5J 2T9 Postal Code Date: (8, 20)
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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
<ol> <li>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):</li> </ol>
Appeal of Official Plan Amendment No. 541, adopted by the Council of the City of London on November 20, 2012. (Municipal File No. O-7609)
<ol> <li>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.</li> </ol>
Please see covering 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.)
<ul> <li>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:</li> <li>**If more space is required, please continue in Part 9 or attach a separate page.</li> </ul>
Part 7: Related Matters (if known)
Are there other appeals not yet filed with the Municipality?
Are there other planning matters related to this appeal?  (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:
Official Plan Amendment and Zoning By-law Amendment applications filed by Sifton Properties Limited with respect to the properties municipally known as 1311 and 1451 Wharncliffe Road South, within the area encompassed by OPA 541.

Page 4 of 5

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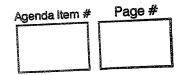
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Part 8: Scheduling Information						
How many days do you estimate are needed for hearing this appeal?  A days  1 week  More than 1 week – please specified.			-		•	3 days
How many expert witnesses and other witnesses do you expect to have						iony?
Describe expert witness(es)' area of expertise (For example: land use planter, Land Use Planner, Land Economist, Transportation Engineer, Civi	anner, il Engi	architect, neer, Ma	engine rket lm	er, etc. pact A	): nalyst	
Do you believe this matter would benefit from mediation? (Mediation is generally scheduled only when all parties agree to participate)	YES	-	NO	Ø		
Do you believe this matter would benefit from a prehearing conference? (Prehearing conferences are generally not scheduled for variances or consents)	YES		NO			
If yes, why? To determine the scope of the hearing, parties and issu		-				-
Part 9: Other Applicable Information **Attach a separate page if mo	re spa	ce is req	uired.			
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# AIRD & BERLIS ILP

Barristers and Solicitors

Steven A. Zakem Direct: 416.865,3440 E-mail:szakem@airdberlis.com

August 31, 2012

BY EMAIL

John Fleming
Director of Planning
City of London
P.O. Box 5035
City Hall, 300 Dufferin Avenue
London, ON N6A 4L9

Dear Mr. Fleming:

Re: Sifton Properties Limited ("Sifton")

Southwest Area Plan ("SWAP") Submissions

We are the solicitors for Sifton with respect to the above-referenced matter. Sifton owns a 10.08 hectare (24.91 acre) parcel of property known municipally as 1311 and 1451 Wharncliffe Road South within the area encompassed by the Southwest Area Plan ("SWAP"). Our client recently filed Official Plan and Zoning By-law Amendment applications in order to modify existing land use permissions for their property and to provide a detailed proposal concerning their vision for the future development of their property. The Sifton property is within the existing urban boundary, is presently designated for urban uses, enjoys full municipal services and is within a draft approved plan of subdivision that will introduce an important transportation link through the construction of Bradley Avenue through our client's site.

Sifton has participated in the City initiated SWAP study which has been ongoing since 2009. The planning for this area has resulted in the release in June 2012 of a draft Secondary Plan document which was presented at a public open house on June 27, 2012. Sifton supports the thrust of the draft Secondary Plan document. The Planning Rationale Report prepared by Sifton in support of its Official Plan and Zoning By-law applications states as follows:

## 3.4 Southwest Area Plan

The Southwest Area Plan (SWAP) has been underway for approximately three years. Although the subject site and adjacent Andover Trails lands were approved several years in advance of initiation of the SWAP, they are identified as being within the overall study area for purposes of ensuring integration and compatibility with as yet undesignated lands to the south / southeast.

The Preferred Land Use Plan from April/May 2010 identified this area as an Arterial Mixed Use District, along with High Density. In the most recent Preferred

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Land Use concepts for SWAP (June 2012), the southerly portion of the subject site that is currently designated as Auto-Oriented Commercial Corridor is shown as a more general "Commercial" designation on the Central Longwoods Secondary Plan schedule. The same "Commercial" designation is shown for the Wonderland Road corridor from Southdale Road to just south of Bradley Avenue. Its intent is to "recognize the existing large-scale, standalone and limited strip commercial uses located on the east and west sides of Wonderland Road South, and to support the commercial development of a limited area south of Bradley Avenue in order to anchor the commercial node..." Permitted uses for that area are identified as those uses in the "New Format Commercial Node" designation in the Official Plan.

It is our position that the proposed OPA and ZBA applications submitted with this Planning Rationale Report are consistent with the intent of the Southwest Area Plan, and that the additional area to be designated from High Density Residential to Community Commercial Node represents a minor expansion of the overall commercial area for southwest London. Furthermore, as the site is already within a draft approved plan of subdivision and full servicing is already in place, discussions with City planning staff have confirmed that these applications will be processed through the development approvals process outside of the SWAP.

On June 26, 2012, Council adopted a resolution with respect to the SWAP study directing Civic Administration to "...include an enterprise designation along the Wonderland Road corridor, from Bradley Road to Exeter Road, that would allow for, and encourage, a broad range and mix of commercial, residential, office and institutional uses with an emphasis on ensuring quality urban design;...". Civic Administration was also directed to consider implementation policies through the SWAP "...through the use of flexible or performance zoning that emphasizes urban design and is more flexible with respect to land use regulations".

This direction introduces the possibility of a new land use designation and a unique zoning regime along the Wonderland Road corridor which, in our view, raises a number of fundamental planning issues requiring careful review and consideration prior to proceeding with such an initiative. First, the creation of a new designation will, of necessity, require the creation of new policies and will alter the structure of the London Official Plan ("LOP") in a manner which will create significant uncertainty with respect to future public and private investment decisions. This approach is more appropriately studied and considered in the context of a comprehensive official plan review (otherwise known as a Five Year Review). This will allow a consideration of how such a new designation would fit within the existing planning framework of the LOP and the City wide implications of such an approach.

Second, the strategic priorities policies of the LOP seek to implement a strategic approach to growth and to manage growth for the long term economic, environmental and social benefit of the community. The approach contemplated by the Council resolution to encourage a "flexible or performance zoning" represents a dramatic departure from the managed and balanced growth approach set out in the LOP (Policies 2.2.1 and 2.1.3).



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August 31, 2012 Page 3

Third, the city structure policies of the LOP seek to establish the downtown as the primary business, office, institutional, entertainment and cultural centre for the City of London. The establishment of a "flexible or performance zoning" over a large area of land (comparable in size to the downtown), will risk undermining the role of the downtown and other designations within the City (LOP Policy 2.4.1).

Fourth, LOP Policy 2.4.1(iv) provides as follows:

New forms of retail development shall be considered as part of the commercial hierarchy as defined by this plan. Large scale retail development will be directed to planned commercial centres and corridors. Infill and intensification at appropriate locations as well as redevelopment of existing sites shall be encouraged as the primary means of accommodating additional retail development.

It is unclear how the proposed enterprise designation will fit within the commercial hierarchy. We are aware of a number of proposals, in the Wonderland Road corridor, for a significant amount of retail commercial space which, if approved, would risk significant adverse impacts on other lands designated for commercial purposes. We have attached a letter from our client's market consultant with respect to the market implications of this approach.

Fifth, development of the Wonderland Road South corridor will involve a major expenditure of public funds for the provision of infrastructure. Any flexible or performance zoning that provides for a wide range of development permissions would be premature without an understanding of the phasing of growth and the growth financing implications for such development. The use of existing infrastructure and optimization of that infrastructure is to be given priority before the consideration of development of new infrastructure and public service facilities (LOP Policy 2.6.4.1(ix)). The Sifton site is in phase 1 of SWAP and significant funds have been already invested by both Sifton and the City of London through development charges to bring this development site to fruition. The draft approved plan subdivision is expected to be registered by end of this year and the property brought to market in 2013. The consulting engineer retained by our client will be providing comments on the issue of municipal servicing as discussed in the SWAP study.

Sixth, the "Urban Reserve – Community Growth" designation which applies to much of the undeveloped land within SWAP anticipates "predominantly residential uses". It is unclear to us how the proposed enterprise designation would implement this policy direction (LOP Policy 9.4.3).

In summary, the approach contemplated by the Council resolution raises issues which go beyond SWAP and threaten to further delay the 3 year SWAP process just as it was concluding. We urge the City to reconsider this approach.



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The above-mentioned comments are preliminary at this time. We may have additional comments following release of additional information from Civic Administration in accordance with the Council direction.

Yours truly,

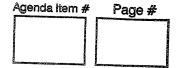
AIRD & BERLIS LLP

Steven A. Zakem

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cc. Sifton Properties Limited

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## AIRD & BERLIS LLP

**Barristers and Solicitors** 

Steven A. Zakem Direct: 416.865.3440 E-mail:szakem@airdberlis.com

September 14, 2012

BY EMAIL

John Fleming
Director of Planning
City of London
P.O. Box 5035
City Hall, 300 Dufferin Avenue
London, ON N6A 4L9

Dear Mr. Fleming:

Re: Sifton Properties Limited ("Sifton")

Southwest Area Plan ("SWAP") Submissions

As you know, we are the solicitors for Sifton with respect to the above-referenced matter and wrote to you on August 31, 2012, providing comments on SWAP. We are writing this follow-up correspondence to request that you carefully consider the approach to be recommended for implementing SWAP.

We acknowledge that the draft SWAP, circulated in June, 2012, contains land use recommendations for all of the lands located within the Secondary Plan Area. Notwithstanding this approach, it is our respectful request that only those areas of SWAP (as identified on Schedule 17 of the June 12, 2012 Secondary Plan) which are "Interim Developable Lands" or "Ultimate Developable Lands" should be the subject of the SWAP policies and designations. Areas shown as "Approved Developable Lands" should not have their land use designations or applicable policies altered through the SWAP process. We make this suggestion for the following reasons:

1. Section 17(50) of the *Planning Act*, c.P.13, as amended, allows the Ontario Municipal Board to approve an official plan amendment, modify and approve an official plan amendment, or refuse to approve an official plan amendment. Section 17(50.1) of the *Planning Act*, limits the Board's discretion to modify an official plan amendment to only those portions of the official plan that were dealt with in the decision of Council. In other words, the scope of the Board's jurisdiction is limited by the nature of the amendment eventually adopted by the City of London. As such, in the event the City of London were to adopt an official plan amendment which altered the policies or designations of "Approved Developable Lands", those lands would be subjected to the possibility of having their existing development permissions altered in a manner that may not be intended by the City of London and/or the affected land owners.

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### September 14, 2012 Page 2

- 2. It would appear that the City's intention of including previously approved lands with all of the SWAP lands in the amendment is to address issues of urban design, built form and intensity and transition from industrial uses. In our respectful submission, such general directions related to design and built form issues can be better addressed as part of the City of London Five Year Review when similar urban design standards can be incorporated in the Official Plan generally and thereby apply to the entire City.
- 3. Lands which are "Approved Developable Lands" exist within already planned communities (e.g. Bostwick East, Longwoods, North Talbot, Dingman Drive Industrial). Any changes to the land use designations or policies should be addressed, as suggested above, through a comprehensive Five Year Review, or on a site specific basis. Doing otherwise creates confusion and potential inconsistency with existing OP policies and Urban Design Guidelines already established for these areas by the previous Area / Community Plans.

We believe this approach will confine the scope of SWAP, as intended, to those lands that are largely undeveloped and which had not been the subject of a detailed planning review. Lands which are already "Approved Developable Lands", such as those owned by Sifton, should remain outside the SWAP implementation process. This approach would be consistent with advice received from your department that the Sifton planning applications will be processed outside the SWAP process.

Please provide the undersigned with notice of any further meetings for Council or Committees of Council which consider the SWAP.

Should you have any questions with respect to the foregoing or require any additional information please do not hesitate to contact me at your convenience.

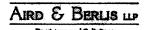
Yours truly,

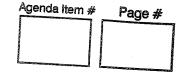
AIRD & BERLIS LLP

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cc. Sifton Properties Limited

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# AIRD & BERLIS LLP

**Barristers** and Solicitors

Steven A. Zakem Direct; 416.865,3440 E-mail:szakem@airdberlis.com

October 15, 2012

BY EMAIL

Bud Polhill
Chair, Planning and Environment Committee
City of London
P.O. Box 5035
City Hall, 300 Dufferin Avenue
London, ON N6A 4L9

Dear Mr. Polhill:

Re:

Sifton Properties Limited ("Sifton")

Southwest Area Plan ("SWAP") Submissions

October 2012 Version

Planning and Environment Committee meeting - October 15, 2012

We are the solicitors for Sifton with respect to the above-referenced matter. Sifton owns a 10.08 hectare (24.91 acre) parcel of property known municipally as 1311 and 1451 Wharncliffe Road South within the area encompassed by the Southwest Area Plan ("SWAP"). Our client recently filed Official Plan and Zoning By-law Amendment applications in order to modify existing land use permissions for their property and to provide a detailed proposal concerning their vision for the future development of their property. The Sifton property is within the existing urban boundary, is presently designated for urban uses, enjoys full municipal services and is within a draft approved plan of subdivision that will introduce an important transportation link through the construction of Bradley Avenue through our client's site.

Sifton has participated in a City initiated SWAP study which has been ongoing since 2009 and has generated four versions of SWAP for public review. The planning for this area has most recently resulted in the release in June, 2012 of a draft secondary plan document which was presented at a public open house on June 27, 2012. Sifton supports the thrust of the earlier versions of SWAP as generated by staff.

On June 26, 2012 council adopted a resolution with respect to the SWAP study directing civic administration to "...include an enterprise designation along the Wonderland Road corridor, from Bradley Road to Exeter Road, that would allow for, and encourage, a broad range in mix of commercial, residential, office and institutional uses with an emphasis on ensuring quality urban design; ...". Civic administration was also directed to consider implementation policies through SWAP "...through the use of flexible or performance zoning that emphasizes urban design and is more flexible with respect to land use regulations".

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Sifton has provided written correspondence to the City dated August 31, September 14 and 20, 2012, expressing its concern with this approach and the potential risks to proceeding in the manner suggested by the council resolution.

We have recently received the SWAP (October 2012) which was only released to the public on Tuesday, October 9, 2012. Nevertheless, we have reviewed the document on a preliminary basis and believe that it raises fundamental planning issues that are of concern to Sifton. Some of these concerns cause us to ask the following questions. What are the changed circumstances that justify this latest approach? What is the basis for the area selected? Why is this area given preferential planning treatment? What are the costs and revenues to implement this proposed plan and why is their review being deferred? These fundamental questions remain unanswered. This approach has failed to consider broader planning implications and has not benefitted from the necessary study in order to properly assess the feasibility of implementing this vision.

## Some of these concerns include the following:

- 1. While we understand the initial intent of the Enterprise corridor would allow for more flexible zoning and land use designations, the Wonderland Road Enterprise Corridor with its "flexible" approach to land use regulation creates a fundamental departure from the approach adopted in the City of London official plan. The implications of adopting such an approach for the rest of the City has not been carefully considered or thought out. The area encompassed by the Wonderland Road Enterprise Corridor would exceed the area encompassed by the downtown. The "flexible" policy approach could lead to short term development that could preclude the establishment of a long term planning vision on this important transportation corridor. In fact, short term development could very well result in the loss of long term opportunities that could otherwise be achieved through established and existing nodes as identified in the cities Official Plan.
- 2. The SWAP process up until June, 2012, incorporated the phasing of development into the secondary plan in order to provide for orderly development of this significant area of the City. This orderly development would include the proper planning and financing of infrastructure through the implementation of a development charge bylaw for the area. It would also service the lands in a logical and sequential manner to make maximum use of infrastructure over the 50 year planning horizon.
- 3. The Wonderland Road enterprise designation would permit one million square feet of retail commercial development on Wonderland Road immediately and without any phasing provisions. This is contrary to the recommendations of Kircher Research Associates who were retained on behalf of the City of London to provide their market advice with respect to the SWAP. Such an approach would undermine existing retail commercial designations in SWAP and the City



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October 15, 2012 Page 3

as a whole, and may exert pressure for additional retail commercial permissions on other lands within SWAP not already planned for such purposes. It could also preclude the mixed use development sought by the City, as landowners are likely to hold out for expected future retail commercial development;

4. It is well documented that much of the SWAP area, and specifically the Enterprise corridor lacks an ultimate sanitary outlet and other key municipal services, making it the most expensive location to develop in London. We fail to understand how the City can budget for and plan for the necessary services for this area in the absence of a more clearly defined planning regime and a phased approach to development. This may aggravate the already negative Development Charge deficit in this area. Furthermore, the cost of infrastructure and servicing for this area is, according to the staff report, expected to be approximately 120 million dollars (up from 90 million dollars in June 2012). How will such infrastructure be paid for? How will such infrastructure be built in a manner that will adequately support other developments within the area? These questions are not answered and have been deferred to a later date.

The foregoing expresses fundamental concerns with respect to the proposed secondary plan. In our view the June 2012 plan was an appropriate culmination of an extensive and lengthy public consultation process and was a plan that could be supported by your staff. The October, 2012 plan is a plan that resulted in large part from the resolution of council on June 26, 2012 and is not based on the best planning advice collected over the course of several years through the SWAP process.

We urge committee to recommend to council that the report be received and referred back to staff with a request that staff bring forward a full costing, both revenues and proposed costs, sources of funding for these proposed works and a proposed phasing plan based on their preferred SWAP based on the June, 2012 recommendation.

Yours truly,

AIRD & BERLIS LLP

Steven A. Zakem

SAZ/sw

Encl.

Sifton Properties Limited
Cathy Saunders, Clerk, City of London

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