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**M. Tomazincic
File #Z-8075**

TO:	CHAIR AND MEMBERS PLANNING & ENVIRONMENT COMMITTEE
FROM:	JOHN M. FLEMING MANAGING DIRECTOR, PLANNING AND CITY PLANNER
SUBJECT:	APPLICATION BY: SHANA'A HOLDINGS INC. 260 SARNIA ROAD NOTICE OF APPEAL TO THE ONTARIO MUNICIPAL BOARD MEETING ON TUESDAY, JANURY 22, 2013

RECOMMENDATION

That, on the recommendation of the Managing Director, Planning and City Planner, in response to the letter of appeal to the Ontario Municipal Board, dated November 2, 2012 and submitted by Alan Patton relating to an application refused by Municipal Council for a Zoning By-law amendment concerning 260 Sarnia Road, 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.

PREVIOUS REPORTS PERTINENT TO THIS MATTER
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September 24, 2012 – Z-8075 (Shana'a Holdings Inc). This report recommended that the request to change the zoning of the subject property at 260 Sarnia Road from a Residential R1 (R1-9) Zone which permits single detached dwellings to a Residential R3 (R3-3) Zone to permit single detached dwellings, semi-detached dwellings, duplex dwellings, triplex dwellings, converted dwellings and fourplex dwellings be refused.

PURPOSE AND EFFECT OF RECOMMENDED ACTION

The recommended action would advise the OMB that Municipal Council is in agreement with their previous decision on October 9, 2012 to refuse the request to amend the Zoning By-law to permit single detached dwellings, semi-detached dwellings, duplex dwellings, triplex dwellings, converted dwellings and fourplex dwellings.

BACKGROUND

On June 28, 2012, an application for a Zoning By-law amendment was submitted requesting that a site-specific amendment be passed to facilitate the demolition of the existing dwelling and permit the redevelopment of a fourplex on the subject lands.

Planning Staff recommended that the requested Zoning By-law amendment be refused for the following reasons:

- The requested amendment is not consistent with the policies of the *Provincial Policy Statement, 2005* that encourage efficient development and land use patterns which sustain the financial well-being of the municipality.
- The requested amendment is not consistent with the Residential Intensification policies of the Official Plan which direct intensification to ensure that character and compatibility with the surrounding neighbourhood is maintained.
- The requested amendment is not consistent with Council adopted Near Campus Neighbourhoods Strategy policies regarding coordinated and comprehensive applications for intensification as opposed to site-specific developments.
- The requested amendment is not consistent with Council adopted policies pertaining to the Great Near Campus Neighbourhoods Strategy which encourage intensification in medium and high density designations and forms and discourage continued intensification in low density forms of housing.
- The requested amendment would constitute “spot” zoning and is not considered appropriate

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in isolation from the surrounding neighbourhood. The subject site does not have any special attributes which warrant a site specific amendment to permit the proposed form and intensity of development.

On November 2, 2012, an appeal was submitted by Alan Patton in opposition to Municipal Council's decision to refuse to pass the requested Zoning By-law amendment. In the reasons for the appeal of Council's decision, the appellant states as reasons for the appeal that:

- a. The amendment to the Zoning By-law to permit a new fourplex dwelling, replacing the existing duplex dwelling, is consistent with the Provincial Policy Statement;
- b. The amendment to the Zoning By-law conforms to the City's Official Plan;
- c. The amendment conforms to the unapproved policies of the City's Near Campus Neighbourhood Strategy;
- d. The Council misunderstood and misapplied the term and concept of "spot zoning";
- e. The property is fully serviced;
- f. The property fronts onto an arterial road;
- g. The property is serviced by public transit;
- h. The property is immediately adjacent to the campus of Western University including its residences, classrooms, athletic facilities;
- i. The Planning Staff Report raised numerous issues and grounds that were neither discussed nor revealed to the Applicant prior to the release of the Staff Report;
- j. The Planning Staff Report contained incorrect and misleading information such that the supporting information and material before Council was of a nature and type that did not provide Council with an accurate or fair understanding of the facts in arriving at its Decision;
- k. The residential building to be constructed has been reviewed by the City's Urban Design Peer Review Panel;
- l. Such further and other grounds as the Appellant may provide.

Copies of the appeal letter from Alan Patton, and the reasons for the appeal, are attached as Appendix "A" to this report. A date for the Ontario Municipal Board hearing has not yet been scheduled. Planning Staff have reviewed the appeal letter and see no reason for Council to alter its decision relating to this matter.

PREPARED BY:	SUBMITTED BY:
MICHAEL TOMAZINCIC, MCIP, RPP MANAGER, PLANNING REVIEW	JIM YANCHULA, MCIP, RPP MANAGER, COMMUNITY PLANNING AND DESIGN
RECOMMENDED BY:	
JOHN M. FLEMING, MCIP, RPP MANAGING DIRECTOR, PLANNING AND CITY PLANNER	

January 14, 2013
MT/mt

Y:/shared/implemen/DEVELOPMENT APPS/2012 Applications 8003 to/8075Z - 260 Sarnia Road (EL)/8075Z - OMB Report

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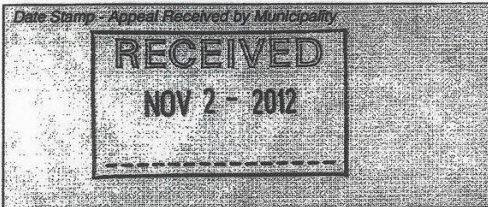
APPENDIX "A"



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.elt.o.gov.on.ca

**APPELLANT FORM (A1)
PLANNING ACT**

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



Receipt Number (OMB Office Use Only)

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

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

Part 2: Location Information

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

Municipality/Upper tier: **City of London**

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APPENDIX "A"

Part 3: Appellant Information

First Name: _____ Last Name: _____

Shana'a Holdings Inc.

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

Professional Title (if applicable): _____

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

Daytime Telephone #: _____ Alternate Telephone #: _____

Fax #: _____

Mailing Address: **1234 Cranbrook Road, London, ON N6K 0B1**

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

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

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

Part 4: Representative Information (if applicable)

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

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

Company Name: **Patton Cormier & Associates**

Professional Title: **Lawyers**

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

Daytime Telephone #: **519-432-8282** Alternate Telephone #: **N/A**

Fax #: **519-432-7285**

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

Signature of Appellant: _____ Date: **November 2, 2012**

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

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

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APPENDIX "A"

Part 5: Language and Accessibility

Please choose preferred language: English French

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

Part 6: Appeal Specific Information

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

(Please print)
City Council's refusal of Zoning By-law Amendment to redevelop property so as to permit a fourplex in place of existing duplex dwelling.

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

(Please print)
PLEASE SEE ATTACHED SCHEDULE "A".

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: JUNE 28, 2012**
(If application submitted before January 1, 2007 please use the O1 'pre-Bill 51' form.)

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

The subject property is zoned Residential R1-9. The desired zoning is Residential R3-3. The purpose of the desired zone change is to redevelop the property to permit a fourplex dwelling in place of the existing duplex dwelling. The lands are immediately adjacent to the main campus of Western University and are municipally known as 360 Sarnia Road.

Part 7: Related Matters (if known)

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

Are there other planning matters related to this appeal? YES NO
(For example: A consent application connected to a variance application)

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

(Please print)

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APPENDIX "A"

Part 8: Scheduling Information

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

How many expert witnesses and other witnesses do you expect to have at the hearing providing evidence/testimony?
Two (2), Land Use Planner, Principal of Applicant Company

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

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

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

If yes, why? _____

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

[Large empty table area for Part 9 information]

Part 10: Required Fee

Total Fee Submitted: \$ 125.00

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

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

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APPENDIX "A"

SCHEDULE "A"

Part 6, page 4.

2. This is an Appeal against the Decision of London City Council to refuse a rezoning of the subject land. The reasons for the Appeal include:
 - a. The amendment to the Zoning By-law to permit a new fourplex dwelling, replacing the existing duplex dwelling, is consistent with the Provincial Policy Statement;
 - b. The amendment to the Zoning By-law conforms to the City's Official Plan;
 - c. The amendment conforms to the unapproved policies of the City's near Campus Neighbourhoods Strategy;
 - d. The Council misunderstood and misapplied the term and concept of "spot zoning";
 - e. The property is fully serviced;
 - f. The property fronts onto an arterial road;
 - g. The property is served by public transit;
 - h. The property is immediately adjacent to the campus of Western University including its residences, classrooms, athletic facilities;
 - i. The Planning Staff Report raised numerous issues and grounds that were neither discussed nor revealed to the Applicant prior to the release of the said Staff Report;
 - j. The Planning Staff Report contained incorrect and misleading information such that the supporting information and material before Council was of a nature and type that did not provide Council with an accurate or fair understanding of the facts in arriving at its Decision;
 - k. The residential building to be constructed has been reviewed by the City's Urban Design Review Panel;
 - l. Such further and other grounds as the Appellant may provide.