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File No.: O-7609  
 Planner: G. BARRETT

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

<b>RECOMMENDATION</b>
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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.

<b>PREVIOUS REPORTS PERTINENT TO THIS MATTER</b>
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- 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.

<b>BACKGROUND</b>
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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 attached, 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 attached 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*

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*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;*
- iv) *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;*

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- 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; and Section 20.5.10. 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 policies 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.






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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.

<b>PREPARED BY:</b>	<b>SUBMITTED BY:</b>
	
<b>HEATHER McNEELY</b> SENIOR PLANNER POLICY PLANNING AND PROGRAMS	<b>GREGG BARRETT, AICP</b> MANAGER, POLICY PLANNING AND PROGRAMS
<b>RECOMMENDED BY:</b>	
	
<b>JOHN M. FLEMING, MCIP, RPP</b> DIRECTOR, LAND USE PLANNING AND CITY PLANNER	

January 10, 2013  
 GB/hmcn  
 "Attach  
 cc: J. Barber, City Solicitor

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**Appendix "A"**  
**List of Appellants**

NAME	REPRESENTED BY
<p>Mr. Lloyd Courtney c/o York Developments Inc. Ali Soufan, President 233 Horton Street London, ON N6B 1L1 Email: <a href="mailto:ali.soufan@yorkdev.ca">ali.soufan@yorkdev.ca</a> PH: 519-433-7587 ext 231 F: 519-433-4469</p>	<p>Stikeman Elliott LLP Barristers &amp; Solicitors James W. Harbell 199 Bay Street 5300 Commerce Court West Toronto, ON M5L 1B9 Email: <a href="mailto:jharbell@stikeman.com">jharbell@stikeman.com</a> PH: 416-869-5690 F: 416-947-0866</p>
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<p>1279059 Ontario Inc. CLF 1 (Wonderland Road) Inc. 1699259 Ontario Inc. E. McLaughlin c/o York Developments Inc. Ali Soufan, President 233 Horton Street London, ON N6B 1L1 Email: <a href="mailto:ali.soufan@yorkdev.ca">ali.soufan@yorkdev.ca</a> PH: 519-433-7587 ext 231 F: 519-433-4469</p>	<p>Stikeman Elliott LLP Barristers &amp; Solicitors James W. Harbell 199 Bay Street 5300 Commerce Court West Toronto, ON M5L 1B9 Email: <a href="mailto:jharbell@stikeman.com">jharbell@stikeman.com</a> PH: 416-869-5690 F: 416-947-0866</p>

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<p>W3 Lambeth Farms Inc. PO Box 559 1000 Laramee Road Brackendale, B.C. V0N 1H0</p>	<p>Stantec Consulting Ltd. Dan Young, Senior Planner 171 Queens Ave London, ON N6A 5J7 Email: <a href="mailto:dan.young@stantec.com">dan.young@stantec.com</a> PH: 519-645-2007 F: 519-645-6575</p>
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McDonald's Restaurants of Canada Limited	Gowling Lefleur Henderson LLP Michael Polowin, Lawyer

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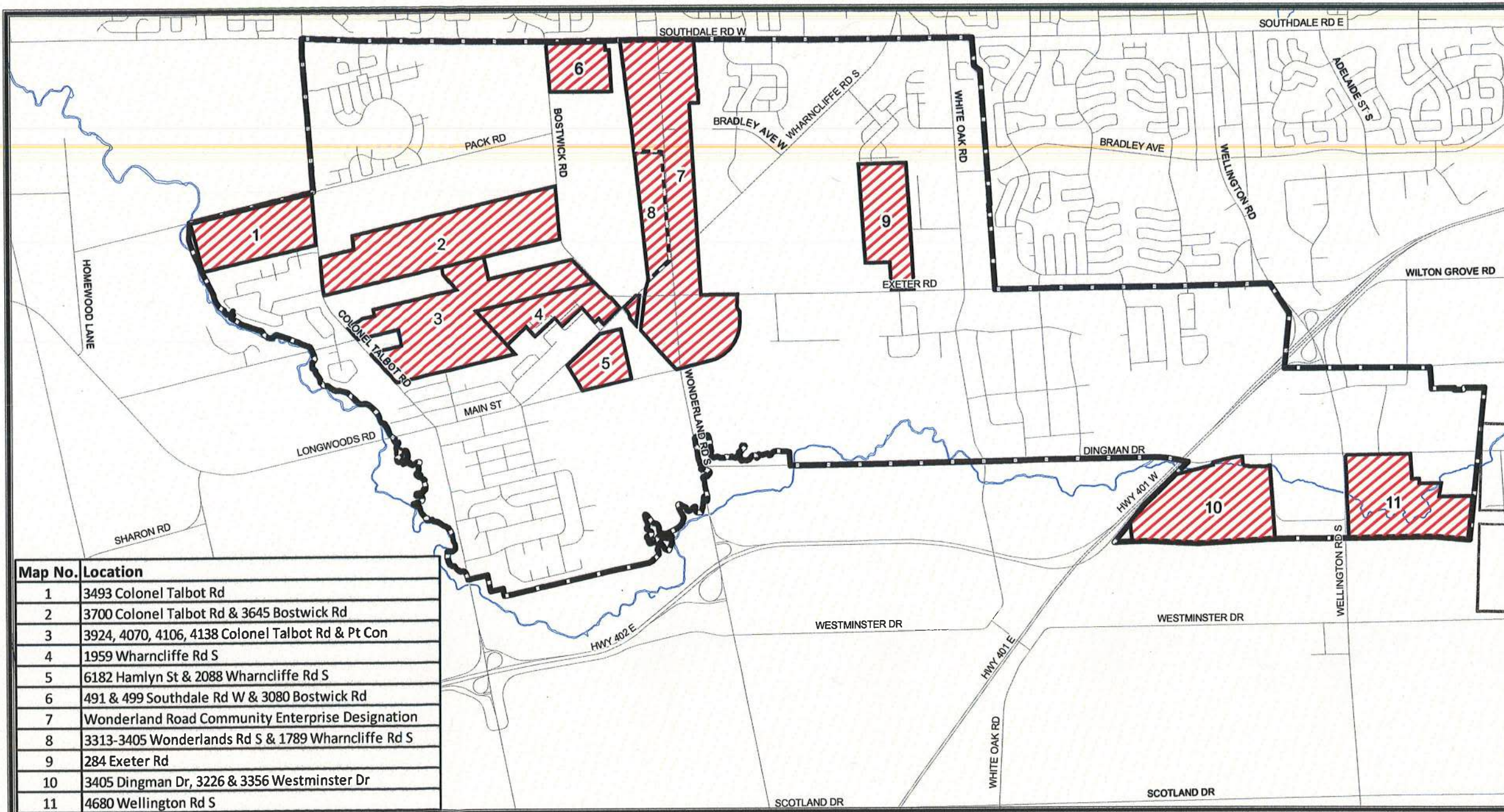
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Map No.	Location
1	3493 Colonel Talbot Rd
2	3700 Colonel Talbot Rd & 3645 Bostwick Rd
3	3924, 4070, 4106, 4138 Colonel Talbot Rd & Pt Con
4	1959 Wharncliffe Rd S
5	6182 Hamlyn St & 2088 Wharncliffe Rd S
6	491 & 499 Southdale Rd W & 3080 Bostwick Rd
7	Wonderland Road Community Enterprise Designation
8	3313-3405 Wonderlands Rd S & 1789 Wharncliffe Rd S
9	284 Exeter Rd
10	3405 Dingman Dr, 3226 & 3356 Westminister Dr
11	4680 Wellington Rd S

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**Southwest Area Study**  
**- Site Specific Appeals -**

 South West Area Study Boundary





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2012-D11-09

**BY COURIER**

December 18, 2012  
 File No.: 129002.1001

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

**City Clerk** No. 4072  
**Subject** Re: Notice of Appeal -  
"SWAP" - OPA NO. 541.

DEC 19 2012

Attention: Catherine Saunders, City Clerk

Ref. JNethercott **SCANNED**  
**C.C.** DATE: 2/19/12 MW

Dear Ms. Saunders:

**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  
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 LONDON  
 SYDNEY



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STIKEMAN ELLIOTT

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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.

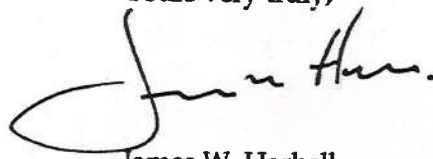
Agenda Item #      Page #  
                     

STIKEMAN ELLIOTT

3

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*

Agenda Item #

Page #

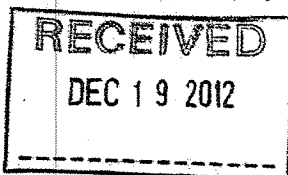



Environment and Land Tribunals Ontario  
**Ontario Municipal Board**  
 655 Bay Street, Suite 1500 Toronto, Ontario M5G 1E5  
 TEL: (416) 212-6349 or Toll Free: 1-866-448-2248  
 FAX: (416) 326-5370  
 www.elt.o.gov.on.ca

**APPELLANT FORM (A1)  
 PLANNING ACT**

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

Date Stamp - Appeal Received by Municipality



Receipt Number (OMB Office Use Only)

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

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

**Part 2: Location Information**

3493 Colonel Talbot Road  
 Address and/or Legal Description of property subject to the appeal:

Municipality/Upper tier: City of London

Agenda Item #  Page #

**Part 3: Appellant Information**

First Name: All Last Name: Soufan

Mr. Lloyd Courtney (c/o York Developments Inc.)  
Company Name or Association Name (Association must be incorporated – include copy of letter of incorporation)

Professional Title (if applicable): President

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

Daytime Telephone #: (519) 433-7587 x231 Alternate Telephone #: (519) 640-8968

Fax #: (519) 433-4469

Mailing Address: 233 Horton Street London  
Street Address Apt/Suite/Unit# City/Town  
Ontario N6B 1L1  
Province Country (if not Canada) Postal Code

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

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

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

**Part 4: Representative Information (if applicable)**

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

First Name: Jim Last Name: Harbell

Company Name: Stikeman Elliott LLP

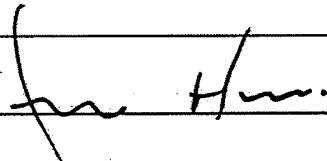
Professional Title: Partner

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

Daytime Telephone #: (416) 869-5690 Alternate Telephone #: \_\_\_\_\_

Fax #: (416) 947-0866

Mailing Address: 199 Bay Street 5300 Commerce Court West Toronto  
Street Address Apt/Suite/Unit# City/Town  
Ontario M5L 1B9  
Province Country (if not Canada) Postal Code

Signature of Appellant:  Date: December 18, 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.

Agenda Item #	Page #

**Part 5: Language and Accessibility**

Please choose preferred language:  English  French

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

**Part 6: Appeal Specific Information**

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

(Please print)

Official Plan Amendment No. 541 (See the attached cover letter for more details).

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 the attached cover letter.

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

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

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

**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)

Other appeals are being submitted on behalf of York Developments Inc. pertaining to other properties in the City of London, with respect to Official Plan Amendment 541.



**STIKEMAN ELLIOTT**

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**

December 18, 2012  
 File No.: 129002.1001

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

**City Clerk** No. 4073  
**Subject Re: Notice of Appeal**  
- OPA NO. 541 "SWAP"

Attention: Catherine Saunders, City Clerk

DEC 19 2012  
**SCANNED**  
 Ref. J. Nethercott **DATE: 12/19/12 mn**  
**C.C.** \_\_\_\_\_

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  
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 VANCOUVER  
 NEWYORK  
 LONDON  
 SYDNEY

Agenda Item #	Page #

STIKEMAN ELLIOTT

2

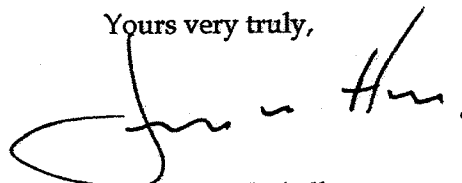
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In light of the foregoing, we are hereby appealing Official Plan Amendment No. 541 approving the SWAP. As well, through this appeal, we expressly reserve the right to submit or raise such other concerns, objections or issues as may become apparent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



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.elt.o.gov.on.ca

**APPELLANT FORM (A1)  
 PLANNING ACT**

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

Date Stamp - Appeal Received by Municipality

RECEIVED

DEC 19 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)
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	<input type="checkbox"/> Appeal a decision	53(19)
Consent/Severance	<input type="checkbox"/> Appeal conditions imposed	53(27)
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	<input type="checkbox"/> Failed to make a decision on the application within 90 days	
	<input type="checkbox"/> Appeal the passing of a Zoning By-law	34(19)
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Plan of Subdivision	<input type="checkbox"/> Appeal conditions imposed	51(43) or 51(48)
	<input type="checkbox"/> Failed to make a decision on the application within 180 days	51(34)

**Part 2: Location Information**

491 & 499 Southdale Road West / 3080 Bostwick Road  
 Address and/or Legal Description of property subject to the appeal:

Municipality/Upper tier: City of London

Agenda Item #  Page #

**Part 3: Appellant Information**

First Name: Ali Last Name: Soufan

731675 Ontario Limited (York Developments Inc.)  
 Company Name or Association Name (Association must be incorporated – include copy of letter of incorporation)

Professional Title (if applicable): President

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

Daytime Telephone #: (519) 433-7587 x231 Alternate Telephone #: (519) 640-8968

Fax #: (519) 433-4469

Mailing Address: 233 Horton Street London  
Street Address Apt/Suite/Unit# City/Town  
Ontario N6B 1L1  
Province Country (if not Canada) Postal Code

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

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

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**Part 4: Representative Information (if applicable)**

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

First Name: Jim Last Name: Harbell

Company Name: Stikeman Elliott LLP

Professional Title: Partner

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

Daytime Telephone #: (416) 869-5690 Alternate Telephone #: \_\_\_\_\_

Fax #: (416) 947-0866

Mailing Address: 199 Bay Street 5300 Commerce Court West Toronto  
Street Address Apt/Suite/Unit# City/Town  
Ontario M5L 1B9  
Province Country (if not Canada) Postal Code

Signature of Appellant:  Date: December 18, 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.**

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Agenda Item #	Page #

**Part 5: Language and Accessibility**

Please choose preferred language:  English  French

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(Please print)

Official Plan Amendment No. 541 (See the attached cover letter for more details).

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(Please print)

Please see the attached cover letter.

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

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

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

**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)

Other appeals are being submitted on behalf of York Developments Inc. pertaining to other properties in the City of London, with respect to Official Plan Amendment 541.

Agenda Item #	Page #
<input type="text"/>	<input type="text"/>

**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: Multiple weeks

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

Describe expert witness(es)' area of expertise (For example: land use planner, architect, engineer, etc.):  
Land Use Planner, Transportation Consultant, Environmental Consultant

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? To scope issues under appeal and to establish party and participant status

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

Please see the attached cover letter.

**Part 10: Required Fee**

Total Fee Submitted: \$ 125

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.

Agenda Item #	Page #

**STIKEMAN ELLIOTT**

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

2012-21109

**BY COURIER**

December 18, 2012  
 File No.: 129002.1001

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

**City Clerk** No. 4074  
 Subject Re: Notice of Appeal -  
 CPA NO. 541 - "SWAP"

Attention: Catherine Saunders, City Clerk

DEC 19 2012

SCANNED  
 Ref. Nethercott DATE: 12/19/12  
 C.C. \_\_\_\_\_

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 Wharnccliffe 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.

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 NEWYORK  
 LONDON  
 SYDNEY

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STIKEMAN ELLIOTT

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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.
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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

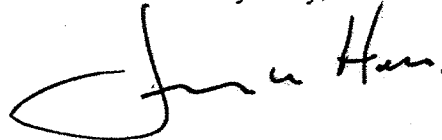
Agenda Item #      Page #  
                     

STIKEMAN ELLIOTT

3

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*

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

**APPELLANT FORM (A1)  
 PLANNING ACT**

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

Date Stamp - Appeal Received by Municipality

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

**Part 2: Location Information**

1959 Whamcliffe Road South  
 Address and/or Legal Description of property subject to the appeal:  
 Municipality/Upper tier: City of London



Agenda Item #  Page #

**Part 3: Appellant Information**

First Name: Ali Last Name: Soufan

1640209 Ontario Limited (York Developments Inc.)  
 Company Name or Association Name (Association must be incorporated – include copy of letter of incorporation)

Professional Title (if applicable): President

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

Daytime Telephone #: (519) 433-7587 x231 Alternate Telephone #: (519) 640-8968

Fax #: (519) 433-4469

Mailing Address: 233 Horton Street London  
Street Address Apt/Suite/Unit# City/Town  
Ontario N6B 1L1  
Province Country (if not Canada) Postal Code

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

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

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

**Part 4: Representative Information (if applicable)**

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

First Name: Jim Last Name: Harbell

Company Name: Stikeman Elliott LLP

Professional Title: Partner

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

Daytime Telephone #: (416) 869-5690 Alternate Telephone #: \_\_\_\_\_

Fax #: (416) 947-0866

Mailing Address: 199 Bay Street 5300 Commerce Court West Toronto  
Street Address Apt/Suite/Unit# City/Town  
Ontario M5L 1B9  
Province Country (if not Canada) Postal Code

Signature of Appellant:  Date: December 18, 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.

Agenda Item # Page #

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**Part 5: Language and Accessibility**

Please choose preferred language:  English  French

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

**Part 6: Appeal Specific Information**

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

(Please print)

Official Plan Amendment No. 541 (See attached cover letter for more details).

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 the attached cover letter.

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

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

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

**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)

Other appeals submitted on behalf of York Developments Inc. pertaining to other properties in the City of London, with respect to Official Plan Amendment 541.

Agenda Item #	Page #

**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: Multiple weeks

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

Describe expert witness(es)' area of expertise (For example: land use planner, architect, engineer, etc.):  
Land Use Planner, Transportation Consultant, Environmental Consultant

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? To scope issues under appeal and to establish party and participant status

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

Please see the attached cover letter.

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**Part 10: Required Fee**

Total Fee Submitted: \$ 125

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.

Agenda Item #	Page #

**STIKEMAN ELLIOTT**

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**

December 18, 2012  
 File No.: 129002.1001

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

**City Clerk** No. 4075  
**Subject** Re: Notice of Appeal -  
OPA No. 541 - "SWAP"

Attention: Catherine Saunders, City Clerk

DEC 19 2012  
**Ref.** J. Nethercott **SCANNED**  
**C.C.** DATE: 12/19/12 AM

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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STIKEMAN ELLIOTT

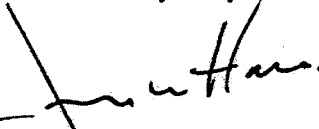
2

- 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*

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.eito.gov.on.ca

**APPELLANT FORM (A1)  
 PLANNING ACT**

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

Date Stamp - Appeal Received by Municipality

RECEIVED

DEC 19 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	<input type="checkbox"/> Appeal a decision	45(12)
Consent/Severance	<input type="checkbox"/> Appeal a decision	53(19)
	<input type="checkbox"/> Appeal conditions imposed	
	<input type="checkbox"/> Appeal changed conditions	53(27)
	<input type="checkbox"/> Failed to make a decision on the application within 90 days	53(14)
Zoning By-law or Zoning By-law Amendment	<input type="checkbox"/> Appeal the passing of a Zoning By-law	34(19)
	<input type="checkbox"/> Application for an amendment to the Zoning By-law – failed to make a decision on the application within 120 days	34(11)
	<input type="checkbox"/> Application for an amendment to the Zoning By-law – refused by the municipality	
Interim Control By-law	<input type="checkbox"/> Appeal the passing of an Interim Control By-law	38(4)
Official Plan or Official Plan Amendment	<input checked="" type="checkbox"/> Appeal a decision	17(24) or 17(36)
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	<input type="checkbox"/> Appeal conditions imposed	51(43) or 51(48)
	<input type="checkbox"/> Failed to make a decision on the application within 180 days	51(34)

**Part 2: Location Information**

3313-3405 Wonderland Road South

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

Municipality/Upper tier: City of London

Agenda Item #  Page #

**Part 3: Appellant Information**

First Name: Ali Last Name: Soufan

1279059 Ontario Inc. (York Developments), CLF 1 (Wonderland Road) Inc., 1699259 Ontario Inc., and E. McLaughlin  
 Company Name or Association Name (Association must be incorporated – include copy of letter of incorporation)

Professional Title (if applicable): President

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

Daytime Telephone #: (519) 433-7587 x231 Alternate Telephone #: (519) 640-8968

Fax #: (519) 433-4469

Mailing Address: 233 Horton Street London  
Street Address Apt/Suite/Unit# City/Town  
Ontario N6B 1L1  
Province Country (if not Canada) Postal Code

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

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

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

**Part 4: Representative Information (if applicable)**

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

First Name: Jim Last Name: Harbell

Company Name: Stikeman Elliott LLP

Professional Title: Partner

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

Daytime Telephone #: (416) 869-5690 Alternate Telephone #: \_\_\_\_\_

Fax #: (416) 947-0866

Mailing Address: 199 Bay Street 5300 Commerce Court West Toronto  
Street Address Apt/Suite/Unit# City/Town  
Ontario M5L 1B9  
Province Country (if not Canada) Postal Code

Signature of Appellant:  Date: December 18, 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.

Agenda Item # Page #

[ ] [ ]

**Part 5: Language and Accessibility**

Please choose preferred language:  English  French

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**Part 6: Appeal Specific Information**

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

(Please print)

Official Plan Amendment No. 541 (See the attached cover letter for more details).

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 the attached cover letter.

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

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

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

[ ]

**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)

Other appeals are being submitted on behalf of York Developments Inc. pertaining to other properties in the City of London, with respect to Official Plan Amendment 541.





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--

# Turkstra Mazza

Hamilton London Toronto

2012-011-09

**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](mailto: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

**City Clerk** No. 4080  
 Subject Appeal: OPA No. 541  
- "SWAP" - 0-7609  
Calvin McCourt - Goal  
 DEC 20 2012  
 Ventures Inc / PenEquity Corp.  
 Ref. J. Neff **SCANNED**  
 C.C. \_\_\_\_\_ **DATE: 12/20/12**

Dear Ms Saunders:

**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 Item #	Page #

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.

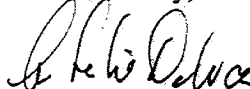
The specific policies of concern are set out below:

- |  |  |
|--|--|
| <ol style="list-style-type: none"> <li>1. Section 4.8 Wonderland Road Community Enterprise Corridor</li> <li>2. Section 20.5 Southwest Area Secondary Plan "Schedule 5" as follows: <table border="1" style="width: 100%; border-collapse: collapse; margin-top: 5px;"> <tr> <td style="padding: 5px;"> <ol style="list-style-type: none"> <li>a. 20.5.1.3 Vision</li> <li>b. 20.5.2 Community Structure Plan</li> <li>c. Schedule 4 Southwest Area Land Use Designations</li> <li>d. Schedule 5 Wonderland Boulevard Land Use Designations</li> <li>e. 20.5.6 Wonderland Boulevard Neighbourhood and particularly ss. 20.5.6.1</li> <li>f. 20.5.16 Implementation</li> <li>g. Appendix 3 Growth Estimate</li> </ol> </td> </tr> </table> </li> <li>3. Schedule "A" Land Use Designations and particularly, Schedule 1-k (Wonderland Boulevard)</li> </ol> | <ol style="list-style-type: none"> <li>a. 20.5.1.3 Vision</li> <li>b. 20.5.2 Community Structure Plan</li> <li>c. Schedule 4 Southwest Area Land Use Designations</li> <li>d. Schedule 5 Wonderland Boulevard Land Use Designations</li> <li>e. 20.5.6 Wonderland Boulevard Neighbourhood and particularly ss. 20.5.6.1</li> <li>f. 20.5.16 Implementation</li> <li>g. Appendix 3 Growth Estimate</li> </ol> |
| <ol style="list-style-type: none"> <li>a. 20.5.1.3 Vision</li> <li>b. 20.5.2 Community Structure Plan</li> <li>c. Schedule 4 Southwest Area Land Use Designations</li> <li>d. Schedule 5 Wonderland Boulevard Land Use Designations</li> <li>e. 20.5.6 Wonderland Boulevard Neighbourhood and particularly ss. 20.5.6.1</li> <li>f. 20.5.16 Implementation</li> <li>g. Appendix 3 Growth Estimate</li> </ol>   |  |

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,



POP: Scott Snider

Sssknd  
Encl. 13479/1

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.elfto.gov.on.ca

**APPELLANT FORM (A1)  
 PLANNING ACT**

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

Date Stamp - Appeal Received by Municipality

**RECEIVED**  
 DEC 20 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	<input type="checkbox"/> Appeal a decision	45(12)
	<input type="checkbox"/> Appeal a decision	53(19)
Consent/Severance	<input type="checkbox"/> Appeal conditions imposed	53(27)
	<input type="checkbox"/> Appeal changed conditions	53(14)
	<input type="checkbox"/> Failed to make a decision on the application within 90 days	34(19)
	<input type="checkbox"/> Appeal the passing of a Zoning By-law	34(11)
Zoning By-law or Zoning By-law Amendment	<input type="checkbox"/> Application for an amendment to the Zoning By-law – failed to make a decision on the application within 120 days	34(11)
	<input type="checkbox"/> Application for an amendment to the Zoning By-law – refused by the municipality	
	<input type="checkbox"/> Appeal the passing of an Interim Control By-law	38(4)
Interim Control By-law	<input checked="" type="checkbox"/> Appeal a decision	17(24) or 17(36)
	<input type="checkbox"/> Failed to make a decision on the plan within 180 days	17(40)
	<input type="checkbox"/> Application for an amendment to the Official Plan – failed to make a decision on the application within 180 days	22(7)
	<input type="checkbox"/> Application for an amendment to the Official Plan – refused by the municipality	
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**

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 #

Municipality/Upper tier:

**Part 3: Appellant Information**

First Name: Calvin Last Name: McCourt

Goal Ventures Inc. and PenEquity Realty Corporation  
 Name or Association Name (Association must be incorporated – include copy of letter of incorporation)

Professional Title (if applicable): Director of Planning

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

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

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

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**Part 4: Representative Information (if applicable)**

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

First Name: Scott Last Name: Snider

Company Name: Turkstra Mazza Associates

Professional Title: Lawyer

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

Daytime Telephone #: 905.529.3476 Alternate Telephone #: \_\_\_\_\_

Fax #: 905.529.3663

Mailing Address: 15 Bold Street Hamilton  
Street Address Apt/Suite/Unit# City/Town  
Ontario L8P 1T3  
Province Country (if not Canada) Postal Code

Signature of Appellant: \_\_\_\_\_ Date: \_\_\_\_\_

**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.

Agenda Item #	Page #

**Part 5: Language and Accessibility**

Please choose preferred language:  English  French

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

**Part 6: Appeal Specific Information**

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

(Please print)

Official Plan Amendment No. 541 to the Official Plan for the City of London Planning Area 1989, including adoption of the Southwest Area Secondary Plan

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)

The entire OPA No. 541 is being appealed as further explained in the attached letter. Of particular concern are the following policies, sections and schedules of the OPA and Southwest Area Secondary Plan:

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)

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

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

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

**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)

Agenda Item #	Page #

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

(Please print)

**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?  
3-4

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

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?                      To clarify the issues for the hearing

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


**Part 10: Required Fee**

**Total Fee Submitted: \$** 125.00

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

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

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.elt.o.gov.on.ca

**APPELLANT FORM (A1)  
 PLANNING ACT**

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

Date Stamp - Appeal Received by Municipality

<b>RECEIVED</b> DEC 20 2012
--------------------------------

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

**Part 2: Location Information**

3700 Colonel Talbot Road (Con ETR Pt Lots 74 & 75); 3645 Bostwick Road (Con ETR Pt Lot 74 RP33R/405 Part 1)  
Southwest Area Plan  
 Address and/or Legal Description of property subject to the appeal:  
 Municipality/Upper tier: City of London



Agenda Item #  Page #

**Part 3: Appellant Information**

First Name: \_\_\_\_\_ Last Name: \_\_\_\_\_

W3 Lambeth Farms Inc.  
 Company Name or Association Name (Association must be incorporated – include copy of letter of incorporation)

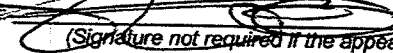
Professional Title (if applicable): \_\_\_\_\_

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: Box 559 1000 LARAMIE Road  
Street Address Apt/Suite/Unit# City/Town  
Brackendale BC Canada V0N1H0  
Province Country (if not Canada) Postal Code

Signature of Appellant:  Date: 12.14.12  
(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: Dan Last Name: Young

Company Name: Stantec Consulting Ltd.


Professional Title: Senior Planner

E-mail Address: dan.young@stantec.com  
By providing an e-mail address you agree to receive communications from the OMB by e-mail.

Daytime Telephone #: 519.645.2007 Alternate Telephone #: 226.448.9591

Fax #: 519.645.6575

Mailing Address: 171 Queens Ave. Suite 800. London  
Street Address Apt/Suite/Unit# City/Town  
Ontario N6A 5J7  
Province Country (if not Canada) Postal Code

Signature of Appellant:  Date: 12.14.12

**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.

Agenda Item #

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**Part 5: Language and Accessibility**

Please choose preferred language:  English  French

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

**Part 6: Appeal Specific Information**

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

(Please print)  
Official Plan Amendment 541  
(By-law No. C.P.-1284(st)-331)

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)  
With regards to Official Plan Amendment 541, the appeal is with respect to the application of the Open Space designation on the properties municipally identified as 3700 Colonel Talbot Road and 3645 Bostwick Road. The reason for the appeal is that we understand there was a technical mapping error or oversight that arbitrarily re-designated lands between two Vegetative Patches from Urban Reserve Community Growth to Open Space whereas the lands should have been designated Low Density Residential in keeping with the adjacent land uses. In particular, the land use is depicted on Schedule 1-a of the Official Plan as amended. Subsequent to this, Schedule 2 to Southwest Area Secondary Plan ~ Multi-Use Pathways and Parks ~ would be amended to correctly locate the identifier for Proposed Neighbourhood Parks from its location near Bostwick Road to a position near-to the two vegetative patches.

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

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

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

**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)

Agenda Item #	Page #

**Part 8: Scheduling Information**

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

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

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

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

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

If yes, why? City staff have already acknowledged a mapping error and only need a resolution to bring back to Council for plan revision.

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


**Part 10: Required Fee**

Total Fee Submitted: \$ 125

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.

Agenda Item #      Page #  
                     

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.

Per: \_\_\_\_\_  


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.eito.gov.on.ca

Cheque # 10126  
**APPELLANT FORM (A1)**  
**PLANNING ACT**

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

Date Stamp - Appeal Received by Municipality

**RECEIVED**  
 DEC 20 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	<input type="checkbox"/> Appeal a decision	45(12)
Consent/Severance	<input type="checkbox"/> Appeal a decision	53(19)
	<input type="checkbox"/> Appeal conditions imposed	
	<input type="checkbox"/> Appeal changed conditions	53(27)
	<input type="checkbox"/> Failed to make a decision on the application within 90 days	53(14)
Zoning By-law or Zoning By-law Amendment	<input type="checkbox"/> Appeal the passing of a Zoning By-law	34(19)
	<input type="checkbox"/> Application for an amendment to the Zoning By-law – failed to make a decision on the application within 120 days	34(11)
	<input type="checkbox"/> Application for an amendment to the Zoning By-law – refused by the municipality	
Interim Control By-law	<input type="checkbox"/> Appeal the passing of an Interim Control By-law	38(4)
Official Plan or Official Plan Amendment	<input checked="" type="checkbox"/> Appeal a decision	17(24) or 17(36)
	<input type="checkbox"/> Failed to make a decision on the plan within 180 days	17(40)
	<input type="checkbox"/> Application for an amendment to the Official Plan – failed to make a decision on the application within 180 days	22(7)
	<input type="checkbox"/> Application for an amendment to the Official Plan – refused by the municipality	
Plan of Subdivision	<input type="checkbox"/> Appeal a decision	51(39)
	<input type="checkbox"/> Appeal conditions imposed	51(43) or 51(48)
	<input type="checkbox"/> Failed to make a decision on the application within 180 days	51(34)

**Part 2: Location Information**

**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**

Agenda Item #	Page #

**Part 3: Appellant Information**

First Name: \_\_\_\_\_ Last Name: \_\_\_\_\_

**Southside Group of Companies**  
 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: \_\_\_\_\_  
 Street Address Apt/Suite/Unit# City/Town  
 Province Country (if not Canada) Postal Code

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

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

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

**Part 4: Representative Information (if applicable)**

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

First Name: **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: **December 19, 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.

Agenda Item #	Page #

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

(Please print)  
**See Schedule A attached hereto.**

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

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

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

**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)

Agenda Item #	Page #

**Part 8: Scheduling Information**

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

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

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

**Land Use Planner, Biologist**

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: **To identify witnesses to be called and arrange for exchange of Witness Statements.**

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


**Part 10: Required Fee**

**Total Fee Submitted: \$ 125.00**

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

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



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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 onerous 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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[ ]	[ ]

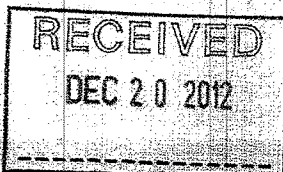


Environment and Land Tribunals Ontario  
**Ontario Municipal Board**  
 655 Bay Street, Suite 1500 Toronto, Ontario M5G 1E5  
 TEL: (416) 212-6349 or Toll Free: 1-866-448-2248  
 FAX: (416) 326-5370  
 www.elt.o.gov.on.ca

Cheque # 10128  
**APPELLANT FORM (A1)**  
**PLANNING ACT**

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

Date Stamp - Appeal Received by Municipality



Receipt Number (OMB Office Use Only)

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

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

**Part 2: Location Information**

**3405 Dingman Drive**  
 Address and/or Legal Description of property subject to the appeal:

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

Agenda Item #	Page #

**Part 3: Appellant Information**

First Name: **Jug** Last Name: **Manocha**

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:

Street Address

Apt/Suite/Unit#

City/Town

Province

Country (if not Canada)

Postal Code

Signature of Appellant:

Date:

*(Signature not required if the appeal is submitted by a law office.)*

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

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

**Part 4: Representative Information (if applicable)**

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

First Name: **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: **December 19, 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.

Agenda Item #	Page #

**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 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 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 designation of large portions of the 62 acre subject property as Open Space is inappropriate, unjustified, and not consistent with the Provincial Policy Statement.**

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

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

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

**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)



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

Cheque # 10127  
**APPELLANT FORM (A1)**  
**PLANNING ACT**

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

*Date Stamp - Appeal Received by Municipality*

**RECEIVED**  
 DEC 20 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	<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(19)
	<input type="checkbox"/> Appeal changed conditions	53(27)
	<input type="checkbox"/> Failed to make a decision on the application within 90 days	53(14)
	<input type="checkbox"/> Appeal the passing of a Zoning By-law	34(19)
Zoning By-law or Zoning By-law Amendment	<input type="checkbox"/> Application for an amendment to the Zoning By-law – failed to make a decision on the application within 120 days	34(11)
	<input type="checkbox"/> Application for an amendment to the Zoning By-law – refused by the municipality	
Interim Control By-law	<input type="checkbox"/> Appeal the passing of an Interim Control By-law	38(4)
Official Plan or Official Plan Amendment	<input checked="" type="checkbox"/> Appeal a decision	17(24) or 17(36)
	<input type="checkbox"/> Failed to make a decision on the plan within 180 days	17(40)
	<input type="checkbox"/> Application for an amendment to the Official Plan – failed to make a decision on the application within 180 days	22(7)
	<input type="checkbox"/> Application for an amendment to the Official Plan – refused by the municipality	
Plan of Subdivision	<input type="checkbox"/> Appeal a decision	51(39)
	<input type="checkbox"/> Appeal conditions imposed	51(43) or 51(48)
	<input type="checkbox"/> Failed to make a decision on the application within 180 days	51(34)

**Part 2: Location Information**

**284 Exeter Road**  
 Address and/or Legal Description of property subject to the appeal:

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

Agenda Item #  Page #

**Part 3: Appellant Information**

First Name: **Molly Ann**

Last Name: **Johnstone**

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:

Street Address

Apt/Suite/Unit#

City/Town

Province

Country (if not Canada)

Postal Code

Signature of Appellant:

Date:

*(Signature not required if the appeal is submitted by a law office.)*

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

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

**Part 4: Representative Information (if applicable)**

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

First Name: **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: **December 19, 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.

Agenda Item #	Page #

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

(Please print)  
**See Schedule A attached hereto.**

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

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

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

\_\_\_\_\_

**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)





Agenda Item #	Page #

### 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;
  - b. 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.

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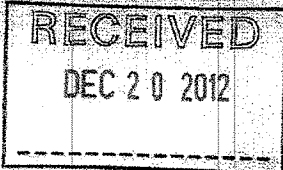
Cheque # 91634  
**APPELLANT FORM (A1)**  
**PLANNING ACT**



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

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

Date Stamp - Appeal Received by Municipality



Receipt Number (OMB Office Use Only)

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

SUBJECT OF APPEAL	TYPE OF APPEAL	PLANNING ACT REFERENCE (SECTION)
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	<input type="checkbox"/> Application for an amendment to the Zoning By-law – failed to make a decision on the application within 120 days	34(11)
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	<input type="checkbox"/> Appeal conditions imposed	51(43) or 51(48)
	<input type="checkbox"/> Failed to make a decision on the application within 180 days	51(34)

**Part 2: Location Information**

**4680 Wellington 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: Appellant Information**

First Name: \_\_\_\_\_ Last Name: \_\_\_\_\_  
**761030 Ontario Limited**  
 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: \_\_\_\_\_  

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


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

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

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**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: **December 19, 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.

Agenda Item #	Page #

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

(Please print)  
**See attached 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:** \_\_\_\_\_  
*(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.

\_\_\_\_\_

**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)



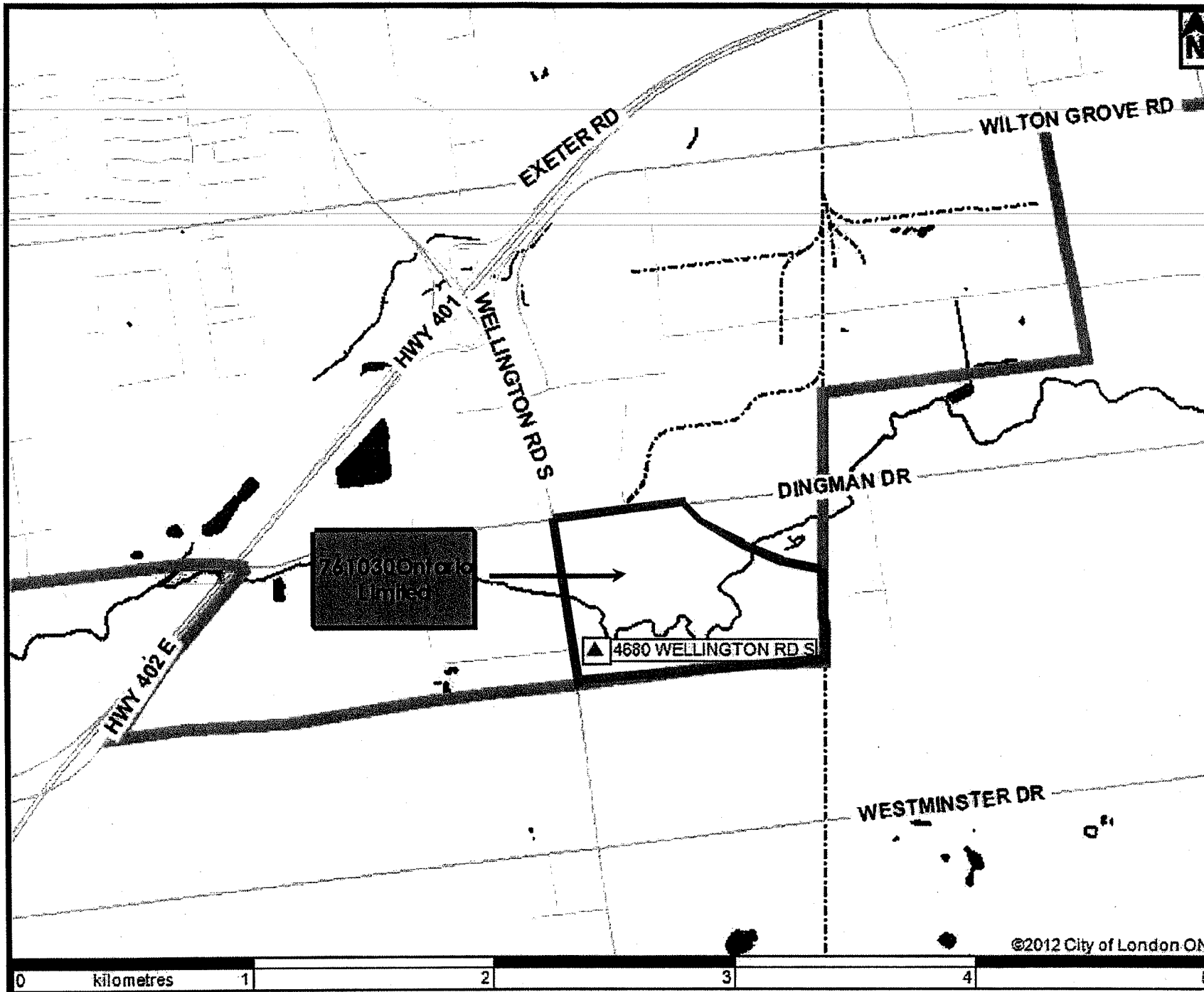
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### **SCHEDULE A**

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.

# Location of 4680 Wellington Road South, London Ontario



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Page #

\* Boundaries are approximate



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2012-11-09

**gowlings**

montreal - ottawa - toronto - hamilton - waterloo region - calgary - vancouver - moscow - london

**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. 4082

Subject APPEAL - OPA 541

- "SWAP" - 0-7609

- The TDL Group Corp.

DEC 20 2012

SCANNED

Ref. Tetherrott DATE: 12/20/12

C.C. \_\_\_\_\_

MN

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 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".

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gowlings

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”*.

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  
[www.omb.gov.on.ca](http://www.omb.gov.on.ca)

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

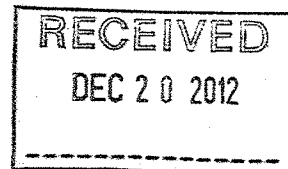
**(SUBMIT TO MUNICIPALITY/APPROVAL AUTHORITY)**

**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 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](http://www.omb.gov.on.ca).

Receipt Number (OMB Office Use Only):

Date Stamp - Appeal Received by Municipality



**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)
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	<input type="checkbox"/> Failed to make a decision on the application within 180 days	51(34)

Agenda Item #  Page #

**Part 2: Location Information**

Area as defined by the Southwest Area Secondary Plan - City of London

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

Municipality: City of London

**Part 3: Appellant Information**

First Name: \_\_\_\_\_ Last Name: \_\_\_\_\_

The TDL Group Corp (See Representative Information below for contact purposes)

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: \_\_\_\_\_

Street Address Apt/Suite/Unit# City/Town

Province Country (if not Canada) Postal Code

Signature of Appellant: \_\_\_\_\_ Date: \_\_\_\_\_

**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.**

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**Part 4: Representative Information (if applicable)**

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

First Name: Michael Last Name: Polowin

Company Name: Gowling Lefleur Henderson LLP

Professional Title: Lawyer

E-mail Address: michael.polowin@gowlings.com

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


Daytime Telephone #: 613 788-0158 Alternate Telephone #: 613 233- 1781

Fax #: 613 788-3485

Mailing Address: \_\_\_\_\_

Agenda Item #	Page #

Street Address: 160 Elgin Street	Apt/Suite/Unit# 2600	City/Town: Ottawa
Ontario		K1P 1C3
Province	Country (if not Canada)	Postal Code

Signature of Appellant:  Date: 19/12/2012

(continued on next page...)

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: Appeal Specific Information**

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

(Please Print)  
**Official Plan Amendment No. 541, City of London – “Southwest Area Secondary Plan”**

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 8 or attach a separate page.

(Please Print)  
**Please see attached letter.**

**\*\*The following sections (a&b) apply only to appeals of Zoning By-law Amendments under Section 34(11) of the Planning Act.**

a) **DATE APPLICATION SUBMITTED TO MUNICIPALITY:** \_\_\_\_\_  
 (If application submitted on or after January 1, 2007 please use the OMB1 '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 8 or attach a separate page.

Agenda Item #  Page #

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

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

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

(Please Print)

**Part 7: 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 witnesses do you expect to have at the hearing? 1

Describe witness(es)' area of expertise: Planning, Possibly Traffic and Others

Do you believe this matter would benefit from mediation? YES  NO

Do you believe this matter would benefit from a Prehearing Conference? YES  NO

If yes, why? As this appeal pertains to a new town wide comprehensive zoning by-law for the town, several appellants may be expected each with its own separate appeals, concerns and issues.

**Part 8: Other Applicable Information \*\*Attach a separate page if more space is required.**

**See attached cover letter to this appeal.**

Agenda Item #	Page #


**Part 9: Required Fee**

**Total Fee Submitted:** \$ 125.00 (In the form of Solicitor's general or trust account cheque)

**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 #



2012-011-09

montreal · ottawa · toronto · hamilton · waterloo region · calgary · vancouver · moscow · london

**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 APPEAL - OPA 541  
- "SWAP" - O-7609  
 - Wendy IS

DEC 20 2012

SCANNED

Ref: Wendy IS DATE: 12/20/12  
 C.C. \_\_\_\_\_ MN

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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**gowlings**

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”*.

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\_LAW 34408021

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  
[www.omb.gov.on.ca](http://www.omb.gov.on.ca)

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

**(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 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](http://www.omb.gov.on.ca).

Receipt Number (OMB Office Use Only):

Date Stamp - Appeal Received by Municipality

RECEIVED  
 DEC 20 2012

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

Agenda Item #	Page #

**Part 2: Location Information**

Area as defined by the Southwest Area Secondary Plan - City of London

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

Municipality: City of London

**Part 3: Appellant Information**

First Name: \_\_\_\_\_ Last Name: \_\_\_\_\_

Wendy's Restaurants of Canada, Inc. (See Representative Information below for contact purposes)

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: \_\_\_\_\_  
 Street Address Apt/Suite/Unit# City/Town

Province Country (if not Canada) Postal Code

Signature of Appellant: \_\_\_\_\_ Date: \_\_\_\_\_

**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: Michael Last Name: Polowin

Company Name: Gowling Lefleur Henderson LLP

Professional Title: Lawyer

E-mail Address: michael.polowin@gowings.com

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

Daytime Telephone #: 613 788-0158

Alternate Telephone #: 613 233- 1781

Fax #: 613 788-3485

Mailing Address: \_\_\_\_\_

Agenda Item #

Page #

[Empty box for Agenda Item #]

[Empty box for Page #]

Street Address: 160 Elgin Street

Apt/Suite/Unit# 2600

City/Town: Ottawa

Ontario

K1P 1C3

Province

Country (if not Canada)

Postal Code

Signature of Appellant:

*[Handwritten Signature]*

Date: 19/12/2012

*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.*

(continued on next page...)

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: Appeal Specific Information**

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

(Please Print)

**Official Plan Amendment No. 541, City of London – "Southwest Area Secondary Plan"**

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 8 or attach a separate page.

(Please Print)

**Please see attached letter.**

**\*\*The following sections (a&b) apply only to appeals of Zoning By-law Amendments under Section 34(11) of the Planning Act.**

a) **DATE APPLICATION SUBMITTED TO MUNICIPALITY:** \_\_\_\_\_  
(If application submitted on or after January 1, 2007 please use the OMB1 '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 8 or attach a separate page.

[Empty box for explanatory note]

Agenda Item #	Page #

**Part 6: 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

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

(Please Print)

**Part 7: 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 witnesses do you expect to have at the hearing? 1

Describe witness(es)' area of expertise: Planning, Possibly Traffic and Others

Do you believe this matter would benefit from mediation? YES  NO

Do you believe this matter would benefit from a Prehearing Conference? YES  NO

If yes, why? \_\_\_As this appeal pertains to a new town wide comprehensive zoning by-law for the town, several appellants may be expected each with its own separate appeals, concerns and issues.

**Part 8: Other Applicable Information \*Attach a separate page if more space is required.**

**See attached cover letter to this appeal.**

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Agenda Item #

Page #


**Part 9: Required Fee**

**Total Fee Submitted:** \$ 125.00 (In the form of Solicitor's general or trust account cheque)

**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 #



2012-D11-09

montreal - ottawa - toronto - hamilton - waterloo region - calgary - vancouver - mississauga - london

**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. 4085  
 Subject APPEAL - OPA 541  
- "SWAP" - O-1609  
- A & W  
 DEC 20 2012

SCANNED  
 Ref. Trefhercot DATE: 12/20/12  
 C.C. \_\_\_\_\_ MN

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.

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**gowlings**

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”*.

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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\_LAW 34408051



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  
[www.omb.gov.on.ca](http://www.omb.gov.on.ca)

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

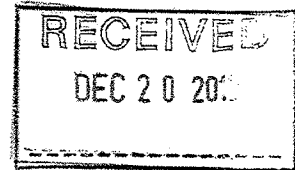
**(SUBMIT TO MUNICIPALITY/APPROVAL AUTHORITY)**

**Instructions:**

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- 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](http://www.omb.gov.on.ca).

Receipt Number (OMB Office Use Only):

Date Stamp - Appeal Received by Municipality



**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)
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	<input type="checkbox"/> Application for an amendment to the Zoning By-law – refused by the municipality	
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	<input type="checkbox"/> Application for an amendment to the Official Plan – refused by the municipality	22(7)
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Subdivision	<input type="checkbox"/> Appeal a decision	51(39)
	<input type="checkbox"/> Appeal conditions imposed	51(43) or 51(48)
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Agenda Item #	Page #

**Part 2: Location Information**

Area as defined by the Southwest Area Secondary Plan - City of London

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

Municipality: City of London

**Part 3: Appellant Information**

First Name: \_\_\_\_\_ Last Name: \_\_\_\_\_

**A&W Food Services of Canada Inc. (See Representative Information below for contact purposes)**

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: \_\_\_\_\_  

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

Signature of Appellant: \_\_\_\_\_ Date: \_\_\_\_\_

*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: Michael Last Name: Polowin

Company Name: Gowling Lefleur Henderson LLP  
 \_\_\_\_\_

Professional Title: Lawyer  
 \_\_\_\_\_

E-mail Address: michael.polowin@gowlings.com  
 \_\_\_\_\_  
By providing an e-mail address you agree to receive communications from the OMB by e-mail.

Daytime Telephone #: 613 788-0158 Alternate Telephone #: 613 233- 1791

Fax #: 613 788-3485  
 \_\_\_\_\_

Mailing Address: \_\_\_\_\_  
 \_\_\_\_\_

Agenda Item #	Page #

Street Address: 160 Elgin Street	Apt/Suite/Unit# 2600	City/Town: Ottawa
Ontario		K1P 1C3
Province	Country (if not Canada)	Postal Code

Signature of Appellant:  Date: 19/12/2002

(continued on next page...)  
 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: Appeal Specific Information**

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

(Please Print)  
**Official Plan Amendment No. 541, City of London – "Southwest Area Secondary Plan"**

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 8 or attach a separate page.

(Please Print)  
**Please see attached letter.**

**\*\*The following sections (a&b) apply only to appeals of Zoning By-law Amendments under Section 34(11) of the Planning Act.**

a) **DATE APPLICATION SUBMITTED TO MUNICIPALITY:** \_\_\_\_\_  
 (If application submitted on or after January 1, 2007 please use the OMB1 '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:  
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\_\_\_\_\_

Agenda Item #  Page #

**Part 6: 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

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

(Please Print)

**Part 7: 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: \_\_\_\_\_

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Describe witness(es)' area of expertise: Planning, Possibly Traffic and Others

Do you believe this matter would benefit from mediation? YES  NO

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**Part 8: Other Applicable Information \*\*Attach a separate page if more space is required.**

**See attached cover letter to this appeal.**

---



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Agenda Item #  Page #


**Part 9: Required Fee**

**Total Fee Submitted:** \$ 125.00 (In the form of Solicitor's general or trust account cheque)

**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 #  
                     



montreal - ottawa - toronto - hamilton - waterloo region - calgary - vancouver - moscow - london

2012-011-09

**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 APPEAL - OPA  
541 - "SWAP" - O-7609  
- MacDonaldis

DEC 20 2012

SCANNED

Ref. Inetherrott      DATE: 12/20/12  
 C.C. \_\_\_\_\_

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".

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gowlings

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”*.

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.

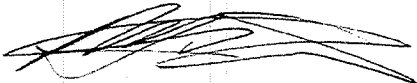
Finally, our client takes the position, as has been found at the Ontario Municipal Board, that the presence of DTF is more consistent with the Growth Plan and the Provincial Policy Statement, than is the parking lot alternative.

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\_LAW\3440794\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  
[www.omb.gov.on.ca](http://www.omb.gov.on.ca)

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

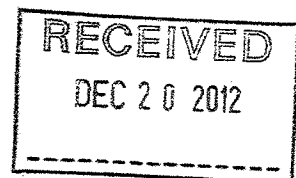
**(SUBMIT TO MUNICIPALITY/APPROVAL AUTHORITY)**

**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 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](http://www.omb.gov.on.ca).

Receipt Number (OMB Office Use Only):

Date Stamp - Appeal Received by Municipality



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



Agenda Item #	Page #

**Part 2: Location Information**

Area as defined by the Southwest Area Secondary Plan - City of London

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

Municipality: City of London

**Part 3: Appellant Information**

First Name: \_\_\_\_\_ Last Name: \_\_\_\_\_

McDonald's Restaurants of Canada Limited (See Representative Information below for contact purposes)

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: \_\_\_\_\_

Street Address	Apt/Suite/Unit#	City/Town
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Province	Country (if not Canada)	Postal Code
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Signature of Appellant: \_\_\_\_\_ Date: \_\_\_\_\_

**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: Michael Last Name: Polowin

Company Name: Gowling Lefleur Henderson LLP

Professional Title: Lawyer

E-mail Address: michael.polowin@gowlings.com

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

Daytime Telephone #: 613 786-0158

Alternate Telephone #: 613 233- 1781

Fax #: 613 786-3485

Mailing Address: \_\_\_\_\_

Agenda Item #	Page #

Street Address: 160 Elgin Street      Apt/Suite/Unit# 2600      City/Town: Ottawa  
 Ontario      K1P 1C3  
 Province      Country (if not Canada)      Postal Code

Signature of Appellant:  Date: 19/12/2012

*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.* (continued on next page...)

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: Appeal Specific Information**

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

(Please Print)

**Official Plan Amendment No. 541, City of London – "Southwest Area Secondary Plan"**

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 8 or attach a separate page.

(Please Print)

**Please see attached letter.**

**\*\*The following sections (a&b) apply only to appeals of Zoning By-law Amendments under Section 34(11) of the Planning Act.**

a) **DATE APPLICATION SUBMITTED TO MUNICIPALITY:** \_\_\_\_\_  
*(If application submitted on or after January 1, 2007 please use the OMB1 '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 8 or attach a separate page.

Agenda Item #	Page #

**Part 6: 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

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

(Please Print)

**Part 7: 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 witnesses do you expect to have at the hearing? 1

Describe witness(es)' area of expertise: Planning, Possibly Traffic and Others

Do you believe this matter would benefit from mediation? YES  NO

Do you believe this matter would benefit from a Prehearing Conference? YES  NO

If yes, why? \_\_\_As this appeal pertains to a new town wide comprehensive zoning by-law for the town, several appellants may be expected each with its own separate appeals, concerns and issues.

**Part 8: Other Applicable Information \*\*Attach a separate page if more space is required.**

**See attached cover letter to this appeal.**

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Agenda Item #	Page #


**Part 9: Required Fee**

**Total Fee Submitted:** \$ 125.00 (In the form of Solicitor's general or trust account cheque)

**Payment Method:**  Certified cheque  Money Order

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

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# gowlings

montreal · ottawa · toronto · hamilton · waterloo region · calgary · vancouver · moscow · london

2012-011-09

**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 - OPA 541  
- "SWAP" - O-7609  
- ORHMA  
DEC 20 2012

Ref. Trethercott SCANNED  
C.C. DATE: 20/12/12  
MN

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 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 #

**gowlings**

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”*.

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



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  
[www.omb.gov.on.ca](http://www.omb.gov.on.ca)

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

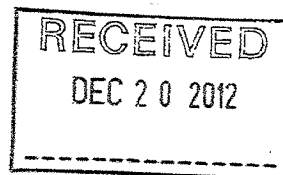
**(SUBMIT TO MUNICIPALITY/APPROVAL AUTHORITY)**

**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 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](http://www.omb.gov.on.ca).

Receipt Number (OMB Office Use Only):

Date Stamp - Appeal Received by Municipality



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

Agenda Item #  Page #

**Part 2: Location Information**

Area as defined by the Southwest Area Secondary Plan - City of London

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

Municipality: City of London

**Part 3: Appellant Information**

First Name: \_\_\_\_\_ Last Name: \_\_\_\_\_

Ontario Restaurant Hotel and Motel Association (ORHMA) (See Representative Information below for contact purposes)

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: \_\_\_\_\_

Street Address Apt/Suite/Unit# City/Town

Province Country (if not Canada) Postal Code

Signature of Appellant: \_\_\_\_\_ Date: \_\_\_\_\_

*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: Michael Last Name: Polowin

Company Name: Gowling Lefleur Henderson LLP

Professional Title: Lawyer

E-mail Address: michael.polowin@gowlings.com

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

Daytime Telephone #: 613 786-0158

Alternate Telephone #: 613 233- 1781

Fax #: 613 788-3485

Mailing Address: \_\_\_\_\_



Agenda Item #	Page #

Street Address: 160 Elgin Street      Apt/Suite/Unit# 2600      City/Town: Ottawa  
 Ontario      K1P 1C3  
 Province      Country (if not Canada)      Postal Code

Signature of Appellant:  Date: 12/12/2012

(continued on next page...)  
 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: Appeal Specific Information**

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

(Please Print)  
**Official Plan Amendment No. 541, City of London – "Southwest Area Secondary Plan"**

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 8 or attach a separate page.

(Please Print)  
**Please see attached letter.**

**\*\*The following sections (a&b) apply only to appeals of Zoning By-law Amendments under Section 34(11) of the Planning Act.**

a) **DATE APPLICATION SUBMITTED TO MUNICIPALITY:** \_\_\_\_\_  
 (if application submitted on or after January 1, 2007 please use the OMB1 '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 8 or attach a separate page.

Agenda Item #	Page #

**Part 6: 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

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

(Please Print)

**Part 7: 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 witnesses do you expect to have at the hearing? 1

Describe witness(es)' area of expertise: Planning, Possibly Traffic and Others

Do you believe this matter would benefit from mediation? YES  NO

Do you believe this matter would benefit from a Prehearing Conference? YES  NO

If yes, why? As this appeal pertains to a new town wide comprehensive zoning by-law for the town, several appellants may be expected each with its own separate appeals, concerns and issues.

**Part 8: Other Applicable Information \*Attach a separate page if more space is required.**

**See attached cover letter to this appeal.**

Agenda Item #      Page #  
                     


**Part 9: Required Fee**

**Total Fee Submitted:** \$ 125.00 (In the form of Solicitor's general or trust account cheque)

**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 #

2012-11-09

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. 4078  
**Subject** APPEAL - OPA 541  
"SWAP" - O-7609  
- Latella  
 DEC 19 2012

Ref. J. Nethercott


C.C. CANNED  
 DATE: 12/19/12MN

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 #



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.elfto.gov.on.ca

**APPELLANT FORM (A1)  
 PLANNING ACT**

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

Date Stamp - Appeal Received by Municipality

**RECEIVED**

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

**Part 2: Location Information**

6182 Hamlyn Street & 2088 Wharnccliffe Road S.

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

Municipality/Upper tier: London, Ontario

Agenda Item #  Page #

**Part 3: Appellant Information**

First Name: Salvatore Last Name: Latella

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: \_\_\_\_\_

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

Signature of Appellant:  Date: Dec 19-2012  
*(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: Sergio Last Name: Pompili

Company Name: Sergio E. Pompili & Assoc. Ltd.

Professional Title: Land Investment & Development Strategist


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

Daytime Telephone #: (519) 473-4273 Alternate Telephone #: \_\_\_\_\_

Fax #: (519) 473-9917

Mailing Address: 301 Oxford Street W. 24138 London

Street Address	Apt/Suite/Unit#	City/Town
Ontario		N6H 5C4
Province	Country (if not Canada)	Postal Code

Signature of Appellant:  Date: Dec 19/2012

Agenda Item #	Page #

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

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

**Part 5: Language and Accessibility**

Please choose preferred language:  English  French

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

**Part 6: Appeal Specific Information**

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

(Please print)

Southwest Area Plan Official Plan Amendment By-law C.P.-1284(st) and 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 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 Wharnclyffe Road S. to Hamlyn Street. The Savoy Street extension through the subject properties provides the required collector road connection between Wharnclyffe 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. Wharnclyffe 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/

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 Wharnccliffe 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 Wharnccliffe 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 '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.**

**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)

**Part 8: Scheduling Information**

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

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

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

Land 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

NO

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? 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 Wharnciffe 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 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.

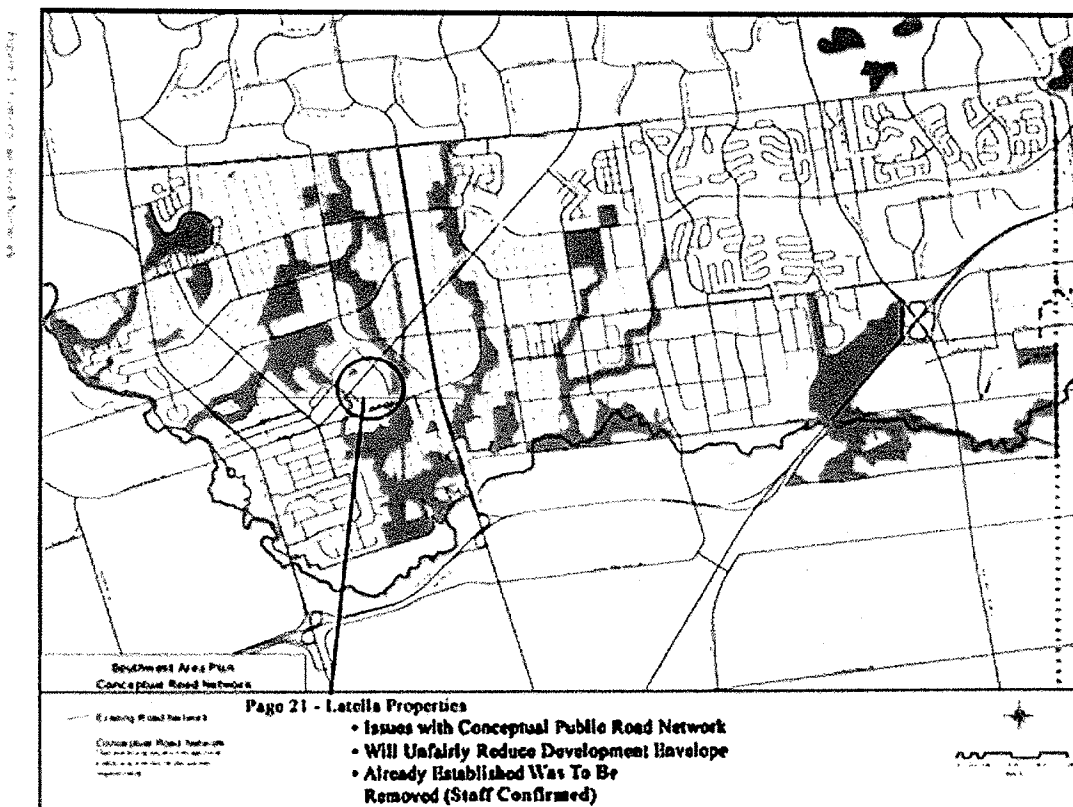
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**Supportive Mapping Information For  
Part 6: Appeal Specific Information**

Agenda Item # Page #

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Figure 1: Conceptual Road Network

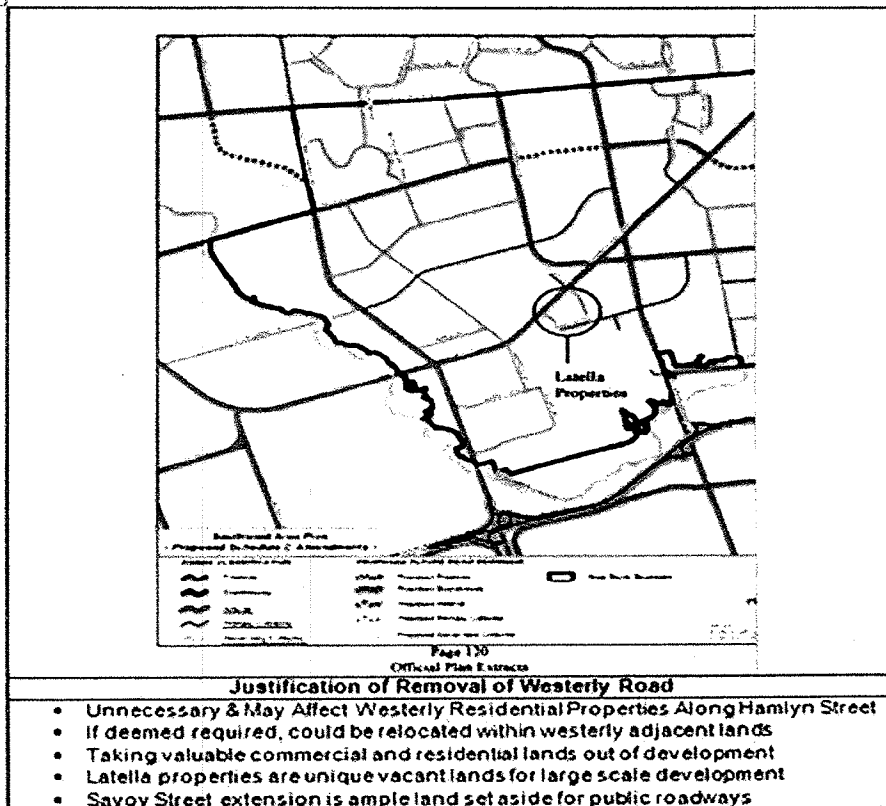


Sergio E. Dompili & Assoc. Ltd.

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## Appendix I: Official Plan Extracts Proposed Schedule C Amendments



Sergio E. D'Amplio & Assoc. Ltd.



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

Agenda Item #	Page #

Page 1 of 1

**Sergio Pompili**

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**From:** "Sergio Pompili" <associates@sepompili.ca>  
**Date:** May-30-12 9:39 AM  
**To:** "Heather McNeely" <HMcNeely@London.ca>  
**Cc:** "Gregg Barrett" <GBarrett@London.ca>  
**Attach:** Minutes of Meeting Sal Latella, May 16, 2012.docx  
**Subject:** 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 a 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

Sergio E. Pompili President, Planner / Analyst  
 M.A., Dipl. A.A. Urban Design  
 MCID, RPP

**Sergio E. Pompili & Assoc. Ltd.**

PLANNING / MARKET ANALYSIS / ECONOMIC DEVELOPMENT  
 London Toronto Mississauga

301 Oxford St. W., Suite 24126  
 London, ON N6H 5C4  
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 Fax: (519) 473-9917  
 Email: sergio@sepompili.on.ca  
 Web: www.sepompili.ca

18/12/2012

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

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**Participants:** 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 Wharnclyffe Rd. S. Properties  
 Sergio Pompili, Sergio E. Pompili & 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 Wharnclyffe 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/Wharnclyffe intersection will be signalized, in order to address existing and future residential development for the land area, along the north side of Wharnclyffe 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 Wharnclyffe Rd. S. if the existing Hamlyn/Campbell road connection is terminated:

Stated that the ideal location for the new Hamlyn/Wharnclyffe 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**

--	--

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

Recognized that the Wharnccliffe 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' Wharnccliffe Rd. S. frontage will receive a Transit Oriented Corridor (TOC) Wharnccliffe 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 Wharnccliffe 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*

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**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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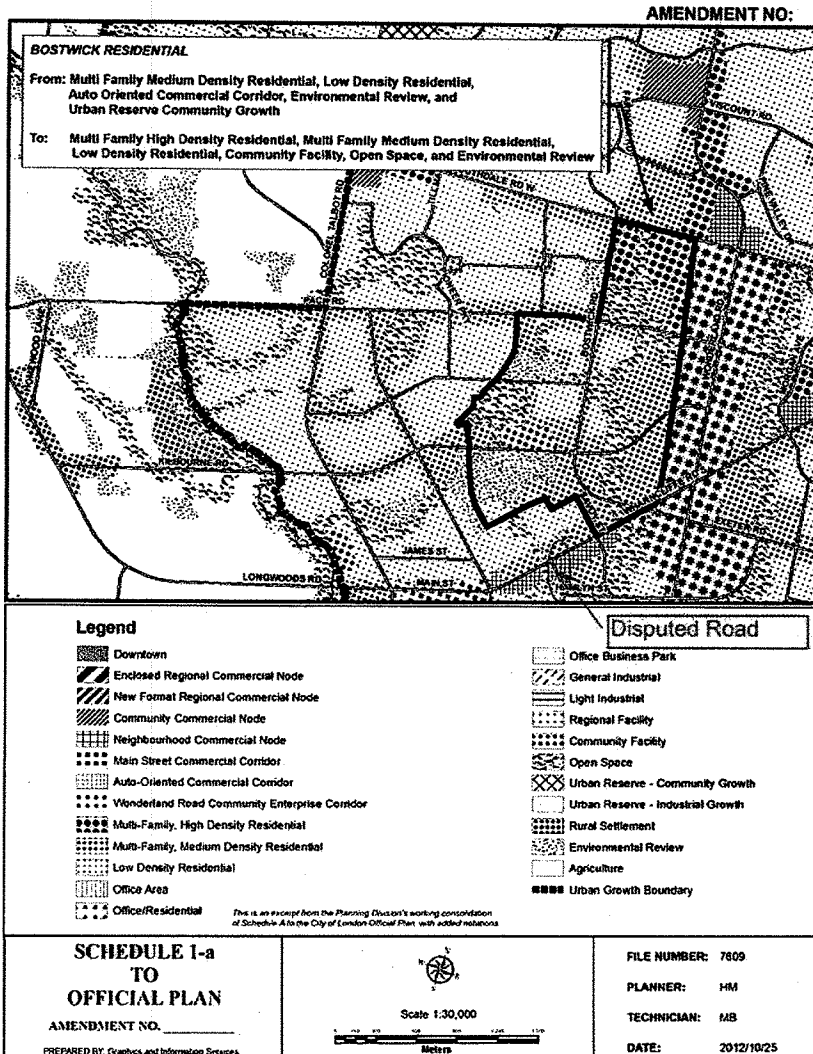
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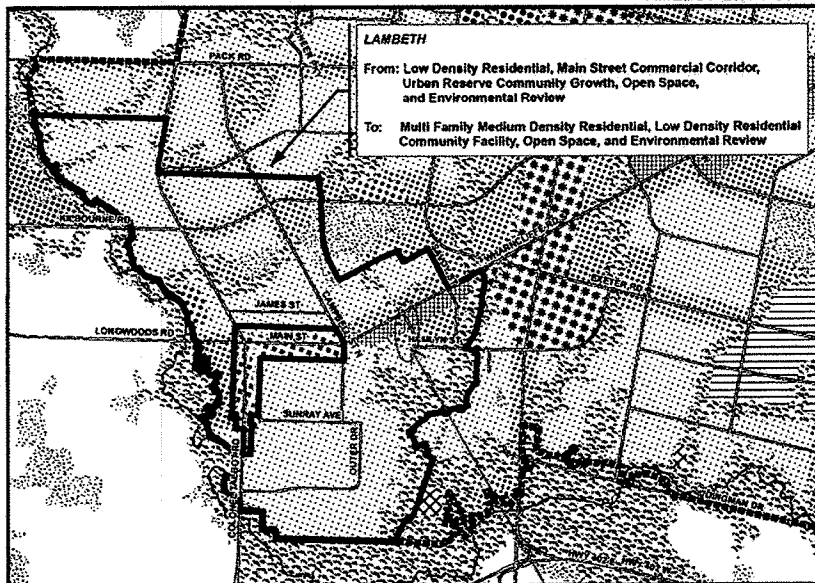
**London**  
CANADA

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**AMENDMENT NO:**



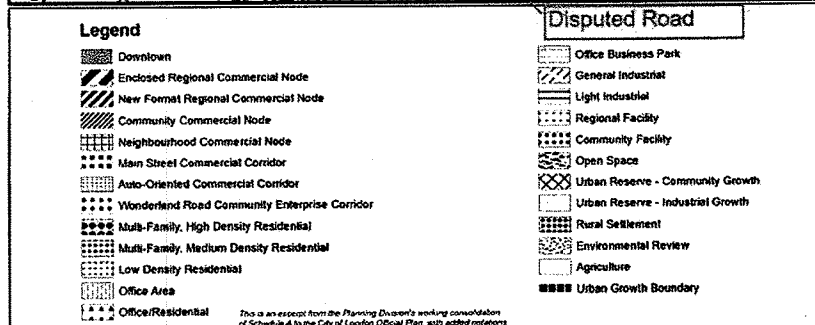
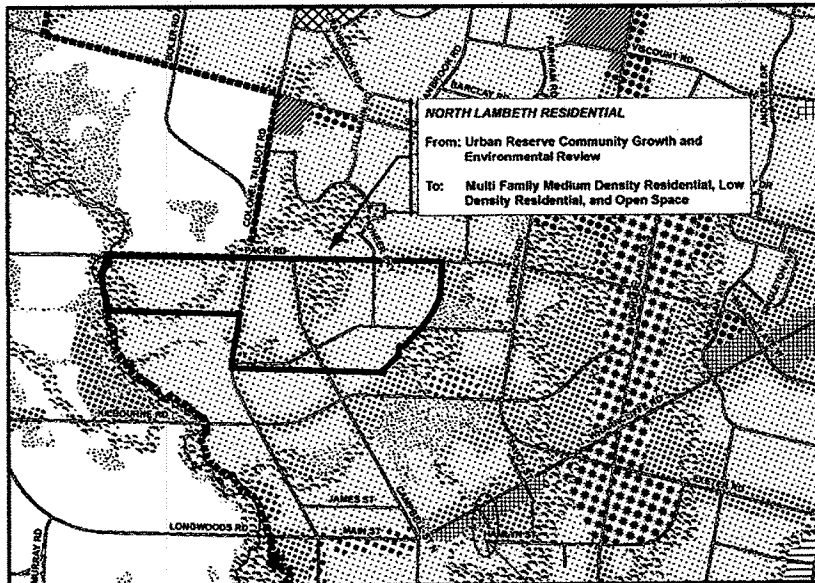
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	Downtown		Office Business Park
	Enclosed Regional Commercial Node		General Industrial
	New Format Regional Commercial Node		Light Industrial
	Community Commercial Node		Regional Facility
	Neighbourhood Commercial Node		Community Facility
	Main Street Commercial Corridor		Open Space
	Auto-Oriented Commercial Corridor		Urban Reserve - Community Growth
	Wonderland Road Community Enterprise Corridor		Urban Reserve - Industrial Growth
	Multi-Family, High Density Residential		Rural Settlement
	Multi-Family, Medium Density Residential		Environmental Review
	Low Density Residential		Agriculture
	Office Area		Urban Growth Boundary
	Office/Residential		

<p><b>SCHEDULE 1-f TO OFFICIAL PLAN</b></p> <p>AMENDMENT NO. _____</p> <p><small>PREPARED BY: Graphics and Information Services</small></p>	<p>Scale 1:30,000</p> <p>Meters</p>	<p>FILE NUMBER: 7809</p> <p>PLANNER: HM</p> <p>TECHNICIAN: MB</p> <p>DATE: 2012/10/25</p>
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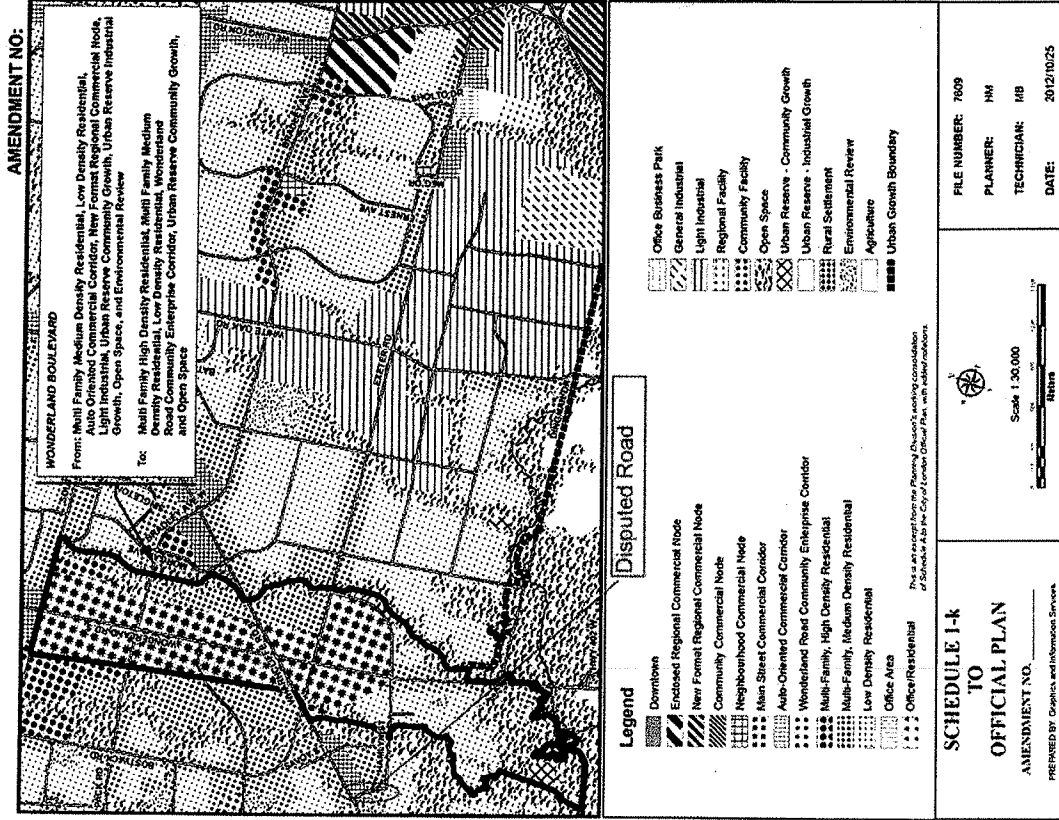
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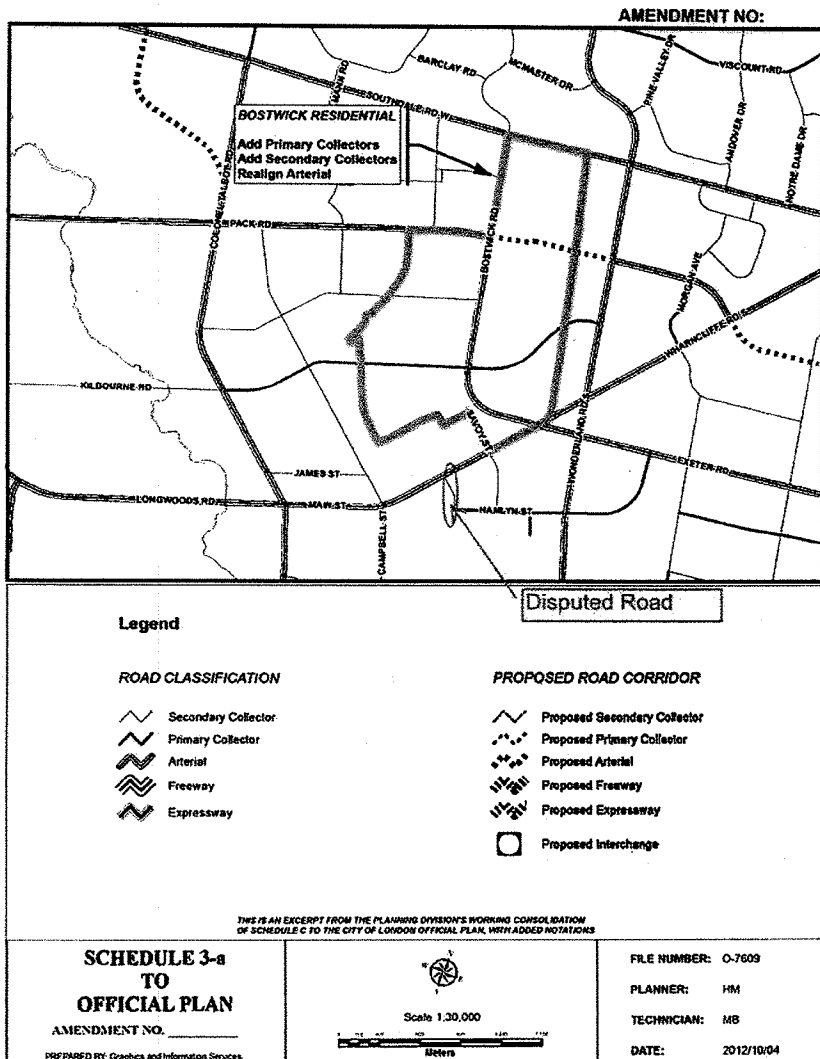
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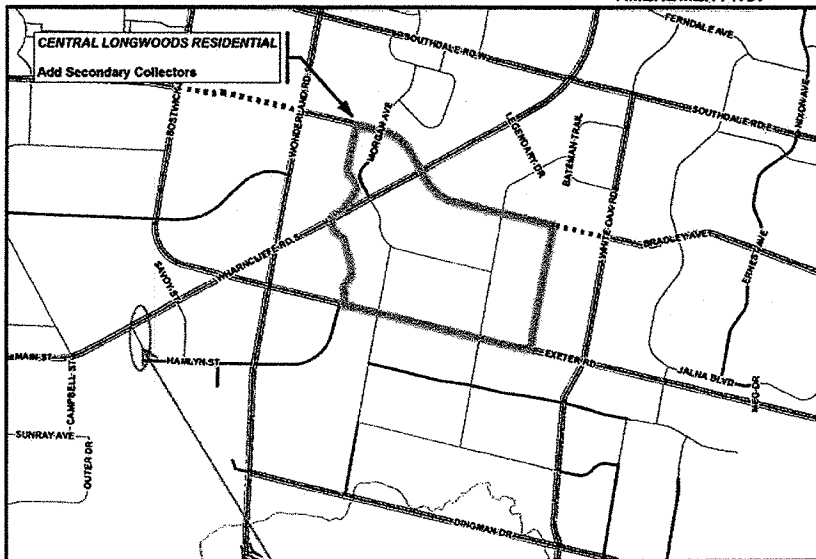
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AMENDMENT NO:



Legend

Disputed Road

ROAD CLASSIFICATION

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- Primary Collector
- Arterial
- Freeway
- Expressway

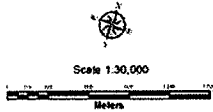
PROPOSED ROAD CORRIDOR

- Proposed Secondary Collector
- Proposed Primary Collector
- Proposed Arterial
- Proposed Freeway
- Proposed Expressway
- Proposed Interchange

THIS IS AN EXCERPT FROM THE PLANNING DIVISION'S WORKING CONSOLIDATION OF SCHEDULE C TO THE CITY OF LONDON OFFICIAL PLAN, WITH ADDED NOTATIONS

SCHEDULE 3-b TO OFFICIAL PLAN AMENDMENT NO.

PREPARED BY: Graphics and Information Services



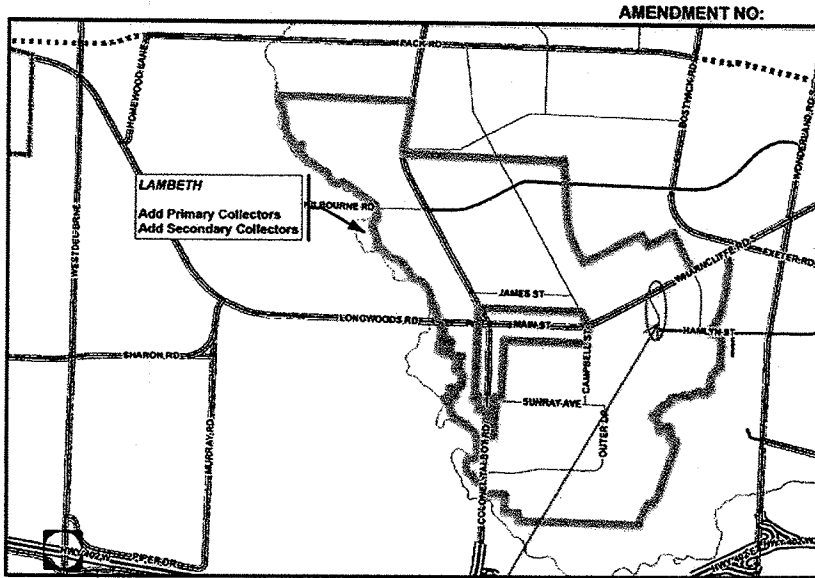
FILE NUMBER: O-7809

PLANNER: HM

TECHNICIAN: MB

DATE: 2012/10/04

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AMENDMENT NO:

**Legend**

**Disputed Road**

**ROAD CLASSIFICATION**

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- Primary Collector
- Arterial
- Freeway
- Expressway

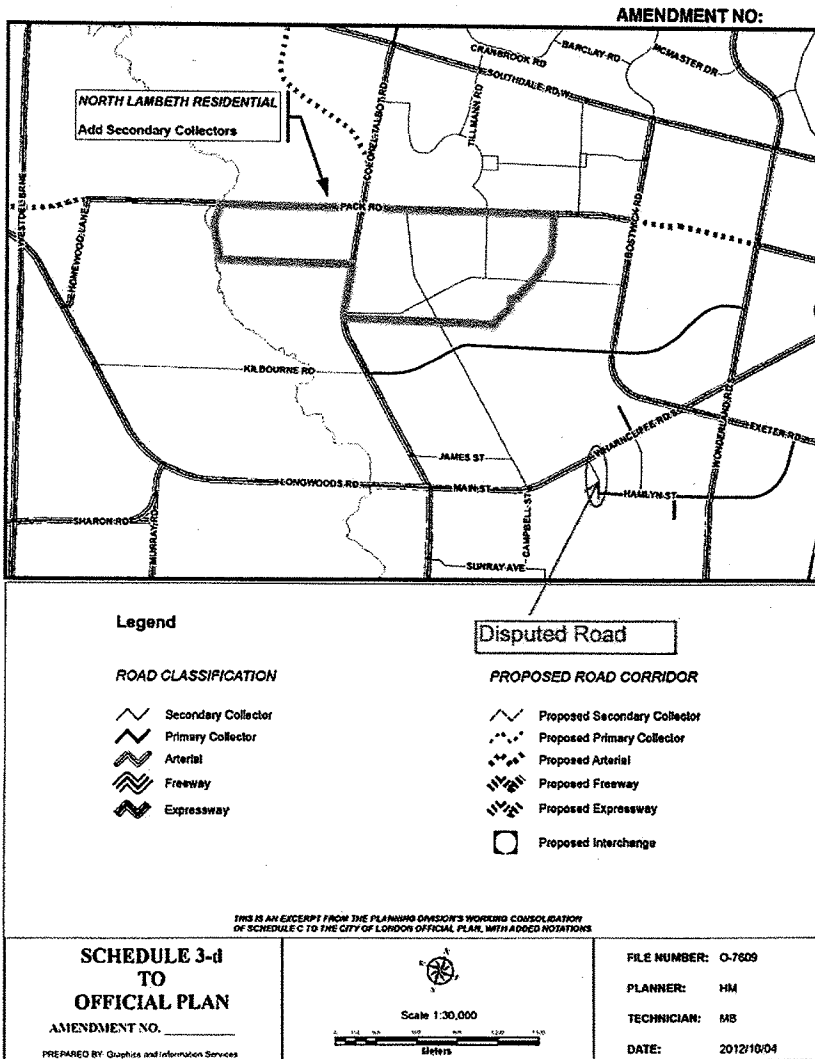
**PROPOSED ROAD CORRIDOR**

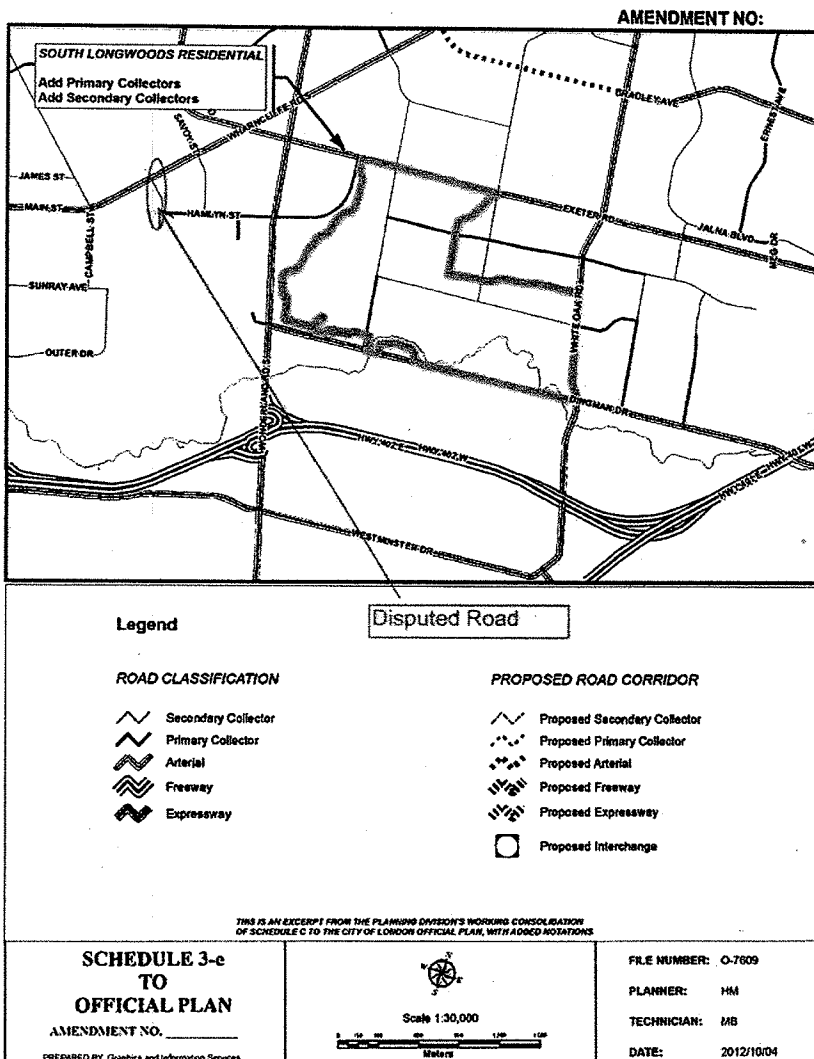
- Proposed Secondary Collector
- Proposed Primary Collector
- Proposed Arterial
- Proposed Freeway
- Proposed Expressway
- Proposed Interchange

THIS IS AN EXCERPT FROM THE PLANNING DIVISION'S WORKING CONSOLIDATION OF SCHEDULE C TO THE CITY OF LONDON OFFICIAL PLAN, WITH ADDED NOTATIONS

<p><b>SCHEDULE 3-c TO OFFICIAL PLAN</b></p> <p>AMENDMENT NO. _____</p> <p><small>PREPARED BY: Graphics and Information Services</small></p>	<p>Scale 1:30,000</p> <p>Meters</p>	<p>FILE NUMBER: O-7609</p> <p>PLANNER: HM</p> <p>TECHNICIAN: MB</p> <p>DATE: 2012/10/04</p>
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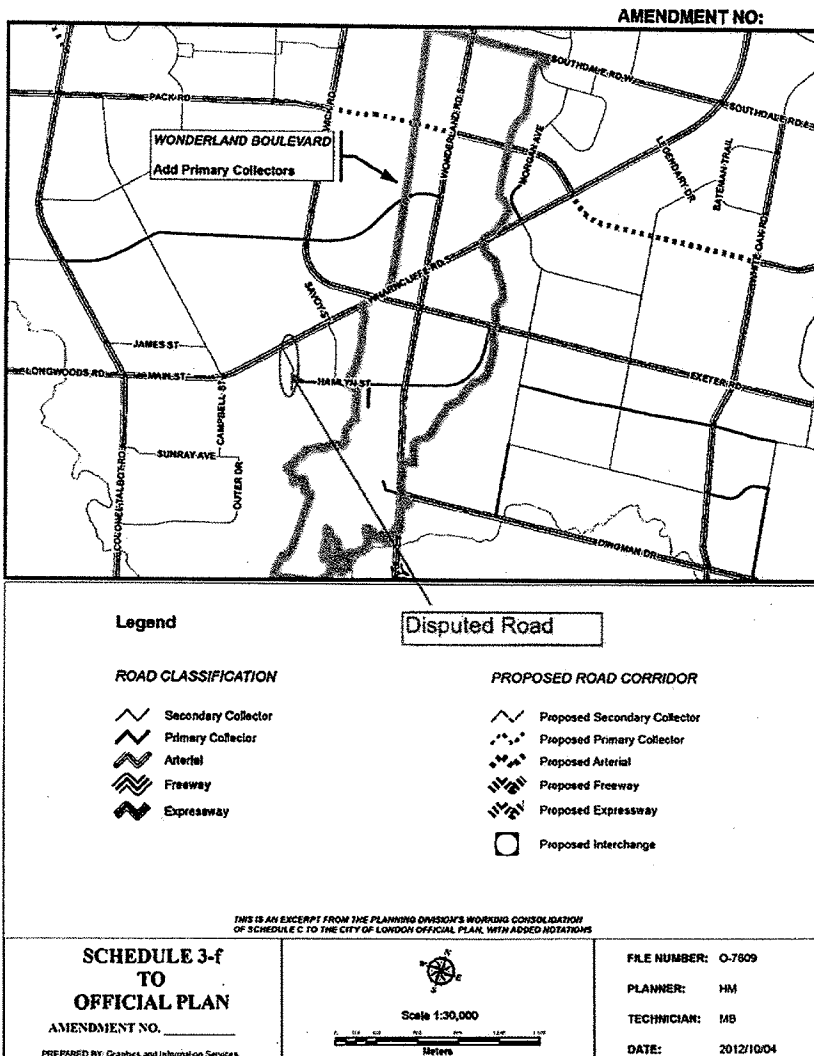
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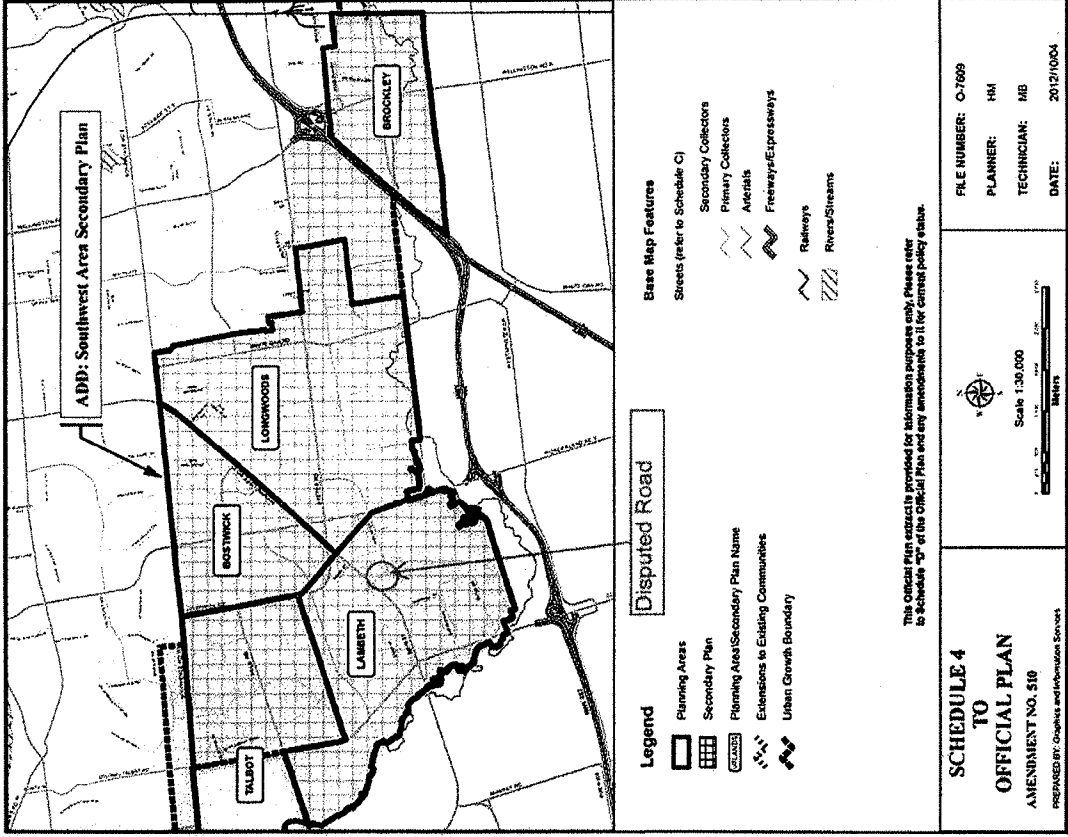




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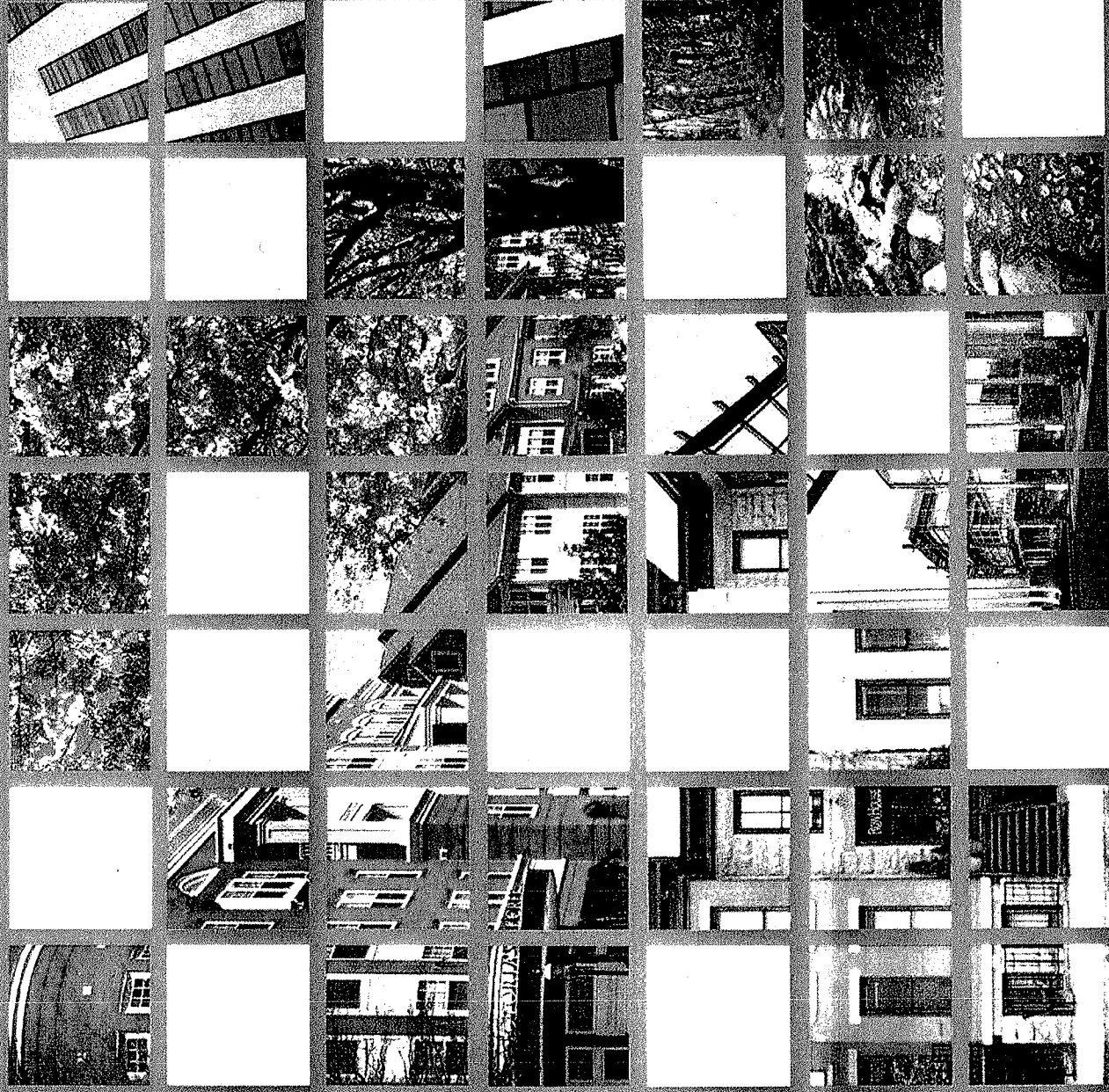




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# SECONDARY PLAN 20.5

November 2012



# Southwest Area Plan

City of London

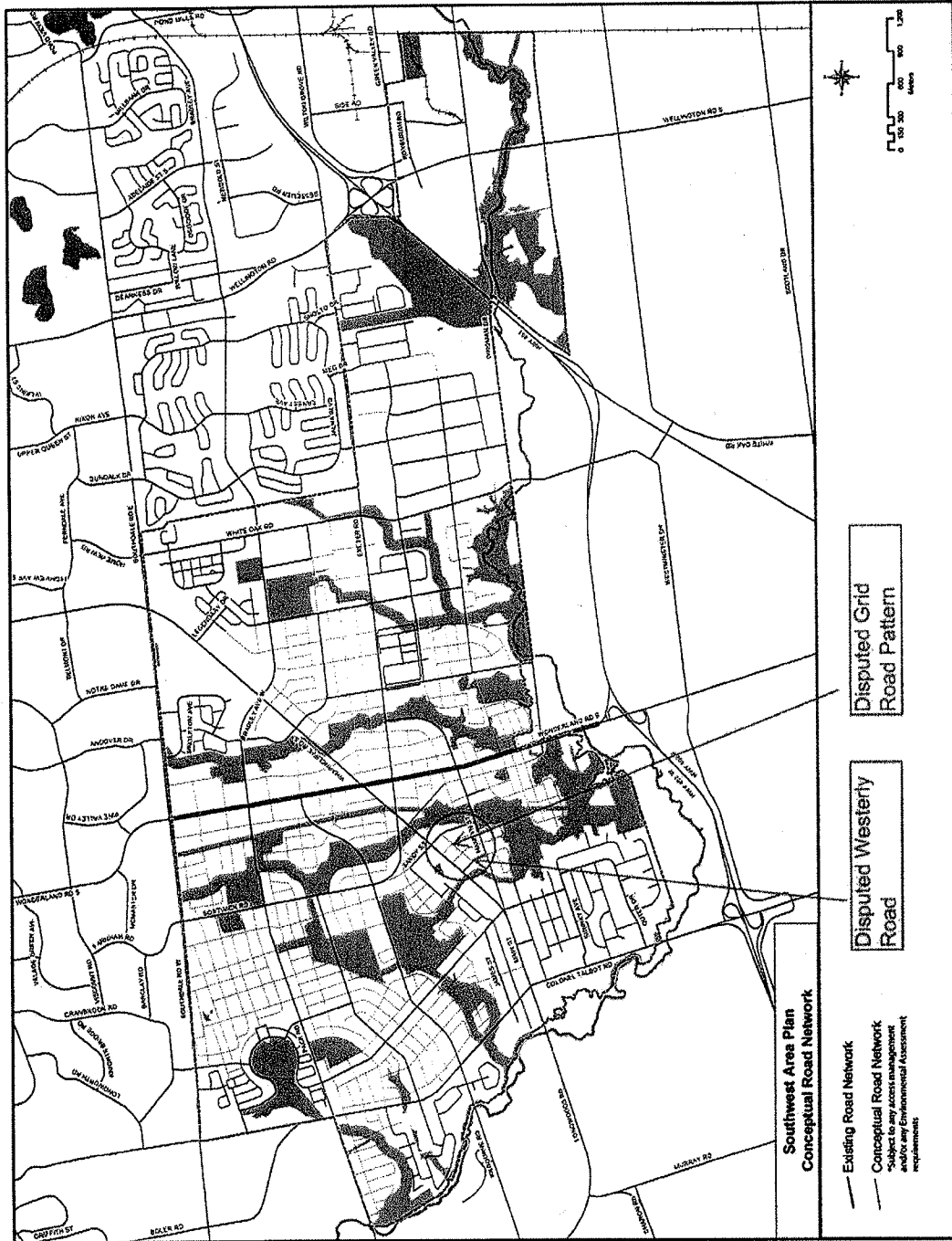


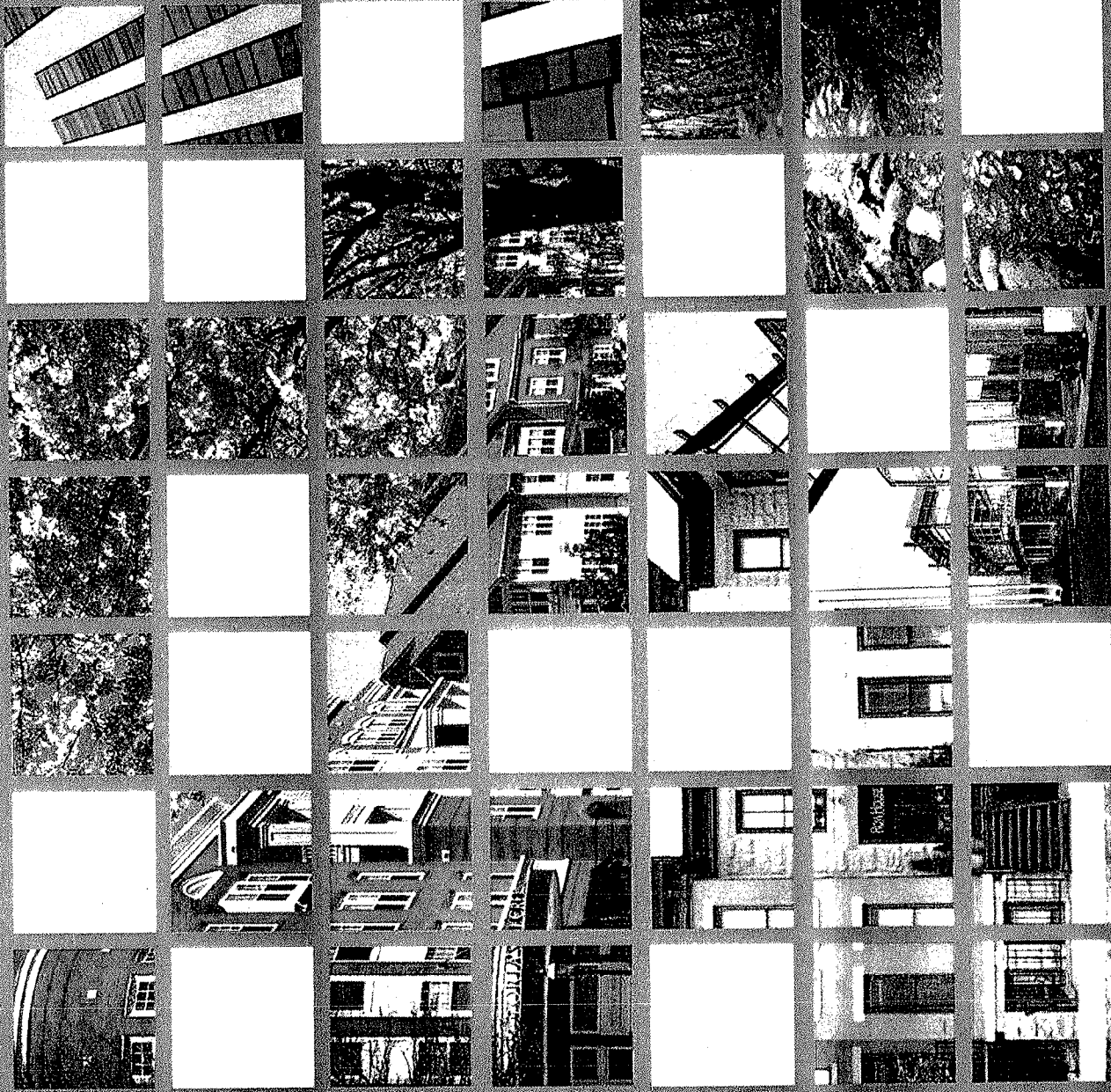
Figure 1: Conceptual Road Network



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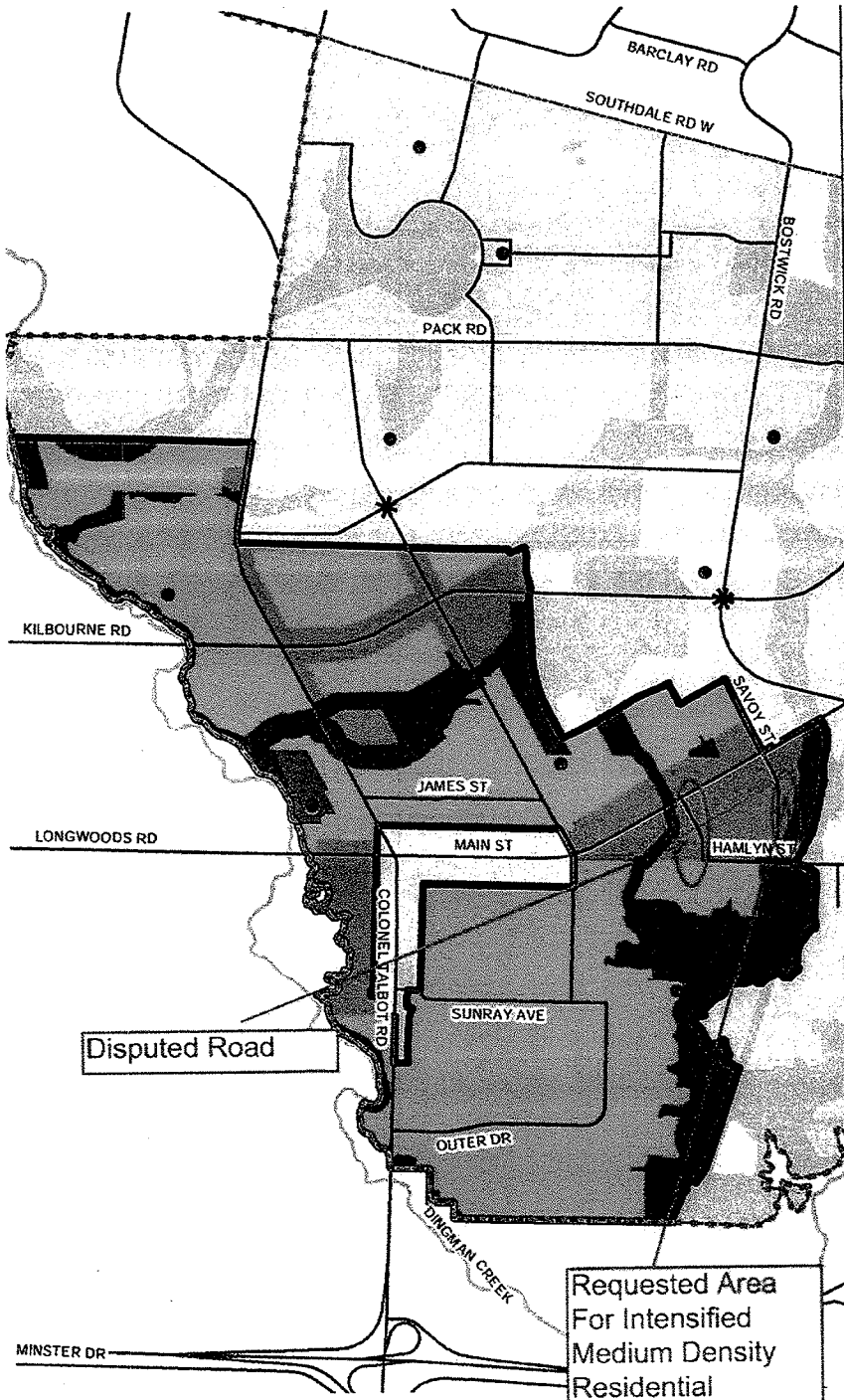
# SECONDARYPLAN 20.5

November 2012



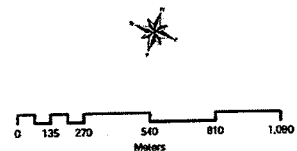
# Southwest Area Plan

City of London



**Schedule 6  
To  
Southwest Area Secondary Plan  
Lambeth Residential  
Neighbourhood Land Use  
Designations**

- High Density Residential
- Medium Density Residential
- Low Density Residential
- Commercial
- Office
- Wonderland Road Community Enterprise Corridor
- Main Street Lambeth North
- Main Street Lambeth South
- Open Space
- Institutional
- Industrial
- Transitional Industrial
- Urban Reserve Community Growth
- Urban Reserve Industrial Growth
- Rural Settlement
- \* Neighbourhood Central Activity Node
- Parks (Existing and Proposed)
- Urban Growth Boundary
- Neighbourhood Boundary



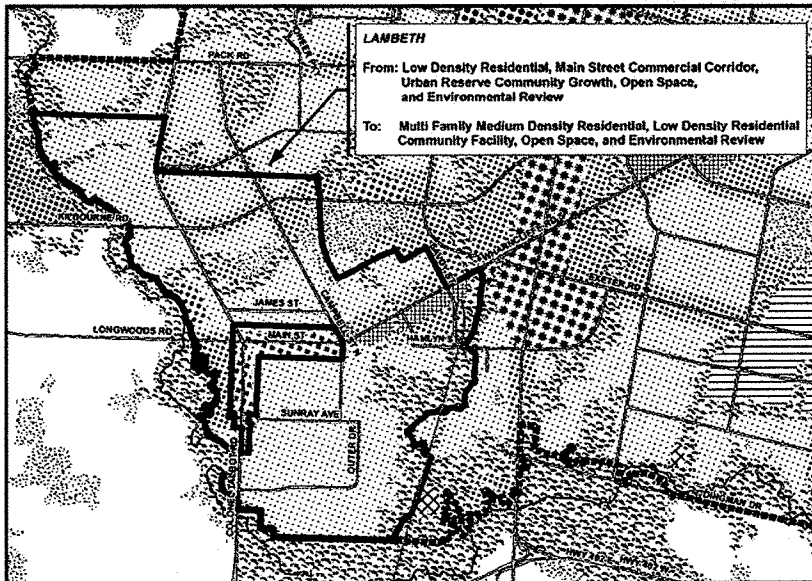
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AMENDMENT NO:



<p><b>Legend</b></p> <ul style="list-style-type: none"> <li> Downtown</li> <li> Enclosed Regional Commercial Node</li> <li> New Format Regional Commercial Node</li> <li> Community Commercial Node</li> <li> Neighbourhood Commercial Node</li> <li> Main Street Commercial Corridor</li> <li> Auto-Oriented Commercial Corridor</li> <li> Wonderland Road Community Enterprise Corridor</li> <li> Multi-Family, High Density Residential</li> <li> Multi-Family, Medium Density Residential</li> <li> Low Density Residential</li> <li> Office Area</li> <li> Office/Residential</li> </ul>	<p><b>Requested Area for Intensified Medium Density Residential</b></p>	<ul style="list-style-type: none"> <li> Office Business Park</li> <li> General Industrial</li> <li> Light Industrial</li> <li> Regional Facility</li> <li> Community Facility</li> <li> Open Space</li> <li> Urban Reserve - Community Growth</li> <li> Urban Reserve - Industrial Growth</li> <li> Rural Settlement</li> <li> Environmental Review</li> <li> Agriculture</li> <li> Urban Growth Boundary</li> </ul>
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This is an excerpt from the Planning Director's working consultation of Schedule A to the City of London Official Plan, with added notations

<p><b>SCHEDULE 1-f TO OFFICIAL PLAN</b></p> <p>AMENDMENT NO. _____</p> <p style="font-size: x-small;">PREPARED BY: Graphics and Information Services</p>	<p>Scale 1:30,000</p> <p>Meters</p>	<p>FILE NUMBER: 7009</p> <p>PLANNER: HM</p> <p>TECHNICIAN: MB</p> <p>DATE: 2012/10/25</p>
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PROJECT LOCATION: E:\Planning\Projects\p\_01\01\shades\SouthwestAreaStudy\RevisedAreaStudy\_Sep\_2012\OPA\projects\AMENDMENT\_A\_North\albot\_b5w.mxd

Agenda Item #  Page #

## 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](mailto: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, Ontario  
N6B 1Z2

City Clerk

No. 4077

Subject APPEAL - OPA No. 541

- "SWAP" - O-7609 -

London Land Developers

DEC 19 2012

Association. **SCANNED**

Ref. JNethercott DATE: 12/19/12 MW

C.C. \_\_\_\_\_

Dear Ms. Saunders

**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,

*Barry Card / jmh*

Barry R. Card

BRC:jmh

Encls.

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

Agenda Item #  Page #



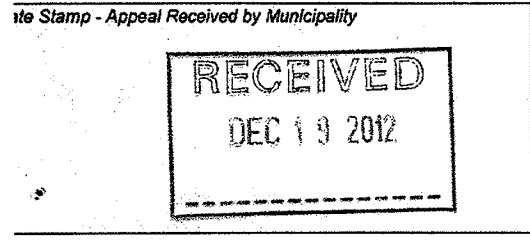
Environment and Land Tribunals Ontario  
**Ontario Municipal Board**  
 655 Bay Street, Suite 1500 Toronto, Ontario M5G 1E5  
 TEL: (416) 212-6349 or Toll Free: 1-866-448-2248  
 FAX: (416) 326-5370  
 www.elto.gov.on.ca

**APPELLANT FORM (A1)  
 PLANNING ACT**

**SUBMIT COMPLETED**

**TO  
 MUNICIPALITY/APPROVAL  
 AUTHORITY**

**FORM**



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

**Part 2: Location Information**

Agenda Item #

Page #

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

Municipality/Upper tier: City of London

**Part 3: Appellant Information**

First Name: \_\_\_\_\_ Last Name: \_\_\_\_\_

London Land Developers Association ("London Development Institute"), c/o Barry R. Card, Barrister and Solicitor  
Company Name or Association Name (Association must be incorporated – include copy of letter of incorporation)

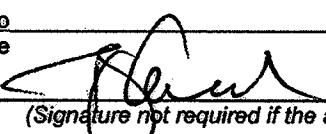
Professional Title (if applicable): \_\_\_\_\_

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 Alternate Telephone #: \_\_\_\_\_

Fax #: 519-963-0285

Mailing Address: 568 Ridgewood Crescent London  
Street Address Apt/Suite/Unit# City/Town  
Ontario N6J 3J2  
Province Country (if not Canada) Postal Code

Signature of Appellant:  Date: Dec. 13 2012  
(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. 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: \_\_\_\_\_ Last Name: \_\_\_\_\_

Company Name: \_\_\_\_\_

Professional Title: \_\_\_\_\_

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

Signature of Appellant: \_\_\_\_\_ Date: \_\_\_\_\_

**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.**



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

**Part 5: Language and Accessibility**

Please choose preferred language:  English  French

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

**Part 6: Appeal Specific Information**

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

(Please print)

Official Plan Amendment No. 541 of the City of London – Southwest Area Secondary Plan

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)

The issues for appeal are set out in Attachment 1 to this Appeal.

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

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

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

**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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**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 PPS.
  - d. 20.5.4 The linkage objective is vague and unreasonable. Environmental, parkland and open space objectives have not been clearly expressed.

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**Barry R. Card**

BARRISTER & SOLICITOR

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

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

Internet Address: [cardlaw@rogers.com](mailto: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 No. 4076  
Subject APPEAL - OPA No. 541  
- "SWAP" - 0-7609 -  
Colonel Talbot Developments  
DEC 19 2012  
Inc / Crich Holding & Building  
Ref. J. Nethercote Limited  
C.C. \_\_\_\_\_

SCANNED  
DATE: 12/19/12 MN

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 Card / gmb*

Barry R. Card

BRC:jmh  
Encls.

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

Agenda Item #	Page #
[ ]	[ ]



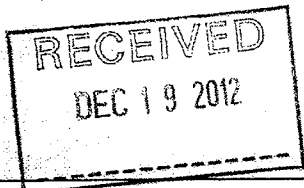
Environment and Land Tribunals Ontario  
**Ontario Municipal Board**  
 655 Bay Street, Suite 1500 Toronto, Ontario M5G 1E5  
 TEL: (416) 212-6349 or Toll Free: 1-866-448-2248  
 FAX: (416) 326-5370  
 www.eito.gov.on.ca  
**FORM**

**APPELLANT FORM (A1)  
 PLANNING ACT**

**SUBMIT COMPLETED**

**TO  
 MUNICIPALITY/APPROVAL  
 AUTHORITY**

*Stamps - Appeal Received by Municipality*



*Receipt Number (OMB Office Use Only)*

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

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**Part 2: Location Information**

Agenda Item #	Page #

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First Name: \_\_\_\_\_ Last Name: \_\_\_\_\_

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)

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Province Country (if not Canada) Postal Code

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(Signature not required if the appeal is submitted by a law office.)  
**Barry R. Card**

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Company Name: \_\_\_\_\_

Professional Title: \_\_\_\_\_

E-mail Address: \_\_\_\_\_  
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Mailing Address: \_\_\_\_\_  
Street Address Apt/Suite/Unit# City/Town

Province Country (if not Canada) Postal Code

Signature of Appellant: \_\_\_\_\_ Date: \_\_\_\_\_

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Agenda Item #	Page #

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(Please print)

Official Plan Amendment No. 541 of the City of London – Southwest Area Secondary Plan

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)

The "text" issues for appeal are set out in Auburn Developments Inc.'s letter dated September 14, 2012, attached to this Appeal as Schedule "A".  
This Appeal also applies to all mapping (schedules) proposed by the OPA, as the mapping is the product of the land use policies which this appeal calls into question.

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

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

b) Provide a brief explanatory note regarding the proposal, which includes the existing zoning category, desired zoning category, the purpose of the desired zoning by-law change, and a description of the lands under appeal:  
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(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:





Agenda Item #	Page #

## 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 fails 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

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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 demand. 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 bias 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 corridor 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 roads 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

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September 14, 2012

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 industry risk models do not 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)

Agenda Item #	Page #

## AIRD & BERLIS LLP

Barristers and Solicitors

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

2012-01109

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

Our File No. 113938

**City Clerk**                      **No. 4071**  
**Subject** Notice of Appeal - OPA  
No. 541 - Southwest  
Area Secondary Plan  
DEC. 19 2012

Dear Ms. Saunders:

O-7609  
**Ref. J. Nethercott** **SCANNED**  
**C.C.**                      **DATE: 2/19/12 MN**

**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 above-noted matter. Sifton owns a 10.08 hectare (24.91 acre) parcel of property known municipally as 1311 and 1451 Wharnccliffe 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.

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

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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.

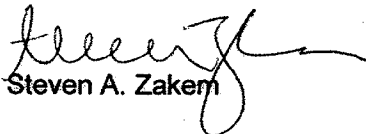
OPA 541, as adopted, is not based on the best planning advice collected over the course of the SWAP. In our view, the June 2012 version of the SWAP was an appropriate culmination of an extensive and lengthy public consultation process and was a plan that could be supported by City of London planning 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. Zakem

SAZ/ee

cc. Phil Masschelein, Sifton Properties Limited

Encl.  
13580029.1

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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) 326-6370  
 www.elt.o.gov.on.ca

**APPELLANT FORM (A1)  
 PLANNING ACT**

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

Date Stamp - Appeal Received by Municipality

RECEIVED

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

**Part 2: Location Information**

Area encompassed by the Official Plan Amendment 451, the Southwest Area Plan  
 Address and/or Legal Description of property subject to the appeal:

Municipality/Upper tier: City of London

**AIRD & BERLIS LLP**  
 Barristers and Solicitors

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**Part 3: Appellant Information**

First Name: \_\_\_\_\_ Last Name: \_\_\_\_\_

Sifton Properties Limited  
 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: 195 Dufferin Avenue London  
 Street Address Apt/Suite/Unit# City/Town  
Ontario N6A 1K7  
 Province Country (if not Canada) Postal Code

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

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

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

**Part 4: Representative Information (if applicable)**

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

First Name: Steven Last Name: Zakem

Company Name: Aird & Berlis LLP

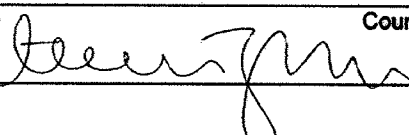
Professional Title: \_\_\_\_\_

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

Daytime Telephone #: 416.865.3440 Alternate Telephone #: \_\_\_\_\_

Fax #: 416.863.1515

Mailing Address: 181 Bay Street Suite 1800 Toronto  
 Street Address Apt/Suite/Unit# City/Town  
Ontario M5J 2T9  
 Province Country (if not Canada) Postal Code

Signature of Appellant:  Date: Dec 18, 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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**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):

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)

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 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.)

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.

**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:

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 Wharmcliffe Road South, within the area encompassed by OPA 541.



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**AIRD & BERLIS LLP**

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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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

SAZ/sw  
Encl.

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**

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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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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

  
 Steven A. Zakem

SAZ/sw  
 Encl.

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](mailto: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**

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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 Wharnclyffe 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 Kireher 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

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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.

cc. Sifton Properties Limited  
Cathy Saunders, Clerk, City of London

13308762.1

**AIRD & BERLIS LLP**  
Barristers and Solicitors