
AIRD & BERLIS LLP

Barristers and Solicitors

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

March 18, 2013

BY EMAIL: csaunder@london.ca

Catharine Saunders
Clerk
City of London
P.O. Box 5035
City Hall, 300 Dufferin Avenue
London, ON N6A 4L9

Dear Ms. Saunders:

**Re: Application by: Sifton Properties Limited (“Sifton”)
City of London File No: 0Z-8087
1311, 1363 and 1451 Wharncliffe Road South
Public Participation Meeting on March 19, 2013**

We represent Sifton with respect to the above-referenced application and are in receipt of a Staff Report scheduled to be considered by Planning and Environment Committee (“PEC”) at its meeting of March 19, 2013.

Sifton supports the conclusions of the Staff Report. The purpose of this correspondence is to address the recommendations and, in particular, the implementation of the approval of the applications in the event PEC and Council are prepared to approve the applications as recommended in the Staff Report.

The Sifton lands are located within the Southwest Area Plan (“SWAP”) that were the subject of Official Plan Amendment No. 541 (“OPA 541”). However, OPA 541 did not change the land use designations that applied to the Sifton property and merely brought forward the already approved designations which existed on this property. Sifton participated in the public process leading to the adoption of OPA 541 and requested that its lands be excluded from SWAP as it had already filed the above-referenced applications and those applications were deemed complete. Sifton was advised by Staff that its application would be considered outside the SWAP process. In view of the foregoing, we do not believe that approval of our client’s application constitutes a reconsideration by Council of its decision on OPA 541 as proposed in Recommendation a).

Recommendation b) proposes to adopt an official plan amendment to the current in-force policies of the City of London Official Plan in order to approve the subject application. In our opinion, this is an appropriate mechanism to approve the subject application. Furthermore, this is consistent with the planning evaluation contained on page 7 of the

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Staff Report which indicates that the application "...will be evaluated under the current Official Plan policies and will not take into consideration the designations or policies of OPA 541." In my opinion, this interpretation is correct, as the Sifton applications were filed in advance of the approval of OPA 541 and are therefore entitled, in law, to be assessed under the planning regime that existed as of the date the application was made. For this reason, a site-specific Official Plan Amendment amending the in-force policies of the Official Plan is appropriate.

The second portion of Recommendation b), to request the Ontario Municipal Board that OPA 541 be amended in accordance with the recommendations contained in the Report, is also an appropriate mechanism to ensure that the site-specific Official Plan Amendment and OPA 541 are consistent.

Finally, Recommendation c) proposes to introduce a zoning by-law amendment once the Official Plan Amendment noted in Part b) is in full force and effect. In fact, the zoning by-law amendment can be introduced at the same meeting and immediately after the above-referenced Official Plan Amendment is adopted. Subsection 24(2) of the *Planning Act*, R.S.O., 1990 c.P13, as amended, permits a zoning by-law to be passed that does not conform with the Official Plan but will conform when the companion Official Plan Amendment comes into full force and effect. The zoning by-law would become effective only when the Official Plan Amendment becomes effective. Therefore, there is no reason to delay the enactment of the Zoning By-law until the Official Plan Amendment is in full force and effect.

The undersigned will be in attendance at the PEC meeting scheduled for March 19, 2013 to answer any questions with respect to the foregoing and would ask that this correspondence be placed on the public record for consideration by members of Committee and, ultimately, Council.

Yours truly,

AIRD & BERLIS LLP



Steven A. Zakem

SAZ/sw

cc. Sifton Properties Limited
Janice Page, City of London

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