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File No.: 39T-11503
Planner: A. MacLean

TO:	CHAIR AND MEMBERS PLANNING AND ENVIRONMENT COMMITTEE
FROM:	G. KOTSIFAS, P.ENG. CHIEF BUILDING OFFICIAL & DIRECTOR, DEVELOPMENT AND COMPLIANCE DIVISION
SUBJECT:	APPLICATION BY: FOXWOOD DEVELOPMENTS (LONDON) INC. 1602 SUNNINGDALE RD W MEETING ON MAY 7, 2013

RECOMMENDATION

That, on the recommendation of the Manager, Development Planning the following report **BE RECEIVED** for information and direction:

- a) the Ontario Municipal Board decision attached as Appendix "A" relating to Old Oak Properties appeal to the Official Plan and Zoning By-law **BE RECEIVED** for information;
- b) in response to the letter of appeal to the Ontario Municipal Board, dated February 15, 2013, as submitted by Alan Patton on behalf of Old Oak Properties, relating to the Draft Plan of Subdivision application by Foxwood Developments (London) Inc. concerning the property located at 1602 Sunningdale Road West, the Ontario Municipal Board **BE ADVISED** that Council has reviewed its recommendation to the Approval Authority relative to the appeal to the draft plan of subdivision and sees no reason to alter its previous recommendation;
- c) The City Solicitor **BE DIRECTED** to provide legal representation at the Ontario Municipal Board Hearing to support Council's recommendation and the position of the Approval Authority that the subject draft plan of subdivision be approved with appropriate and reasonable conditions; and

PREVIOUS REPORTS PERTINENT TO THIS MATTER
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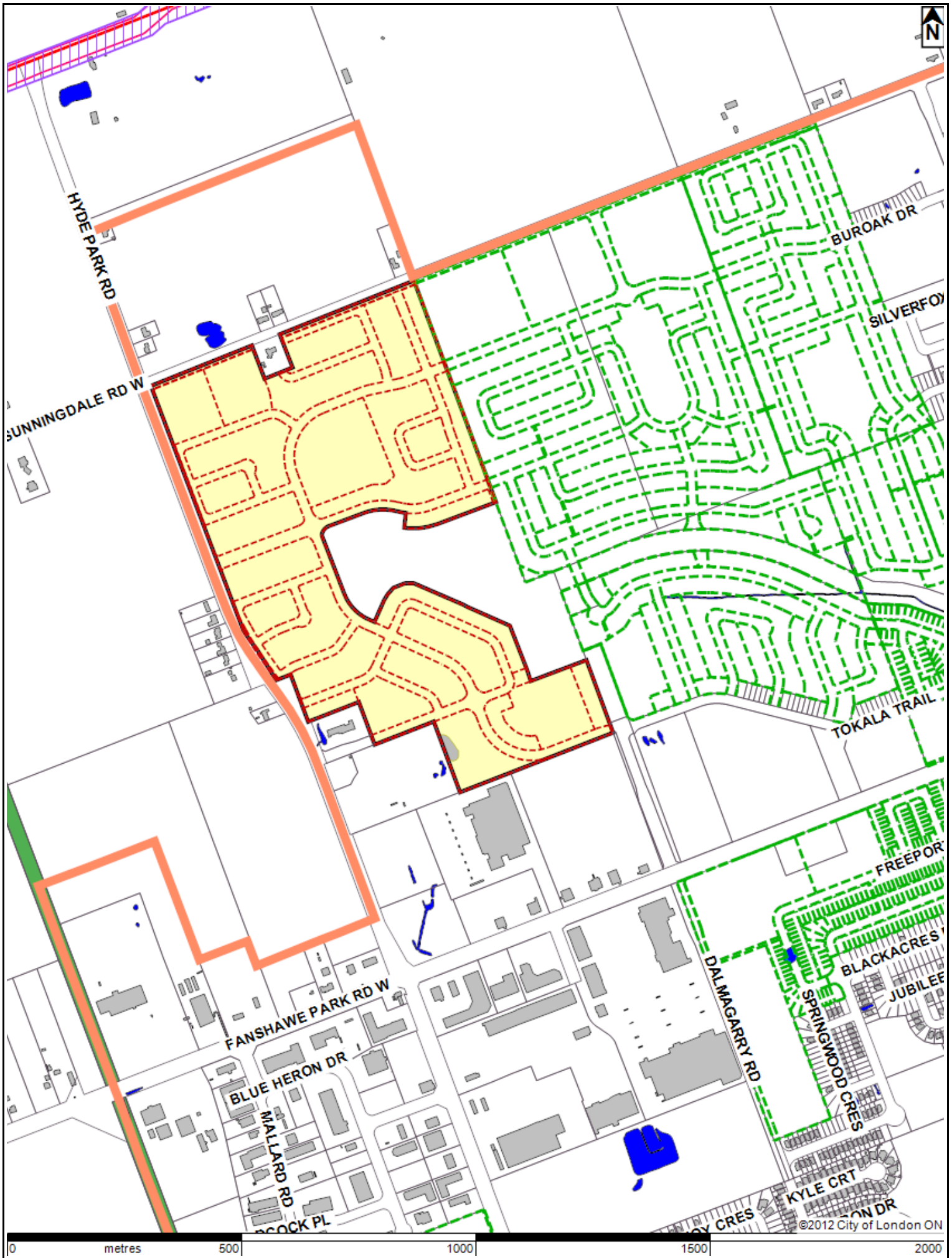
July 16, 2012 - Report on the appeals to the Official Plan and Zoning By-law amendments.

March 26, 2012 –public meeting relating to the Draft Plan of Subdivision, Official Plan & Zoning By-law Amendment (39T-11503/OZ-7985).

BACKGROUND

Appeal to the Official Plan and Zoning By-law






On March 26th, 2012, a public meeting was held for the above noted application. Immediately prior to the meeting, staff received correspondence from Zelinka Priamo Planning Consultants on behalf of Old Oak Properties outlining their concerns relating to the proposed high density block which is adjacent to Old Oak's lands and the implications this draft plan would have on servicing in the area (see attached letter). Staff recommended that the maximum height of 45 metres, as requested by the applicant, be approved, subject to holding provisions. One of these



LOCATION MAP

Subject Site: 1602 Sunningdale Rd W
 Applicant: Foxwood Development (London) Inc.
 File Number: 39T-11503
 Planner: Allister MacLean
 Created By: Allister MacLean
 Date: 2012-06-25
 Scale: 1:10100

LEGEND

-  Subject Site
-  Parks
-  Assessment Parcels
-  Buildings
-  Address Numbers



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holding provisions, h-123, requires that the property owner provide an urban design brief and submit their proposal to the Urban Design Peer Review Panel to address the design of any proposed building.

At the March 26, 2012 meeting, the Planning and Environment Committee (PEC) recommended approval of the Official Plan and Zoning by-law amendments as proposed by staff. This was subsequently supported by Municipal Council on April 10, 2012. These applications were appealed by Alan Patton on behalf of Old Oak Properties on May 16, 2012. A prehearing conference was held on January 11, 2013 to scope the issues and at that time Old Oak Properties withdrew their appeals to the Official plan and Zoning by-laws on the basis that they anticipated that the servicing issue could be resolved (see attached Ontario Municipal Board Decision - Appendix "A").

Appeal to the Draft plan of Subdivision

Staff met with representatives of Old Oak and the applicant (Foxwood Developments) on January 23rd to discuss the servicing issues. The Approval Authority subsequently granted draft approval to the plan of subdivision with our original condition that states:

Condition 22. In accordance with City standards or as otherwise required by the City Engineer, the Owner shall complete the following for the provision of stormwater services for this draft plan of subdivision:

- i) Construct storm sewers to be tributary to the Medway Creek Subwatershed and outlet them to the proposed Heard Drain realignment via the Regional Fox Hollow Community SWM System.*
- ii) **Construct sewers within this plan at an appropriate size and depth to accommodate flows from upstream lands which are tributary to this system and external to this plan, all to the specifications of the City Engineer;***
- iii) Construct and implement erosion and sediment control measures as accepted in the Functional SWM and/or Drainage Servicing Report for these lands satisfactory to the City Engineer and the Owner shall correct any deficiencies of the erosion and sediment control measures forthwith;*
- iv) Grade the boundary of the plan to blend in with the abutting SWM pond lands to the east of this plan, to the satisfaction of the City Engineer, at no cost to the City.*

In order to ensure that their issues around servicing are properly addressed, Old Oak Developments felt it necessary to appeal the draft plan of subdivision. The letter of appeal is attached as Appendix "B".

It is staff's opinion that the proposed servicing scheme for the Foxwood Development is consistent with the Foxhollow EA and its addendums and that appropriate conditions of draft approval have been crafted to address servicing of the subject lands. Therefore, it is recommended that the Ontario Municipal Board be advised that the Municipal Council has reviewed its decision relating to this matter and maintains its original position.

The OMB hearing has not yet been scheduled.

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RECOMMENDED BY:	
ALLISTER MACLEAN MANAGER - DEVELOPMENT PLANNING	
REVIEWED BY:	SUBMITTED BY:
J. RAMSAY, P. ENG MANAGER-DEVELOPMENT SERVICES	G. KOTSIFAS, P. ENG CHIEF BUILDING OFFICIAL & DIRECTOR, DEVELOPMENT COMPLIANCE DIVISION

April 25, 2013
AM/am
"Attach"

Y:\Shared\Sub&Spec\SUBDIV\2011\39T-11503 - 1602 Sunningdale Rd W (AM)\OMB\OMB report to PEC on draft plan.doc

CC: Janice Page, Legal
Alan Patton, Patton Cormier and Associates
Greg Priamo, Zelinka Priamo
G. Bierbaum, Old Oak Properties.
Bob Stratford, Stratford Consulting

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Appendix "A"
OMB Decision on Appeal to the Official Plan and Zoning By-law

<p>ISSUE DATE:</p> <p>January 23, 2013</p>



Ontario
Ontario Municipal Board
Commission des affaires municipales de l'Ontario

PL120547

RECEIVED

JAN 28 2013

IN THE MATTER OF subsection 17(24) of the Planning Act, R.S.O. 1990, c.
P.13, as amended

City Solicitor's Office

Appellant:	Old Oak Properties
Subject:	Proposed Official Plan Amendment No. OPA #523
Municipality:	City of London
OMB Case No.:	PL120547
OMB File No.:	PL120547

IN THE MATTER OF subsection 34(19) of the Planning Act, R.S.O. 1990, c.
P.13, as amended

Appellant:	Old Oak Properties
Subject:	By-law No. C.P.-1284(sc)-118
Municipality:	City of London
OMB Case No.:	PL120547
OMB File No.:	PL120548

APPEARANCES:

Parties

Counsel

Foxwood Developments (London) Inc. Barry Card

Old Oak Properties Inc. Alan Patton

City of London Janice Page

**MEMORANDUM OF ORAL DECISION DELIVERED BY STEVEN STEFANKO
ON JANUARY 11, 2013 AND ORDER OF THE BOARD**

[1] At the commencement of this prehearing conference Old Oak Properties Inc. withdrew its appeal and the other parties confirmed that they were not seeking costs as a result. Accordingly, it is ordered that the official plan amendment ("OPA") and zoning by-law amendment ("ZBA") which were the subject matter of that appeal are now in full force and effect. Copies of the ZBA and OPA are annexed to this decision and marked as Attachments 1 and 2 respectively.

"Steven Stefanko"

STEVEN STEFANKO
VICE CHAIR

4. Section 6.4 of the Residential R1 Zone to By-law No. Z-1 is amended by adding the following Special Provision:

26) R1-4(26)

a) Regulations

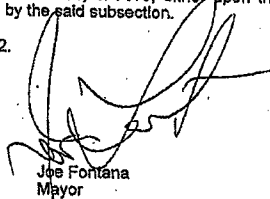
Front yard depth for main building	3.0 m (9.8 feet) minimum 4.5 m (14.8 feet) maximum
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b) Front and exterior side
yard depth for garages
(minimum): 6.0 m (19.7 feet)

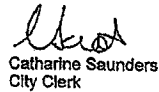
5. The inclusion in this By-law of imperial measure along with metric measure is for the purpose of convenience only and the metric measure governs in case of any discrepancy between the two measures.

6. This By-law shall come into force and be deemed to come into force in accordance with subsection 34(21) of the *Planning Act*, R.S.O. 1990, c. P.13, either upon the date of the passage of this by-law or as otherwise provided by the said subsection.

PASSED In Open Council on April 11, 2012.



Joe Fontana
Mayor



Catharine Saunders
City Clerk

First Reading - April 11, 2012
Second Reading - April 11, 2012
Third Reading - April 11, 2012



London
CANADA

CITY OF LONDON
BY-LAW CERTIFICATION RECORD

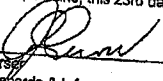
ATTACHMENT 2

I, James C. Purser, Manager of Records and Information Services of The Corporation of the City of London, hereby certify that the document hereunder is a true copy of By-law No. C.P.-1284(sc)-118 of the City of London passed on April 11, 2012.

Bill No. 157
2012

Dated at London, Ontario, this 23rd day of May, 2012.

By-law No. C.P.-1284(sc)-118

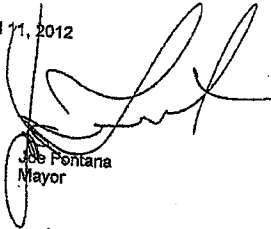

James C. Purser
Manager of Records & Information Services

A by-law to amend the Official Plan for the City of London, 1989, relating to 1602 Sunningdale Road West.

The Municipal Council of The Corporation of the City of London enacts as follows:

1. Amendment No. 523 to the Official Plan for the City of London Planning Area - 1989, as contained in the text attached hereto and forming part of this by-law, is adopted.
2. This by-law shall come into effect in accordance with subsection 17(38) of the *Planning Act, R.S.O. 1990, c.P.13.*

PASSED in Open Council on April 11, 2012


Joe Fontana
Mayor

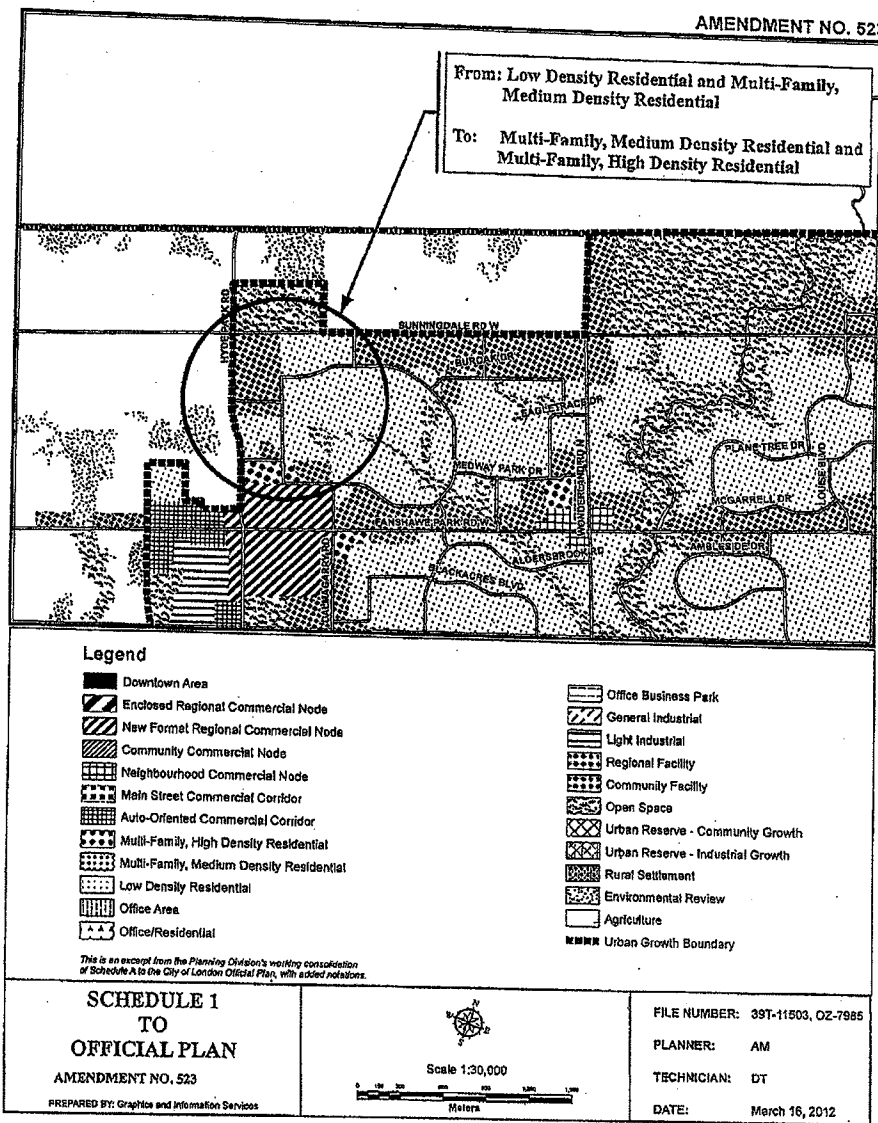

Catharine Saunders
City Clerk

First Reading - April 11, 2012
Second Reading - April 11, 2012
Third Reading - April 11, 2012

D. THE AMENDMENT

The Official Plan for the City of London is hereby amended as follows:

1. Schedule "A", Land Use, to the Official Plan for the City of London Planning Area is amended by designating those lands located at 1602 Sunningdale Road West in the City of London, as indicated on "Schedule 1" attached hereto from Low Density Residential to Multi-Family Medium Density Residential and from Multi-Family Medium Density Residential to Multi-Family High Density Residential.
2. Schedule "C", to the Official Plan for the City of London is amended by adding a new Secondary Collector Road



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Appendix "B"
Letter of Appeal to the OMB



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**

RECEIVED BY

Date Stamp - Appeal Received on: **FEB 15 2013**

**CITY OF LONDON
DEVELOPMENT SERVICES**

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 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 checked="" 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

1602 Sunningdale Road West
Address and/or Legal Description of property subject to the appeal:

Municipality/Upper tier: **City of London**
A1 Revised April 2010

RECEIVED BY
8141
FEB 15 2013

**CITY OF LONDON
DEVELOPMENT SERVICES**

Part 3: Appellant Information

First Name: _____ Last Name: _____

Old Oak Properties 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 #: **519-661-0215** Alternate Telephone #: _____

Fax #: **519-439-6572**

Mailing Address: **Suite 600 – 465 Richmond Street, London, ON N6A 5P4**

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 #: _____

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

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

Signature of Appellant:  Date: **February 15, 2013**
Alan R. Patton

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)
Subdivision No. 39T-11053

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

(Please print)
Please see attached Schedule "A".

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

a) DATE APPLICATION SUBMITTED TO MUNICIPALITY: _____
(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)

Schedule "A"

Part 6 (2), Page 4.

1. The land which Old Oak Properties Inc. ("Old Oak") owns is approximately 4.05 hectares in size and is located at the southeast corner of Hyde Park Road and Dyer Drive. The land is designated Multi-Family High Density Residential in the City's Official Plan and is zoned Residential R9-7 which permits apartment buildings at 60 units per acre (150 uph) and 32 metres in height. The zoning also contains two holding provisions.
2. The Old Oak land is located in the Foxhollow Community Planning Area of the City of London. The Foxwood land is also located in the Foxhollow Community Planning Area.
3. Development of the Foxwood land, when owned by the previous owner was planned and designed so that much of the Foxwood land would be served by storm sewers and storm water management facilities located within the Foxhollow Community Planning Area. However, development of some of the Foxwood land was also planned such that it would drain to the west and be served by storm sewers draining west and south and discharging into the Hyde Park Storm Water Management Facility No. 4 located in the Hyde Park Community Planning Area west and south of the subject lands.
4. Old Oak's High Density Residential land is planned by the City to be developed with storm sewers discharging into the Hyde Park Storm Water Management Facility No. 4. In addition, lands fronting onto Dyer Drive, to the north of the Old Oak lands, and now developed by the City of London for a Fire Station and an Ambulance Station, were also planned at the Environmental Assessment stage to discharge into the same Hyde Park Storm Water Management Facility No. 4.
5. A proposed draft Plan Condition for the Foxwood Subdivision was changed between March 26, 2012 and April 11, 2012 by the deletion of any requirement to direct storm water to the Hyde Park Storm Water Management Facility No. 4.
6. However, an additional 4.6 hectares of development (ie. Part of Lot Block 23) the City's Firehall and the City's EMS Station on Dyer Drive, and a portion of the Dyer Drive right-of-way, are now to be redirected to the Foxhollow Storm Water Facility, SWMF1.S.
7. Old Oak's land can discharge into the Foxhollow Storm Water Management Facility identified in the City's documents as SWMF1.S. If Old Oak storm water is to be directed southwest discharging into the Hyde Park Storm Water Management Facility No. 4 it will cause unfair delay and expense.
8. Conditions 21, 22, 23, 24, 25, 27 of Draft Approval do not identify or confirm that Old Oak's land can discharge into the Foxhollow Storm Water Management Facility, being SWMF1.S.

The following conditions 21, 22, 23, 24, 25, 27, are hereby appealed as not properly providing for storm water flows within this draft Plan of Subdivision to accommodate the storm water flows from lands owned by Old Oak Properties being approximately 4.05 hectares in size into the Foxhollow Storm Water Facility, SWMF1.S.