

300 Dufferin Avenue
P.O. Box 5035
London, ON
N6A 4L9

London
CANADA

March 27, 2013

J. Barber
Managing Director, Corporate Services and City Solicitor

T. Grawey
Manager, Development Services and Planning Liaison

I hereby certify that the Municipal Council, at its session held on March 26, 2013 resolved:

13. That, the application of Sifton Properties Limited, relating to the properties located at 1311, 1363 and 1451 Wharncliffe Road South, **BE REFERRED** back to the Manager of Development Services and Planning Liaison and the City Solicitor for further consideration and to report back at a future meeting of the Planning and Environment Committee;

it being noted that the Planning and Environment Committee reviewed and received the following communications, with respect to this matter:

- a communication, dated March 14, 2013, from J.W. Harbell, Stikeman Elliott;
- a communication, dated March 15, 2013, from A. Soufan, President, York Developments;
- a Municipal Council resolution adopted at its meeting held on October 30, 2012;
- the attached revised by-law pages (replacing pages 152, 153 and 154 of the March 19, 2013 Planning and Environment Committee Agenda) from the Manager, Development Services & Planning Liaison; and,
- the attached communication, dated March 18, 2013, from S.A. Zakem, Aird Berlis;

it being pointed out that at the public participation meeting associated with this matter, the following individuals made oral submissions in connection therewith:

- M. Zunti, Sifton Properties Limited – expressing support for the Civic Administration's recommendations in the March 19, 2013 Planning and Environment Committee Agenda; and advising that Sifton Properties Limited representatives have met with the Civic Administration and understand that this is a separate application from the South West Area Plan.
- S. Zakem, Aird Berlis, on behalf of Sifton Properties Limited - expressing support for the Civic Administration's recommendations in the March 19, 2013 Planning and Environment Committee Agenda; expressing concern with the process; noting that 19 appeals were received for the South West Area Plan; indicating that part a) of the recommendation in the Civic Administration's report, dated March 19, 2013, deals with reconsideration; noting that Councillors do not want to deal with matters that they have previously dealt with in the past; advising that the zoning of the Sifton Properties Limited lands did not change in the South West Area Plan; noting that the Municipal Council confirmed the existing land use; indicating that if the Planning and Environment Committee and the Municipal Council wish to approve the Civic Administration's recommendation, attachment a) to the original Civic Administration's report is the way to go, not the revised pages that were handed out at the meeting; advising that once an application is deemed to be complete, the applicant's planners need to know what their rights are; indicating that the revised pages would have the Municipal Council amending the South West Area Plan which would have the application going to the Ontario Municipal Board; requesting that the Civic Administration amend the Official Plan and ask the Civic Administration to be consistent with the amendment; advising that this application may be appealed; indicating that in part c) of the Civic Administrations recommendation, the Civic Administration requests that the Zoning By-law be passed at the next Council meeting; noting that this is not necessary; requesting that the Zoning By-law be adopted at the same time if the Planning and Environment Committee agrees with him; noting that the Zoning By-law cannot proceed ahead of the Official Plan; advising that the Sifton Properties Limited application was completed in August,

2012; advising that pre-consultation was done in 2010; and, indicating that they are not sneaking in at the last minute.

- D. Wood, Wood Bull, LLP, on behalf of Greenhills SC Ltd. – see attached submission.
- A.R. Patton, Patton Cormier & Associates, on behalf of the Southside Group of Companies – see attached submission.
- Vicki Blackwell, 3255 Morgan Avenue – advising that this has not been a transparent process; noting the amendments to the amendments that were provided at the meeting; advising that the area does not need a Wal-Mart or a Lowe's; indicating that she lived in White Oaks, backing onto a commercial development, and moved for a reason; noting that they purchased this property because they were advised that it would remain residential; indicating that only four or five houses on her street received the notice; and indicating that they received a notice of the public participation meeting on February 25, 2013, prior to the closing of the request for public comments.
- Ali Soufan, President, York Developments – advising that York Developments submitted an application for a property located on the Wonderland Corridor prior to the Sifton Properties Limited application; advising that they have been working with the Civic Administration on this application since 2010; indicating that they are staying within existing policies; advising that hearing that someone does not wish to be in the South West Area Plan process is fancy footwork; advising that all the developers went through a rigorous process to establish the community plan; and, advising that reconsideration will skewer the community plan.
- Natercia Demelo, 3220 Morgan Avenue – indicating that she was advised that this would be a quiet area; advising that she is seeing a busier area; indicating that there are a lot of young families residing on Morgan Avenue; indicating that people will be using Morgan Avenue if a Wal-Mart or Lowe's is built; advising that there are no more than 200 homes in this area; indicating that she has been advised that there will be condominiums built in the area; and advising that this is the smallest area of homes in London, but they need a Wal-Mart and Lowe's; indicating that there will be an increase in the number of accidents; and advising that this is not fair to area residents. (2013-D14A) (13/7/PEC)



C. Saunders
City Clerk
/jb

- cc: M. Zunti, Sifton Properties Limited, P.O. Box 5099, London, ON N6A 4M8
J.W. Harbell, Stikeman Elliott, 5300 Commerce Court West, 199 Bay Street, Toronto, ON M5L 1B9
S. Zakem, Aird & Berlis, Brookfield Place, 181 Bay Street, Suite 1800, Box 754, Toronto, ON M5J 2T9
D. Wood, Wood Bull, LLP, 65 Queen Street West, Suite 1400, Toronto, ON M5H 2M5
A.R. Patton, Patton Cormier & Associates, 1512-140 Fullarton Street, London, ON N6A 5P2
V. Blackwell, 3255 Morgan Avenue, London, ON N6L 0B8
A. Soufan, York Developments, 303 Richmond Street, Suite 201, London, ON N6B 2H8
N. Demelo, 3220 Morgan Avenue, London, ON N6L 0B8
G. Kotsifas, Managing Director, Development and Compliance Services & Chief Building Official
B. Henry, Manager, Development Planning
A. Riley, Planner II
J. Nethercott, Documentation Services Representative
PEC Deferred List

(13)

PEC Agenda # 13 Replacement pages 152, 153, 154

Appendix "A"

Bill No. (number to be inserted by Clerk's Office)
2013

By-law No. C.P.-1284-_____

A by-law to amend Official Plan Amendment 541 to the Official Plan for the City of London Planning Area, 1989 relating to 1311, 1363 and 1451 Wharncliffe Road South

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

1. Amendment No. (to be inserted by Clerk's Office) to Official Plan Amendment No. 541 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 March 26, 2013

Joe Fontana
Mayor

Catharine Saunders
City Clerk

First Reading - March 26, 2013
Second Reading - March 26, 2013
Third Reading - March 26, 2013

AMENDMENT NO.

to

**OFFICIAL PLAN AMENDMENT NO. 541
TO THE OFFICIAL PLAN FOR THE CITY OF LONDON**

A. PURPOSE OF THIS AMENDMENT

The purpose of this Amendment is to change the designation of certain lands on Schedule "1-d" to Official Plan Amendment No. 541, as described herein, from Auto Oriented Commercial Corridor and Multi-Family, High Density Residential to Community Commercial Node on Schedule "A", Land Use to the Official Plan for the City of London.

B. LOCATION OF THIS AMENDMENT

This Amendment applies to lands located at 1311, 1363 and 1451 Wharncliffe Road South in the City of London.

C. BASIS OF THE AMENDMENT

The Amendment provides for an expanded commercial area and wider range of commercial uses that will serve the needs of residents within convenient walking or driving distance of the subject site, in accordance with the policies of the Community Commercial Node designation.

The subject site, with a nodal configuration, frontage on two arterial roads and transit service, is an appropriate location for the Community Commercial Node designation. The location is well suited to accommodate commercial uses that will provide for a wide range of goods and services. The proposed commercial uses are appropriate for this site in terms of location, function, form, scale and potential impacts. Multi-family high density residential uses may also be permitted through a zoning by-law amendment, subject to proper integration with the commercial uses. Municipal infrastructure is available and the development is readily accessible to the shopping needs of residents from surrounding neighbourhoods.

This amendment has been evaluated in accordance with the Official Plan policies in effect at the time the application was accepted. An amendment to Official Plan Amendment 541 is required to ensure consistency with the designations and policies that were previously adopted by Council as part of the Southwest Area Plan (Amendment 541)..

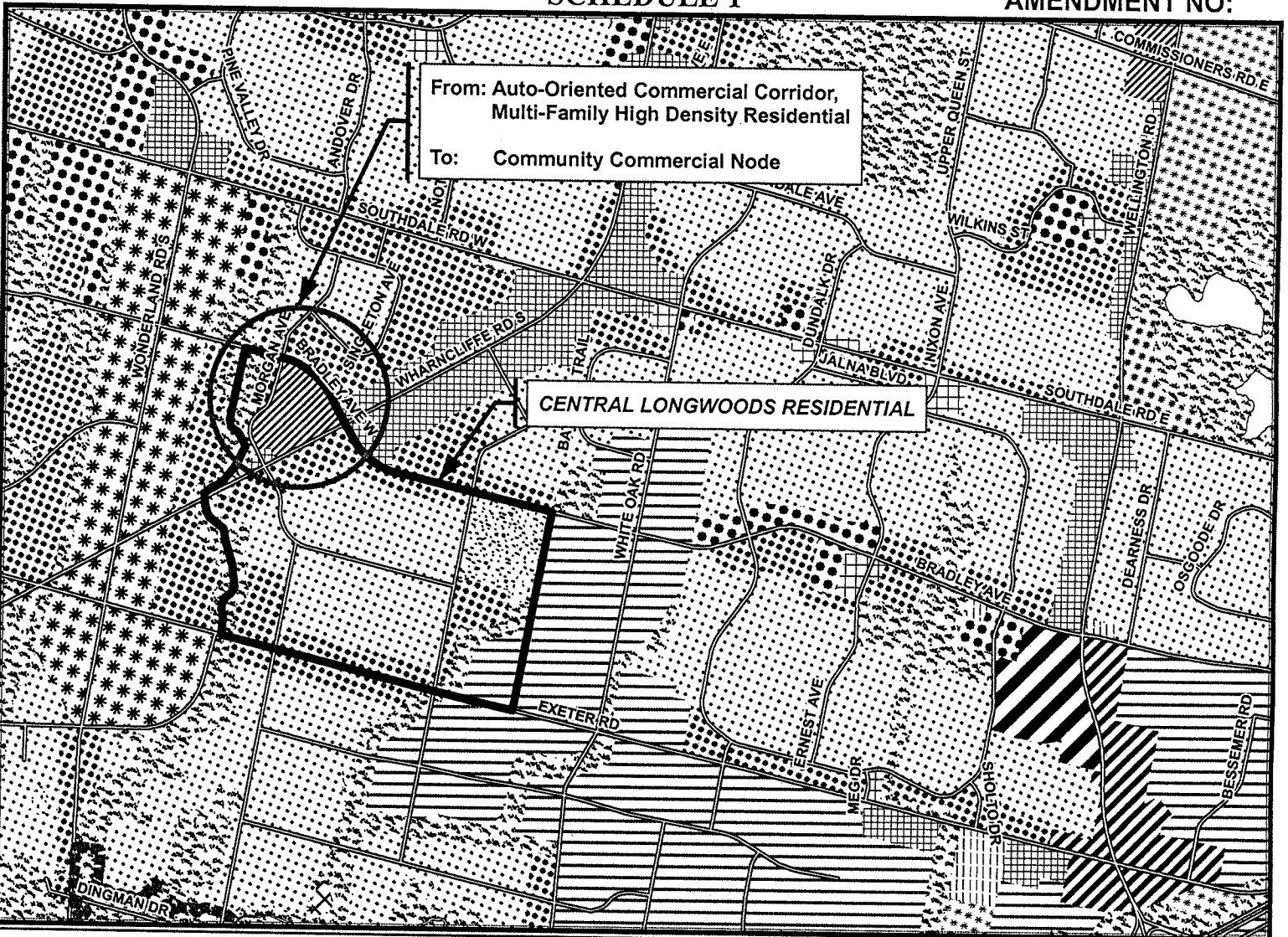
D. THE AMENDMENT

Official Plan Amendment 541 to the Official Plan for the City of London Planning Area, 1989 is hereby amended as follows:

Schedule "1-d" to Official Plan Amendment No. 541 is amended by changing the designation of those lands located at 1311, 1363 and 1451 Wharncliffe Road South in the City of London, as indicated on "Schedule 1" attached hereto, from Auto Oriented Commercial Corridor and Multi-Family, High Density Residential to Community Commercial Node.

SCHEDULE 1

AMENDMENT NO:



Legend

- | | |
|---|-----------------------------------|
| 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 | |

This is an excerpt from the Planning Division's working consolidation of Schedule A to the City of London Official Plan, with added notations.

SCHEDULE 1-d
TO
OFFICIAL PLAN

AMENDMENT NO. _____

PREPARED BY: Graphics and Information Services



Scale 1:30,000



FILE NUMBER: OZ-8087

PLANNER: AR

TECHNICIAN: DT

DATE: 2013/03/19

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

March 18, 2013

Page 2

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,

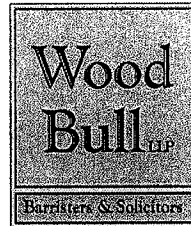
AIRD & BERLIS LLP


Steven A. Zakem

SAZ/sw

cc. Sifton Properties Limited
Janice Page, City of London

14295098.1



MUNICIPAL, PLANNING & DEVELOPMENT LAW

19 March 2013

Sent via E-mail

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

Attention: Heather Lysynski and Jerri Bunn
hlysynsk@london.ca
jbunn@london.ca

Dear Members of the Planning and Environment Committee:

**Re: Applications for Official Plan and Zoning By-law Amendment (the "Applications")
Sifton Properties Limited ("Sifton")
Portion of 1451 Wharncliffe Road South and 1311 & 1363 Wharncliffe Road South
Southwest London (the "Sifton Lands")
City of London (the "City")**

We are the solicitors for Greenhills SC Ltd., the owner of property located at the south-east corner of Wonderland Road and Exeter Road, within the London Southwest Planning Area.

We understand that the above noted Applications are seeking, in part, to change the land use designation of the Sifton Lands from *Auto-Oriented Commercial Corridor* and *Multi-Family High Density Residential* to *Community Commercial Node*, in order to permit a wide range of commercial retail uses, a limited range of automotive services, service-oriented office uses, community facilities such as libraries or day-care centres, professional and medical/dental offices and commercial/private schools.

We are in receipt of the Staff Report on the Applications and we offer the following submissions regarding the Applications

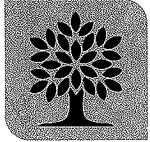
Submissions

Background

As you are aware, the City has spent over 3 years on the development of a comprehensive planning and development vision for Southwest London. After much significant public consultation and feedback, in which our client fully participated, the City, in November 2012, adopted OPA 541 which includes a

Dennis H. Wood Direct: (416) 203-7718 dwood@woodbull.ca

65 Queen Street West Suite 1400 Toronto Ontario M5H 2M5 T (416) 203-7160 F (416) 203-8324 www.woodbull.ca



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CANADA

March 27, 2013

J. Barber
Managing Director, Corporate Services and City Solicitor

T. Grawey
Manager, Development Services and Planning Liaison

I hereby certify that the Municipal Council, at its session held on March 26, 2013 resolved:

13. That, the application of Sifton Properties Limited, relating to the properties located at 1311, 1363 and 1451 Wharncliffe Road South, **BE REFERRED** back to the Manager of Development Services and Planning Liaison and the City Solicitor for further consideration and to report back at a future meeting of the Planning and Environment Committee;

it being noted that the Planning and Environment Committee reviewed and received the following communications, with respect to this matter:

- a communication, dated March 14, 2013, from J.W. Harbell, Stikeman Elliott;
- a communication, dated March 15, 2013, from A. Soufan, President, York Developments;
- a Municipal Council resolution adopted at its meeting held on October 30, 2012;
- the attached revised by-law pages (replacing pages 152, 153 and 154 of the March 19, 2013 Planning and Environment Committee Agenda) from the Manager, Development Services & Planning Liaison; and,
- the attached communication, dated March 18, 2013, from S.A. Zakem, Aird Berlis;

it being pointed out that at the public participation meeting associated with this matter, the following individuals made oral submissions in connection therewith:

- M. Zunti, Sifton Properties Limited – expressing support for the Civic Administration's recommendations in the March 19, 2013 Planning and Environment Committee Agenda; and advising that Sifton Properties Limited representatives have met with the Civic Administration and understand that this is a separate application from the South West Area Plan.
- S. Zakem, Aird Berlis, on behalf of Sifton Properties Limited - expressing support for the Civic Administration's recommendations in the March 19, 2013 Planning and Environment Committee Agenda; expressing concern with the process; noting that 19 appeals were received for the South West Area Plan; indicating that part a) of the recommendation in the Civic Administration's report, dated March 19, 2013, deals with reconsideration; noting that Councillors do not want to deal with matters that they have previously dealt with in the past; advising that the zoning of the Sifton Properties Limited lands did not change in the South West Area Plan; noting that the Municipal Council confirmed the existing land use; indicating that if the Planning and Environment Committee and the Municipal Council wish to approve the Civic Administration's recommendation, attachment a) to the original Civic Administration's report is the way to go, not the revised pages that were handed out at the meeting; advising that once an application is deemed to be complete, the applicant's planners need to know what their rights are; indicating that the revised pages would have the Municipal Council amending the South West Area Plan which would have the application going to the Ontario Municipal Board; requesting that the Civic Administration amend the Official Plan and ask the Civic Administration to be consistent with the amendment; advising that this application may be appealed; indicating that in part c) of the Civic Administrations recommendation, the Civic Administration requests that the Zoning By-law be passed at the next Council meeting; noting that this is not necessary; requesting that the Zoning By-law be adopted at the same time if the Planning and Environment Committee agrees with him; noting that the Zoning By-law cannot proceed ahead of the Official Plan; advising that the Sifton Properties Limited application was completed in August,

2012; advising that pre-consultation was done in 2010; and, indicating that they are not sneaking in at the last minute.

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C. Saunders
City Clerk
/jb

- cc:
- M. Zunti, Sifton Properties Limited, P.O. Box 5099, London, ON N6A 4M8
 - J.W. Harbell, Stikeman Elliott, 5300 Commerce Court West, 199 Bay Street, Toronto, ON M5L 1B9
 - S. Zakem, Aird & Berlis, Brookfield Place, 181 Bay Street, Suite 1800, Box 754, Toronto, ON M5J 2T9
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 - B. Henry, Manager, Development Planning
 - A. Riley, Planner II
 - J. Nethercott, Documentation Services Representative
 - PEC Deferred List

(13)

PEC Agenda # 13 Replacement pages 152, 153, 154

Appendix "A"

Bill No. (number to be inserted by Clerk's Office)
2013

By-law No. C.P.-1284-_____

A by-law to amend Official Plan Amendment 541 to the Official Plan for the City of London Planning Area, 1989 relating to 1311, 1363 and 1451 Wharncliffe Road South

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1. Amendment No. (to be inserted by Clerk's Office) to Official Plan Amendment No. 541 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 March 26, 2013

Joe Fontana
Mayor

Catharine Saunders
City Clerk

First Reading - March 26, 2013
Second Reading - March 26, 2013
Third Reading - March 26, 2013

AMENDMENT NO.

to

**OFFICIAL PLAN AMENDMENT NO. 541
TO THE OFFICIAL PLAN FOR THE CITY OF LONDON**

A. PURPOSE OF THIS AMENDMENT

The purpose of this Amendment is to change the designation of certain lands on Schedule "1-d" to Official Plan Amendment No. 541, as described herein, from Auto Oriented Commercial Corridor and Multi-Family, High Density Residential to Community Commercial Node on Schedule "A", Land Use to the Official Plan for the City of London.

B. LOCATION OF THIS AMENDMENT

This Amendment applies to lands located at 1311, 1363 and 1451 Wharncliffe Road South in the City of London.

C. BASIS OF THE AMENDMENT

The Amendment provides for an expanded commercial area and wider range of commercial uses that will serve the needs of residents within convenient walking or driving distance of the subject site, in accordance with the policies of the Community Commercial Node designation.

The subject site, with a nodal configuration, frontage on two arterial roads and transit service, is an appropriate location for the Community Commercial Node designation. The location is well suited to accommodate commercial uses that will provide for a wide range of goods and services. The proposed commercial uses are appropriate for this site in terms of location, function, form, scale and potential impacts. Multi-family high density residential uses may also be permitted through a zoning by-law amendment, subject to proper integration with the commercial uses. Municipal infrastructure is available and the development is readily accessible to the shopping needs of residents from surrounding neighbourhoods.

This amendment has been evaluated in accordance with the Official Plan policies in effect at the time the application was accepted. An amendment to Official Plan Amendment 541 is required to ensure consistency with the designations and policies that were previously adopted by Council as part of the Southwest Area Plan (Amendment 541)..

D. THE AMENDMENT

Official Plan Amendment 541 to the Official Plan for the City of London Planning Area, 1989 is hereby amended as follows:

Schedule "1-d" to Official Plan Amendment No. 541 is amended by changing the designation of those lands located at 1311, 1363 and 1451 Wharncliffe Road South in the City of London, as indicated on "Schedule 1" attached hereto, from Auto Oriented Commercial Corridor and Multi-Family, High Density Residential to Community Commercial Node.

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

March 18, 2013

Page 2

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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,

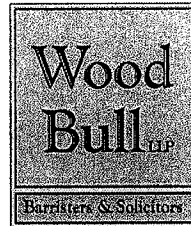
AIRD & BERLIS LLP


Steven A. Zakem

SAZ/sw

cc. Sifton Properties Limited
Janice Page, City of London

14295098.1



MUNICIPAL, PLANNING & DEVELOPMENT LAW

19 March 2013

Sent via E-mail

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

Attention: Heather Lysynski and Jerri Bunn
hlysynsk@london.ca
jbunn@london.ca

Dear Members of the Planning and Environment Committee:

**Re: Applications for Official Plan and Zoning By-law Amendment (the "Applications")
Sifton Properties Limited ("Sifton")
Portion of 1451 Wharncliffe Road South and 1311 & 1363 Wharncliffe Road South
Southwest London (the "Sifton Lands")
City of London (the "City")**

We are the solicitors for Greenhills SC Ltd., the owner of property located at the south-east corner of Wonderland Road and Exeter Road, within the London Southwest Planning Area.

We understand that the above noted Applications are seeking, in part, to change the land use designation of the Sifton Lands from *Auto-Oriented Commercial Corridor* and *Multi-Family High Density Residential* to *Community Commercial Node*, in order to permit a wide range of commercial retail uses, a limited range of automotive services, service-oriented office uses, community facilities such as libraries or day-care centres, professional and medical/dental offices and commercial/private schools.

We are in receipt of the Staff Report on the Applications and we offer the following submissions regarding the Applications

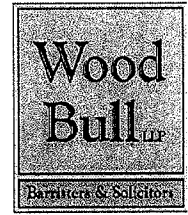
Submissions

Background

As you are aware, the City has spent over 3 years on the development of a comprehensive planning and development vision for Southwest London. After much significant public consultation and feedback, in which our client fully participated, the City, in November 2012, adopted OPA 541 which includes a

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Secondary Plan (the “Southwest Area Secondary Plan” or the “Secondary Plan”) and related amendments to the Official Plan which together lay out the planning vision for Southwest London.

Sifton Applications Inconsistent with Planning Policies

OPA 541 (including the Secondary Plan) was adopted after a long and comprehensive public consultation process, and was also supported by numerous background studies and analysis. These Applications were known to City staff at the time of the consideration of OPA 541, however staff did not recommend a change in the designation of the Sifton Lands at that time and OPA 541 did not apply a new designation to the Sifton Lands. The Sifton Lands’ planned function remains Multi-Family High Density Residential and Auto-Oriented Commercial Corridor as they were prior to the adoption of OPA 541.

The following schedule from OPA 541 illustrates the location of the Sifton Lands and its close proximity to the Wonderland Road Community Enterprise Corridor. The schedule also illustrates that the residential neighbourhood to the north and east of the Sifton Lands will gain convenient access by the extension of Bradley Avenue to Wonderland Road to the Corridor and to the full range of retail and service uses presently permitted in the Official Plan (and to be permitted by OPA 541).

It appears that Sifton has promoted the idea that its Applications should be processed without regard to Council’s recent decision in approving OPA 541 (including the Secondary Plan) on the basis that the Applications were made prior to the adoption of OPA 541 (including the Secondary Plan). Staff appear to have accepted this rationale:

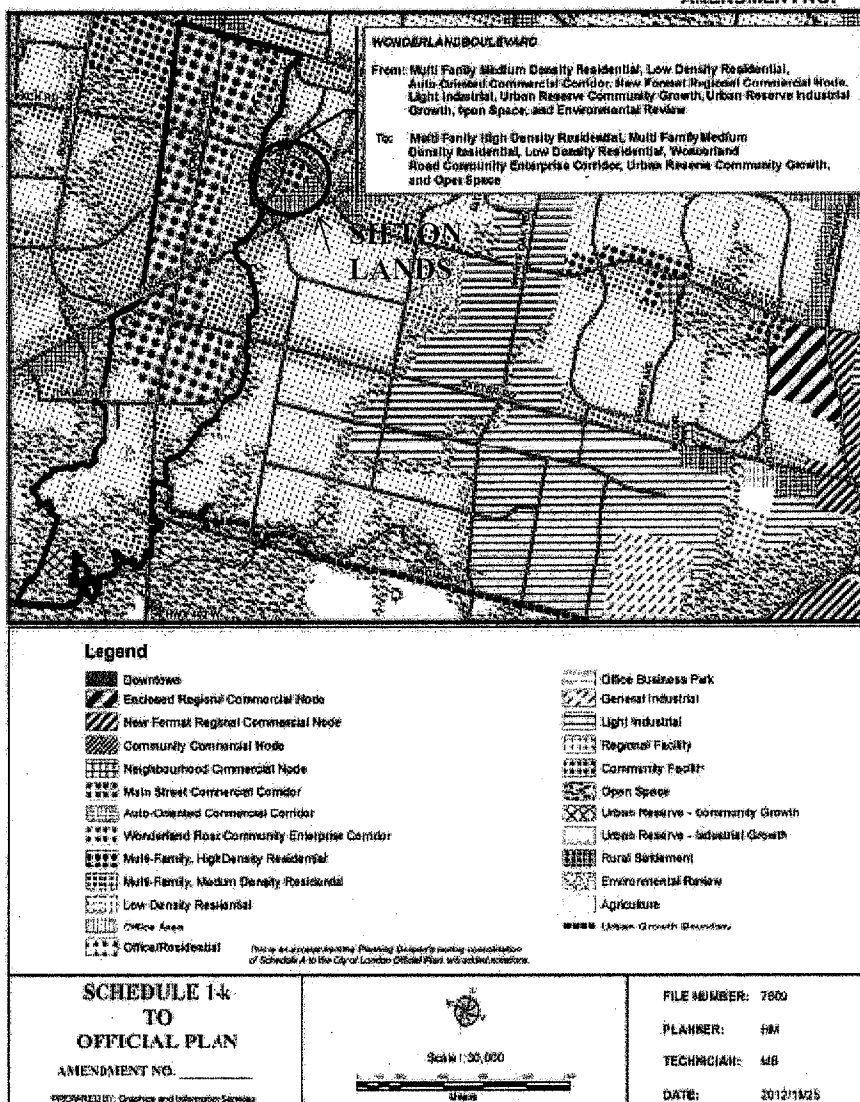
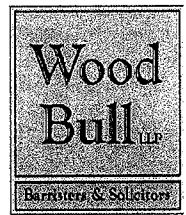
“The Sifton application was accepted by the City on August 3, 2012 and the generally followed principles that are followed under Ontario Planning legislation require the proposed amendments to be assessed against the same policy framework that was in place at the time of the application. Therefore, the application will be evaluated under the current Official Plan policies and will not take into consideration the designations or policies of OPA 541” (emphasis added) (Staff report, p.7)

The approach that has been taken by staff on this question is not consistent with the approach that has been enunciated by the Ontario Municipal Board. The Board has indicated in a number of decisions that newly adopted planning policies can be given consideration when considering applications that were made before the planning policies were adopted. In some instances, the Board has been prepared to give “significant weight” to the new policy framework because it represents the most current iteration of planning policy for the municipality.

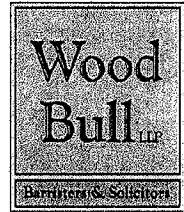
As a result staff have processed the Applications without taking into consideration the designations or policies of OPA 541 (including the Secondary Plan).

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Furthermore Sifton's position (accepted by staff) is highly prejudicial to landowners relying on the Wonderland Road Community Enterprise Corridor, in particular those such as our client who intend to develop its lands in accordance with the Wonderland Road Community Enterprise Corridor designation which permits all uses found in the "New Format Retail Commercial Node" designation. Sifton appears to want to obtain an approval which would permit retail and service uses that are the same as those



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permitted in the Wonderland Road Community Enterprise Corridor while at the same time appealing retail and service uses permitted in the Wonderland Road Community Enterprise Corridor.

Under these circumstances the Applications should be referred back to staff with a direction that they be considered in the context of the designations and policies of OPA 541 (including the Secondary Plan).

Sifton has appealed Secondary Plan

As we have noted above Sifton has appealed OPA 541, which includes the Secondary Plan, to the Ontario Municipal Board. In a letter dated August 31, 2012 attached to the Sifton appeal, counsel for Sifton stated:

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.

Insofar as Sifton takes the position that market demand is a relevant consideration in regard to the approval of further retail space in the "Wonderland Road corridor", and insofar as it raised the prospect of "significant adverse impacts on other lands designated for commercial purposes", the logical response to this position is to *not* approve the additional retail uses (such as department stores) and additional retail space being sought by Sifton until the potential impact of such approvals on the achievement of the planning policies applicable to the Wonderland Road Community Enterprise Corridor have been considered.

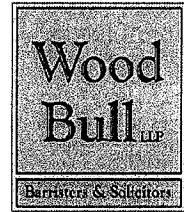
It is surprising that the Sifton appeal of OPA 541 was not considered in the Staff Report.

Sifton Market Study Out of Date

We note that the Market Demand and Impact Analysis submitted on behalf of the Applications is dated March 2012. Although the staff report on the Applications notes that the Market Demand and Impact Analysis takes into consideration some of the elements of the Southwest Area Plan (e.g. designation of residential lands) the report states that the Wonderland Road Community Enterprise Corridor was not considered.

The City's own Market Demand and Impact Analysis background study for the Southwest London Area Plan is dated May 15, 2012.

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Sifton's market study therefore does not take into account the most recent information and data for Southwest London, in particular the adoption of the Secondary Plan and related official plan amendments, and as such should not be relied upon.

Nature of the Sifton Proposal

Notwithstanding that the Market Study is out of date, it provides a description of the true nature of the Sifton Proposal. The following table of potential development concepts for the Sifton Lands indicates that Sifton anticipates a viable development without reliance on the department store use.

Table 2.1: Preliminary Concept Plans and Various Development Components

	Concept 1	Concept 2
Department Store	130,000	na
Home Improvement Store	120,000	130,000
Supermarket/Grocery	na	50,000
Other Retail	35,000	70,000
Restaurant, Service, Office, Other	55,000	60,000
Total (sq. ft.)	340,000	310,000

** Includes upper floors*

Furthermore, as can be seen from the map below, the Market Demand and Impact Study's study area is comprised of practically all of built-up London and comprises a 2012 base population of about 419,500 which is projected to increase to 437,200 in 2018.

Although the staff report notes that the Community Commercial Node is "*intended to serve the shopping needs of surrounding neighbourhoods that are within convenient walking or driving distance*" it is clear from the study area used in the Market Demand and Impact Study that this proposed development will serve a larger area than that intended by the Community Commercial Node designation and this large trade area is largely due to the presence of a department store use.

The Market Demand and Impact Study does not indicate that there is a market for more than one additional department store in its study area which means that the permission for the department store on the Sifton lands may preclude the achievement of the department store on lands designated Wonderland Road Community Enterprise Corridor.

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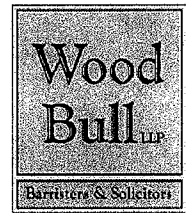
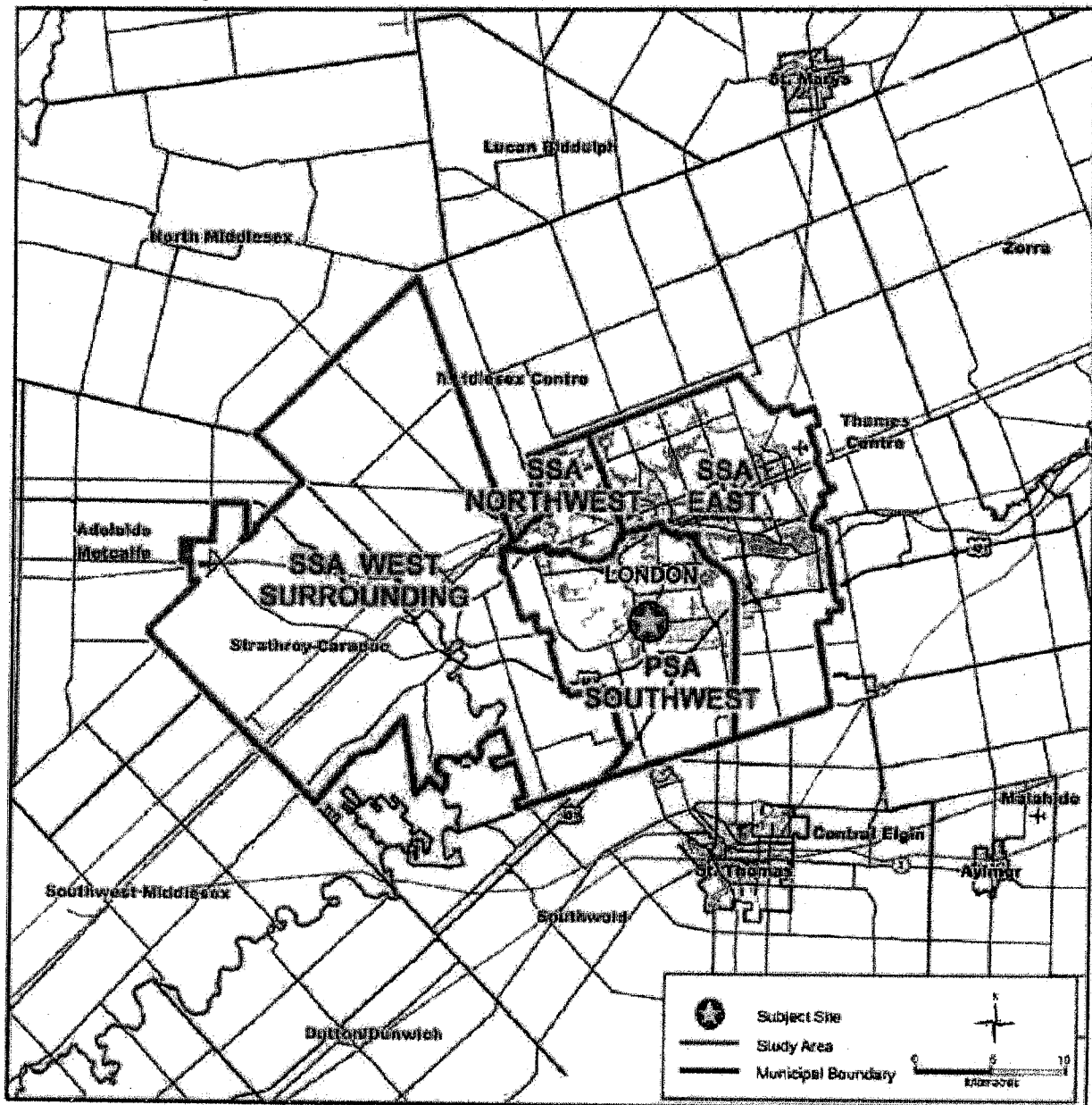
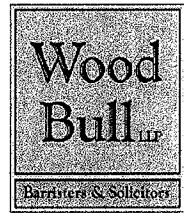


Figure 4.1: Study Area



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As stated in the Southwest London Secondary Plan, the Wonderland Road Community Enterprise Corridor is intended to provide for a wide range of large scale commercial uses. The uses permitted in the Wonderland Road Community Enterprise Corridor are those that are permitted in the New Format Regional Node designation and include department stores.

There is no material difference in the range of retail and service commercial uses permitted in the Community Commercial Node designation and those permitted in the New Format Retail Commercial Node (see table attached as Appendix A). Therefore, an approval of the Applications will permit a duplication of the retail and service commercial uses permitted in the Wonderland Road Community Enterprise Corridor.

Clearly Sifton believes it has a viable project in Development Concept # 2 composed of a home improvement store, grocery store and ancillary retail and service uses.

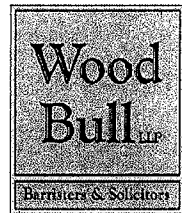
Under these circumstances, if Council is not prepared to refer the Applications back to staff for proper consideration in the context of OPA 541 (including the Secondary Plan), it may be possible to reconcile Council's aspirations for the Wonderland Road Community Enterprise Corridor with Sifton's aspirations to have greater retail entitlements, by not permitting a department store on the Sifton Lands.

Proposed Amendment Schedule Inconsistent with Staff Recommendation

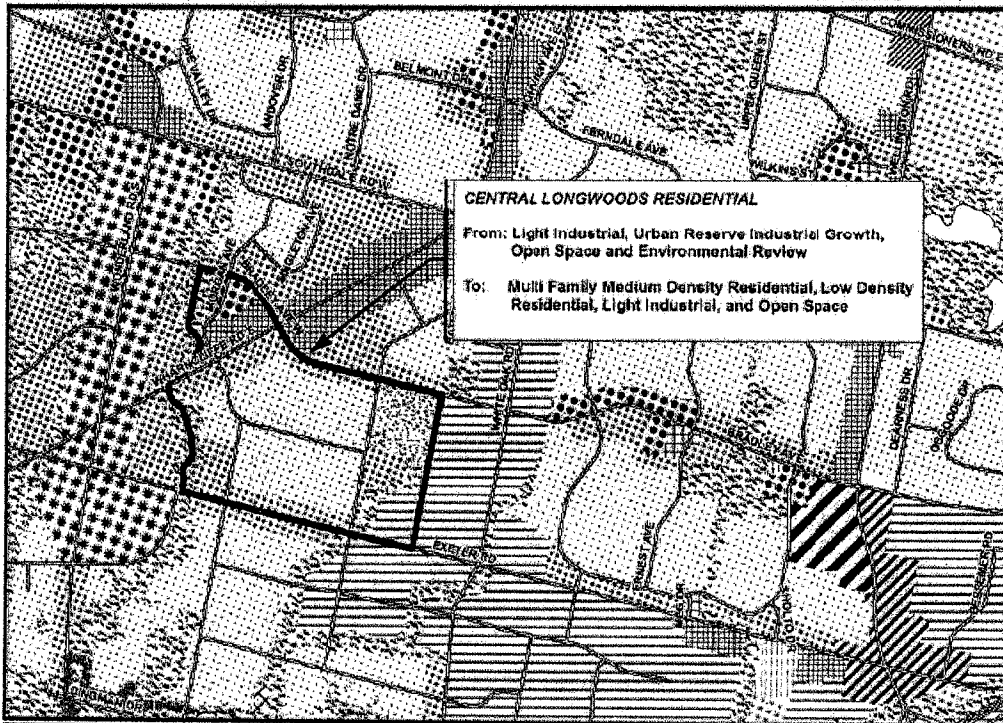
As a matter of clarification, we note that Staff Recommendation b) recommends that Council replace Schedule 1-d of Official Plan Amendment 541 with the land use schedule set out in Appendix A. However, the draft Official Plan Amendment schedule attached to the Staff Report as Appendix "A" is not Schedule 1-d of OPA 541 but rather an excerpt of Schedule A of the City of London Official Plan. The following schedule is Schedule 1-d that staff recommend be replaced.

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AMENDMENT NO:



CENTRAL LONGWOODS RESIDENTIAL
From: Light Industrial, Urban Reserve Industrial Growth, Open Space and Environmental Review
To: Multi Family Medium Density Residential, Low Density Residential, Light Industrial, and Open Space

Legend

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

This is an extract from the Planning Division's working consideration of Schedule A to the City of London Official Plan, with added notations

**SCHEDULE 1-d
TO
OFFICIAL PLAN**

AMENDMENT NO. _____

PREPARED BY: Graphics and Information Services



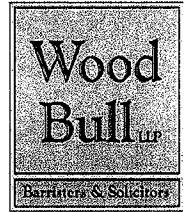
FILE NUMBER: 7609

PLANNER: FM

TECHNICIAN: MB

DATE: 2012/10/25

PROJECT LOCATION: \\planning\projects\residential\SouthwestAreaStudy\RevisedAreaStudy_Sep_2012\OPAs\projects\AMENDMENT_A_CentralLongwoodsResidential_b&w.mxd



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Request of Council

An approval of the Applications would be inconsistent with the recent approval of it, including the Secondary Plan, and thus would not be in accordance with good planning principles, as contained in OPA 541 and other planning policies.

On behalf of our clients, we respectfully request, in view of the foregoing submissions, that Committee recommend to Council that it refuse the recommendations in the Staff Report and not approve the Applications.

If Council is not prepared to make a final decision to refuse the Applications at this time, then, in view of staff's failure to consider the Applications in the context of OPA 541 (including the Secondary Plan), we request that the Applications be referred back to staff with a direction that they be considered in the context of OPA 541 (including the Secondary Plan).

Should Council decide to consider approving the Applications, we request that a department store not be permitted as it would be prejudicial to the achievement to the planned retail commercial function of the Wonderland Road Community Enterprise Corridor.

We also request notification of any further meetings regarding the Applications and of the decision of Committee and Council on the Applications.

Yours very truly,

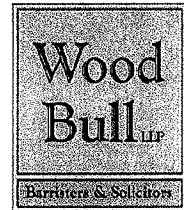
Wood Bull LLP

A handwritten signature in black ink, appearing to be "D. Wood", written over a horizontal line.

Dennis H. Wood

c. Client
Alanna Riley, City of London Planning Department (ariley@london.ca)

19 March 2013

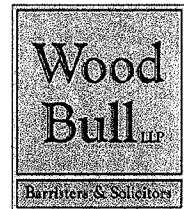


Appendix "A"

Comparison of Permitted Retail Commercial Uses in Wonderland Road Community Enterprise Corridor, New Format Regional Commercial Node and Community Commercial Node Designations, London Official Plan as amended by OPA 541

Wonderland Road Community Enterprise Corridor	New Format Regional Commercial Node	Community Commercial Node	Auto-Oriented Commercial Corridor
Permitted commercial uses will include those uses outlined in the "New Format Retail Commercial Node" designation in the Official Plan.	Permitted uses including:	Permitted uses include:	Uses considered to be appropriate include:
	all types of large and small-scale retail outlets;	all types of retail outlets	
	including supermarkets and food stores;	supermarkets, food stores and pharmacies;	
	department stores;	including department stores,	
	retail warehouses,		
			warehouse and wholesale outlets;
	building supply, and home improvement and furnishings stores;	home improvement and furnishings stores,	building supply outlets and hardware stores; furniture and home furnishings stores;
	convenience commercial uses;	convenience commercial uses;	
	personal services;	personal services;	
	restaurants;	restaurants;	restaurants;

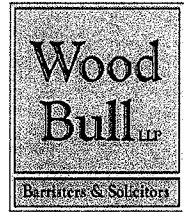
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Wonderland Road Community Enterprise Corridor	New Format Regional Commercial Node	Community Commercial Node	Auto-Oriented Commercial Corridor
	commercial recreation establishments;	commercial recreation establishments;	commercial recreation establishments;
	financial institutions and services;	financial institutions and services;	
	a limited range of automotive services;	a limited range of automotive services;	automotive uses and services;
	service-oriented office uses;	service-oriented office uses such as real estate, insurance and travel agencies;	
	community facilities, such as libraries;	community facilities, such as libraries or day care centres;	
	and professional and medical/dental offices.	professional and medical/dental offices;	
		and commercial and private schools	
			hotels; motels;
			sale of seasonal produce;
			nursery and garden stores;
			animal hospitals or boarding kennels;
			and other types of commercial uses that offer a service to the traveling public.
			Light industrial uses which have ancillary

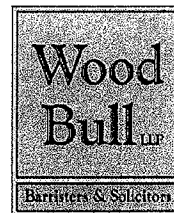
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Wonderland Road Community Enterprise Corridor	New Format Regional Commercial Node	Community Commercial Node	Auto-Oriented Commercial Corridor
			retail, wholesale or service functions; construction and trade outlets; repair, service and rental establishments; service trades; assembly halls and private clubs or similar types of uses that require large, open or enclosed display or storage areas; and service commercial uses which may create potential nuisance impacts on adjacent land uses may be permitted at certain locations subject to Provincial regulations. (Clause i) amended by OPA No. 95 - approved by MMAH 98/06/25)
			Secondary uses which serve employees of adjacent employment areas including eat-in restaurants; financial institutions; personal services; convenience commercial uses; a limited amount and range of retail uses;

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Wonderland Road Community Enterprise Corridor	New Format Regional Commercial Node	Community Commercial Node	Auto-Oriented Commercial Corridor
			day care centres; medical and dental offices and clinics; and offices associated with wholesale warehouse or construction and trade outlets, and similar support offices may also be permitted in appropriate locations. (Clause ii) amended by OPA No. 95 - approved by MMAH 98/06/25)

PATTON CORMIER & ASSOCIATES
LAWYERS

Alan R. Patton, B.A., LL.B.
Elizabeth K. Cormier, B.A., LL.B.
Analee J.M. Ferreira, B.A., LL.B.

March 19, 2013

Hand-Delivered

Chair & Members
Planning & Environment Committee
City of London
300 Dufferin Avenue
P.O. Box 5035
London, ON N6A 4L9

Dear Chair & Members:

Re: **Official Plan Amendment and Zoning By-law Amendment**
Application by Sifton Properties Limited - City File OZ-8087
1311, 1363 and 1451 Wharncliffe Road South

We are the lawyers for the Southside Group of Companies ("Southside").

In December 2012, we filed a Notice of Appeal on behalf of Southside against Official Plan Amendment 541 (Southwest Area Secondary Plan). One of the many reasons for that appeal is that the Official Plan Amendment has the effect of unjustifiably increasing the commercial land inventory for the southwest area of the City.

The matter before the Planning and Environment Committee tonight is a proposed modification to OPA 541. This is inappropriate in both substance and process. A Community Commercial Node on the subject land is inconsistent with the SWAP as well as the City's Official Plan Amendment No. 438.

The modification to the adopted SWAP to re-designate the above-noted lands to a "Community Commercial Node" designation is premature. It has not been fully considered within the planning principles and planned functions of the SWAP. It will have the effect of oversupply of commercial land in the southwest and, in particular, land for higher order commercial facilities, in a manner not intended by either the Bostwick East Area Plan or the Southwest Area Plan.

Patton Cormier & Associates
Page 2

Further, the Planning Department's recommendation to introduce a specific proposed Zoning By-law in the future is premature and unnecessary.

Yours truly
PATTON CORMIER & ASSOCIATES
per:



Alan R. Patton
ARP/dr

apatton@pattoncormier.ca

cc: *Southside Group of Companies - Att: Vito Frijia - via email*
Zelinka Priamo Ltd. - Att: Richard Zelinka -via email