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File: OZ-8120
Planner: C. Smith

TO:	CHAIR AND MEMBERS PLANNING & ENVIRONMENT COMMITTEE
FROM:	JOHN M. FLEMING MANAGING DIRECTOR, PLANNING AND CITY PLANNER
SUBJECT:	APPLICATION BY: PENEQUITY REALTY CORPORATION 3130 & 3260 DINGMAN DRIVE AND THE REAR PORTION OF 4397/4407 WELLINGTON ROAD SOUTH MEETING ON JUNE 20, 2013

RECOMMENDATION

That, on the direction of Municipal Council, in recognition of the circumstance where these lands have been previously zoned and designated to permit a range of commercial uses, and that an "Unevaluated Vegetation Patch" (Patch 10102) is identified on Schedule "B-1" of the Official Plan is located on a portion of these lands, the following actions be taken with respect to the application of PenEquity Realty Corporation relating to the property located at 3130 and 3260 Dingman Drive and the rear portion of 4397/4407 Wellington Road South:

- a) the proposed by-law attached hereto as Appendix "A" **BE INTRODUCED** at the Municipal Council meeting on June 25, 2013 to amend the Official Plan as follows:
 - i) by adding a special policy in Chapter 10 – "Policies for Specific Areas" to permit cinema use outside of the downtown area in the New Format Regional Commercial Node; and,
 - ii) by ~~amending~~ Schedule B-1- Natural Heritage Features, to delete "Unevaluated Vegetation Patch".

- b) the proposed by-law attached hereto as Appendix "B" **BE INTRODUCED** at the Municipal Council meeting on June 25, 2013, to amend Zoning By-law No. Z.-1, in conformity with the Official Plan as amended in part a) above, **FROM** a Holding Restricted Service Commercial Special Provision/Light Industrial (h*RSC1(9)/RSC5/LI6) Zone, a Holding Restricted Service Commercial Special Provision (h*RSC1(9)/RSC3/RSC4(5)/RSC5) Zone which permits a wide range of service commercial uses such as automobile services, home and auto supply, service repair and light industrial uses and a Community Shopping Area (CSA6) which allows for a large range of commercial uses **TO** a Holding Associated Shopping Area Commercial Special Provision (h*5*18*55*103*141*(_) *ASA3/ASA5/ASA6 (_)/ASA7(_)/ASA8(_)) Zone to allow for commercial retail use, 14,000m² of commercial recreational use, 4,000m² cinema use, a gas bar use, and a hotel use, subject to holding provisions to ensure the provision of municipal servicing, archaeological evaluation be completed, a transportation study be completed, Ministry of Transportation permits be obtained, urban design matters be addressed, and a natural heritage compensation agreement between the City and the applicant be entered into to address the natural heritage compensation measures to be implemented resulting from the removal of the Unevaluated Vegetation Patch (Patch 10102);

- c) the Site Plan Approval Authority **BE REQUESTED** to consider the following design issues through the site plan process:
 - ensure a high level of architectural and landscape quality on all portions of the site with visual exposure to Highway 401;
 - ensure that the design of the buildings located along Highway 401 and Dingman drive are of a high design standard and do not appear as "the back of house";

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- screen all parking areas visible from Highway 401 as well as Dingman Drive using enhanced landscaping;
 - create a block pattern on the site in order to allow for future redevelopment;
 - create a high quality main street through the centre of the site that includes:
 - on-street parking;
 - wide sidewalks;
 - street trees;
 - landscaping as well as street furniture (i.e.: lamp posts, signage, benches, garbage bins, etc...);
 - improved pedestrian experience and access throughout the site;
 - locate buildings along the main street that are oriented towards the street with accented main pedestrian entry points, transparent glass, articulated facades and rooflines, in order to create an active frontage;
 - include a key building at the view terminus of the proposed main street (e.g., proposed movie theatre);
 - provision of a variety of high quality materials (such as transparent glass, brick, stone, etc...) on all proposed buildings, in particular the elevations facing Highway 401, Dingman Drive and the mainstreet;
 - create a centralized public space, located along the main street;
 - provide for continuous pedestrian connections through the site;
 - ensure all buildings have a walkway to the proposed on site main street commercial corridor as well as continuous walkways connecting to other buildings on the site;
 - include adequately sized landscape islands to break up large surface parking areas, these landscape islands should include trees as well as enhanced landscaping; and
 - submit an updated urban design brief to the Urban Design Review Panel for a more comprehensive review of the final proposal through the site plan process;
- d) the request to amend Zoning By-law No. Z.-1 from a Holding Restricted Service Commercial Special Provision/Light Industrial (h*RSC1(9)/RSC5/LI6) Zone, a Holding Restricted Service Commercial Special Provision (h*RSC1(9)/RSC3/RSC4(5)/RSC5) Zone which permits a wide range of service commercial uses such as automobile services, home and auto supply, service repair and light industrial uses and a Commercial Shopping Area (CSA6) which allows for a large range of commercial uses to an Associated Shopping Area Commercial Special Provision (ASA3/ASA5/ASA6 ()/ASA7()/ASA8) Zone and an Open Space (OS1) Zone to allow for 50,183m2 of commercial retail use, 13,564m2 of commercial recreational use, 3,921m2 cinema use, a gas bar use and a passive recreational use, **BE REFUSED** for the following reasons;
- i) the requested amendment is not consistent with the Provincial Policy Statement, 2005, including Wise Use and Management of Resources policies; and
 - ii) the requested amendment is not consistent with the Environmental policies of the Official Plan;
- e) the Civic Administration **BE DIRECTED** to determine if there are similar instances where “Unevaluated Vegetation Patches” on Schedule “B-1” of the Official Plan are not shown as “Open Space” or “Environmental Review” on Schedule “A” of the Official Plan, and to initiate an Official Plan Amendment to show these lands as “Open Space” or “Environmental Review” on Schedule “A” of the Official Plan, noting that this would then make these lands subject to the City’s Tree Conservation By-law (By-Law C.P.-1466-249);
- f) the Civic Administration **BE DIRECTED** to work with the Applicant to develop the Natural Heritage Compensation Agreement required by the h() holding provision for Municipal Council approval that reflects the natural heritage value of the natural heritage feature to be removed, and is consistent with the compensation achieved through the Sovereign Woods resolution, it being noted that the Natural Heritage Compensation Agreement may include both natural heritage lands and lands that may be planted; and,
- g) pursuant to Section 34(17) of the Planning Act, as determined by the Municipal Council, no

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further notice **BE GIVEN** in respect of the proposed by-law as Insert reason why no further notice is required.

PURPOSE AND EFFECT OF RECOMMENDED ACTION

The purpose and effect of this Official Plan and Zoning change is to allow for the development of a commercial shopping centre.

RATIONALE

1. The recommended amendments are consistent with the New Format Regional Commercial Node policies of the Official Plan.
2. The recommended Zoning By-law amendment includes holding provisions for the implementation of urban design requirements, archaeological studies be undertaken, provision of municipal services be provided, a transportation study be completed, Ministry of Transportation permits be obtained and a natural heritage compensation agreement be entered into between the City and the applicant to address the natural heritage compensation measures to be implemented resulting from the removal of the Unevaluated Vegetation Patch (Patch 10102).
3. The proposed amendment will permit a full range of commercial, commercial recreational, cinemas uses and hotel uses with a high urban design standard that enhances the significant "gateway" location along the 401 corridor.

BACKGROUND

This report is provided for Municipal Council's consideration of a proposed Official Plan and Zoning By-law amendment to permit the development of a commercial retail centre on these lands adjacent to Highway 401 and Wellington Road. The report is in response to a request by the Planning and Environment Committee to Staff to revise the proposed Zoning By-law and Official Plan amendment to allow the removal of the Unevaluated Vegetation Patch on these lands.

Official Plan

Policy 15.2.4 of the Official Plan recognizes that not all components of the City's Natural Heritage System that have been identified on Schedule "B-1" have been designated as "Open Space" or "Environmental Review" on Schedule "A" of the Official Plan, but where these features do exist, and evaluation shall be done to further assess their significance. The policy states:

Components of the Natural Heritage System that are identified on Schedule "B1" but not designated Open Space or Environmental Review on Schedule "A" will be evaluated to further assess their significance and determine the need for protection under the policies of the Official Plan. Where appropriate, these features and functions may be protected in whole or in part through measures such as, but not limited to, Open Space zoning, tree preservation plans associated with subdivision or site plan applications, public land acquisition, site alteration and tree conservation by-laws, conservation easements and private stewardship initiatives.

This policy would require that even where lands have been previously zoned and/or designated for development, where a planning approval is required (zoning by-law amendment, subdivision or site plan application, for example, an evaluation would still be required to determine the significance of the Natural Heritage Feature. It was on the basis of this policy that an evaluation

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of Patch 10102 was undertaken by the applicant that demonstrated that the patch met the City's criteria for significance.

Policies 15.4.5 and 15.4.5.1 relate to significant woodlands. These policies provide the basis for determining the significance of woodlands, and direct that significant woodlands be retained.

Tree Conservation By-law C.P.-1466-469

A question was raised regarding the application of the City's Tree Conservation By-law to these lands. The By-law prohibits the damage, destruction, and removal of trees in Environmental Protection Areas. "Environmental Protection Area" means those areas designated as Open Space and/or Environmental Review on Map Schedule "A" of the Official Plan. The properties subject of this application are not designated as either Open Space or Environmental Review on Schedule "A" of the Official Plan, and are therefore not subject to the prohibitions in By-law C.P.-1466-249.

It is recommended that Staff review the City's Official Plan mapping to determine if other similar situations exist, and to bring back an Official Plan Amendment to designate any such lands as Open Space or Environmental Review on Schedule "A" so that they would be subject to the Tree Conservation By-law.

Previous Similar Situation

It was noted that the City had previously addressed a similar situation on City-owned industrial lands that were designated as Open Space on Schedule "A" and identified as Woodland on Schedule "B-1" of the Official Plan, but were zoned to permit industrial development. In this instance, 1.7 ha of significant woodland was removed, however, a 5.2 ha area, including 1 ha of mature woodland and the remaining 4.2 ha to be re-vegetated was re-designated as Open Space on Schedule "A" and Woodland on Schedule "B-1" on lands adjacent to the former woodland, and an additional 4.6 ha parcel of land located in another industrial area was re-designated and re-zoned from industrial uses to Open Space and Woodland in both the zoning by-law and Official Plan.

An evaluation of the woodland determined that 1.7 ha could be considered as Significant Woodland. The net result of this natural heritage compensation was the replacement of a 1.7 ha woodland with a 9.8 ha "compensation area" that included 5.6 ha of wooded lands and 4.2 ha of lands to be re-vegetated, or a 5.8:1 compensation ratio.

It is important to note that neither the City's Official Plan policies nor the Provincial Policy Statement provide for the "compensation" of significant natural heritage features. In fact, in all instances, significant natural heritage features are to be retained, and not removed.

The basis for the City's previous consideration of compensation was both the circumstances of the application, whereby lands that were zoned to permit industrial uses, and the application of the City's Guideline Document for the Evaluation of Ecologically Significant Woodlands.

In that application, the report noted:

Three options are presented in the Guideline:

- a) protection of portions of the patch that will maintain functions;*
- b) replacement or compensation of all or portions of the patch;*
- c) identification of the patch as not significant and development permitted without replacement or compensation.*

The removal of portions of a significant woodland can be supported by the general intent of the Guideline, if it can be shown that removals do not impact the significant features and/or functions of the woodland. For this situation, the core area would be retained and a suitable

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buffer area protected surrounding it (1.7 Ha), as was done with the development application at 679 Sovereign Road. Total removal of a significant woodland is not something that has been approved previously in any other development application, but this is an anomaly in that it is already zoned for industrial uses.

In this instance, Patch 10102 covers an area of approximately 8.5 ha, and an area of 4.2 ha was identified as significant. This is substantially larger than the woodland parcel located on the City lands described above. It is also important to note that the Ministry of Natural Resources (MNR) comments on the PenEquity application recommended that an evaluation of the wetland contained within Patch 10102 be undertaken in accordance with the Ontario Ministry of Natural Resources' Wetland Evaluation Guidelines for Southern Ontario (OWES), and the results be provided to the MNR for their review. The MNR is the approval authority for wetland boundaries, and the Ministry noted that Section 2.1.1 of the Provincial Policy Statement does not permit development or site alteration in significant wetlands.

CONCLUSION

As recommended, Staff believe that the woodland related to this application should be retained. However, should Municipal Council wish to proceed with approval of this application, including the removal of Patch 10102, the attached proposed Zoning By-law and Official Plan amendments will permit the development of this significant retail commercial node. The proposed holding provision will ensure that a natural heritage compensation agreement between the City and the Applicant is entered into to compensate for the removal of Patch 10102.

The proposed Official Plan and Zoning By-law amendment will permit the development of a commercial retail use, including 14,000m² of commercial recreational use, 4,000m² cinema use, a gas bar use and a hotel use.

PREPARED BY:	SUBMITTED BY:
C. SMITH COMMUNITY PLANNING AND DESIGN	JIM YANCHULA, MCIP, RPP MANAGER, COMMUNITY PLANNING AND DESIGN
SUBMITTED BY:	SUBMITTED BY:
GREGG BARRETT, AICP MANAGER, POLICY PLANNING AND PROGRAMS	JOHN M. FLEMING, MCIP, RPP MANAGING DIRECTOR, PLANNING AND CITY PLANNER

JCS/GB
"Attachments"

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Appendix "A"

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

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

A by-law to amend the Official Plan for the City of London, 1989 relating to 3130 and 3260 Dingman Drive and the rear portion of 4397/4407 Wellington 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 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.*

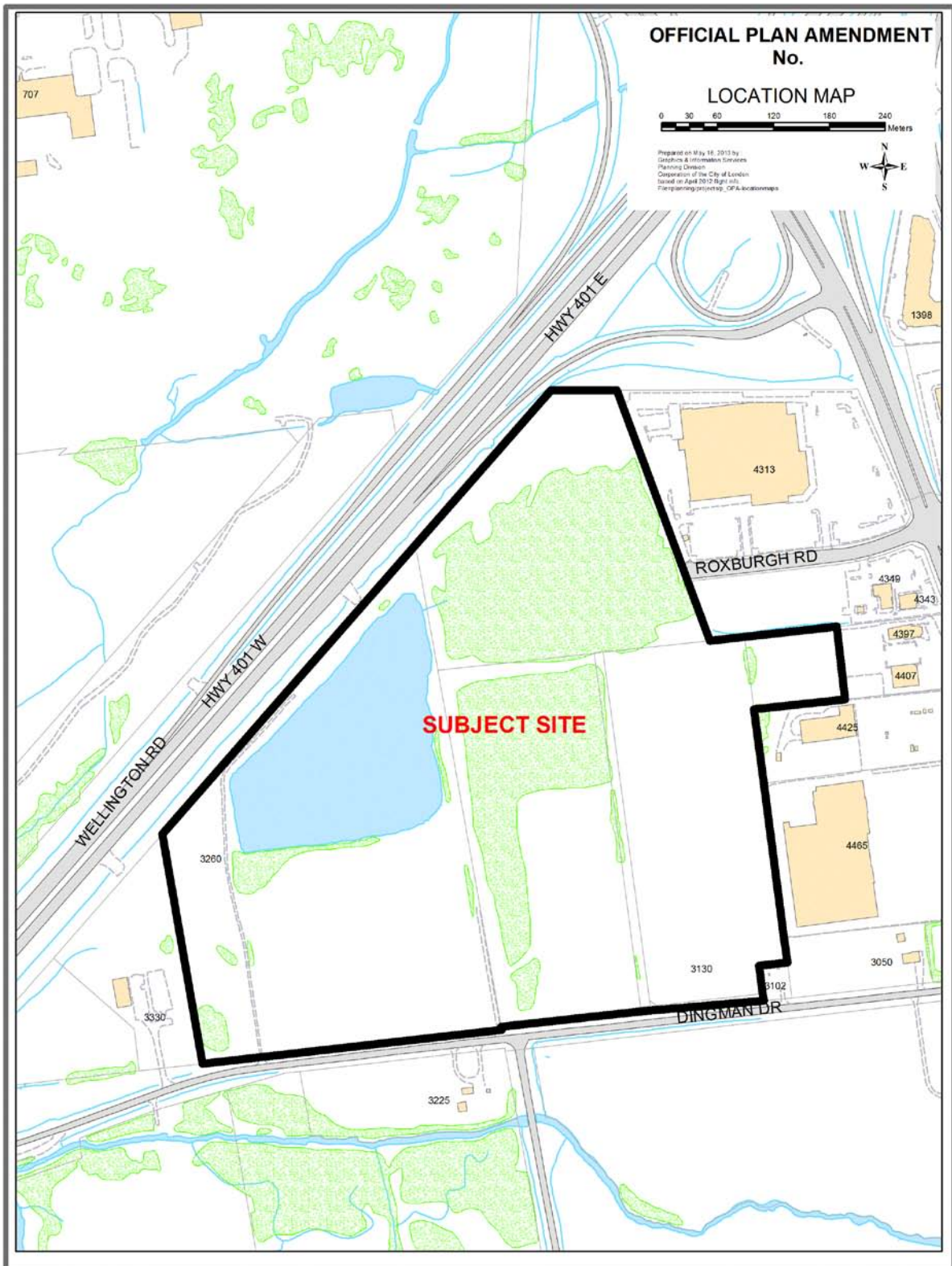
PASSED in Open Council on June 25, 2013.

Joe Fontana
Mayor

Catharine Saunders
City Clerk

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File: OZ-8120
Planner: C. Smith

AMENDMENT NO.

to the

OFFICIAL PLAN FOR THE CITY OF LONDON

A. PURPOSE OF THIS AMENDMENT

The purpose of this Amendment is:

1. To add a policy in Section 10.1.3 of the Official Plan for the City of London to permit a cinema use outside of the Downtown Area in the New Format Regional Commercial Node.
2. Amend Schedule B-1- Natural Heritage Features, to delete “Unevaluated Vegetation Patch”.

B. LOCATION OF THIS AMENDMENT

This Amendment applies to lands located at 3130 and 3260 Dingman Drive and the rear portion of 4397/4407 Wellington Road South in the City of London.

C. BASIS OF THE AMENDMENT

The recommended Official Plan amendment to add a Specific Area Policy (Chapter 10) conforms to the criteria for the adoption of site specific policies under Section 10.1.1 in the Official Plan. Policies for Specific Areas may be applied where the change in land use is site specific and is located in an area where Council wishes to maintain existing land use designation, while allowing a site specific use.

The proposed amendment will allow for a cinema to be located outside of the Downtown. The proposed commercial development will act as a gateway to the City of London and the cinema use will not have a negative impact on the ability of the Downtown Area to serve as the City's primary entertainment destination place.

The amendments to Chapter 10 are consistent with the policies of the Provincial Policy Statement, 2005 and are consistent with the Commercial policies of the Official Plan.

The recommended amendments allow for the development of commercial retail centre, including cinemas.

D. THE AMENDMENT

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

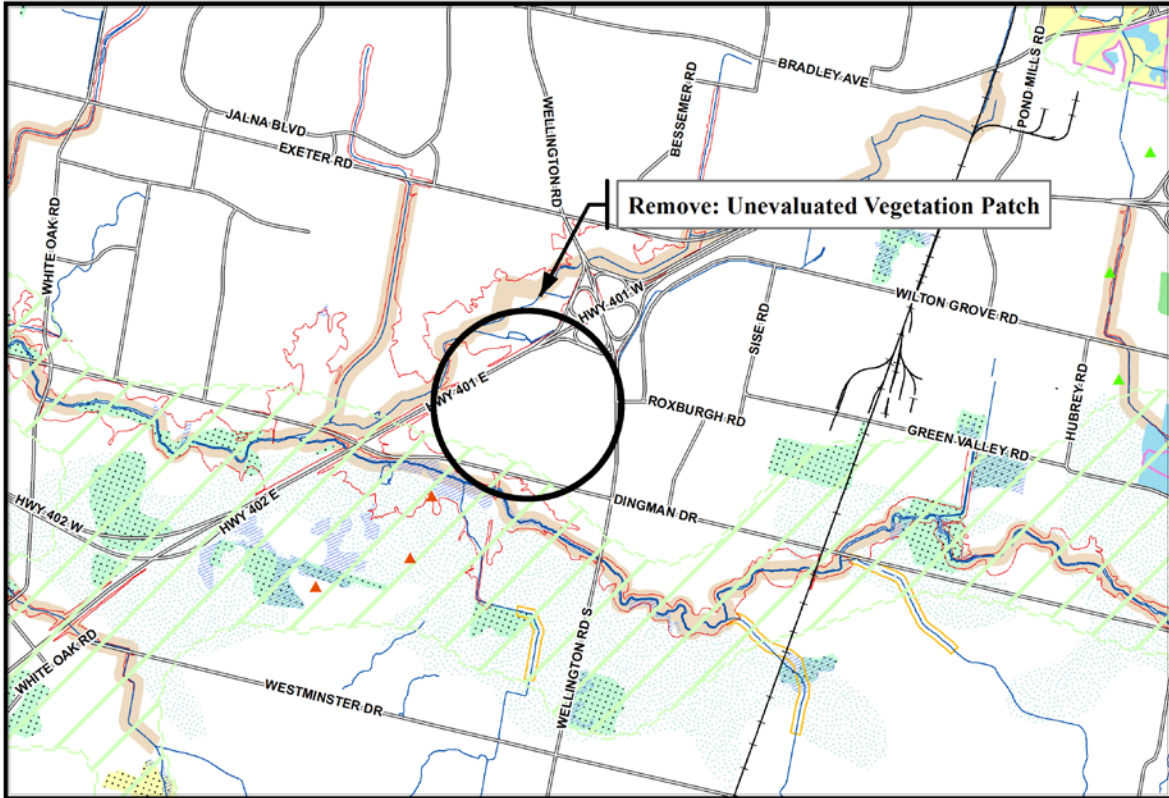
1. Section 10.1.3 – Policies for Special Areas of the Official Plan for the City of London is amended by adding the following:

In the New Format Regional Commercial Node designation at 3130 and 3260 Dingman Drive and the rear portion of 4397/4407 Wellington Road South, a cinema use is permitted outside of the Downtown area.
2. Amend Schedule B-1- Natural Heritage Features, to delete “Unevaluated Vegetation Patch”.

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AMENDMENT NO:

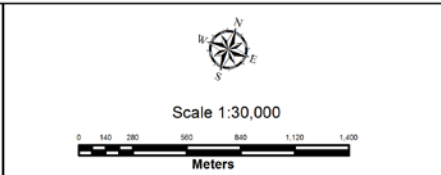


<p>NATURAL HERITAGE SYSTEM</p> <ul style="list-style-type: none"> ESAs Potential ESAs Significant Woodlands Woodlands Unevaluated Vegetation Patches Significant River, Stream, and Ravine Corridors Unevaluated Stream and Ravine Corridors Provincially Significant Wetlands Locally Significant Wetlands Unevaluated Wetlands Potential Naturalization Areas Potential Upland Corridors Ground Water Recharge Areas 	<p>NATURAL HAZARDS</p> <ul style="list-style-type: none"> Maximum Hazard Line <p><small>NOTE 1: Hazard Lines shown on this map are approximate. The precise delineation of hazard line mapping available from the Conservation Authority having jurisdiction.</small></p> <p><small>NOTE 2: Flood Fringe mapping for certain areas of the city is available from the Upper Thames River Conservation Authority.</small></p> <p>Base Map Features</p> <ul style="list-style-type: none"> Railways Water Courses/Ponds Streets (refer to Schedule "C") Conservation Authority Boundary Subwatershed Boundary Big Picture Meta-Cores and Meta-Corridors <p><small>This is an excerpt from the Planning Division's working consolidation of Schedule B1 to the City of London Official Plan, with added notations.</small></p>
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**SCHEDULE 2
TO
OFFICIAL PLAN**

AMENDMENT NO. _____

PREPARED BY: Graphics and Information Services



FILE NUMBER: OZ-8120

PLANNER: CS

TECHNICIAN: MB

DATE: 2013/06/19

PROJECT LOCATION: e:\planning\projects\p_officialplan\work\consolid\amendments\oz-8120\mxd\scheduleB1_colour_8x11.mxd

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File: OZ-8120
Planner: C. Smith

Appendix "B"

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

By-law No. Z.-1-13_____

A by-law to amend By-law No. Z.-1 to rezone an area of land located at 3130 and 3260 Dingman Drive and the rear portion of 4397/4407 Wellington Road South.

WHEREAS PenEquity Realty Corporation has applied to rezone an area of land located at 3130 and 3260 Dingman Drive and the rear portion of 4397/4407 Wellington Road South, as shown on the map attached to this by-law, as set out below;

AND WHEREAS upon approval of Official Plan Amendment Number (number to be inserted by Clerk's Office) this rezoning will conform to the Official Plan;

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

- 1) Schedule "A" to By-law No. Z.-1 is amended by changing the zoning applicable to lands located at 3130 and 3260 Dingman Drive and the rear portion of 4397/4407 Wellington Road South, as shown on the attached map comprising part of Key Map No. A.111, from a from a Holding Restricted Service Commercial Special Provision/Light Industrial (h*RSC1(9)/RSC5/LI6) Zone, a Holding Restricted Service Commercial Special Provision (h*RSC1(9)/RSC3/RSC4(5)/RSC5) Zone and a Community Shopping Area (CSA6) to a Holding Associated Shopping Area Commercial Special Provision (h*h-5*h-18*h-55*h-103*h-141*h()*ASA3/ASA5/ASA6()/ASA7()/ASA8()) Zone.
- 2) Section Number 24.4 of the Associated Shopping Area Commercial (ASA) Zone is amended by adding the following Special Provisions:
 -) ASA6 () 3130 and 3260 Dingman Drive and the rear portion of 4397/4407 Wellington Road South
 - a) Additional Permitted Use
 - i) Hotel
 - b) Regulations:
 - i) Commercial Recreational Use – Gross Floor Area: 14,000 square metres (maximum)
 -) ASA7 () 3130 and 3260 Dingman Drive and the rear portion of 4397/4407 Wellington Road South
 - a) Regulations:
 - i) Cinemal Usee Gross Floor Area: 4,000 square metres (maximum)
 -) ASA8 () 3130 and 3260 Dingman Drive and the rear portion of 4397/4407 Wellington Road South
 - a) Additional Permitted Use
 - i) Gas Bar
- 3) Section Number 3.8(2) of the Holding Provisions Section to By-law No. Z.-1 is amended by adding the following holding provisions:

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h() Purpose: A Natural Heritage Compesnation Agreement between the City and the Owner be executed prior to the removal of the "h()" symbol, to ensure appropriate natural heritage compensation measures are implemented resulting from the removal of the Unevaluated Vegetation Patch (Patch 10102,).

4.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.

5.This By-law shall come into force and be deemed to come into force in accordance with Section 34 of the *Planning Act, R.S.O. 1990, c. P13*, either upon the date of the passage of this by-law or as otherwise provided by the said section.

PASSED in Open Council on June 25, 2013.

Joe Fontana
Mayor

Catharine Saunders
City Clerk

First Reading - June 25, 2013
Second Reading – June 25, 2013
Third Reading - June 25, 2013

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AMENDMENT TO SCHEDULE "A" (BY-LAW NO. Z.-1)

