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File No.: Z-8142
Planner: Sean Meksula

TO:	CHAIR AND MEMBERS PLANNING & ENVIRONMENT COMMITTEE
FROM:	JOHN M. FLEMING MANAGING DIRECTOR, PLANNING AND CITY PLANNER
SUBJECT:	APPLICATION BY: 2261531 ONTARIO LTD. VARIOUS STREETS LISTED IN SECTION 4.21 OF THE Z-1. ZONING BY-LAW NOTICE OF APPEAL TO THE ONTARIO MUNICIPAL BOARD MEETING ON JULY 23, 2013

RECOMMENDATION

That, on the recommendation of the Managing Director, Planning and City Planner, in response to the letter of appeal to the Ontario Municipal Board, dated May 29, 2013 and submitted by 2261531 Ontario LTD relating to Zoning By-law application No. Z-8142 concerning various streets listed in Section 4.21 "Road Allowance Requirements – Specific Roads" of the Z-1 Zoning By-law, the Ontario Municipal Board **BE ADVISED** that the Municipal Council has reviewed its decision relating to this matter and sees no reason to alter it.

PREVIOUS REPORTS PERTINENT TO THIS MATTER
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Z-8142 – Report to Planning and Environment Committee – April 23, 2013

PURPOSE AND EFFECT OF RECOMMENDED ACTION

The Managing Director, Planning and City Planner recommended approval of the requested Zoning By-law amendment for the various streets listed in section 4.21 of the Z-1. Zoning By-law. The purpose and effect of the amendments were to update and amend Section 4.21 (Road Allowance Requirements – Specific Roads) of Zoning By-law Z.-1. to implement the recommendation of the London 2030 Transportation Master Plan (TMP) Study. The recommended action would advise the OMB that Municipal Council is in agreement with their previous decision on April 30, 2013

BACKGROUND

Engineering and Planning Staff identified and recommended that a number of streets which had been identified through the London 2030 Transportation Master Plan (TMP) Study which necessitated a change of the Limit Allowance in the Z-1 Zoning By-law. These road widenings will be required to provide exclusive transit lanes, to facilitate and support future Bus Rapid Transit (BRT) requirements, to provide for additional lanes to accommodate anticipated traffic needs, and to provide for additional right-of-ways at the intersections of arterial roads.

Municipal Council resolved on May 29, 2013:

- a) a by-law **BE INTRODUCED** at the Municipal Council meeting on April 30, 2013 to amend Zoning By-law No. Z.-1 in conformity with the Official Plan to add, amend and delete various streets listed in Section 4.21 "Road Allowance Requirements – Specific Roads" of the Z-1 Zoning By-law.

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Zoning By-law Amendment

Appellant York Developments Inc. has retained MHBC with regards to the appeal who has submitted an appeal letter on May 29, 2013, in response to Council’s decision. The reasons stated in the Zoning By-law amendment appeal as submitted are:

- Additional examination is essential to fully assess the impacts of the recommended amendments on the viability of adjacent land for redevelopment and intensification purposes.
- Implementation of the recommended rights-of-way will require the dedication of private land adjacent to existing arterial corridors. This encroachment may compromise the development potential of many affected properties.
- The recommended width of arterial intersections will constrain redevelopment and intensification opportunities on adjacent lands. For shallow lots in established communities, there is concern that the scale of the road widenings will render the remnant parcels unusable.
- The recommended road widenings by this amendment should not be applied as an automatic condition of any planning application. Circumstances will arise where the prescribed widenings will make site development impractical.
- The Official Plan promotes higher density development and intensification initiatives along arterial corridor areas and at major intersections. The proposed road allowance requirements may preclude the form of development envisioned by the Official Plan, as intensification opportunities at these locations will be constrained by the expanded rights-of-way.

Many of these issues would appear to be beyond the scope of the proposed Zoning By-law and it is recommended that staff meet with the appellant to clarify their position prior to the hearing to identify possible points for a resolution.

Copies of the appeal from 2261531 Ontario LTD and the reasons for the appeal, are attached as appendix “A” to this report. A date for the Ontario Municipal Board hearing has not yet been scheduled. Planning staff have reviewed the appeal letter and see no reason for Council to alter its decision relating to this matter.

PREPARED BY:	SUBMITTED BY:
SEAN MEKSULA, PLANNER II COMMUNITY PLANNING AND DESIGN	GREGG BARRETT, AICP MANAGER – CITY PLANNING AND RESEARCH
RECOMMENDED BY:	
JOHN M. FLEMING, MCIP, RPP MANAGING DIRECTOR, PLANNING AND CITY PLANNER	

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KITCHENER
WOODBRIDGE
LONDON
KINGSTON
BARRIE

May 28, 2013

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

Attention: Catherine Saunders, City Clerk

Dear Ms. Saunders:

**RE: Notice of Appeal of Zoning By-law No. Z.-1-132184
Road Allowance Requirements
Planning Division File No. Z-8142**

MHBC has been retained by York Developments Inc. (referred to herein as the "Appellant") with regards to the above referenced matter. On behalf of the Appellant, we hereby appeal Zoning By-law No. Z.-1-132184, as adopted by City Council on April 30, 2013. We have participated in the consultation process associated with this proposal, including a written submission recommending City Council defer a decision on this matter, dated April 29, 2013.

The Appellant continues to have concerns with Zoning By-law No. Z.-1-132184, including the following:

- Further investigation is needed to fully assess the impacts of the recommended road allowances on the viability of adjacent lands for redevelopment and intensification purposes. In this respect, the documentation and analyses supporting the application was inadequate for the following reasons:
 - Notice of Application and Public Meeting This Notice, issued March 7, 2013, states the intent the Zoning By-law Amendment to widen road rights-of-way pursuant to recommendations of the London 2030 Transportation Master Plan (TMP) study. The Notice description and enclosed mapping was not sufficient to identify the affected road corridors and intersections, or to recognize the full implications of this proposal on the development potential of affected lands.
 - Planning Division Staff Report. The Staff report, dated April 23, 2013, reiterates the intent of the Zoning By-law Amendment and prescribes the planned minimum road allowance widths. The report does not provide a comprehensive assessment of this proposal relative to both (1) the existing development context along arterial corridors and at major intersections and (2) redevelopment and intensification opportunities at these locations.

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- o Public Meeting. The statutory Public Meeting was held April 30, 2013 as a scheduled item of the City of London Planning and Environment Committee meeting. The public meeting did not incorporate a formal presentation and Staff comments on the proposal were brief. This discussion did not address the potential impacts of the planned road widenings on adjacent land holdings in any detail.
- The Zoning By-law Amendment prescribes minimum road rights-of-way widths of 39 m for Major Arterials and 40 m for Rapid Transit corridors. Implementation of the recommended rights-of-way will require the dedication of a substantial amount of private land adjacent to existing arterial corridors. The extent of this encroachment may compromise the development potential of many affected properties.
- The proposed Amendment would also establish minimum road rights-of-way of 42 m for signalized Major Arterial intersections and 48 m for signalized Rapid Transit intersections. The proposed intersection widths will constrain redevelopment and intensification opportunities on adjacent lands. For shallow parcels in established communities, there is serious concern that the magnitude of the road widenings will render the remnant parcels unusable.
- Vision, City Structure and Transportation policies within the City of London's Official Plan promote higher density development and intensification initiatives along arterial corridor areas and at major intersections. The proposed road allowance requirements may preclude the form of development envisioned by the Official Plan, as intensification opportunities at these locations will be constrained by the expanded rights-of-way.
- It is anticipated that the road widenings recommended by this amendment will be applied as a standard condition of any planning application. Circumstances will arise where the prescribed road allowances will make site development impractical. Pursuant to Section 18.2.5. v) of the Official Plan, Staff and Council should have due consideration for individual site characteristics when assessing the need for road dedications. A protocol to this effect should be formally integrated into the City's application review procedures.
- The City of London issued a Notice of Completion for the TMP dated May 23, 2013. Pursuant to *Municipal Class Environmental Assessment* (Class EA) requirements, a minimum 30-day period is prescribed for public review of study findings and recommendations, and for receipt of further public comment. In the interest of due process, the City should not be advancing a *Planning Act* proposal to implement a Master Plan recommendation until the associated Class EA process has formally concluded.

In light of the foregoing, we are concerned that that proposed road widening initiative may not represent good planning and may not be in conformity with the urban structure prescribed by the Official Plan. Therefore, we are hereby appealing Zoning By-law Z.-1-132184. Through this appeal, we expressly reserve the right to submit or raise such other concerns, objections or issues as may become apparent whether related to the above specific concerns or otherwise. Please be advised that legal counsel will also be retained to represent the Appellant.

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We enclose a cheque in the amount of \$125.00, payable to the Minister of Finance, which represents the required filing fee for this appeal and a completed Ontario Municipal Board Appellant Form (A1). Should you have any questions with respect to the matters discussed herein, please contact the undersigned.

Respectfully submitted,

MHBC



Carol M. Wiebe, BES
Partner

C

Ali Soufan, York Developments



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.eltb.gov.on.ca

APPELLANT FORM (A1)
PLANNING ACT

SUBMIT COMPLETED FORM
TO MUNICIPALITY/APPROVAL AUTHORITY



Receipt Number (OMB Office Use Only)

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

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

Part 2: Location Information

City-wide application; encompassing all transportation corridors prescribed by By-law Z-1-132184.
 Address and/or Legal Description of property subject to the appeal:
 Municipality/Upper tier: City of London
 A1 Revised April 2010 Page 2 of 5

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File No.: Z-8142
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Part 3: Appellant Information

First Name: Ali Last Name: Soufan

York Developments Inc.

Company Name or Association Name (Association must be incorporated – include copy of letter of incorporation)

Professional Title (if applicable): President

E-mail Address: ali.soufan@yorkdev.ca

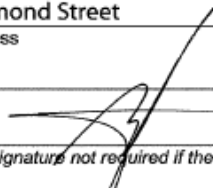
By providing an e-mail address you agree to receive communications from the OMB by e-mail.

Daytime Telephone #: 519.433.7587 Alternate Telephone #: 519.640.8968

Fax #: 519.433.4469

Mailing Address: 303 Richmond Street Suite 201 London
Street Address Apt/Suite/Unit# City/Town

Ontario N6B 2H8
Province Country (if not Canada) Postal Code

Signature of Appellant:  Date: May 28, 2013
(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: Carol Last Name: Wiebe

Company Name: MHBC

Professional Title: Partner

E-mail Address: cwiebe@mhbcplan.com

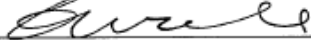
By providing an e-mail address you agree to receive communications from the OMB by e-mail.

Daytime Telephone #: 519.858.2797 Alternate Telephone #: 519.576.3650

Fax #: 519.858.2920

Mailing Address: 630 Colborne Street Suite 202 London
Street Address Apt/Suite/Unit# City/Town

Ontario N6B 2V2
Province Country (if not Canada) Postal Code

Signature of Appellant:  Date: May 28, 2013

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

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

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Part 5: Language and Accessibility

Please choose preferred language: English French

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

Part 6: Appeal Specific Information

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

(Please print)

Zoning By-law Amendment No. Z-1-132184; Planning Division File No. Z-8142.

Please refer to attached cover letter for description of appeal.

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 refer to the attached cover letter.

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

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

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

Part 7: Related Matters (if known)

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

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

(For example: A consent application connected to a variance application)

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

(Please print)

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Part 8: Scheduling Information

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

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

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

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

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

If yes, why? To clarify the scope and implications of the proposed amendment, and to establish party status.

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

Please refer to the attached cover letter.

Part 10: Required Fee

Total Fee Submitted: \$ 125

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

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