

Ontario Land Tribunal
Tribunal ontarien de l'aménagement
du territoire



ISSUE DATE: February 26, 2024

CASE NO(S): OLT-23-000367

PROCEEDING COMMENCED UNDER subsection 22(7) of the *Planning Act*, R.S.O. 1990, c. P. 13, as amended

| | |
|---------------------|--------------------------------------------------------------------------------------------------------------------------------------------|
| Applicant/Appellant | 785 Wonderland Road Inc. |
| Subject: | Request to amend the Official Plan – Failure to adopt the requested amendment |
| Description: | To permit a mixed-use development on the Westmount Shopping Centre lands consisting of townhouses, apartment buildings and commercial uses |
| Reference Number: | OZ-9565 |
| Property Address: | 755, 765, 785, 815 Wonderland Road South |
| Municipality/UT: | London/Middlesex |
| OLT Case No: | OLT-23-000367 |
| OLT Lead Case No: | OLT-23-000367 |
| OLT Case Name: | 785 Wonderland Road Inc. v. London (City) |

PROCEEDING COMMENCED UNDER section 34(11) of the *Planning Act*, R.S.O. 1990, c. P. 13, as amended

| | |
|---------------------|--------------------------------------------------------------------------------------------------------------------------------------------|
| Applicant/Appellant | 785 Wonderland Road Inc. |
| Subject: | Application to amend the Zoning By-law – Refusal or neglect to make a decision |
| Description: | To permit a mixed-use development on the Westmount Shopping Centre lands consisting of townhouses, apartment buildings and commercial uses |
| Reference Number: | OZ-9565 |
| Property Address: | 755, 765, 785, 815 Wonderland Road South |
| Municipality/UT: | London/Middlesex |
| OLT Case No: | OLT-23-000368 |
| OLT Lead Case No: | OLT-23-000367 |

Heard: February 12, 2024 by Video Hearing

APPEARANCES:

| <u>Parties</u> | <u>Counsel/Representative</u> |
|--------------------------|--------------------------------------|
| 785 Wonderland Road Inc. | Leo Longo |
| City of London | Christina McCreery Aynsley Hovius |

MEMORANDUM OF ORAL DECISION DELIVERED BY KURTIS SMITH ON FEBRUARY 12, 2024 AND FINAL ORDER OF THE TRIBUNAL

BACKGROUND/INTRODUCTION

[1] 785 Wonderland Road Inc. (“Appellant”) and the City of London (“City”) reached a Settlement regarding the proposed mixed-use intensification of lands Municipally known as 755, 765, 785, and 815 Wonderland Road South (“Site”).

[2] The Site is recognized by Londoners as the Westmount Mall, a two-storey commercial and retail space that has transformed overtime and currently includes office space for medical, dental, and professionals on the second floor, an attached movie theatre, and is well known for its iconic two-storey underground parking.

[3] To achieve the Appellants vision, applications for an Official Plan Amendment (“OPA”) and Zoning By-law Amendment (“ZBLA”) were filed to increase the gross floor area for office uses, increase the maximum height to include additional permitted uses, and create a range of residential units. The Appellant appealed the non-decisions of the Council of the City, however continued to work with City staff to refine the applications and ultimately reached a settlement.

[4] To support the Settlement Proposal, the Appellant called Casey Kulchycki, and the City called Sonia Wise, both land use planners. Upon review of their Curriculum Vitae and Acknowledgement of Expert's Duty forms, Mr. Kulchycki and Ms. Wise were qualified on consent by the Tribunal to provide opinion evidence in land use planning.

THE SETTLEMENT PROPOSAL

[5] Mr. Kulchycki and Ms. Wise provided the Tribunal with a fulsome overview of the Settlement Proposal, which can be found in Exhibit 1 and 2, respectively.

[6] The Settlement Proposal would permit mixed-use development within three distinctive areas with low-rise (three storeys), mid-rise (eight storeys), and high-rise (twelve storeys) as shown in Attachment 1, Schedule A.

[7] In addition to the long list of permitted uses for lands zoned "Regional Shopping Area (RSA2(3))," the Settlement Proposal would further broaden the range of permitted uses to include Business Service Establishment, Automobile Sales Boutique, Artisan Workshop, and Craft Brewery.

PLANNING EVIDENCE

[8] Mr. Kulchycki and Ms. Wise provided the Tribunal with oral and written evidence (Exhibit 1 and 2) to support their findings that the OPA and ZBLA represent good planning, having regard to s. 2 of the Planning Act ("Act"), are consistent with the Provincial Policy Statement ("PPS"), conform to the City of London Official Plan (locally known as "The London Plan"), and constitute an appropriate site-specific amendment to the City of London Zoning By-law ("City's ZBL").

[9] The above-mentioned planning documents relating to the Settlement Proposal have several common elements and are implemented through the OPA and ZBLA, including:

- a. Supports mix-used intensification and promotes residential, commercial, and retail development within built-up areas that are close to adequate public transit;
- b. The efficient and optimal use of land and infrastructure;
- c. Introduces a wide range of housing choices; and,
- d. Creation of a complete community, providing a range of retail, service, business, recreational, social, educational, and government uses within walking distance.

[10] Prior to the commencement of the hearing, the Tribunal received three Participant Statements. Mr. Kulchycki and Ms. Wise are of the opinion that the concerns raised, including traffic impact, office space, and density have been or will be addressed during the development stages. Mr. Kulchycki advised the Tribunal that the traffic impact assessment has been completed and indicates that the overall function of the site has capacity, noting that minor changes will be made to some of the intersections. He concluded that the remaining participant concerns will all be addressed during the site plan process.

FINDINGS

[11] The Tribunal accepts the uncontested planning evidence and opinions of Mr. Kulchycki and Ms. Wise and is satisfied that the OPA and ZBLA represent good planning, having regard for matters of provincial interest, are consistent with the PPS, conform to the London Plan and constitute an appropriate site-specific amendment to the City's ZBL.

ORDER

[12] The Tribunal Orders that the Appeal is allowed in part, and:

- a. The City of London Official Plan is amended as set out in the attached Schedule "A"; and
- b. The City of London Zoning By-law No. Z-1 is amended as set out in the attached Schedule "B".

[13] The Clerk of the City of London may format and number the amendments for record keeping purposes.

"Kurtis Smith"

KURTIS SMITH
MEMBER

Ontario Land Tribunal

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The Conservation Review Board, the Environmental Review Tribunal, the Local Planning Appeal Tribunal and the Mining and Lands Tribunal are amalgamated and continued as the Ontario Land Tribunal ("Tribunal"). Any reference to the preceding tribunals or the former Ontario Municipal Board is deemed to be a reference to the Tribunal.

SCHEDULE A

Approved by the OLT Decision
OLT Issue Date:
OLT Case/File No.: OLT-23-000367

Bill No. (number to be inserted by Clerk's Office)
2023

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

A by-law to amend the Official Plan
relating to 755, 785 & 815 Wonderland
Road South.

The Ontario Land Tribunal orders as follows:

1. Amendment No. (to be inserted by Clerk's Office) to the Official Plan, as contained in the text attached hereto and forming part of this by-law, is approved.
2. This by-law shall come into effect in accordance with subsection 17(50) of the *Planning Act*, R.S.O. 1990, c.P.13.

By Order of the Ontario Land Tribunal (OLT) in proceeding OLT-23-000367 on [date].

AMENDMENT NO.
to the
OFFICIAL PLAN FOR THE CITY OF LONDON

A. PURPOSE OF THIS AMENDMENT

The purpose of this Amendment is to add a policy to the Specific Policies for the Shopping Area Place Type and add the subject lands to Map 7 – Specific Policy Areas – of The London Plan, the City's Official Plan, to permit an increased amount of office space of 10,000 square metres, and an increased height of 12 storeys (36m) along Wonderland Road South and Viscount Road.

B. LOCATION OF THIS AMENDMENT

This Amendment applies to lands located at 755, 785 and 815 Wonderland Road South in the City of London.

C. BASIS OF THE AMENDMENT

The recommended amendment is consistent with the Provincial Policy Statement, 2020 and conforms to the in-force policies of The London Plan, including but not limited to the Key Directions, Specific Area Policies and the Shopping Area Place Type. The recommended amendment will facilitate an expanded range of office, residential and mixed-use development in an existing settlement area.

D. THE AMENDMENT

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

1. Specific Policies for the Shopping Area Place Type of The London Plan for the City of London is amended by adding the following:

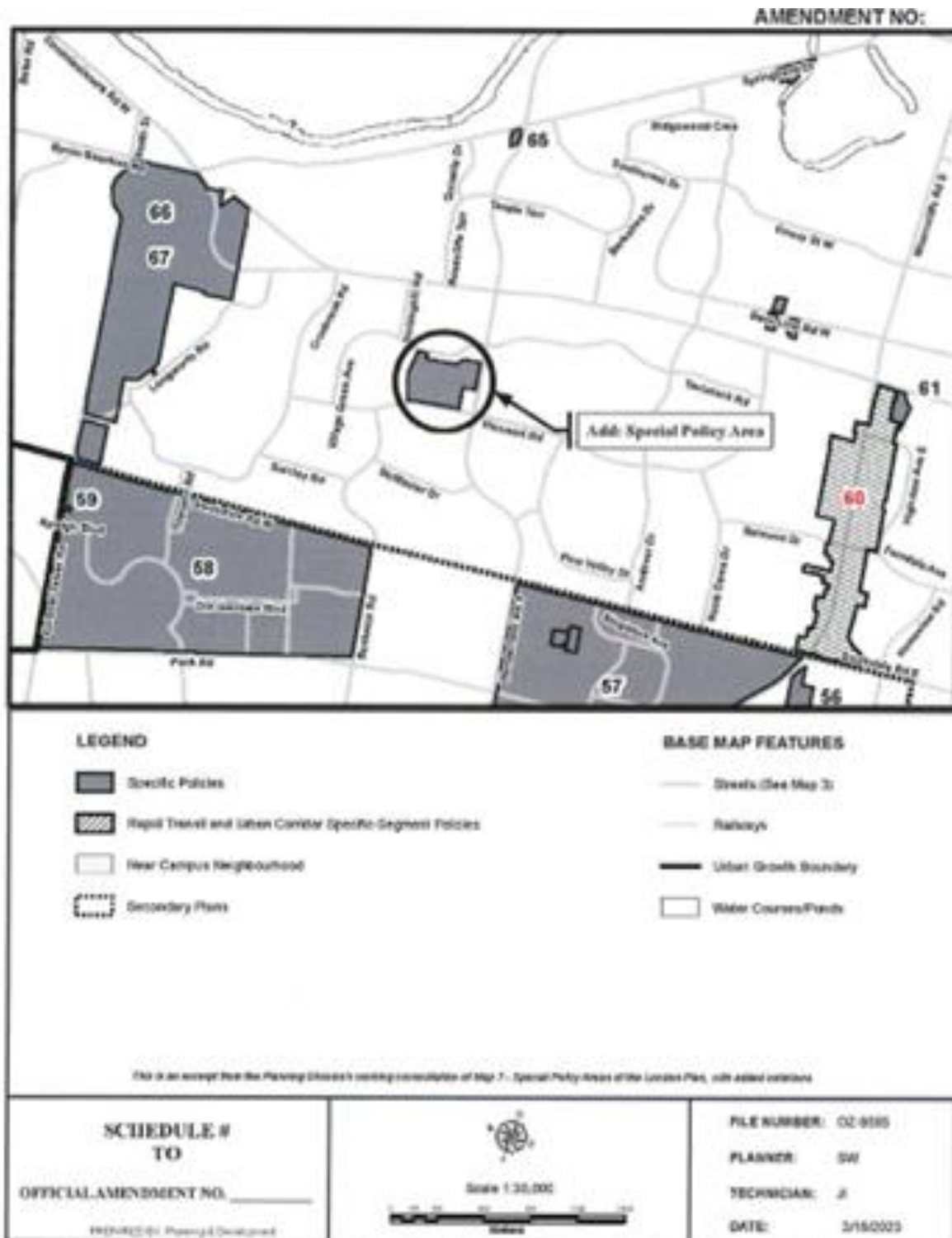
755, 785 and 815 Wonderland Road South in the City of London

A maximum gross floor area for office uses of 10,000 square metres is permitted with no individual office use exceeding 2,000 square metres.

A maximum height of 12 storeys (36m) is permitted within 145m (475 ft) distance from Wonderland Road South; and 75m (246 ft) from Viscount Road: extending from Wonderland Road South to the South Westmount Mall Entry.

2. Map 7 – Specific Policy Areas, to The London Plan for the City of London Planning Area is amended by adding a Specific Policy Area for the lands located at 755, 785 and 815 Wonderland Road South in the City of London.





SCHEDULE B

Approved by OLT Decision
OLT Issue Date: Feb 26, 2024
OLT Case No.: OLT-23-000367

Bill No.
2024

By-law No. Z.-1-243189

A by-law to amend By-law No. Z.-1 to rezone
an area of land located at 755, 785 and 815
Wonderland Road South.

WHEREAS 785 Wonderland Road Inc. has applied to rezone an area of land located at 755, 785 and 815 Wonderland 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 100 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 755, 785 and 815 Wonderland Road South, as shown on the attached map comprising part of Key Map No. A106, from a Regional Shopping Area Special Provision (RSA2(3)) Zone to a holding Residential R5 Special Provision/Regional Shopping Area Special Provision (h-5*h-54*h-63*h-123*h-149*h-213*h-249*R5-7(38)/RSA2(3)) zone; a holding Residential R8 Special Provision/Regional Shopping Area Special Provision (h-5*h-54*h-63*h-123*h-149*h-213*h-249*R8-4(90)/RSA2(3)) zone; and a holding R9 Special Provision/Regional Shopping Area Special Provision (h-5*h-54*h-63*h-123*h-149*h-213*h-249*R9-7(48)*H36/RSA2(3)) zone.

2. Section Number 3.8 2) Holding "h" Zone Provisions is amended by adding the following new holding zone:

h-249 Purpose: To ensure the orderly development of lands, a masterplan shall be prepared to the satisfaction of the City, to provide an organizational structure that establishes: pedestrian connections, vehicular connections, development parcels, landscaping and amenity areas.

Permitted Uses: Existing Uses

3. Section Number 9.4 of the Residential (R5) Zone is amended by adding the following Special Provision:

R5-7(38) 755, 785 and 815 Wonderland Road South

a) Regulations

- | | | |
|-----|----------------------|------------------------|
| i) | Height (Maximum) | 9.0 metres (29.5 feet) |
| ii) | Density (Maximum) | 75 Units per Hectare |

4. Section Number 12.4 of the Residential (R8) Zone is amended by adding the following Special Provision:

R8-4(90) 755, 785 and 815 Wonderland Road South

a) Additional Permitted Use

- | | | |
|-----|-------------------------------------------------------------------------------------|--|
| i) | Cluster Townhouse Dwellings | |
| ii) | Apartment buildings with any or all of the other permitted uses on the first floor. | |

b) Regulations

- | | | |
|-----|----------------------|-------------------------|
| i) | Height (Maximum) | 24.0 metres (78.7 feet) |
| ii) | Density (Maximum) | 150 Units per Hectare |

5. Section Number 13.4 of the Residential (R9) Zone is amended by adding the following Special Provision:

R9-7(48) 755, 785 and 815 Wonderland Road South

a) Additional Permitted Use

- i) Cluster Townhouse Dwellings
- ii) Cluster Stacked Townhouse Dwellings
- iii) Apartment buildings with any or all of the other permitted uses on the first floor.

b) Regulations

- i) Height 36.0 metres (118 feet)
(Maximum)
- ii) Density 250 Units per Hectare
(Maximum)

6. Section Number 21.4 of the Regional Shopping Area (RSA) Zone is amended by deleting and replacing the following Special Provision:

RSA2(3) 755, 785 and 815 Wonderland Road South

a) Non-application of "h" prefix

Notwithstanding section 3.8(1), any of the RSA2(3) permitted uses or additional permitted uses below are permitted without removing the holding provisions.

b) Additional Permitted Uses

- i) Commercial and Private Schools
- ii) Kennel
- iii) Craft Brewery
- iv) Artisan Workshop
- v) Automobile Sales Boutique
- vi) Business Service Establishment

c) Regulations

- i) Gross floor area for business Service Establishment Use 500sqm (5,382 sq ft)
(Maximum)
- ii) Gross floor area for Office 10,000sqm (107,639 sq ft)
(Maximum)
- iii) The maximum gross floor area for specific individual uses shall be as follows:
 - Office 2,000sqm (21,527 sq ft)

7. 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.

8. 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.

By Order of the Ontario Land Tribunal (OLT) in proceeding OLT-23-000367 on February 26, 2024.

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

