

Agenda Including Addeds

Planning and Environment Committee

10th Meeting of the Planning and Environment Committee

May 27, 2019, 4:00 PM

Council Chambers

Members

Councillors A. Hopkins (Chair), J. Helmer, M. Cassidy, P. Squire, S. Turner, Mayor E. Holder

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The Committee will recess at approximately 6:30 PM for dinner, as required.

	Pages
1. Disclosures of Pecuniary Interest	
2. Consent	
2.1 Application - Portion of 146 Exeter Road (Richardson Subdivision) 39T-15501, Lots 1-6, 19-42 - Removal of Holding Provisions (H-8983)	3
2.2 Closed School Sites: Evaluations and Approach (18 Elm Street and 1958 Duluth Crescent) (17 CLO)	12
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3. Scheduled Items	
3.1 Public Participation Meeting - Not to be heard before 4:00 PM - 146 Exeter Road (Blocks 36 and 37, Richardson Subdivision) 39T-15501 (Z-9034)	103
3.2 Public Participation Meeting - Not to be heard before 4:00 PM - Application - 146 Exeter Road (OZ-9038)	121
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3.4 Public Participation Meeting - Not to be heard before 5:00 PM - Application - 348 Sunningdale Road East (Z-9011)	172
3.5 Public Participation Meeting - Item to be heard before 5:30 PM - Application - 126 Oxford Street West (Z-9007)	204
3.6 Public Participation Meeting - Not to be heard before 7:00 PM - Application - 307 Fanshawe Park Road East (Z-9006)	230
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4.	Items for Direction	
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5.	Deferred Matters/Additional Business	
6.	Adjournment	

Report to Planning and Environment Committee

To: Chair and Members
Planning & Environment Committee
From: George Kotsifas P. Eng.,
Managing Director, Development & Compliance Services and
Chief Building Official
Subject: Application by: Sifton Properties Limited
Portion of 146 Exeter Road
Richardson Subdivision (39T-15501, Lots 1-6, 19-42)
Removal of Holding Provisions
Meeting on: May 27, 2019

Recommendation

That on the recommendation of the Director, Development Services, the following actions be taken with respect to the application of Sifton Properties Limited relating to the property located on a portion of 146 Exeter Road (Richardson Subdivision, 39T-15501, Lots 1-6, 19-42), the proposed by-law attached hereto as Appendix “A” **BE INTRODUCED** at the Municipal Council meeting on June 11, 2019 to amend Zoning By-law Z.-1, in conformity with the Official Plan, to change the zoning of the lands **FROM** a Holding Residential R1 Special Provision (h*h-100*R1-4(29)) Zone **TO** a Residential R1 Special Provision (R1-4(29)) Zone to remove the “h” and “h-100” holding provision from a portion of the lands.

Executive Summary

Summary of Request

The applicant has requested removal of the “h” and “h-100” holding provision from the proposed lots along Middleton Avenue within the Richardson Subdivision (39T-15501), which requires the necessary securities be provided and a subdivision agreement is executed prior to development, and further requires the construction of a looped watermain and second access to any subdivision above 80 units.

Purpose and the Effect of Recommended Action

The purpose and effect is to remove the holding (“h” and “h-100”) symbol from lots 1-6 and 19-42 within the plan of subdivision to permit the development of single detached dwellings.

Rationale of Recommended Action

The conditions for removing the holding provision have been met, as the required security has been submitted and the subdivision agreement has been signed, and the proposed lots are under the 80 unit threshold for requiring the second access and water looping. All issues have been resolved and the holding provisions are no longer required.

Analysis

1.0 Site at a Glance

1.1 Property Description

The draft plan of subdivision consists of a total area of 48.208 ha. The removal of holding provision applies to an area that consists of 1.33 ha.

1.2 Current Planning Information (Phase 1a)

- Official Plan Designation – Low Density Residential
- The London Plan Place Type – Neighbourhoods
- Existing Zoning – Existing Zoning – a Holding Residential R1 Special Provision (h*h-100*R1-4(29)) Zone

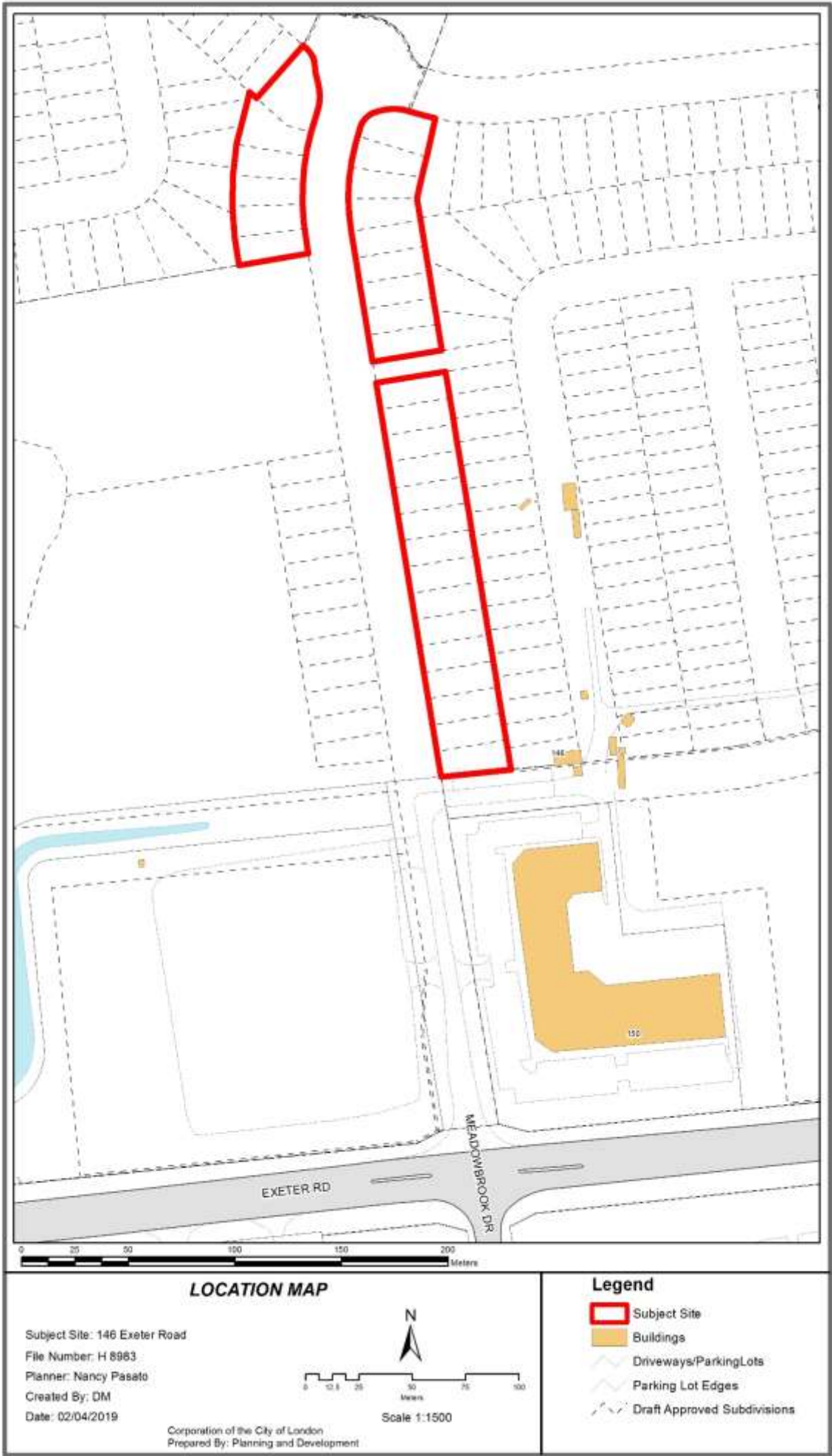
1.3 Site Characteristics (Phase 1a)

- Current Land Use – vacant
- Area – 1.33 ha (3.3 acres)
- Shape – irregular

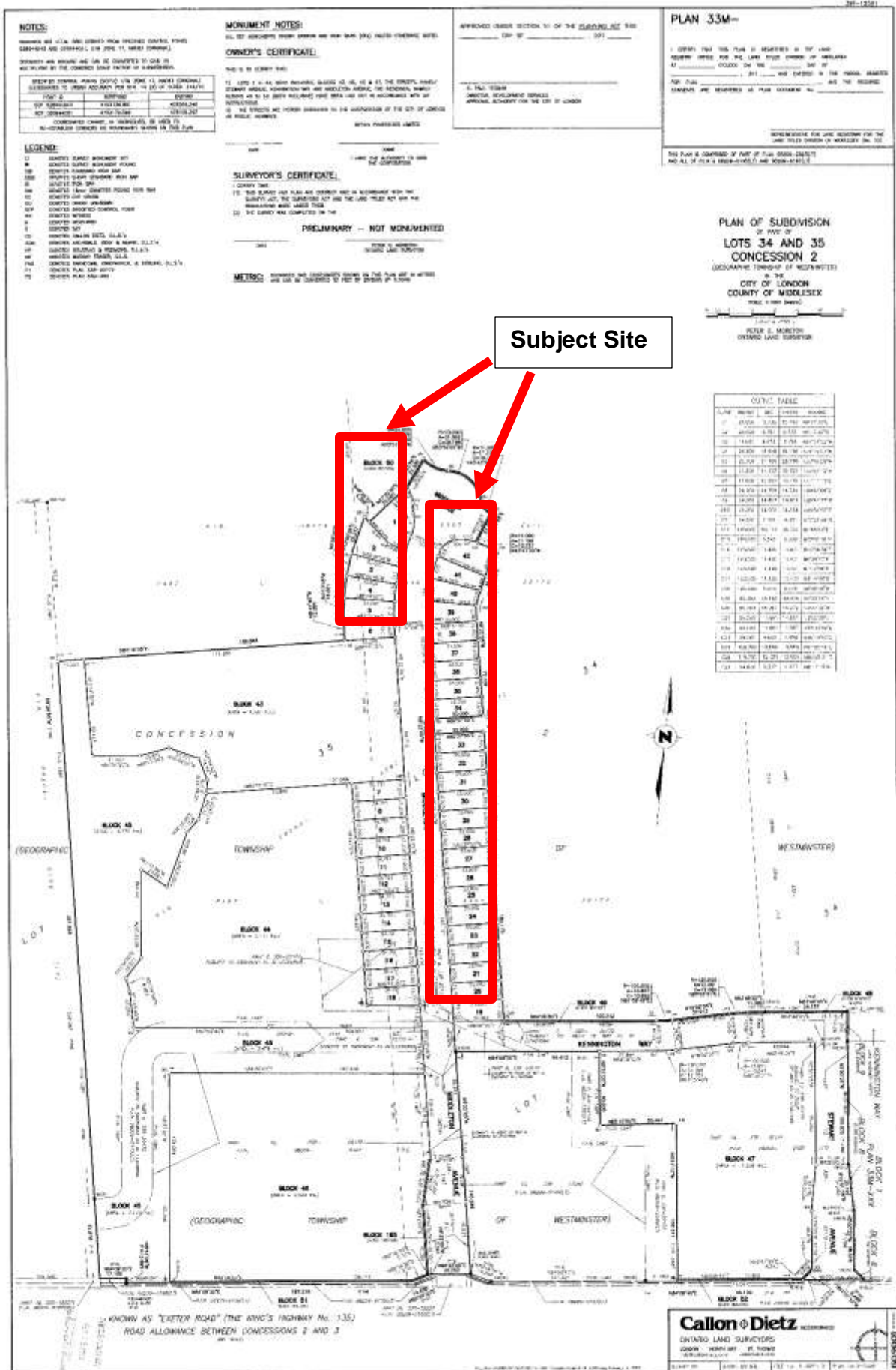
1.4 Surrounding Land Uses (Phase 1a)

- North – vacant/future residential
- East – vacant/future residential
- South – vacant/future residential/open space
- West – Vacant/future park and SWM facility

1.5 Location Map



Proposed 33M Calculated Plan - Richardson Subdivision Phase 1a (39T-15501)



2.0 Description of Proposal

2.1 Development Proposal

The Richardson Subdivision (39T-15501) consists of 25 low density residential blocks, 18 medium density residential blocks, 2 park blocks, 4 multi-use pathway blocks, 1 stormwater management block, 1 future stormwater management, 1 light industrial block, 2 open space blocks, 1 school block, 1 future road block, as well as several 0.3 m reserves and road widenings, all served by 4 new secondary collector roads, and 11 new local streets.

The removal of holding provision applies to thirty (30) single detached dwellings along Middleton Avenue. An additional twelve (12) single detached lots are also part of this phase, however a City-initiated Official Plan and Zoning by-law amendment is required (OZ-9038) to address minor outstanding zoning and land use matters.

3.0 Relevant Background

3.1 Requested Amendment

The applicant is requesting the removal of the “h” and “h-100” holding provision from all lots within this phase.

3.2 Community Engagement

In response to the Notice of Application, no comments were received.

3.3 Policy Context

The Planning Act permits the use of holding provisions to restrict future uses until conditions for removing the holding provision are met. To use this tool, a municipality must have approved Official Plan policies related to its use, a municipal council must pass a zoning by-law with holding provisions, an application must be made to council for an amendment to the by-law to remove the holding symbol, and council must make a decision on the application within 150 days to remove the holding provision(s).

The London Plan and the 1989 Official Plan contain policies with respect to holding provisions, the process, and notification and removal procedures.

4.0 Key Issues and Considerations

4.1 What is the purpose of the “h” holding provision and is it appropriate to consider its removal?

The “h” holding provision states:

“To ensure the orderly development of lands and the adequate provision of municipal services, the “h” symbol shall not be deleted until the required security has been provided for the development agreement or subdivision agreement, and Council is satisfied that the conditions of the approval of the plans and drawings for a site plan, or the conditions of the approval of a draft plan of subdivision, will ensure a development agreement or subdivision agreement is executed by the applicant and the City prior to development.

Permitted Interim Uses: Model homes are permitted in accordance with Section 4.5(2) of the By-law.”

The Owner has provided the necessary security and has entered into a subdivision agreement with the City. This satisfies the requirement for removal of the “h” holding provision.

4.2 What is the purpose of the “h-100” holding provision and is it appropriate to consider its removal?

The “h-100” holding provision states that:

“To ensure there is adequate water service and appropriate access, a looped watermain system must be constructed and a second public access must be available to the satisfaction of the City Engineer, prior to the removal of the h-100 symbol.

Permitted Interim Uses: Existing Uses.”

The h-100 holding provision requires a looped watermain system and a second public access be constructed after 80 units. As these are the first units to be constructed along this access, and it is below the 80 unit threshold, the h-100 can be removed at this time. The holding provision will remain on the balance of the subdivision until such time as the second access and looped watermain are constructed.

5.0 Conclusion

The Applicant has entered into a subdivision agreement for this site, provided the necessary security, and are below the 80 unit threshold for a second access/looped watermain. Therefore, the required conditions have been met to remove the “h” and “h-100” holding provision. The removal of the holding provisions is recommended to Council.

Prepared by:	Nancy Pasato, MCIP, RPP Senior Planner, Development Planning
Recommended by:	Paul Yeoman, RPP, PLE Director, Development Services
Submitted by:	George Kotsifas, P. Eng. Managing Director, Development and Compliance Services and Chief Building Official
Note: The opinions contained herein are offered by a person or persons qualified to provide expert opinion. Further detail with respect to qualifications can be obtained from Development Services.	

May 17, 2019

NP/np \\CLFILE1\users-x\pdda\Shared\DEVELOPMENT SERVICES\4 - Subdivisions\2018\H-8983 - 146 Exeter Road (NP)\DRAFT H-8983 Richardson Phase 1a removal of holding.docx

CC: Matt Feldberg, Manager, Development Services (Subdivisions)
Lou Pompilii, Manager, Development Services - Planning
Ismail Abushehada, Manager, Development Services - Engineering

Previous Reports and Applications Relevant to this Application

December 12, 2016 - Report to Planning Committee to recommend approval of the draft plan of subdivision and associated zoning by-law amendments (39T-15501/Z-8470)

January 21, 2019 – Report to Planning Committee to rezone a portion of land (Block 30 and portion of Block 31, 39T-15501) within a draft plan of subdivision by adding an additional Residential (R7) Zone to permit a long term care facility in addition the existing range of residential uses permitted. (Z-8969)

April 15, 2019 - Report to Planning and Environment Committee on Special Provisions for the Subdivision Agreement (39T-15501)

Appendix A

Bill No. (number to be inserted by Clerk's Office)
2019

By-law No. Z.-1-19_____

A by-law to amend By-law No. Z.-1 to rezone an area of land located on a portion of 146 Exeter Road (Richardson Subdivision, 39T-15501, Lots 1-6, 19-42).

WHEREAS Sifton Properties Limited has applied to remove the holding provision from the zoning of the lands located on a portion of 146 Exeter Road (Richardson Subdivision, 39T-15501, Lots 1-6, 19-42), as shown on the map attached to this by-law, as set out below;

AND WHEREAS it is deemed appropriate to remove the holding provision from the zoning of the said lands;

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 on a portion of 146 Exeter Road (Richardson Subdivision, 39T-15501, Lots 1-6, 19-42), as shown on the attached map, to remove the holding provisions so that the zoning of the lands as a Residential R1 Special Provision (R1-4 (29)) Zone comes into effect.
2. This by-law shall come into force and effect on the day it is passed.

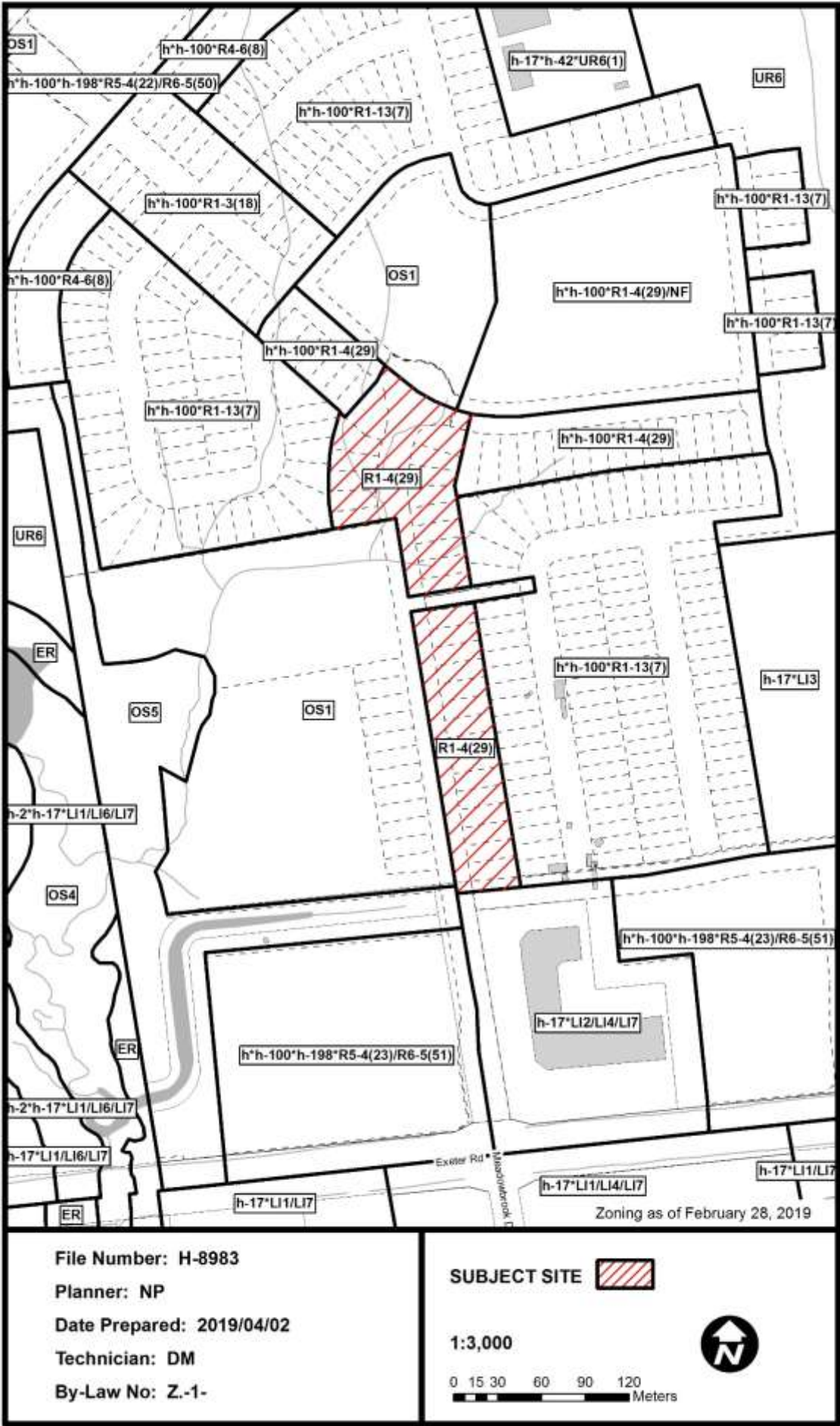
PASSED in Open Council on June 11, 2019.

Ed Holder
Mayor

Catharine Saunders
City Clerk

First Reading – June 11, 2019
Second Reading – June 11, 2019
Third Reading – June 11, 2019

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



Geobase

Report to Planning and Environment Committee

To: Chair and Members
Planning & Environment Committee
From: John M. Fleming
Managing Director, Planning and City Planner
Subject: Closed School Sites: Evaluations and Approach (18 Elm Street and 1958 Duluth Crescent)
Meeting on: May 27, 2019

Recommendation

That, on the recommendation of the Managing Director, Planning and City Planner, the following actions be taken with respect to the letters of interest from the London District Catholic School Board for the surplus school sites at 18 Elm Street and 1958 Duluth Crescent:

- (a) That the City of London **TAKE NO ACTION** in response to the letters of interest from the London District Catholic School Board (LDCSB) for the two surplus school sites;
- (b) That this report **BE CIRCULATED** to the Housing Development Corporation London; and,
- (c) That this report **BE RECEIVED** for information.

IT BEING NOTED that the Housing Development Corporation, London (HDC), as the delegated Service Manager for new affordable housing, will be expressing an interest in these lands for the purpose of providing affordable housing and accommodating suitable parkland to meet municipal needs.

IT BEING FURTHER NOTED that the Board of the HDC has authorized its participation in this expression of interest.

Executive Summary

- In March 2019, the London District Catholic School Board advised the City that it had identified two school properties as surplus and available for potential acquisition.
- Public agencies are to identify their interest to the school board before June 13, 2019.
- The school board will negotiate a land sale with public agencies expressing interest, based on the agencies' ranking (per O. Reg. 444/98). If no public interest is received then the properties will be put up for sale to the private market.
- In accordance with Council's "Surplus School Site Evaluation and Acquisition Policy", an administrative review team has evaluated each property for potential use as the identified municipal purposes: affordable housing, parkland, and community facilities.
- The review has identified municipal needs for affordable housing and park land.
- City of London City Planning and Parks and Recreation Staff have collaborated with the Housing Development Corporation to consider a high level development concept for each site that establishes the amount and configuration of parkland that will be required. It is important to recognize that development proposals for these lands will need to go through the full develop approvals process.

- The HDC, as the delegated Service Manager, will respond to the expression of interest for these lands for the purposes of affordable housing and accommodating parkland to satisfy specific municipal needs. The HDC will negotiate the acquisition(s) with LDCSB for each property and the HDC will provide the necessary financing to support the acquisition(s).
- Pending any required changes identified through the development approvals process, the City will acquire, from the HDC, the amount and configuration of parkland identified in the concept plans for these sites. Such acquisition will be achieved through parkland dedication from the development approvals process and/or parkland purchase at the same cost per hectare paid by the HDC in acquiring these lands from the school board.

Analysis

1.0 Surplus School Sites

1.1 Background

At its meeting on February 4, 2019, the London District Catholic School Board (LDCSB) determined that two (2) school sites are surplus to the school board’s needs based on the results of an accommodation review. The two sites available for disposition are:

- 18 Elm Street (Holy Cross Catholic Elementary School); and
- 1958 Duluth Crescent (St. Robert Catholic Elementary School).

Under Ontario Regulation 444/98 of the *Education Act*, school boards are required to offer surplus school properties to public agencies, including municipalities and Service Managers, prior to offering a land sale to the private market. If more than one public agency expresses an interest in a property, the school board will negotiate the land sale with the highest ranking public agency (per O. Reg. 444/98).

Letters of offer notifying the City that the two properties are available for a potential acquisition were sent by the LDCSB on March 13, 2019 (See Appendix “A” for letters). A response back to the school board regarding each property is required before June 13, 2019. The required responses are to indicate whether or not there is City interest in acquiring the properties. Negotiations to finalize the conditions for a land sale have a separate timeline of an additional ninety days.

Civic Administration and the Housing Development Corporation have completed an evaluation of each site, in accordance with Council’s “Surplus School Site Evaluation and Acquisition Policy”. This report summarizes the evaluations based on the three identified municipal needs of affordable housing, parkland, and community facilities, and recommends that the City not indicate an interest in acquiring these lands, noting that the HDC, as the delegated Service Manager for new affordable housing, will be indicating to the London District Catholic School Board that it has an interest in these lands.

1.2 Sites at a Glance

1.2.1 18 Elm Street (Holy Cross Elementary)

18 Elm Street is a rectangular-shaped, 1.94 acres (0.79 hectare) property located in the Hamilton Road district of the city. The property is located mid-block and under *The London Plan* is in the Neighbourhoods Place Type on a “Neighbourhood Street”, adjacent to the Urban Corridor Place Type of Hamilton Road. In the 1989 Official Plan the property is in the Low Density Residential (LDR) designation.



Figure 1: Aerial photo of 18 Elm Street

1.2.2 1958 Duluth Crescent (St. Robert Elementary)

1958 Duluth Crescent is an irregular-shaped, 5.39 acre (2.18 hectares) property located in the Argyle district of the city. Under *The London Plan* the site is in the Neighbourhoods Place Type, with frontage onto a “Neighbourhood Connector” class of street (Admiral Drive) as well as a “Neighbourhood Street” (Duluth Crescent). In the 1989 Official Plan the property is in the Low Density Residential (LDR) designation.



Figure 2: Aerial photo of 1958 Duluth Crescent

2.0 Evaluations and Recommendation

2.1 Evaluation

Both of the surplus school sites at 18 Elm Street and 1958 Duluth Crescent have been evaluated for potential acquisition to meet one or more of the identified municipal needs. The evaluations are for municipal needs as: (1) affordable housing (noting that this municipal need is evaluated first); (2) a community facility such as a community centre; and (3) as parkland.

The evaluation found that both sites meet the criteria for acquisition for the municipal purposes of affordable housing and some parkland.

2.2 Affordable Housing Evaluation

The closed school site evaluation team includes the Housing Development Corporation, London. The HDC is the “Service Manager” for development of new affordable housing under authority delegated by Council. The HDC is an arms-length City agency that acts as a tool to deliver housing that satisfies the municipal need for affordable housing and works in partnership with the City.

Both 18 Elm Street and 1958 Duluth Crescent are sites required to meet the municipal need for the development of affordable housing units. These two surplus school sites meet the criteria for affordable housing sites, including that they:

- Are located within the Urban Growth Boundary;
- Are appropriate to meet the community need for affordable housing;
- Would support and provide for regeneration and redevelopment opportunities;
- Are in proximity to community amenities and services as well as infrastructure (including public transit); and,
- Are not constrained for redevelopment and regeneration by features such as pipelines, utility corridors or significant environmental features.

2.3 Parkland Evaluation

Acquisition of both 18 Elm Street and 1958 Duluth Crescent would also help to satisfy parkland objectives of the city.

The lands bounded by Hamilton Road, Trafalgar Street and Highbury Avenue contain over 725 housing units, but have no convenient neighbourhood level parkland. The *Planning Act* ratio for parkland is 1Ha / 300 units. Land at 18 Elm Street is desired for park use because the existing surrounding urban and neighbourhood parks accessible to the community are either further than the “walkable service radius” of 800 metres or require crossing of a major street. Acquisition of only a portion of 18 Elm Street for park uses could permit the use of most of the former school lands for housing. Additional parkland acquisition opportunities are anticipated within this neighbourhood in the future.

A portion of 1958 Duluth Crescent is warranted as parkland in order to maintain pathway connections through the neighbourhood (such as the existing pathway connecting St. Robert school grounds to Garland Crescent to the north), and in order to maintain some of the existing public amenity and green space that is associated with the St. Robert school grounds. It is important to note that while school board properties are not considered a municipal park or recreation facility, these sites often function as *de facto* community green space areas for their surrounding neighbourhoods. Also, a small area of homes on Duluth Crescent and Crystal Crescent are outside of the 800m distance to local parks.

City of London City Planning and Parks and Recreation Staff have collaborated with the Housing Development Corporation to consider a high level development concept for each site that establishes the amount and configuration of parkland that will be required. It is important to recognize that development proposals for these lands will need to go through the full development approvals process.

2.4 Municipal Community Facility Evaluation

Both of the surplus school sites have also been evaluated for their potential as a City community facility. The community facility evaluation is based on a real estate evaluation, a service delivery evaluation, and an accessibility evaluation.

The real estate criteria takes into consideration the size of a site and constraints to development. The service delivery component takes into consideration the potential for encroachment upon the service area of existing community facilities and any service gaps for the population living in proximity to the site. The accessibility component considers access to the sites based on public transit and bicycle routes, number of students and older adults within a 15 minute walk, and the city's total population in proximity to the site.

Based upon the City's community facility evaluation, neither of these two properties are recommended for a City acquisition for a municipal community centre.

Notwithstanding that no City community facility is required, the HDC may solicit interest in partnerships from non-profits or other community partners as part of its acquisition

submission to the school board.

3.0 Conclusion: Approach to Meet Municipal Needs

The evaluation of 18 Elm Street and 1958 Duluth Crescent, undertaken in accordance with Council’s “Surplus School Site Evaluation and Acquisition Policy”, has concluded that there is a municipal need for both sites for both affordable housing and parkland.

In order to acquire these lands for the two identified municipal needs, the HDC London will be the respondent to each of the School Board’s “letters of interest”. This approach recognizes that Council has delegated authority to the HDC as a “Service Manager” for the City’s development of affordable housing units, and as such Council is exercising its interest in these sites through the HDC.

If the HDC is the highest ranking public agency identifying interest in the two sites, the school board will enter into a land sale negotiation with the HDC for each property and the HDC will provide the necessary financing to support the acquisition(s) and any other related costs (e.g. ongoing holding costs). The City will not contribute financially to the acquisition(s), but if the HDC is successful, the City will acquire, from the HDC, the amount and configuration of parkland identified in the high level concept plans developed for these sites (pending any required changes identified through the development approvals process). Such parkland acquisition will occur through a combination of parkland dedication from the development approvals process and parkland purchase at the same cost per hectare that is paid by the HDC in acquiring these lands from the School Board.

The redevelopment and regeneration process will ensure that overall objectives of affordable housing, parkland, and key directions of *The London Plan* are implemented.

Subsequent reports will be brought to Council with the results of the London District Catholic School Board’s disposition of these surplus school sites.

Acknowledgements: This report and site evaluations were prepared with assistance from: Kimberly Wood, Development Manager, HDC London; Brian Turcotte, Development Manager, HDC London; Stephen Giustizia, CEO, HDC London; Bill Warner, Manager, Realty Services; Andrew Macpherson, Division Manager, Parks Planning and Operations; Alan Dunbar, Manager, Financial Planning and Policy; Kyle Murray, Director, Financial Planning and Business Support; Tim Wellhauser, Division Manager, Facilities; Donna Baxter, Manager, Policy and Planning Support (NCFS); Dave Purdy, Manager, Housing Services.

Prepared by:	Travis Macbeth, MCIP, RPP Policy Planning, Long Range Planning and Sustainability
Submitted by:	Gregg Barrett, AICP Manager, Long Range Planning and Sustainability
Recommended by:	John M. Fleming, MCIP, RPP Managing Director, Planning and City Planner
Note: The opinions contained herein are offered by a person or persons qualified to provide expert opinion. Further detail with respect to qualifications can be obtained from Planning Services	

May 1, 2019
TM/tm

Y:\Shared\policy\CITY INITIATED FILES\Neighbourhood School Strategy (File 17 CLO) - School Closures\Closed School Site Evaluations\May 27, 2019 PEC - Duluth Cres. and Elm St\May 27, 2019 PEC - Duluth Crescent and Elm Street_ LDCSB.docx

Appendix A

Letters of Interest for 1958 Duluth Crescent and 18 Elm Street



CATHOLIC EDUCATION CENTRE
5200 Wellington Road S. London, Ontario N6E 3X8 Canada
T 519-663-2088 F 519-663-9250

March 13, 2019

Cathy Saunders
City Clerk
City of London
300 Dufferin Avenue, PO Box 5035
London, Ontario
N6A 4L9

Dear Cathy Saunders:

**Re: St. Robert Catholic Elementary School
1958 Duluth Crescent, London, ON**

Under Regulation 444/98 of the Education Act, the London District Catholic School Board is required to offer surplus school property to specified public agencies. You are one of those agencies.

At its regular meeting on February 4, 2019, the Board determined that St. Robert Catholic Elementary School, located at 1958 Duluth Crescent, London, Ontario, is no longer required. The property is 5.39 acres in size and has a one-storey building with a gross floor area of 33,584 square feet containing 15 regular classrooms, a general purpose room, and a library (see location map attached). Accordingly, the Board is offering the property at fair market value to you and other agencies listed in Regulation 444/98. If more than one agency expresses an interest in the property, the Board is required to convey the property to the highest ranking agency as per the priority ranking specified in the regulation.

If your agency wishes to acquire the property at fair market value, you must provide a written letter of interest to my attention **before June 13, 2019**.

All offers will be subject to the approval of the Board of Trustees and the Ministry of Education.

Yours truly,

A handwritten signature in black ink that reads "Jacquie Davison".

Jacquie Davison
Superintendent of Business
London District Catholic School Board
(519) 663-2088, ext. 43602
Email: jdavison@ldcsb.ca

Inspired by Christ. Learning together. Serving together.

Location Map

St. Robert Catholic Elementary School
1958 Duluth Crescent, London, ON





CATHOLIC EDUCATION CENTRE
5200 Wellington Road S. London, Ontario N6E 3X8 Canada
T 519-663-2088 F 519-663-9250

March 13, 2019

Cathy Saunders
City Clerk
City of London
300 Dufferin Avenue, PO Box 5035
London, Ontario
N6A 4L9

Dear Cathy Saunders:

**Re: Holy Cross Catholic Elementary School
18 Elm Street, London, ON**

Under Regulation 444/98 of the Education Act, the London District Catholic School Board is required to offer surplus school property to specified public agencies. You are one of those agencies.

At its regular meeting on February 4, 2019, the Board determined that Holy Cross Catholic Elementary School, located at 18 Elm Street, London, Ontario, is no longer required. The property is 1.94 acres in size and has a three-storey building with a gross floor area of 26,995 square feet containing 12 regular classrooms, a general purpose room, and a library (see location map attached). Accordingly, the Board is offering the property at fair market value to you and other agencies listed in Regulation 444/98. If more than one agency expresses an interest in the property, the Board is required to convey the property to the highest ranking agency as per the priority ranking specified in the regulation.

If your agency wishes to acquire the property at fair market value, you must provide a written letter of interest to my attention **before June 13, 2019**.

All offers will be subject to the approval of the Board of Trustees and the Ministry of Education.

Yours truly,

A handwritten signature in black ink that reads "Jacquie Davison".

Jacquie Davison
Superintendent of Business
London District Catholic School Board
(519) 663-2088, ext. 43602
Email: jdavison@ldcsb.ca

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Location Map

Holy Cross Catholic Elementary School
18 Elm Street, London, ON



Appendix B

Additional Reports

October 9, 2019 “Neighbourhood School Strategy – Evaluation and Acquisition of Surplus School Sites,” Planning and Environment Committee.

Report to Planning and Environment Committee

To: Chair and Members
Planning & Environment Committee
From: John M. Fleming, MCIP, RPP
Managing Director, Planning and City Planner
Subject: Bill 108 – More Homes, More Choice Act, 2019
Meeting on: May 27, 2019

Recommendation

That, on the recommendation of the Managing Director, Planning and City Planner, the following actions be taken with respect to Bill 108 – More Homes, More Choice Act, 2019:

- (a) This report, entitled “Bill 108 – More Homes, More Choices Act, 2019 Update Report” **BE RECEIVED** for information;
- (b) This report **BE FORWARDED**, with a cover letter, to the Ministry of Municipal Affairs and Housing for consideration in response to the Environmental Registry of Ontario (ERO) posting of the proposed regulation, noting that the comment period is from May 2, 2019 to June 1, 2019; and

IT BEING NOTED that as of May 14, 2019, Bill 108 was in debate at Second Reading and **IT BEING FURTHER NOTED** that Staff will report back to Council with any further information on legislative changes arising from this Bill.

Executive Summary

This report contains an overview of changes proposed through Bill 108, More Homes, More Choices Act, 2019. The proposed Bill would amend 13 other Acts, including the *Development Charges Act, 1997*, the *Endangered Species Act, 2007*, the *Local Planning Appeal Tribunal Act, 2017*, the *Ontario Heritage Act*, and the *Planning Act*.

Significant concerns with the proposed legislation include:

- Decreasing the timelines for the consideration of planning applications will limit the opportunity to consult with the public, contrary to recent efforts by the City to enhance opportunities for public consultation and engagement.
- Changes to the Development Charges Act would limit the municipal services eligible for funding through development charges and may significantly impact the City’s ability to recover growth-related costs.
- Removing bonus zoning as a tool for cities to acquire facilities, services and matters in favour of greater height and density allowances through Section 37 of the Planning Act and creating a new Section 37 that would allow the establishment of a community benefits charge to fund the provision of “soft services” such as libraries, affordable housing and parkland.
- Limitations on parkland dedication when a community benefits charge by-law is adopted will have an impact on the City’s ability to secure parkland with new development.
- Permitting, as-of-right, up to two secondary dwelling units in association with any single detached, semi-detached or rowhouse dwelling unit may introduce significant compatibility and fit issues in existing neighbourhoods, representing inappropriate forms of intensification.
- Permitting “de novo” hearings before the Local Planning Appeal Tribunal, reduces the weight of Council’s decisions on planning matters and allows for new information to be raised at an LPAT hearing that is not heard or considered by Staff, the community or Council through the planning application review process.

- Limiting the inclusionary zoning to identified protected major transit station areas or as part of a development permit system will potentially limit areas where this tool to provide affordable housing may be used.

The Ministry of Municipal Affairs and Housing is receiving comments on Bill 108’s proposed changes until June 1, 2019.

Analysis

1.0 Background

The Minister of Municipal Affairs and Housing introduced Bill 108, *More Homes, More Choice Act, 2019* on May 2, 2019. The Bill proposes a number of amendments to 13 different statutes including the *Planning Act*, the *Local Planning Approval Tribunal Act*, and the *Development Charges Act*. Bill 108 proposes to repeal many of the amendments that were introduced in 2017 through Bill 139, the *Building Better Communities and Conserving Watersheds Act, 2017*.

The intention of Bill 108 is to address the housing crisis in Ontario by minimizing regulations related to residential development through changes to various Acts related to the planning process, including reducing fees related to development by reducing the number of services that may be subject to development charges and shortening the timelines for the approval of many planning applications. Bill 108 passed the First Reading stage on May 2, 2019 and has been debated at the Second Reading stage on May 8, 9, 13, and 14 2019.

This report is an overview of Bill 108, including a description of the range of the proposed amendments related to planning and development including:

- The *Planning Act*
- The *Local Planning Approval Tribunal Act*
- The *Ontario Heritage Act*
- The *Development Charges Act*
- The *Conservation Authorities Act*
- The *Environmental Assessment Act*
- The *Endangered Species Act*

This report will be forwarded to the province, together with a summary cover letter, to express Council’s concerns with Bill 108, while it is open for input through the EBR process.

2.0 Proposed Changes, Considerations and Concerns

2.1 Significantly Reduced Timelines for Council Decisions on Planning Matters (including planning applications)

Bill 108 proposes significant reductions in timelines for a variety of planning application types. This will reduce Council’s opportunity to engage the public in such applications and may also lead to more appeals to the LPAT, based on a non-decision within the prescribed timeline, moving the decision-making on such applications to the LPAT rather than at the Municipal Council level.

- Zoning Bylaw Amendments: The current timeline is 150 days. Through Bill 108, it would be reduced to 90 days, a reduction of approximately 2 months.

- Official Plan Amendments: The current timeline is 210 days. It is proposed to be lowered to 120 days, a reduction of approximately 3 months.
- Zoning Bylaw Amendments with Official Plan Amendments: The current timeline is 210 days. It is proposed to be reduced to 120 days, a reduction of approximately 3 months.
- Subdivisions: The current timeline is 180 days. It is proposed to be reduced to 120 days, a reduction of approximately 2 months.

Section	Proposed changes	Concerns or issues	Recommendations
S. 17, 22, 24	Timeline for official plans and amendments reduced to 120 days.	Reduced timelines can compress or streamline the review of applications and make decisions based on limited information. Compressed timelines also limit opportunities for public consultation.	Retain the current timelines for decisions to encourage a more open and consultative decision process.
S. 34, 36	Timeline for zoning by-laws and amendments reduced to 90 days.		
S. 51	Timeline for plans of subdivision reduced to 120 days.		

2.2 Major Changes to the Recently Created LPAT (Local Planning Appeals Tribunal)

Bill 108 proposes significant amendments to the practice and procedure of the Local Planning Appeal Tribunal (LPAT) set out in Part VI of the LPAT Act. Recent changes meant that Council’s decisions carried more weight and appeals to such decisions were limited to arguments relating to non-conformity with the City’s Official Plan or non-conformity with the Provincial Policy Statement. This opens Council’s decisions on planning matters up to a much wider range of appeals. It also opens the door to new evidence being submitted at LPAT hearings that wasn’t considered at the Council decision stage. This raises concerns that applicants may hold back information through the planning process, only to raise such information at the LPAT hearing stage, when the public and Council are no longer involved.

- Replacement of a two-step appeal process with a single (“de novo”) hearing where the Tribunal would have the power to make final determinations on appeals;
- Hearings are to be “de novo”. New information not reviewed by Council as part of its decision on a planning matter may be presented at the Tribunal
- Third party appeals on non-decisions that are now open to anyone who provides written or oral submissions through the planning process will be restricted.
- Tests in deciding whether an appeal should be heard will no longer be limited to non-conformity to the Provincial Policy Statement and the City’s Official Plan.
- New power for the Tribunal to require mediation or other dispute resolution processes by parties in specific circumstances;
- New ability for the Tribunal to limit any examination or cross-examination of witnesses and consider new evidence at hearings;
 - Limitation of submissions by non-parties to a proceeding before the Tribunal to written submissions only;

New subsection 43.1 sets out transitional regulations respecting Planning Act appeals.

Bill 108 also proposes significant amendments to the Tribunal’s powers prescribed in the *Planning Act* to:

- Broaden the jurisdiction of the Tribunal over planning matters (e.g. official plans, zoning by-laws and amendments) and authorize the Tribunal to make final determinations on appeals of such matters;

- Provide the Tribunal with authority to dismiss all or part of an appeal without hearings;
- Limit the right of third party to appeal approval authority decisions of plans subdivision and non-decisions of official plans and amendments

Section	Proposed changes	Concerns or issues	Recommendations
OPA: S. 17 (45), S. 34 (25), (26), S. 51 (53) OHA: S. 29 (15) - (17)	Two-step appeal process is replaced by a single hearing. LPAT has a new power to make final determinations on planning matters (or designation of heritage properties), without having to send decisions back to municipal councils for a second decision.	The LPAT will override municipal decisions regardless of Council's position on the development file. - weakens municipal decision-making authority.	Retain the current two-step appeal process so municipalities maintain their powers to make final decisions.
S. 38-42 (repealed)	The LPAT is no longer bound to consider appeals based on consistency with provincial plans and policy and conformity with official plans.	LPAT decisions could fail to achieve the goals of provincial or official plans.	Retain the current grounds for appeals to ensure that applications/appeals are consistent with provincial plans and conform to official plans.
S. 17 (40), S. 51 (39), (43), (48.3)	Any person or public body can no longer appeal decisions made by an approval authority for plans of subdivision and non-decisions for official plan amendment applications. Certain public bodies can appeal decisions.	Removes the right of certain persons to appeal a decision of the Tribunal.	Retain the right of appeal for those who participate in the planning approval process.

2.3 Major Restrictions on Application of Inclusionary Zoning

Bill 108 proposes that inclusionary zoning would be permitted in only two specified areas:

- protected major transit station areas; and
- areas that are subject to a development permit system, established by an order of the Minister of Municipal Affairs and Housing in accordance with amended subsection 70.2.2 (1).

This represents a major step “backwards” from the current legislation, and significantly restricts municipality’s ability to apply inclusionary zoning to increase the supply of affordable housing.

Section	Proposed changes	Concerns or issues	Recommendations
S. 16 (5)	Inclusionary zoning would be limited to areas around protected	Inclusionary zoning provisions can only be	Extend applicable areas to permit the use of inclusionary zoning in

	major transit station and development permit system areas.	utilized in limited situations.	other areas of the municipality where a development permit system is not in place.
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2.4 Secondary Dwelling Units

A secondary dwelling unit is currently permitted in any single detached house, semi-detached house or rowhouse **OR** in a building ancillary to any single detached house, semi-detached or row house. Through Bill 108 a secondary dwelling unit would be permitted in any single detached house, semi-detached house, or rowhouse **AND** in an ancillary building. This would allow for two permitted secondary dwelling units. Bill 108 proposes to make it easier to provide additional units in a house. This could permit up to 2 secondary dwelling units in addition to the primary unit.

Allowing for two secondary dwelling units for any residential unit (single, semi or row) as-of-right, without any zoning amendment application process, could introduce a variety of planning compatibility and fit issues in existing neighbourhoods, without a process to evaluate appropriateness within a given context .

2.5 The Ontario Heritage Act

Proposed amendments to the *Ontario Heritage Act* are to:

- Establish “prescribed principles” that shall be considered by municipalities when making decisions under Part IV or V of the Act;
- Provide for new timeframes for notices and decisions that are open-ended under the current Act. These timeframes include:
 - 60 day timeline to notifying property owners of whether their applications for alteration and demolition are complete;
 - 90 day timeline for municipalities to issue a notice of intention to designate a property as having cultural heritage value or interest, when certain events as prescribed by regulation have occurred; and
 - 120 day timeline for passing a designation by-law after the municipality issues the notice of intention to designate;
- Provide for notice to property owners when a property is included in a heritage register;
- Enable property owners to object to the inclusion of a property in a heritage register, considered by municipalities or council;
- Allow appeals of municipal decisions on designation and alterations to heritage properties to LPAT for a binding decision instead of a non-binding recommendation made by the Conservation Review Board;
- Deem applications for alteration or demolition to be approved if a municipality fails to make a decision within the specific time period

Section	Proposed changes	Concerns or issues	Recommendations
S. 26.0.1, S. 39.1.2	Introduction of “prescribed principles”	“Prescribed principles” are unclearly provided.	Clearer introduction of “prescribed principles” is needed.
S. 27 (7)	Notice requirements to property owners with appeal rights to municipal councils	No time limit by which a property owner must appeal or basis of appeal is not set out.	If the process is amended as proposed in Bill 108, a timeline should be included.
S. 27 (9)	Restriction on demolition, requiring 60 days’ notice in writing of the owner’s intention to demolish or remove the building.	Does not include provisions by which a property owner may withdraw their notice of intent to demolish	Provide opportunity for landowner to withdraw their notice of intent to demolish.

		pursuant to subsection 27 (9).	
S. 29 (11) - (18)	Designations can be appealed to LPAT, who are empowered to overrule municipal decisions.	LPAT has no heritage knowledge or expertise to adjudicate cultural heritage matters including designations.	Decisions should be considered by heritage experts, such as the Conservation Review Board. Increased ability of the board or municipal council to make decisions. A “two-step” appeal process should be introduced. The appeal may go first to municipal council and then to LPAT.
S. 29 (8) 1	New timeframes for notices and decisions are set out: 60 days for notifying property owners of their complete applications; 90 days for issuing a notice of intention to designate a property as having cultural heritage value; and 120 days for passing a designation by-law after the notice of intention was published.	Short timelines can compress a decision approval process and fail to provide greater certainty about decisions (or intention of designation) as well as about a designation by-law.	Retain current timelines.
S. 29 (1.2)	Limitation of municipal council’s ability to issue its notice of intent to designate a property under Part IV after 90 days from a “prescribed event”	“Prescribed event” is not clearly defined. The time extent of beyond after 90 days have elapsed from a prescribed event is unclear. The limitation could result in the loss of cultural heritage resources.	Repeal subsection 29 (1.2) to revise the ability of a municipal council on designating a property as having cultural heritage value.

2.6 The Environmental Assessment Act

Proposed amendments to the Environmental Assessment Act include:

- The allowance of exemptions of certain types of lower-impact infrastructure improvements that fall under Class EAs. Exemptions include some municipal projects, such as streetscape improvements.
- Changes to amending an approved class EA. The Minister may only amend an approved class EA if the public is given notice and comment, if the Minister gives written reasons, and if the amendment is consistent with the purpose of the act and public interest.
- A reduction of the ability for the Minister to order a proponent to comply with Part II of the Act or impose additional conditions. A Minister can only carry out the above to mitigate impacts on existing Aboriginal treaty rights, or if a matter is prescribed as one of provincial importance.

2.7 Development Permit System

The proposed amendments to the development permit system would authorize municipalities to adopt or establish a development permit system that applies to a specified area or to an area surrounding and including a specified location.

2.8 The Conservation Authorities Act

Proposed amendments to the *Conservation Authorities Act* include:

- A description of a Conservation Authority’s primary and mandatory services, which are meant to pertain primarily to natural hazard protection, conservation of lands controlled by the Authority, water source protection under the *Clean Water Act, 2006*, other duties that will be prescribed by later regulations
- A new subsection stating that Conservation Authorities can provide municipal programs and services only through an agreement with a municipality.
- A new requirement for Conservation Authorities to enter into a memorandum of understanding with municipalities, thereby standardizing their power in municipal planning. It must be reviewed periodically.

2.9The Endangered Species Act

Bill 108 proposed amendments to the *Endangered Species Act* to:

- Extend the timeframe for regulation response to 12 months after receiving a report from COSSARO classifying the species. Authorize an additional 12 month regulation response delay should the Minister recommend that COSSARO reconsider the initial classification.
- Authorize additional increased delays of up to three years for newly listed Endangered and Threatened species protections to come into force.

Section	Proposed changes	Concerns or issues	Recommendations
S. 7.4, 8.3, 8.4	Extending the existing three month response timeframe to 12 months in addition to a Minister reconsideration request, extending response a further 12 months.	Species listing consideration timeframes extending from 3 to 24 months. Delaying listing postpones species and habitat protection, endangering finite species populations.	The current three month response regulation limits delays to species protections and provides the government with review and consideration time. Increased funding to implement the existing Endangered Species Act (ESA) will limit permitting and response delays.
S. 8.1	When a species is listed as Endangered or Threatened for the first time, the Minister may suspend all or some of the prohibitions in subsection 9.1 and 10.1 for up to three years.	A potential five year delay from the first recommendation of Committee on the Status of Species at Risk in Ontario (COSSARO) will further undermine species and habitat protection in Ontario.	The current ESA provides permitting options for developers to contravene S.9 and S.10 of the ESA. Delaying protections recommended by COSSARO scientists puts sensitive species at risk.

		It is not clear how changing taxonomic groups will be impacted by these changes.	
S. 8.2	During the first year that a species is listed on the SARO List, exclusion permits are available for proponents to proceed with activities previously permitted before the listing, suspending prohibitions for up to three years.	It is not clear if this three year delay is in addition to the three year delay offered in S 8.1.	<p>Immediate protection of species added to the Species at Risk in Ontario (SARO) List is in the best interest of maintaining sensitive species populations.</p> <p>Delaying protections recommended by COSSARO scientists puts these species and habitats at risk.</p>
S. 9.1.2 to 9.1.4	New subsections would allow the Minister to regulate the application of the ESA, by means of geography or developmental stage.	Current Endangered and Threatened status applies to all listed species at all life stages across the entire province. This proposed change has implications to ecological life cycles and politically driven ESA regulation rather than science driven regulation (e.g., the Spiny Softshell Turtle could have protection reduced to breeding adults, undermining population cycles).	<p>Protection of species added to the SARO List at all life stages and in all geographic locations supports species populations over time.</p> <p>The proposed changes could undermine Species at Risk (SAR) recovery efforts within the City of London, particularly with regard to developmental stage protection limitations.</p>
S. 16.1	The proposed Section 16.1 allows the Minister to engage in landscape agreements which allow activities to harm one or more SAR species, provided that the proponent executes 'beneficial actions' which assist in the recovery or protection of one or more SAR species.	<p>Species identified for recovery or protection are not required to be the same as those that will be harmed by the proposed activities.</p> <p>Flexibility to provide landscape level conservation.</p> <p>Potential exists to destroy species of higher listing status in exchange for conservation measures of species with lower listing status.</p> <p>Geographic divisions are concerning given the importance of genetic communities of species at the limits of their range for maintaining genetic</p>	<p>The City of London supports landscape level conservation efforts that currently exist within the ESA.</p> <p>The proposed changes could undermine SAR recovery efforts within the City, trading the benefit of one SAR species for another.</p>

		diversity and promoting species persistence.	
S. 18	Section 18 is re-enacted to provide that the person authorized to engage in the regulated activity may carry out the activity, despite section 9 or 10, provided certain conditions are met to allow activities that are regulated under other Ontario legislation or under federal legislation to proceed.	Providing further exemptions for provincially and federally regulated activities is concerning as these activities already receive exemptions through permitting and 2013 changes to the ESA.	The City of London supports the protection of species added to the SARO List regardless of the regulating authority for the activities which may pose harm to them.
S. 20.1-20.18	New Sections 20.1 to 20.18 establish a SAR Conservation Fund and an associated Agency to Manage the Fund. Payments will be obtained through the Act as a condition of a permit to proceed with activities that would be prohibited under Section 9 of 10.	<p>This could be interpreted as permitting 'Pay to Destroy'</p> <p>It is unclear if the program intends to result in 'no net loss' or 'net gain'.</p> <p>It is unclear if the outcomes required will be the same duration/magnitude as the negative impacts.</p> <p>It is unclear if developers will be required to avoid and minimize impacts before proceeding with payment-in-lieu.</p> <p>It is unclear if the fund will be used for on-the-ground activities that benefit SAR and their habitats, or if funding studies and research be sufficient.</p> <p>It is unclear if the fund will be directed by scientists or politicians.</p>	Suitable species habitat conditions can be extremely complex and rarely fully understood, such that restoration and replication efforts are not preferred to maintaining existing habitat.
S. 27.1	The new section proposes to provide the Minister with the power to stop an activity that is harming a species on the SARO List (END or THR only) if the prohibitions in	<p>The threshold required for the Minister to stop work is described as 'Significant adverse effect' on a species. This term is not defined.</p> <p>The Minister may order the suspension of an</p>	Conservation efforts could be assisted by this change, as it provides the Minister with greater power to stop work on activities damaging to SAR species.

	sections 9 and 10 do not apply and the species is being negatively impacted by the activities.	activity based on COSSARO reports that have not yet come into force.	This change is not necessary should the other changes proposed in Bill 108 not proceed, as sections 9 and 10 afford protection to species in the absence of Minister intervention.
S. 55, 56 and 57	Re-enacted regulation powers for the Lieutenant-Governor and Minister of the MECP, providing blanket authority to make exemptions or prescribe conditions to most areas of the ESA including limiting geographic areas, timing windows, requiring species conservation charges for a conservation fund species, requiring monitoring of effects to a specified species and taking steps to minimize the effects of the activity onto a given species.	Provides a political basis to undermine species protections.	Conservation efforts based on science and in support of preserving SAR species are preferred to politically driven regulation exemptions.

2.10 Major Changes to the Development Charges Act – Restricting What Growth Costs Can be Recovered Through a Development Charges By-law

Bill 108 proposes significant amendments to the *Development Charges Act*. Certain formerly eligible development charge rate components are proposed to be incorporated in a community benefits charge by-law under the *Planning Act* changes. These amendments to the *Development Charge Act* are proposed to:

- Further exempt secondary units in new residential developments from development charges (exempt both a secondary dwelling unit located in a house and a secondary dwelling unit located in an ancillary structure);
- Eliminate the current 10 percent reduction on capital costs for waste diversion services when determining development charges;
- Eliminate “soft services” (e.g. libraries, park and recreation, affordable housing, etc.) from development charge determination because they will be included in the new Community Benefit Charge under new section 37 of the *Planning Act*;
- Make upfront development costs more predictable by determining the amount of development charges on the date of submission of a site plan or zoning application;
- Allow municipalities to charge interest from when the development charge is determined to when a building permit is issued, with the interest rate determined by regulation;
- Allow for the payment for development charges in 6 annual instalments when occupancy takes effect for certain types of developments:
 - Rental housing;

- Institutional;
- Industrial;
- Commercial; and
- Non-profit housing;
- Freeze development charge rates applied to developments at the rate in force when an application is made for site plan or zoning approval.

New subsection 9.1 introduces transitional matters relating to community benefits under the *Planning Act*, and new subsections 51. (3.1) and (3.2) are added to set out rules for non-parties to front-ending agreements.

- Development charges for industrial, institutional and commercial construction and rental and non-profit housing would be permitted to be paid in equal installments over a period of up to 6 years.
- Development charge rates would be “frozen” at an earlier time of the process. For example, not at the building permit stage but at the site plan or zoning by-law amendment application stage.
- Second units would be further exempt from development charges.
- Soft services, such as libraries, parks, affordable housing, etc., will no longer be eligible. Development charges will be limited to:
 - Water supply services, including treatment and distribution
 - Waste water services, including sewers and treatment
 - Storm water management and drainage
 - Services related to a highway as defined in the Municipal Act (*highway” means a common and public highway and includes any bridge, trestle, viaduct or other structure forming part of the highway and, except as otherwise provided, includes a portion of a highway*)
 - Electrical power services
 - Police
 - Fire protection
 - Transit
 - Waste diversion
- Community benefit charges would replace both parkland development (infrastructure) Development Charges and parkland dedication requirements of the *Planning Act* (land).
- Community benefit charges could be applied to Zoning Bylaw Amendments, minor variances, consents, subdivisions, and building permits.

Section	Proposed changes	Concerns or issues	Recommendations
S.9.1	Transitional provisions related to proposed ineligible services and the introduction of a Community Benefits Charge By-law.	Transitional timelines are presently unclear.	More information is requested on the transition from DC By-laws under the current DC framework. A reasonable transition period is requested to ensure changes can be made to continue to recover for growth costs and avoid confusion to development proponents.
S. 2 (4)	Development charges may only be imposed for 10 identified services.	May reduce the ability of the municipality to recover for growth infrastructure costs and the principle that “growth pays for	“Soft “services now eligible as part of a community benefits charge, however, these charges are to be related to the value of

		growth”. “Soft” services such as libraries, parkland development, affordable housing, etc. not identified as being eligible as development charges.	the land subject to an application, and will be capped.
S. 26.1	Development charges are payable in equal installments for up to 5 years when a building is occupied.	May create cash flow constraints for the delivery of infrastructure within currently identified timelines, and require additional debt issuance.	Omit commercial development from the eligible types of development that may avail of deferred payments. Industrial and institutional development is generally a “base employer” that brings new jobs into a community, whereas commercial development is generally a “population-base employer” responding to growth in other sectors.
S. 26.2 (5)	Introduces elapsed time period for DC rate determination for site plans or zoning.	No specific time limit is prescribed.	“Prescribed amount of time” should be specified.

2.11 Removal of Bonus Zoning From the Planning Act and Establishment of a New Community Benefits Charge

Under Bill 108, the current Section 37 density bonusing provisions, where a municipality may authorize increases in height and density of development beyond what is permitted in a zoning by-law in return for community benefits (that is, facilities, services, or matters prescribed in the by-law), would no longer be permitted.

The proposed new Section 37 in Bill 108 replaces bonusing in its entirety with a new community benefits charge authority to allow municipalities to impose community benefit charges against land to pay for the capital costs of facilities, services and matters required because of development or redevelopment in the area to which a community benefits charge by-law applies. It is important to understand that such community benefit is simply a charge, and would not relate to planning permissions for greater height and density, as is currently the case in Section 37 of the Planning Act (Bonusing)

A community benefits charge would apply to an approval of any of the following:

- Zoning by-law or zoning by-law amendment
- Minor variance
- Conveyance of land
- Plans of subdivision and consents
- Condominium plans
- Building permit

The new section 37 provides:

- Municipalities are required to prepare and pass a community benefit charge by-law and a strategy identifying facilities, services and matters to be funded with community benefits charge;
- A new process governs municipalities' collection of community benefits charges in a special account and their use of the funds, including a mandatory requirement that a municipality spend or allocate at least 60% of the funds in a year;
- A process enabling owners to object to the value of community benefits charges applied to their land.
- Developers or land owner may provide in-kind contributions to municipality facilities, services or matters instead of payment;
- The amount of community benefit charges will be capped at a yet to be specified percentage of land value of any development sites.

Section	Proposed changes	Concerns or issues	Recommendations
S. 37	Current density bonusing provision will be replaced with new community benefits charge provisions.	<ul style="list-style-type: none">- No conditions that would allow Council to consider an increase density or height in returns for certain public facilities or matters.- Fewer community benefits will be provided.	<ul style="list-style-type: none">- The maintenance of density bonusing provisions would allow greater community benefits, including parkland development.- Introduction of community benefit charge provisions should not replace the ability of a municipality to provide an increase in height or density in exchange for public facilities or matters.
	A municipality must have only one community benefits charge by-law.	One community benefits charge by-law may not be appropriate for all areas within a municipality because of different needs for different community benefits for local areas. Also, there may be different impacts arising from different developments.	Allow a municipality to establish a community benefit charge by-law for the entire city or for specific areas, depending on the local community needs arising from the impacts of the development.
S. 37 (4)	Certain development or redevelopment is not subject to community benefit charges.	Certain types of development that will be exempted from community benefit charge are not clearly specified.	Clarify and confirm the types of development that would not be subject to community benefit charge.
S. 37 (5) 2	Some facilities, services or matters are not subject to community benefit charges.	Certain facilities, services or matters that will be exempted from the community benefit charges are not identified.	Allow municipalities the flexibility to identify or specify facilities, services or matters to address growth servicing needs that will be subject to community benefit

			charges (without duplication of those services prescribed in the <i>Development Charges Act</i>).
S. 37 (6)	Landowners are permitted to provide in-kind contributions.	No authority is proposed to enter into agreements binding on the owners	Introduce a new authority to establish agreements with owners for in-kind contributions.
S. 37 (9)	The introduction of community benefit charge strategy.	The requirements of the community benefit strategy are not identified, including timelines for by-law adoption and expiration similar to those identified in the <i>Development Charges Act</i> .	Requirements for the strategy should be clearly identified to ensure that municipalities are able to maximize the community benefit arising from the proposed development, and remains current to the forecasted needs associated with growth.
S. 37 (12)	The amount of community benefits charge is required not to exceed an amount equal to the prescribed percentage of the value of the land.	“Prescribed percentage” of the value of the land is not specified.	Prescribed percentage may not cover the full costs of the anticipated community benefits arising from the impacts of a development. Costs should be based on a study of local needs and the anticipated amount of the community benefit required to address the needs arising from growth.
S. 37 (27)	Under new community benefit charge by-law, municipalities are required to spend or allocate 60% of fund each year.	Does not allow the opportunity to establish reserve funds for large projects or developments.	New regulation for more transparent and efficient use or allocation of the funds should be added, including the recognition of funding required to pay for growth infrastructure that straddles a calendar year or is a multi-year project..

2.12 Parkland Dedication in Accordance with New Section 37 Community Benefits Charges

The introduction of the new Section 37 replaces parkland dedication in some cases. If a community benefits charge by-law is in force, parkland dedication requirements are no longer of effect. The amendments to parkland dedication provisions provide that:

- Municipalities are no longer able to require an alternative rate for parkland;
- Plans of subdivision that are approved with a condition of parkland conveyance are not subject to a community benefits charge by-law

Many amendments to subsection 51.1 of the *Planning Act* are also proposed to set out parkland conditions that may be applied to the approval of plan of subdivision in accordance with new section 37 of the Act.

Section	Proposed changes	Concerns or issues	Recommendations
S. 42	Parkland by-law is no longer in effect once a community benefit charge by-law has been passed.	Less parkland or funding to secure parkland will be provided from developers.	The provision of parkland should not be subject to the community benefit charge provisions. Parkland dedication (not parkland development) provisions of the Planning Act should be maintained.
S. 51.1	Plans of subdivision that are approved with a condition of parkland are not subject to a community benefits charge by-law.	By exercising the current authority to take parkland as a condition of approval for a plan of subdivision, a community benefit charge may not be applied.	Maintain current section 51.1 to allow municipalities to secure parkland dedication as a condition of development for plans of subdivision.

5.0 Conclusion

Bill 108, More Houses, More Choices Act, 2019, proposes significant changes to much of the legislation that applies to planning and development in Ontario. Significant changes that will have an impact in London include:

- Decreasing the timelines for the consideration of planning applications will limit the opportunity to consult with the public, contrary to recent efforts by the City to enhance opportunities for public consultation and engagement.
- Changes to the Development Charges Act that would limit the municipal services eligible for funding through development charges, potentially shifting away from the principle that “growth pays for growth”.
- Limitations on parkland dedication when a community benefits charge by-law is adopted.
- Replacing Section 37 of the Planning Act that permits bonusing with a new Section 37 that would allow the establishment of a community benefits charge to fund the provision of “soft services” such as libraries, affordable housing and parkland.
- Permitting up to two secondary dwelling units in association with any single detached, semi-detached or rowhouse dwelling.
- Permitting “de novo” hearings before the Local Planning Appeal Tribunal that would allow the consideration of material not reviewed by municipal Council
- Limiting inclusionary zoning to identified protected major transit station areas or as part of a development permit system.

It is recommended that the comments in this report be provided to the Province to meet the 30 day commenting period that ends on June 1, 2019, and that the City also request that the Province consider:

- Extend the current 30 day commenting period to allow additional time for consultation prior to the adoption of the proposed legislative changes
- Provide additional opportunities for consultation with municipalities prior to any new regulations coming into force and effect.
- Provide a transition time to the new development charge system that would recognize current or newly adopted development charge by-laws.

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<p>Note: The opinions contained herein are offered by a person or persons qualified to provide expert opinion. Further detail with respect to qualifications can be obtained from City Planning.</p>	

May 17, 2019

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Appendix A – Proposed Changes to the *Planning Act*

Appendix 1-Bill 108 Proposed Amendments to the *Planning Act*

Section	Current Policy	Proposed Amendments
S. 2.1 (1) - (2)	<p>Approval authorities and Tribunal to have regard to certain matters</p> <p>(1) When an approval authority makes a decision under subsection 17 (34) or the Tribunal makes a decision in respect of an appeal referred to in subsection 17 (49.7) or (53), 22 (11.3), 34 (26.8) or (29), 38 (4) or (4.1), 41 (12.0.1), 51 (39), (43) or (48) or 53 (19) or (27), it shall have regard to,</p> <p>(a) any decision that is made under this Act by a municipal council or by an approval authority and relates to the same planning matter; and</p> <p>(b) any information and material that the municipal council or approval authority considered in making the decision described in clause (a).</p> <p>2015, c. 26, s. 13; 2017, c. 23, Sched. 3, s. 2 (1).</p> <p>Same, Tribunal</p> <p>(2) When the Tribunal makes a decision in respect of an appeal referred to in subsection 17 (40), 51 (34) or 53 (14), the Tribunal shall have regard to any information and material that the municipal council or approval authority received in relation to the matter. 2017, c. 23, Sched. 3, s. 2 (2).</p>	<p>Approval authorities and Tribunal to have regard to certain matters</p> <p>(1) When an approval authority or the Tribunal makes a decision under this Act that relates to a planning matter, it shall have regard to,</p> <p>(a) any decision that is made under this Act by a municipal council or by an approval authority and relates to the same planning matter; and</p> <p>(b) any information and material that the municipal council or approval authority considered in making the decision described in clause (a).</p> <p>2015, c. 26, s. 13; 2017, c. 23, Sched. 3, s. 2 (1). Bill 108 Sched 12 s 1 (1).</p> <p>Same, Tribunal</p> <p>(2) When the Tribunal makes a decision under this Act that relates to a planning matter that is appealed because of the failure of a municipal council or approval authority to make a decision, the Tribunal shall have regard to any information and material that the municipal council or approval authority received in relation to the matter. Bill 108 Sched 12 s 1 (2).</p>
S. 16 (3)	<p>Second unit policies</p> <p>(3) An official plan shall contain policies that authorize the use of a second residential unit by authorizing,</p> <p>(a) the use of two residential units in a detached house, semi-detached house or rowhouse if no building or structure ancillary to the detached house, semi-detached house or rowhouse contains a residential unit; and</p> <p>(b) the use of a residential unit in a building or structure ancillary to a detached house, semi-detached house or rowhouse if the detached house, semi-detached house or rowhouse contains a single residential unit. 2011, c. 6, Sched. 2, s. 2; 2016, c. 25, Sched. 4, s. 1 (1).</p>	<p>Additional residential unit policies</p> <p>(3) An official plan shall contain policies that authorize the use of additional residential units by authorizing,</p> <p>(a) the use of two residential units in a detached house, semi-detached house or rowhouse; and</p> <p>(b) the use of a residential unit in a building or structure ancillary to a detached house, semi-detached house or rowhouse. Bill 108 Sched. 12 s 2 (1).</p>
S. 16 (5)	<p>Inclusionary zoning policies</p> <p>Same</p>	<p>Inclusionary zoning policies</p> <p>Same</p>

	<p>(5) An official plan of a municipality that is not prescribed for the purpose of subsection (4) may contain the policies described in subsection (4). 2016, c. 25, Sched. 4, s. 1 (2).</p>	<p>(5) An official plan of a municipality that is not prescribed for the purpose of subsection (4) may contain the policies described in subsection (4) in respect of,</p> <ul style="list-style-type: none"> (a) a protected major transit station area identified in accordance with subsection (15) or (16), as the case may be; or (b) an area in respect of which a development permit system is adopted or established in response to an order under subsection 70.2.2 (1). <p>Adoption of inclusionary zoning policies</p> <p>(5.1) The policies described in subsection (4) may be adopted in respect of an area described in clause (5) (a) or (b) as part of an official plan or an amendment to an official plan that includes policies,</p> <ul style="list-style-type: none"> (a) that identify an area as the protected major transit station area described in clause (5) (a); or (b) that must be contained in an official plan before the development permit system described in clause (5) (b) may be adopted or established. Bill 108 Sched. 12 s 2 (2).
<p>S. 17 (24.0.1)</p>	<p>Basis for appeal</p> <p>(24.0.1) An appeal under subsection (24) may only be made on the basis that the part of the decision to which the notice of appeal relates is inconsistent with a policy statement issued under subsection 3 (1), fails to conform with or conflicts with a provincial plan or, in the case of the official plan of a lower-tier municipality, fails to conform with the upper-tier municipality's official plan. 2017, c. 23, Sched. 3, s. 6 (1).</p>	<p>N/A</p> <p>(S. 17 (24.0.1) is repealed.) Bill 108 Sched. 12 s 3 (1).</p>
<p>S. 17 (24.1.4) - (24.1.6)</p>	<p>N/A</p>	<p>No appeal re certain matters</p> <p>(24.1.4) Despite subsection (24), there is no appeal in respect of any parts of an official plan that must be contained in the plan,</p> <ul style="list-style-type: none"> (a) before a development permit system may be adopted or established; or (b) in order for a municipality to be able to exercise particular powers in administering a development permit system, such as setting out the information and material to be provided in an application for a development permit or imposing certain types of conditions.

		<p>Limitation (24.1.5) Subsection (24.1.4) applies only if the parts of an official plan described in that subsection are included in the plan in response to an order under subsection 70.2.2 (1) and the municipality has not previously adopted a plan containing those parts in response to the order.</p> <p>Exception re Minister (24.1.6) Subsection (24.1.4) does not apply to an appeal by the Minister. Bill 108 Sched. 12 s 3 (2).</p>
S. 17 (25)	<p>Notice of appeal (25) The notice of appeal filed under subsection (24) must, (a) set out the specific part of the plan to which the notice applies; (b) explain how the part of the decision to which the notice of appeal relates is inconsistent with a policy statement issued under subsection 3 (1), fails to conform with or conflicts with a provincial plan or, in the case of the official plan of a lower-tier municipality, fails to conform with the upper-tier municipality's official plan; and (c) be accompanied by the fee charged under the Local Planning Appeal Tribunal Act, 2017. 1996, c. 4, s. 9; 2015, c. 26, s. 18 (6); 2017, c. 23, Sched. 3, s. 6 (2); 2017, c. 23, Sched. 5, s. 81.</p>	<p>Notice of appeal (25) The notice of appeal filed under subsection (24) must, (a) set out the specific part of the plan to which the notice applies; (b) set out the reasons for the appeal; and (c) be accompanied by the fee charged under the Local Planning Appeal Tribunal Act, 2017. 1996, c. 4, s. 9; 2015, c. 26, s. 18 (6); 2017, c. 23, Sched. 3, s. 6 (2); 2017, c. 23, Sched. 5, s. 81. Bill 108 Sched. 12 s 3 (3).</p>
S. 17 (25.1)	<p>(25.1) REPEALED: 2017, c. 23, Sched. 3, s. 6 (3).</p>	<p>Notice of appeal Same (25.1) If the appellant intends to argue that the appealed decision is inconsistent with a policy statement issued under subsection 3 (1), fails to conform with or conflicts with a provincial plan or, in the case of the official plan of a lower-tier municipality, fails to conform with the upper-tier municipality's official plan, the notice of appeal must also explain how the decision is inconsistent with, fails to conform with or conflicts with the other document. Bill 108 Sched. 12 s 3 (4).</p>
S. 17 (26)	<p>Timing (26) For the purposes of subsections (24), (36) and (41.1), the giving of written notice shall be deemed to be completed,</p>	<p>Timing (26) For the purposes of subsections (24) and (36), the giving of written notice shall be deemed to be completed,</p>

	<p>(a) where notice is given by personal service, on the day that the serving of all required notices is completed;</p> <p>(a.1) where notice is given by e-mail, on the day that the sending by e-mail of all required notices is completed;</p> <p>(b) where notice is given by mail, on the day that the mailing of all required notices is completed; and</p> <p>(c) where notice is given by telephone transmission of a facsimile of the notice, on the day that the transmission of all required notices is completed. 1996, c. 4, s. 9; 2015, c. 26, s. 18 (8).</p>	<p>(a) where notice is given by personal service, on the day that the serving of all required notices is completed;</p> <p>(a.1) where notice is given by e-mail, on the day that the sending by e-mail of all required notices is completed;</p> <p>(b) where notice is given by mail, on the day that the mailing of all required notices is completed; and</p> <p>(c) where notice is given by telephone transmission of a facsimile of the notice, on the day that the transmission of all required notices is completed. 1996, c. 4, s. 9; 2015, c. 26, s. 18 (8). Bill 108 Sched. 12 s 3 (5).</p>
S. 17 (34.1)	<p>Exception, non-conforming lower-tier plan</p> <p>(34.1) Despite subsection (34), an approval authority shall not approve any part of a lower-tier municipality's plan if the plan or any part of it does not, in the approval authority's opinion, conform with,</p> <p>(a) the upper-tier municipality's official plan;</p> <p>(b) a new official plan of the upper-tier municipality that was adopted before the 210th day after the lower-tier municipality adopted its plan, but is not yet in effect; or</p> <p>(c) a revision of the upper-tier municipality's official plan that was adopted in accordance with section 26, before the 210th day after the lower-tier municipality adopted its plan, but is not yet in effect. 2015, c. 26, s. 18 (10); 2017, c. 23, Sched. 3, s. 6 (6).</p>	<p>Exception, non-conforming lower-tier plan</p> <p>(34.1) Despite subsection (34), an approval authority shall not approve any part of a lower-tier municipality's plan if the plan or any part of it does not, in the approval authority's opinion, conform with,</p> <p>(a) the upper-tier municipality's official plan;</p> <p>(b) a new official plan of the upper-tier municipality that was adopted before the 120th day after the lower-tier municipality adopted its plan, but is not yet in effect; or</p> <p>(c) a revision of the upper-tier municipality's official plan that was adopted in accordance with section 26, before the 120th day after the lower-tier municipality adopted its plan, but is not yet in effect. 2015, c. 26, s. 18 (10); 2017, c. 23, Sched. 3, s. 6 (6). Bill 108 Sched. 12 s 3 (6).</p>
S. 17 (36.0.1)	<p>Basis for appeal</p> <p>(36.0.1) An appeal under subsection (36) may only be made on the basis that the part of the decision to which the notice of appeal relates is inconsistent with a policy statement issued under subsection 3 (1), fails to conform with or conflicts with a provincial plan or, in the case of the official plan of a lower-tier municipality, fails to conform with the upper-tier municipality's official plan. 2017, c. 23, Sched. 3, s. 6 (7).</p>	<p>N/A</p> <p>(S. 17 (36.0.1) is repealed.) Bill 108 Sched. 12 s 3 (7).</p>
S. 17 (36.1.8) - (36.1.10)	N/A	<p>No appeal re certain matters</p> <p>(36.1.8) Despite subsection (36), there is no appeal in respect of any parts of an official plan that must be contained in the plan,</p>

		<p>(a) before a development permit system may be adopted or established; or</p> <p>(b) in order for a municipality to be able to exercise particular powers in administering a development permit system, such as setting out the information and material to be provided in an application for a development permit or imposing certain types of conditions.</p> <p>Limitation (36.1.9) Subsection (36.1.8) applies only if the parts of an official plan described in that subsection are included in the plan in response to an order under subsection 70.2.2 (1) and the municipality has not previously adopted a plan containing those parts in response to the order.</p> <p>Exception re Minister (36.1.10) Subsection (36.1.8) does not apply to an appeal by the Minister. Bill 108 Sched. 12 s 3 (8).</p>
S. 17 (37)	<p>Contents of notice (37) The notice of appeal under subsection (36) must,</p> <p>(a) set out the specific part or parts of the plan to which the notice of appeal applies;</p> <p>(b) explain how the part of the decision to which the notice of appeal relates is inconsistent with a policy statement issued under subsection 3 (1), fails to conform with or conflicts with a provincial plan or, in the case of the official plan of a lower-tier municipality, fails to conform with the upper-tier municipality's official plan; and</p> <p>(c) be accompanied by the fee charged under the Local Planning Appeal Tribunal Act, 2017. 1996, c. 4, s. 9; 2015, c. 26, s. 18 (13); 2017, c. 23, Sched. 3, s. 6 (11); 2017, c. 23, Sched. 5, s. 81.</p>	<p>Contents of notice (37) The notice of appeal under subsection (36) must,</p> <p>(a) set out the specific part or parts of the plan to which the notice of appeal applies;</p> <p>(b) set out the reasons for the appeal; and</p> <p>(c) be accompanied by the fee charged under the Local Planning Appeal Tribunal Act, 2017. 1996, c. 4, s. 9; 2015, c. 26, s. 18 (13); 2017, c. 23, Sched. 3, s. 6 (11); 2017, c. 23, Sched. 5, s. 81. (37.1) REPEALED: 2017, c. 23, Sched. 3, s. 6 (12). Bill 108 Sched. 12 s 3 (9).</p>
S. 17 (37.1)	<p>(37.1) REPEALED: 2017, c. 23, Sched. 3, s. 6 (12).</p>	<p>Contents of notice Same (37.1) If the appellant intends to argue that the appealed decision is inconsistent with a policy statement issued under subsection 3 (1), fails to conform with or conflicts with a provincial plan or, in the case of the</p>

		official plan of a lower-tier municipality, fails to conform with the upper-tier municipality's official plan, the notice of appeal must also explain how the decision is inconsistent with, fails to conform with or conflicts with the other document. Bill 108 Sched. 12 s 3 (10).
S. 17 (40)	Appeal to L.P.A.T. (40) If the approval authority fails to give notice of a decision in respect of all or part of a plan within 210 days after the day the plan is received by the approval authority, or within the longer period determined under subsection (40.1), any person or public body may appeal to the Tribunal with respect to all or any part of the plan in respect of which no notice of a decision was given by filing a notice of appeal with the approval authority, subject to subsection (41.1). 2015, c. 26, s. 18 (15); 2017, c. 23, Sched. 3, s. 6 (15).	Appeal to L.P.A.T. (40) If the approval authority fails to give notice of a decision in respect of all or part of a plan within 120 days after the day the plan is received by the approval authority, any of the following may appeal to the Tribunal with respect to all or any part of the plan in respect of which no notice of a decision was given by filing a notice of appeal with the approval authority: <ol style="list-style-type: none"> 1. The municipality that adopted the plan. 2. The Minister, if the Minister is not the approval authority. 3. In the case of a plan amendment adopted in response to a request under section 22, the person or public body that requested the amendment. Bill 108 Sched 12 s 3 (11).
S. 17 (40.1)	Extension of time for appeal (40.1) The 210-day period referred to in subsection (40) may be extended in accordance with the following rules: <ol style="list-style-type: none"> 1. In the case of an amendment requested under section 22, the person or public body that made the request may extend the period for up to 90 days by written notice to the approval authority. 2. In all other cases, the municipality may extend the period for up to 90 days by written notice to the approval authority. 3. The approval authority may extend the period for up to 90 days by written notice to the person or public body or to the municipality, as the case may be. 4. The notice must be given before the expiry of the 210-day period. 5. Only one extension is permitted. If both sides give a notice extending the period, the notice that is given first governs. 6. The person, public body, municipality or approval authority that gave or received a notice extending the period may terminate the extension at any time by another written notice. 	N/A (Subsection 34 (40.1) is repealed.) Bill 108 Sched 12 s 3 (12).

	7. No notice of an extension or of the termination of an extension need be given to any other person or entity. 2015, c. 26, s. 18 (15); 2017, c. 23, Sched. 3, s. 6 (16).	
S. 17 (40.2)	Exception, non-conforming lower-tier plan (40.2) Despite subsection (40), there is no appeal with respect to any part of the plan of a lower-tier municipality if, within 210 days after receiving the plan, the approval authority states that the plan or any part of it does not, in the approval authority's opinion, conform with, <ul style="list-style-type: none"> (a) the upper-tier municipality's official plan; (b) a new official plan of the upper-tier municipality that was adopted before the 210th day after the lower-tier municipality adopted its plan, but is not yet in effect; or (c) a revision of the upper-tier municipality's official plan that was adopted in accordance with section 26, before the 210th day after the lower-tier municipality adopted its plan, but is not yet in effect. 2015, c. 26, s. 18 (16); 2017, c. 23, Sched. 3, s. 6 (17). 	Exception, non-conforming lower-tier plan (40.2) Despite subsection (40), there is no appeal with respect to any part of the plan of a lower-tier municipality if, within 120 days after receiving the plan, the approval authority states that the plan or any part of it does not, in the approval authority's opinion, conform with, <ul style="list-style-type: none"> (a) the upper-tier municipality's official plan; (b) a new official plan of the upper-tier municipality that was adopted before the 120th day after the lower-tier municipality adopted its plan, but is not yet in effect; or (c) a revision of the upper-tier municipality's official plan that was adopted in accordance with section 26, before the 120th day after the lower-tier municipality adopted its plan, but is not yet in effect. 2015, c. 26, s. 18 (16); 2017, c. 23, Sched. 3, s. 6 (17). Bill 108 Sched 12 s 3 (13).
S. 17 (40.4)	Time for appeal (40.4) If the approval authority states an opinion as described in subsection (40.2), the 210-day period mentioned in subsection (40) does not begin to run until the approval authority confirms that the non-conformity is resolved. 2015, c. 26, s. 18 (16); 2017, c. 23, Sched. 3, s. 6 (18).	Time for appeal (40.4) If the approval authority states an opinion as described in subsection (40.2), the 120-day period mentioned in subsection (40) does not begin to run until the approval authority confirms that the non-conformity is resolved. 2015, c. 26, s. 18 (16); 2017, c. 23, Sched. 3, s. 6 (18). Bill 108 Sched 12 s 3 (14).
S. 17 (41.1)	Notice limiting appeal period (41.1) At any time after receiving a notice of appeal under subsection (40), an approval authority may give the persons and public bodies listed in clauses (35) (a) to (d) a written notice, relating to the relevant plan and including the prescribed information; after the day that is 20 days after the day the giving of the notice is completed, no person or public body is entitled to appeal under subsection (40) with respect to the relevant plan. 2015, c. 26, s. 18 (17).	N/A (Subsection 17 (41.1) is repealed.) Bill 108 Sched 12 s 3 (15).

S. 17 (44.3) – (44.7)	(44.3)-(44.6) REPEALED: 2017, c. 23, Sched. 3, s. 6 (19).	<p>New evidence at hearing (44.3) This subsection applies if information and material that is presented at the hearing of an appeal under subsection (24) or (36) was not provided to the municipality before the council made the decision that is the subject of the appeal.</p> <p>Same (44.4) When subsection (44.3) applies, the Tribunal may, on its own initiative or on a motion by the municipality or any party, consider whether the information and material could have materially affected the council's decision and, if the Tribunal determines that it could have done so, it shall not be admitted into evidence until subsection (44.5) has been complied with and the prescribed time period has elapsed.</p> <p>Notice to council (44.5) The Tribunal shall notify the council that it is being given an opportunity to, (a) reconsider its decision in light of the information and material; and (b) make a written recommendation to the Tribunal.</p> <p>Council's recommendation (44.6) The Tribunal shall have regard to the council's recommendation if it is received within the time period referred to in subsection (44.4), and may, but is not required to, do so if it is received afterwards. Bill108 Sched 12 s 3 (16).</p>
S. 17 (44.7)	<p>Conflict with SPPA (44.7) Subsections (44.1) and (44.2) apply despite the <i>Statutory Powers Procedure Act</i>. 2006, c. 23, s. 9 (7); 2017, c. 23, Sched. 3, s. 6 (20).</p>	<p>Conflict with SPPA (44.7) Subsections (44.1) to (44.6) apply despite the <i>Statutory Powers Procedure Act</i>. Bill108 Sched 12 s 3 (17).</p>
S. 17 (45)	<p>Dismissal without hearing (45) Despite the <i>Statutory Powers Procedure Act</i> and subsection (44), the Tribunal shall dismiss all or part of an appeal without holding a hearing on its own initiative or on the motion of any party if any of the following apply: 1. The Tribunal is of the opinion that, i. the explanation required by clause (25) (b) or (37) (b), as the case may be, does not disclose that the part of the decision to which the</p>	<p>Dismissal without hearing (45) Despite the <i>Statutory Powers Procedure Act</i> and subsection (44), the Tribunal may, on its own initiative or on the motion of any party, dismiss all or part of an appeal without holding a hearing if any of the following apply: 1. The Tribunal is of the opinion that, i. the reasons set out in the notice of appeal do not disclose any apparent land use planning ground upon which the plan or part of the</p>

	<p>notice of appeal relates is inconsistent with a policy statement issued under subsection 3 (1), fails to conform with or conflicts with a provincial plan, or in the case of the official plan of a lower-tier municipality, fails to conform with the upper-tier municipality's official plan,</p> <ul style="list-style-type: none"> ii. the appeal is not made in good faith or is frivolous or vexatious, iii. the appeal is made only for the purpose of delay, or iv. the appellant has persistently and without reasonable grounds commenced before the Tribunal proceedings that constitute an abuse of process. <p>2. The appellant has not provided the explanations required by clause (25) (b) or (37) (b), as applicable.</p> <p>3. The appellant has not paid the fee charged under the <i>Local Planning Appeal Tribunal Act, 2017</i> and has not responded to a request by the Tribunal to pay the fee within the time specified by the Tribunal.</p> <p>4. The appellant has not responded to a request by the Tribunal for further information within the time specified by the Tribunal. 2017, c. 23, Sched. 3, s. 6 (21).</p>	<p>plan that is the subject of the appeal could be approved or refused by the Tribunal,</p> <ul style="list-style-type: none"> ii. the appeal is not made in good faith or is frivolous or vexatious, iii. the appeal is made only for the purpose of delay, or iv. the appellant has persistently and without reasonable grounds commenced before the Tribunal proceedings that constitute an abuse of process. <p>2. The appellant has not provided written reasons with respect to an appeal under subsection (24) or (36).</p> <p>3. The appellant intends to argue a matter mentioned in subsection (25.1) or (37.1) but has not provided the explanations required by that subsection.</p> <p>4. The appellant has not paid the fee charged under the <i>Local Planning Appeal Tribunal Act, 2017</i>.</p> <p>5. The appellant has not responded to a request by the Tribunal for further information within the time specified by the Tribunal. Bill 108 Sched 12 s 3 (18).</p>
S. 17 (46)	<p>Representation</p> <p>(46) Before dismissing all or part of an appeal, the Tribunal shall notify the appellant and give the appellant the opportunity to make representation on the proposed dismissal but this subsection does not apply if the appellant has not complied with a request made under paragraph 3 or 4 of subsection (45). 2000, c. 26, Sched. K, s. 5 (1); 2017, c. 23, Sched. 3, s. 6 (22).</p>	<p>Representation</p> <p>(46) Before dismissing all or part of an appeal, the Tribunal shall notify the appellant and give the appellant the opportunity to make representation on the proposed dismissal but this subsection does not apply if the appellant has not complied with a request made under paragraph 5 of subsection (45). 2000, c. 26, Sched. K, s. 5 (1); 2017, c. 23, Sched. 3, s. 6 (22). Bill 108 Sched 12 s 3 (19).</p>
S. 17 (49)	<p>Transfer</p> <p>(49) If a notice of appeal under subsection (40) is received by the Tribunal, the Tribunal may require that a municipality or approval authority transfer to the Tribunal any other part of the plan that is not in effect and to which the notice of appeal does not apply. 2017, c. 23, Sched. 3, s. 6 (23).</p>	<p>Transfer</p> <p>(49) If a notice of appeal under subsection 24, 36 or (40) is received by the Tribunal, the Tribunal may require that a municipality or approval authority transfer to the Tribunal any other part of the plan that is not in effect and to which the notice of appeal does not apply. 2017, c. 23, Sched. 3, s. 6 (23). Bill 108 Sched 12 s 3 (20).</p>
S. 17 (49.1) – (49.12)	<p>Powers of L.P.A.T. — appeals under 9ubs. (24) and (36)</p>	<p>N/A</p> <p>(Subsections 17 (49.1) to (49.12) are repealed.) Bill 108 Sched 12 s 3 (21).</p>

	<p>(49.1) Subject to subsections (49.3) to (49.9), after holding a hearing on an appeal under subsection (24) or (36), the Tribunal shall dismiss the appeal. 2017, c. 23, Sched. 3, s. 6 (24).</p> <p>Same</p> <p>(49.2) If the Tribunal dismisses all appeals made under subsection (24) or (36) in respect of all or part of a decision after holding a hearing, the Tribunal shall notify the clerk of the municipality or the approval authority and,</p> <p>(a) the decision or that part of the decision that was the subject of the appeal is final; and</p> <p>(b) the plan or part of the plan that was adopted or approved and in respect of which all the appeals have been dismissed comes into effect as an official plan or part of an official plan on the day after the day the last outstanding appeal has been dismissed. 2017, c. 23, Sched. 3, s. 6 (24).</p> <p>Refusal and notice to make new decision</p> <p>(49.3) Unless subsection (49.4), (49.7) or (49.8) applies, if the Tribunal determines that a part of a decision to which a notice of appeal under subsection (24) or (36) relates is inconsistent with a policy statement issued under subsection 3 (1), fails to conform with or conflicts with a provincial plan or, in the case of the official plan of a lower-tier municipality, fails to conform with the upper-tier municipality's official plan,</p> <p>(a) the Tribunal shall refuse to approve that part of the plan; and</p> <p>(b) the Tribunal shall notify the clerk of the municipality that adopted the official plan that the municipality is being given an opportunity to make a new decision in respect of the matter. 2017, c. 23, Sched. 3, s. 6 (24).</p> <p>Revised plan with consent of parties</p> <p>(49.4) Unless subsection (49.8) applies, if a revised plan is presented to the Tribunal with the consent of all of the parties specified in subsection (49.11), the Tribunal shall approve the revised plan as an official plan except for any part of it that is inconsistent with a policy statement issued under subsection 3 (1), fails to conform with or conflicts with a</p>	
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	<p>provincial plan or, in the case of the official plan of a lower-tier municipality, fails to conform with the upper-tier municipality's official plan. 2017, c. 23, Sched. 3, s. 6 (24).</p> <p>Same, notice to make new decision</p> <p>(49.5) If subsection (49.4) applies and the Tribunal determines that any part of the revised plan is inconsistent with a policy statement issued under subsection 3 (1), fails to conform with or conflicts with a provincial plan or, in the case of the official plan of a lower-tier municipality, fails to conform with the upper-tier municipality's official plan,</p> <ul style="list-style-type: none"> (a) the Tribunal shall refuse to approve that part of the plan; and (b) the Tribunal shall notify the clerk of the municipality that adopted the official plan that the municipality is being given an opportunity to make a new decision in respect of the matter. 2017, c. 23, Sched. 3, s. 6 (24). <p>Rules that apply if notice is received</p> <p>(49.6) If the clerk has received notice under clause (49.3) (b) or (49.5) (b), the following rules apply:</p> <ol style="list-style-type: none"> 1. The council of the municipality may prepare and adopt another plan, subject to the following: <ul style="list-style-type: none"> i. Subsections (16) and (17.1) do not apply. ii. If the plan is not exempt from approval, <ul style="list-style-type: none"> A. the reference to "within 210 days" in subsection (40) shall be read as "within 90 days", B. subsection (40.1) does not apply, C. references to "210 days" and "210th day" in subsection (40.2) shall be read as "90 days" and "90th day", respectively, and D. the reference to "210-day period" in subsection (40.4) shall be read as "90-day period". 2. If the decision that was the subject of the appeal was in respect of an amendment adopted in response to a request under subsection 22 (1) or (2), the references to "within 210 days after the day the request is received" in paragraphs 1 and 2 of subsection 22 (7.0.2) shall be read as "within 90 days after the day notice under clause (49.3) (b) or (49.5) (b) was received". 2017, c. 23, Sched. 3, s. 6 (24). 	
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	<p>Second appeal</p> <p>(49.7) Unless subsection (49.8) applies, on an appeal under subsection (24) or (36) that concerns a new decision that the municipality was given an opportunity to make in accordance with subsection (49.6) or 22 (11.0.12), the Tribunal may make modifications to all or part of the plan and approve all or part of the plan as modified as an official plan or refuse to approve all or part of the plan, if the Tribunal determines that the decision is inconsistent with a policy statement issued under subsection 3 (1), fails to conform with or conflicts with a provincial plan or, in the case of the official plan of a lower-tier municipality, fails to conform with the upper-tier municipality's official plan. 2017, c. 23, Sched. 3, s. 6 (24).</p> <p>Same, revised plan with consent of parties</p> <p>(49.8) If, on an appeal under subsection (24) or (36) that concerns a new decision that the municipality was given an opportunity to make in accordance with subsection (49.6) or 22 (11.0.12), a revised plan is presented to the Tribunal with the consent of all of the parties specified in subsection (49.11), the Tribunal shall approve the revised plan as an official plan except for any part of it that is inconsistent with a policy statement issued under subsection 3 (1), fails to conform with or conflicts with a provincial plan or, in the case of the official plan of a lower-tier municipality, fails to conform with the upper-tier municipality's official plan. 2017, c. 23, Sched. 3, s. 6 (24).</p> <p>Same</p> <p>(49.9) If subsection (49.8) applies and the Tribunal determines that any part of the revised plan is inconsistent with a policy statement issued under subsection 3 (1), fails to conform with or conflicts with a provincial plan or, in the case of the official plan of a lower-tier municipality, fails to conform with the upper-tier municipality's official plan, the Tribunal may make modifications to that part of the revised plan and approve it as modified as part of an official plan or refuse to approve all or part of that part of the revised plan. 2017, c. 23, Sched. 3, s. 6 (24).</p> <p>Coming into effect of plan</p>	
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	<p>(49.10) If the Tribunal approves all or part of a revised plan as an official plan or part of an official plan under subsection (49.4) or (49.8), the plan or part of the plan that is approved comes into effect as an official plan or part of an official plan on the day after the day the plan or part of the plan was approved. 2017, c. 23, Sched. 3, s. 6 (24).</p> <p>Specified parties</p> <p>(49.11) For the purposes of subsection (49.4) and (49.8), the specified parties are:</p> <ol style="list-style-type: none"> 1. The municipality that adopted the plan. 2. The appropriate approval authority, if the approval authority is a party. 3. The Minister, if the Minister is a party. 4. If applicable, the person or public body that requested an amendment to the official plan. 5. All appellants of the decision which was the subject of the appeal. <p>2017, c. 23, Sched. 3, s. 6 (24).</p> <p>Effect on original plan</p> <p>(49.12) If subsection (49.4) or (49.8) applies, the version of the plan that was the subject of the notice of appeal shall be deemed to have been refused. 2017, c. 23, Sched. 3, s. 6 (24).</p>	
S. 17 (50)	<p>Powers of L.P.A.T.</p> <p>(50) On an appeal under subsection (40) or a transfer, the Tribunal may approve all or part of the plan as all or part of an official plan, make modifications to all or part of the plan and approve all or part of the plan as modified as an official plan or refuse to approve all or part of the plan. 1996, c. 4, s. 9; 2017, c. 23, Sched. 3, s. 6 (25).</p>	<p>Powers of L.P.A.T.</p> <p>(50) On an appeal or a transfer under this section, the Tribunal may approve all or part of the plan as all or part of an official plan, make modifications to all or part of the plan and approve all or part of the plan as modified as an official plan or refuse to approve all or part of the plan. 1996, c. 4, s. 9; 2017, c. 23, Sched. 3, s. 6 (25). Bill 108 Sched 12 s 3 (22).</p>
S. 17 (50.1)	<p>Powers of L.P.A.T</p> <p>Same</p> <p>(50.1) For greater certainty, subsections (49.7), (49.9) and (50) do not give the Tribunal power to approve or modify any part of the plan that, (a) is in effect; and</p>	<p>Powers of L.P.A.T</p> <p>Same</p> <p>(50.1) For greater certainty, subsections (50) does not give the Tribunal power to approve or modify any part of the plan that, (a) is in effect; and</p>

	(b) was not added, amended or revoked by the plan to which the notice of appeal relates. 2017, c. 23, Sched. 3, s. 6 (26).	(b) was not added, amended or revoked by the plan to which the notice of appeal relates. 2017, c. 23, Sched. 3, s. 6 (26). Bill 108 Sched 12 s 3 (23).
S. 17 (51)	Matters of provincial interest (51) Where an appeal is made to the Tribunal under this section, the Minister, if he or she is of the opinion that a matter of provincial interest is, or is likely to be, adversely affected by the plan or the parts of the plan in respect of which the appeal is made, may so advise the Tribunal in writing not later than 30 days after the day the Tribunal gives notice under subsection (44) and the Minister shall identify, (a) the provisions of the plan by which the provincial interest is, or is likely to be, adversely affected; and (b) the general basis for the opinion that a matter of provincial interest is, or is likely to be, adversely affected. 2017, c. 23, Sched. 3, s. 6 (26).	Matters of provincial interest (51) Where an appeal is made to the Tribunal under this section, the Minister, if he or she is of the opinion that a matter of provincial interest is, or is likely to be, adversely affected by the plan or the parts of the plan in respect of which the appeal is made, may so advise the Tribunal in writing not later than 30 days before the day fixed by the Tribunal for the hearing of the appeal and the Minister shall identify, (a) the provisions of the plan by which the provincial interest is, or is likely to be, adversely affected; and (b) the general basis for the opinion that a matter of provincial interest is, or is likely to be, adversely affected. 2017, c. 23, Sched. 3, s. 6 (26). Bill 108 Sched 12 s 3 (24).
S. 17 (53)	Applicable rules if notice under subs. (51) received (53) If the Tribunal has received a notice from the Minister under subsection (51), the following rules apply: 1. Subsections (49.1) to (50) do not apply to the appeal. 2. The Tribunal may approve all or part of the plan as all or part of an official plan, make modifications to all or part of the plan and approve all or part of the plan as modified as an official plan or refuse to approve all or part of the plan. 3. The decision of the Tribunal is not final and binding in respect of the provisions identified in the notice unless the Lieutenant Governor in Council has confirmed the decision in respect of the provisions. 2017, c. 23, Sched. 3, s. 6 (27).	Confirmation by L.G. in C. (53) If the Tribunal has received a notice from the Minister under subsection (51), the decision of the Tribunal is not final and binding in respect of the provisions identified in the notice unless the Lieutenant Governor in Council has confirmed the decision in respect of those provisions. Bill 108 Sched 12 s 3 (25).
S. 22 (7.0.0.1) - (7.0.0.2)	Basis for appeal (7.0.0.1) An appeal under subsection (7) may only be made on the basis that, (a) the existing part or parts of the official plan that would be affected by the requested amendment are inconsistent with a policy statement issued under subsection 3 (1), fail to conform with or conflict with a	N/A (Subsections 17 (7.0.0.1) to (7.0.0.2) are repealed.) Bill 108 Sched 12 s 4 (1).

	<p>provincial plan or, in the case of the official plan of a lower-tier municipality, fail to conform with the upper-tier municipality's official plan; and</p> <p>(b) the requested amendment is consistent with policy statements issued under subsection 3 (1), conforms with or does not conflict with provincial plans and, in the case of a requested amendment to the official plan of a lower-tier municipality, conforms with the upper-tier municipality's official plan. 2017, c. 23, Sched. 3, s. 8 (3).</p> <p>Exception</p> <p>(7.0.0.2) Subsection (7.0.0.1) and clauses (8) (a.1) and (a.2) do not apply to an appeal under subsection (7) brought in accordance with paragraph 1 or 2 of subsection (7.0.2) that concerns a request in respect of which the municipality or planning board was given an opportunity to make a new decision in accordance with subsection (11.0.12) or subsection 17 (49.6). 2017, c. 23, Sched. 3, s. 8 (3).</p>	
S. 22 (7.0.2)	<p>Conditions</p> <p>(7.0.2) The conditions referred to in subsections (7) and (7.0.1) are:</p> <ol style="list-style-type: none"> 1. The council or the planning board fails to adopt the requested amendment within 210 days after the day the request is received. 2. A planning board recommends a requested amendment for adoption and the council or the majority of the councils fails to adopt the requested amendment within 210 days after the day the request is received. 3. A council, a majority of the councils or a planning board refuses to adopt the requested amendment. 4. A planning board refuses to approve a requested amendment under subsection 18 (1). 2006, c. 23, s. 11 (5); 2017, c. 23, Sched. 3, s. 8 (4). 	<p>Conditions</p> <p>(7.0.2) The conditions referred to in subsections (7) and (7.0.1) are:</p> <ol style="list-style-type: none"> 1. The council or the planning board fails to adopt the requested amendment within 120 days after the day the request is received. 2. A planning board recommends a requested amendment for adoption and the council or the majority of the councils fails to adopt the requested amendment within 120 days after the day the request is received. 3. A council, a majority of the councils or a planning board refuses to adopt the requested amendment. 4. A planning board refuses to approve a requested amendment under subsection 18 (1). 2006, c. 23, s. 11 (5); 2017, c. 23, Sched. 3, s. 8 (4). <p>Bill 108 Sched 12 s 4 (2).</p>
S. 22 (7.0.2.1)	<p>Conditions</p> <p>Same</p> <p>(7.0.2.1) For greater certainty, a condition set out in subsection (7.0.2) is not met if the council or the planning board adopts an amendment in response to a request under subsection (1) or (2), even if the</p>	<p>N/A</p> <p>(Subsection 17 (7.0.2.1) is repealed.) Bill 108 Sched 12 s 4 (3).</p>

	amendment that is adopted differs from the requested amendment. 2017, c. 23, Sched. 3, s. 8 (5).	
S. 22 (8)	<p>Contents</p> <p>(8) A notice of appeal under subsection (7) shall,</p> <p>(a) set out the specific part of the requested official plan amendment to which the appeal applies, if the notice of appeal does not apply to all of the requested amendment;</p> <p>(a.1) explain how the existing part or parts of the official plan that would be affected by the requested amendment are inconsistent with a policy statement issued under subsection 3 (1), fail to conform with or conflict with a provincial plan or, in the case of the official plan of a lower-tier municipality, fail to conform with the upper-tier municipality's official plan;</p> <p>(a.2) explain how the requested amendment is consistent with policy statements issued under subsection 3 (1), conforms with or does not conflict with provincial plans and, in the case of a requested amendment to the official plan of a lower-tier municipality, conforms with the upper-tier municipality's official plan; and</p> <p>(b) be accompanied by the fee charged under the Local Planning Appeal Tribunal Act, 2017. 1996, c. 4, s. 13; 2017, c. 23, Sched. 3, s. 8 (6); 2017, c. 23, Sched. 5, s. 81.</p>	<p>Contents</p> <p>(8) A notice of appeal under subsection (7) shall,</p> <p>(a) set out the specific part of the requested official plan amendment to which the appeal applies, if the notice of appeal does not apply to all of the requested amendment; and</p> <p>(b) be accompanied by the fee charged under the Local Planning Appeal Tribunal Act, 2017. 1996, c. 4, s. 13; 2017, c. 23, Sched. 3, s. 8 (6); 2017, c. 23, Sched. 5, s. 81. Bill 108 Sched 12 s 4 (4).</p>
S. 22 (11) - (11.0.19)	<p>Hearing</p> <p>(11) On an appeal to the Tribunal, the Tribunal shall hold a hearing of which notice shall be given to such persons or such public bodies and in such manner as the Tribunal may determine. 2017, c. 23, Sched. 3, s. 8 (7).</p> <p>Restriction re adding parties</p> <p>(11.0.1) Despite subsection (11), in the case of an appeal under subsection (7) brought in accordance with paragraph 3 or 4 of subsection (7.0.2), only the following may be added as parties:</p> <ol style="list-style-type: none"> 1. A person or public body who satisfies one of the conditions set out in subsection (11.0.2). 2. The Minister. 	<p>Application</p> <p>(11) Subsections 17 (44) to (44.7), (45), (45.1), (46), (46.1), (49), (50) and (50.1) apply with necessary modifications to a requested official plan amendment under this section, except that subsections 17 (44.1) to (44.7) and (45.1) do not apply to an appeal under subsection (7) of this section, brought in accordance with paragraph 1 or 2 of subsection (7.0.2). Bill 108 Sched 12 s 4 (5).</p>

	<p>3. The appropriate approval authority. 2017, c. 23, Sched. 3, s. 8 (7).</p> <p>Same</p> <p>(11.0.2) The conditions mentioned in paragraph 1 of subsection (11.0.1) are:</p> <ol style="list-style-type: none"> 1. Before the requested amendment was refused, the person or public body made oral submissions at a public meeting or written submissions to the council or planning board. 2. The Tribunal is of the opinion that there are reasonable grounds to add the person or public body as a party. 2017, c. 23, Sched. 3, s. 8 (7). <p>Conflict with SPPA</p> <p>(11.0.3) Subsections (11.0.1) and (11.0.2) apply despite the <i>Statutory Powers Procedure Act</i>. 2017, c. 23, Sched. 3, s. 8 (7).</p> <p>Dismissal without hearing</p> <p>(11.0.4) Despite the <i>Statutory Powers Procedure Act</i> and subsection (11), the Tribunal shall dismiss all or part of an appeal without holding a hearing on its own initiative or on the motion of any party if any of the following apply:</p> <ol style="list-style-type: none"> 1. The Tribunal is of the opinion that the explanations required by clauses (8) (a.1) and (a.2) do not disclose both of the following: <ol style="list-style-type: none"> i. That the existing part or parts of the official plan that would be affected by the requested amendment are inconsistent with a policy statement issued under subsection 3 (1), fail to conform with or conflict with a provincial plan or, in the case of the official plan of a lower-tier municipality, fail to conform with the upper-tier municipality's official plan. ii. That the requested amendment is consistent with policy statements issued under subsection 3 (1), conforms with or does not conflict with provincial plans and, in the case of a requested amendment to the official plan of a lower-tier municipality, conforms with the upper-tier municipality's official plan. 2. The Tribunal is of the opinion that, <ol style="list-style-type: none"> i. the appeal is not made in good faith or is frivolous or vexatious, ii. the appeal is made only for the purpose of delay, or 	
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	<p>iii. the appellant has persistently and without reasonable grounds commenced before the Tribunal proceedings that constitute an abuse of process.</p> <p>3. The appellant has not provided the explanations required by clauses (8) (a.1) and (a.2).</p> <p>4. The appellant has not paid the fee charged under the Local Planning Appeal Tribunal Act, 2017 and has not responded to a request by the Tribunal to pay the fee within the time specified by the Tribunal.</p> <p>5. The appellant has not responded to a request by the Tribunal for further information within the time specified by the Tribunal. 2017, c. 23, Sched. 3, s. 8 (7).</p> <p>Same (11.0.5) Despite the <i>Statutory Powers Procedure Act</i> and subsection (11), the Tribunal may, on its own initiative or on the motion of the municipality, the planning board, the appropriate approval authority or the Minister, dismiss all or part of an appeal without holding a hearing if, in the Tribunal's opinion, the application to which the appeal relates is substantially different from the application that was before council or the planning board at the time of its decision. 2017, c. 23, Sched. 3, s. 8 (7).</p> <p>Representation (11.0.6) Before dismissing all or part of an appeal, the Tribunal shall notify the appellant and give the appellant the opportunity to make representation on the proposed dismissal but this subsection does not apply if the appellant has not complied with a request made under paragraph 4 or 5 of subsection (11.0.4). 2017, c. 23, Sched. 3, s. 8 (7).</p> <p>Dismissal (11.0.7) Despite the <i>Statutory Powers Procedure Act</i>, the Tribunal may dismiss all or part of an appeal after holding a hearing or without holding a hearing on the motion under subsection (11.0.4) or (11.0.5), as it considers appropriate. 2017, c. 23, Sched. 3, s. 8 (7).</p> <p>Powers of L.P.A.T. — appeals under subs. (7)</p>	
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	<p>(11.0.8) Subject to subsections (11.0.9) to (11.0.17), after holding a hearing on an appeal under subsection (7), the Tribunal shall dismiss the appeal. 2017, c. 23, Sched. 3, s. 8 (7).</p> <p>Notice re opportunity to make new decision</p> <p>(11.0.9) Unless subsection (11.0.10) or (11.0.13) applies, on an appeal under subsection (7), the Tribunal shall notify the clerk of the municipality or the secretary-treasurer of the planning board, as the case may be, that received the request for an official plan amendment that the municipality or planning board is being given an opportunity to make a new decision in respect of the matter, if the Tribunal determines that,</p> <p>(a) the existing part or parts of the official plan that would be affected by the requested amendment are inconsistent with a policy statement issued under subsection 3 (1), fail to conform with or conflict with a provincial plan or, in the case of the official plan of a lower-tier municipality, fail to conform with the upper-tier municipality's official plan; and</p> <p>(b) the requested amendment is consistent with policy statements issued under subsection 3 (1), conforms with or does not conflict with provincial plans and, in the case of a requested amendment to the official plan of a lower-tier municipality, conforms with the upper-tier municipality's official plan. 2017, c. 23, Sched. 3, s. 8 (7).</p> <p>Revised amendment with consent of parties</p> <p>(11.0.10) Unless subsection (11.0.16) applies, if a revised amendment is presented to the Tribunal with the consent of all of the parties specified in subsection (11.0.19), the Tribunal shall approve the revised amendment as an official plan amendment except for any part of it that is inconsistent with a policy statement issued under subsection 3 (1), fails to conform with or conflicts with a provincial plan or, in the case of an amendment to the official plan of a lower-tier municipality, fails to conform with the upper-tier municipality's official plan. 2017, c. 23, Sched. 3, s. 8 (7).</p> <p>Same, notice to make new decision</p>	
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	<p>(11.0.11) If subsection (11.0.10) applies and the Tribunal determines that any part of the revised amendment is inconsistent with a policy statement issued under subsection 3 (1), fails to conform with or conflicts with a provincial plan or, in the case of an amendment to the official plan of a lower-tier municipality, fails to conform with the upper-tier municipality's official plan, the Tribunal shall notify the clerk of the municipality or the secretary-treasurer of the planning board, as the case may be, that received the request for an official plan amendment that the municipality or planning board is being given an opportunity to make a new decision in respect of the matter. 2017, c. 23, Sched. 3, s. 8 (7).</p> <p>Rules that apply if notice received</p> <p>(11.0.12) If the clerk or secretary-treasurer has received notice under subsection (11.0.9) or (11.0.11), the following rules apply:</p> <ol style="list-style-type: none"> 1. The council of the municipality or the planning board may prepare and adopt an amendment, subject to the following: <ol style="list-style-type: none"> i. Subsections 17 (16) and (17.1) do not apply. ii. If the amendment is not exempt from approval, <ol style="list-style-type: none"> A. the reference to "within 210 days" in subsection 17 (40) shall be read as "within 90 days", and B. subsection 17 (40.1) does not apply. 2. The references to "within 210 days after the day the request is received" in paragraphs 1 and 2 of subsection (7.0.2) shall be read as "within 90 days after the day notice under subsection (11.0.9) or (11.0.11) was received". 2017, c. 23, Sched. 3, s. 8 (7). <p>Second appeal</p> <p>(11.0.13) Subsections (11.0.14) to (11.0.16) apply with respect to an appeal under subsection (7) that concerns a request in respect of which the municipality or planning board was given an opportunity to make a new decision in accordance with subsection (11.0.12) or subsection 17 (49.6). 2017, c. 23, Sched. 3, s. 8 (7).</p> <p>Same</p>	
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	<p>(11.0.14) In the case of an appeal brought in accordance with paragraph 1 or 2 of subsection (7.0.2), the Tribunal may approve all or part of the requested amendment as an official plan amendment, make modifications to all or part of the requested amendment and approve all or part of the requested amendment as modified as an official plan amendment or refuse to approve all or part of the requested amendment. 2017, c. 23, Sched. 3, s. 8 (7).</p> <p>Same</p> <p>(11.0.15) Unless subsection (11.0.16) applies, in the case of an appeal brought in accordance with paragraph 3 or 4 of subsection (7.0.2), the Tribunal may approve all or part of a requested amendment as an official plan amendment, make modifications to all or part of the requested amendment and approve all or part of the requested amendment as modified as an official plan amendment or refuse to approve all or part of the requested amendment, if the Tribunal determines that,</p> <p>(a) the existing part or parts of the official plan that would be affected by the requested amendment are inconsistent with a policy statement issued under subsection 3 (1), fail to conform with or conflict with a provincial plan or, in the case of the official plan of a lower-tier municipality, fail to conform with the upper-tier municipality's official plan; and</p> <p>(b) the requested amendment is consistent with policy statements issued under subsection 3 (1), conforms with or does not conflict with provincial plans and, in the case of a requested amendment to the official plan of a lower-tier municipality, conforms with the upper-tier municipality's official plan. 2017, c. 23, Sched. 3, s. 8 (7).</p> <p>Same, revised amendment with consent of parties</p> <p>(11.0.16) If, on an appeal brought in accordance with paragraph 3 or 4 of subsection (7.0.2), a revised amendment is presented to the Tribunal with the consent of all of the parties specified in subsection (11.0.19), the Tribunal shall approve the revised amendment as an official plan amendment except for any part of it that is inconsistent with a policy</p>	
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	<p>statement issued under subsection 3 (1), fails to conform with or conflicts with a provincial plan or, in the case of an amendment to the official plan of a lower-tier municipality, fails to conform with the upper-tier municipality's official plan. 2017, c. 23, Sched. 3, s. 8 (7).</p> <p>Same</p> <p>(11.0.17) If subsection (11.0.16) applies and the Tribunal determines that any part of the revised amendment is inconsistent with a policy statement issued under subsection 3 (1), fails to conform with or conflicts with a provincial plan or, in the case of an amendment to the official plan of a lower-tier municipality, fails to conform with the upper-tier municipality's official plan, the Tribunal may make modifications to that part of the revised amendment and approve it as modified as part of an official plan amendment or refuse to approve all or part of that part of the revised amendment. 2017, c. 23, Sched. 3, s. 8 (7).</p> <p>Coming into effect</p> <p>(11.0.18) If the Tribunal approves all or part of a revised amendment as an official plan amendment or part of an official plan amendment under subsection (11.0.10) or (11.0.16), the amendment or part of the amendment that is approved comes into effect as an official plan amendment or part of an official plan amendment on the day after the day the amendment or part of the amendment was approved. 2017, c. 23, Sched. 3, s. 8 (7).</p> <p>Specified parties</p> <p>(11.0.19) For the purposes of subsection (11.0.10) and (11.0.16), the specified parties are:</p> <ol style="list-style-type: none"> 1. The municipality or planning board that received the request for an official plan amendment. 2. The appropriate approval authority, if the approval authority is a party. 3. The Minister, if the Minister is a party. 4. The person or public body that requested an amendment to the official plan. 2017, c. 23, Sched. 3, s. 8 (7). 	
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S. 22 (11.1)	<p>Matters of provincial interest</p> <p>(11.1) Where an appeal is made to the Tribunal under this section, the Minister, if he or she is of the opinion that a matter of provincial interest is, or is likely to be, adversely affected by the amendment or any part of the amendment in respect of which the appeal is made, may so advise the Tribunal in writing not later than 30 after the day the Tribunal gives notice under subsection (11) and the Minister shall identify,</p> <p>(a) the provisions of the amendment or any part of the amendment by which the provincial interest is, or is likely to be, adversely affected; and</p> <p>(b) the general basis for the opinion that a matter of provincial interest is, or is likely to be, adversely affected. 2017, c. 23, Sched. 3, s. 8 (8).</p>	<p>Matters of provincial interest</p> <p>(11.1) Where an appeal is made to the Tribunal under this section, the Minister, if he or she is of the opinion that a matter of provincial interest is, or is likely to be, adversely affected by the amendment or any part of the amendment in respect of which the appeal is made, may so advise the Tribunal in writing not later than 30 days before the day fixed by the Tribunal for the hearing of the appeal and the Minister shall identify,</p> <p>(a) the provisions of the amendment or any part of the amendment by which the provincial interest is, or is likely to be, adversely affected; and</p> <p>(b) the general basis for the opinion that a matter of provincial interest is, or is likely to be, adversely affected. 2017, c. 23, Sched. 3, s. 8 (8). Bill 108 Sched 12 s 4 (6).</p>
S. 22 (11.3)	<p>Applicable rules if notice under subs. (11.1) received</p> <p>(11.3) If the Tribunal has received a notice from the Minister under subsection (11.1), the following rules apply:</p> <p>1. Subsections (11.0.8) to (11.0.19) do not apply to the appeal.</p> <p>2. The Tribunal may approve all or part of a requested amendment as an official plan amendment, make modifications to all or part of the requested amendment and approve all or part of the requested amendment as modified as an official plan amendment or refuse to approve all or part of the requested amendment.</p> <p>3. The decision of the Tribunal is not final and binding in respect of the provisions of the amendment or the provisions of any part of the amendment identified in the notice unless the Lieutenant Governor in Council has confirmed the decision in respect of those provisions. 2017, c. 23, Sched. 3, s. 8 (9).</p>	<p>Confirmation by L.G. in C.</p> <p>(11.3) If the Tribunal has received a notice from the Minister under subsection (11.1), the decision of the Tribunal is not final and binding in respect of the provisions identified in the notice unless the Lieutenant Governor in Council has confirmed the decision in respect of those provisions. Bill 108 Sched 12 s 4 (7).</p>
S. 28 (5)	<p>Restriction re upper-tier municipality</p> <p>Same</p> <p>(5) Subsections 17 (15), (17), (19) to (19.3), (19.5) to (24), (25) to (30.1), (44) to (47) and (49), (50) and (50.1), as they read on the day before section 9 of Schedule 3 to the Building Better Communities and Conserving Watersheds Act, 2017 comes into force, apply, with necessary modifications, in respect of a community improvement plan</p>	<p>Restriction re upper-tier municipality</p> <p>Same</p> <p>(5) Subsections 17 (15), (17), (19) to (19.3), (19.5) to (24), (25) to (30.1), (44) to (47) and (49) to (50.1) apply, with necessary modifications, in respect of a community improvement plan and any amendments to it. 2006, c. 32, Sched. C, s. 47 (1); 2017, c. 23, Sched. 3, s. 9. Bill 108 Sched 12 s 5.</p>

	and any amendments to it. 2006, c. 32, Sched. C, s. 47 (1); 2017, c. 23, Sched. 3, s. 9.	
S. 34 (11)	Appeal to L.P.A.T. (11) Subject to subsection (11.0.0.0.1), where an application to the council for an amendment to a by-law passed under this section or a predecessor of this section is refused or the council fails to make a decision on it within 150 days after the receipt by the clerk of the application, any of the following may appeal to the Tribunal by filing with the clerk of the municipality a notice of appeal, accompanied by the fee charged under the <i>Local Planning Appeal Tribunal Act, 2017</i> : 1. The applicant. 2. The Minister. 2017, c. 23, Sched. 3, s. 10 (1).	Appeal to L.P.A.T. (11) Subject to subsection (11.0.0.0.1), where an application to the council for an amendment to a by-law passed under this section or a predecessor of this section is refused or the council fails to make a decision on it within 90 days after the receipt by the clerk of the application, any of the following may appeal to the Tribunal by filing with the clerk of the municipality a notice of appeal, accompanied by the fee charged under the <i>Local Planning Appeal Tribunal Act, 2017</i> : 1. The applicant. 2. The Minister. 2017, c. 23, Sched. 3, s. 10 (1). Bill 108 Sched 12 s 6 (1).
S. 34 (11.0.0.0.1)	Appeal to L.P.A.T Same, where amendment to official plan required (11.0.0.0.1) If an amendment to a by-law passed under this section or a predecessor of this section in respect of which an application to the council is made would also require an amendment to the official plan of the local municipality and the application is made on the same day as the request to amend the official plan, an appeal to the Tribunal under subsection (11) may be made only if the application is refused or the council fails to make a decision on it within 210 days after the receipt by the clerk of the application. 2017, c. 23, Sched. 3, s. 10 (1).	Appeal to L.P.A.T Same, where amendment to official plan required (11.0.0.0.1) If an amendment to a by-law passed under this section or a predecessor of this section in respect of which an application to the council is made would also require an amendment to the official plan of the local municipality and the application is made on the same day as the request to amend the official plan, an appeal to the Tribunal under subsection (11) may be made only if the application is refused or the council fails to make a decision on it within 120 days after the receipt by the clerk of the application. 2017, c. 23, Sched. 3, s. 10 (1). Bill 108 Sched 12 s 6 (2).
S. 34 (11.0.0.0.2) - (11.0.0.0.5)	Basis for appeal (11.0.0.0.2) An appeal under subsection (11) may only be made on the basis that, (a) the existing part or parts of the by-law that would be affected by the amendment that is the subject of the application are inconsistent with a policy statement issued under subsection 3 (1), fail to conform with or conflict with a provincial plan or fail to conform with an applicable official plan; and	N/A (Subsections 34 (11.0.0.0.2) to (11.0.0.0.5) are repealed.) Bill 108 Sched 12 s 6 (3).

	<p>(b) the amendment that is the subject of the application is consistent with policy statements issued under subsection 3 (1), conforms with or does not conflict with provincial plans and conforms with applicable official plans. 2017, c. 23, Sched. 3, s. 10 (1).</p> <p>Same</p> <p>(11.0.0.0.3) For greater certainty, council does not refuse an application for an amendment to a by-law passed under this section or a predecessor of this section or fail to make a decision on the application if it amends the by-law in response to the application, even if the amendment that is passed differs from the amendment that is the subject of the application. 2017, c. 23, Sched. 3, s. 10 (1).</p> <p>Notice of Appeal</p> <p>(11.0.0.0.4) A notice of appeal under subsection (11) shall, (a) explain how the existing part or parts of the by-law that would be affected by the amendment that is the subject of the application are inconsistent with a policy statement issued under subsection 3 (1), fail to conform with or conflict with a provincial plan or fail to conform with an applicable official plan; and (b) explain how the amendment that is the subject of the application is consistent with policy statements issued under subsection 3 (1), conforms with or does not conflict with provincial plans and conforms with applicable official plans. 2017, c. 23, Sched. 3, s. 10 (1).</p> <p>Exception</p> <p>(11.0.0.0.5) Subsections (11.0.0.0.2) and (11.0.0.0.4) do not apply to an appeal under subsection (11) that concerns the failure to make a decision on an application in respect of which the municipality was given an opportunity to make a new decision in accordance with subsection (26.3). 2017, c. 23, Sched. 3, s. 10 (1).</p>	
S. 34 (19)	<p>Appeal to L.P.A.T.</p> <p>(19) Not later than 20 days after the day that the giving of notice as required by subsection (18) is completed, any of the following may appeal to the Tribunal by filing with the clerk of the municipality a notice of appeal accompanied by the fee charged under the Local Planning Appeal Tribunal Act, 2017:</p>	<p>Appeal to L.P.A.T.</p> <p>(19) Not later than 20 days after the day that the giving of notice as required by subsection (18) is completed, any of the following may appeal to the Tribunal by filing with the clerk of the municipality a notice of appeal setting out the objection to the by-law and the reasons in</p>

	<p>1. The applicant.</p> <p>2. A person or public body who, before the by-law was passed, made oral submissions at a public meeting or written submissions to the council.</p> <p>3. The Minister. 2006, c. 23, s. 15 (10); 2017, c. 23, Sched. 3, s. 10 (4).</p>	<p>support of the objection, accompanied by the fee charged under the Local Planning Appeal Tribunal Act, 2017:</p> <p>1. The applicant.</p> <p>2. A person or public body who, before the by-law was passed, made oral submissions at a public meeting or written submissions to the council.</p> <p>3. The Minister. 2006, c. 23, s. 15 (10); 2017, c. 23, Sched. 3, s. 10 (4). Bill 108 Sched 12 s 6 (4).</p>
<p>S. 34 (19.0.1) - (19.0.2)</p>	<p>Basis for appeal (19.0.1) An appeal under subsection (19) may only be made on the basis that the by-law is inconsistent with a policy statement issued under subsection 3 (1), fails to conform with or conflicts with a provincial plan or fails to conform with an applicable official plan. 2017, c. 23, Sched. 3, s. 10 (5).</p> <p>Notice of Appeal (19.0.2) A notice of appeal under subsection (19) shall explain how the by-law is inconsistent with a policy statement issued under subsection 3 (1), fails to conform with or conflicts with a provincial plan or fails to conform with an applicable official plan. 2017, c. 23, Sched. 3, s. 10 (5).</p>	<p>Same (19.0.1) If the appellant intends to argue that the by-law is inconsistent with a policy statement issued under subsection 3 (1), fails to conform with or conflicts with a provincial plan or fails to conform with an applicable official plan, the notice of appeal must also explain how the by-law is inconsistent with, fails to conform with or conflicts with the other document.</p> <p>(Subsection 34 (19.0.2) is repealed.) Bill 108 Sched 12 s 6 (5).</p>
<p>S. 34 (24.3) – (24.7)</p>	<p>(24.3)-(24.6) REPEALED: 2017, c. 23, Sched. 3, s. 10 (9).</p>	<p>New information and material at hearing (24.3) This subsection applies if information and material that is presented at the hearing of an appeal described in subsection (24.1) was not provided to the municipality before the council made the decision that is the subject of the appeal.</p> <p>Same (24.4) When subsection (24.3) applies, the Tribunal may, on its own initiative or on a motion by the municipality or any party, consider whether the information and material could have materially affected the council's decision and, if the Tribunal determines that it could have done so, it shall not be admitted into evidence until subsection (24.5) has been complied with and the prescribed time period has elapsed.</p> <p>Notice to council</p>

		<p>(24.5) The Tribunal shall notify the council that it is being given an opportunity to,</p> <ul style="list-style-type: none"> (a) reconsider its decision in light of the information and material; and (b) make a written recommendation to the Tribunal. <p>Council's recommendation</p> <p>(24.6) The Tribunal shall have regard to the council's recommendation if it is received within the time period referred to in subsection (24.4), and may, but is not required to, do so if it is received afterwards. Bill 108 Sched 12 s 6 (6).</p>
S. 34 (24.7)	<p>Conflict with SPPA</p> <p>(24.7) Subsections (24.1) and (24.2) apply despite the <i>Statutory Powers Procedure Act</i>. 2006, c. 23, s. 15 (12); 2017, c. 23, Sched. 3, s. 10 (10).</p>	<p>Conflict with SPPA</p> <p>(24.7) Subsections (24.1) to (24.6) apply despite the <i>Statutory Powers Procedure Act</i>. Bill 108 Sched 12 s 6 (7).</p>
S.34 (25)	<p>Dismissal without hearing</p> <p>(25) Despite the <i>Statutory Powers Procedure Act</i> and subsection (24), the Tribunal shall dismiss all or part of an appeal without holding a hearing on its own initiative or on the motion of any party if any of the following apply:</p> <ul style="list-style-type: none"> 1. The Tribunal is of the opinion that the explanations required by subsection (11.0.0.4) do not disclose both of the following: <ul style="list-style-type: none"> i. That the existing part or parts of the by-law that would be affected by the amendment that is the subject of the application are inconsistent with a policy statement issued under subsection 3 (1), fail to conform with or conflict with a provincial plan or fail to conform with an applicable official plan. ii. The amendment that is the subject of the application is consistent with policy statements issued under subsection 3 (1), conforms with or does not conflict with provincial plans and conforms with applicable official plans. 2. The Tribunal is of the opinion that the explanation required by subsection (19.0.2) does not disclose that the by-law is inconsistent with a policy statement issued under subsection 3 (1), fails to conform with or conflicts with a provincial plan or fails to conform with an applicable official plan. 	<p>Dismissal without hearing</p> <p>(25) Despite the <i>Statutory Powers Procedure Act</i> and subsection (24), the Tribunal may, on its own initiative or on the motion of any party, dismiss all or part of an appeal without holding a hearing if any of the following apply:</p> <ul style="list-style-type: none"> 1. The Tribunal is of the opinion that, <ul style="list-style-type: none"> i. the reasons set out in the notice of appeal do not disclose any apparent land use planning ground upon which the Tribunal could allow all or part of the appeal, ii. the appeal is not made in good faith or is frivolous or vexatious, iii. the appeal is made only for the purpose of delay, or iv. the appellant has persistently and without reasonable grounds commenced before the Tribunal proceedings that constitute an abuse of process. 2. The appellant has not provided written reasons for the appeal. 3. The appellant intends to argue a matter mentioned in subsection (19.0.1) but has not provided the explanations required by that subsection. 4. The appellant has not paid the fee charged under the <i>Local Planning Appeal Tribunal Act, 2017</i>.

	<p>3. The Tribunal is of the opinion that,</p> <ul style="list-style-type: none"> i. the appeal is not made in good faith or is frivolous or vexatious, ii. the appeal is made only for the purpose of delay, or iii. the appellant has persistently and without reasonable grounds commenced before the Tribunal proceedings that constitute an abuse of process. <p>4. The appellant has not provided the explanation required by subsection (11.0.0.4) or (19.0.2), as applicable.</p> <p>5. The appellant has not paid the fee charged under the <i>Local Planning Appeal Tribunal Act, 2017</i> and has not responded to a request by the Tribunal to pay the fee within the time specified by the Tribunal.</p> <p>6. The appellant has not responded to a request by the Tribunal for further information within the time specified by the Tribunal. 2017, c. 23, Sched. 3, s. 10 (11).</p>	<p>5. The appellant has not responded to a request by the Tribunal for further information within the time specified by the Tribunal. Bill 108 Sched 12 s 6 (8).</p>
S. 34 (25.1)	<p>Representation</p> <p>(25.1) Before dismissing all or part of an appeal, the Tribunal shall notify the appellant and give the appellant the opportunity to make representation on the proposed dismissal but this subsection does not apply if the appellant has not complied with a request made under paragraph 5 or 6 of subsection (25). 2000, c. 26, Sched. K, s. 5 (2); 2017, c. 23, Sched. 3, s. 10 (12).</p>	<p>Representation</p> <p>(25.1) Before dismissing all or part of an appeal, the Tribunal shall notify the appellant and give the appellant the opportunity to make representation on the proposed dismissal but this subsection does not apply if the appellant has not complied with a request made under paragraph 5 of subsection (25). 2000, c. 26, Sched. K, s. 5 (2); 2017, c. 23, Sched. 3, s. 10 (12). Bill 108 Sched 12 s 6 (9).</p>
S. 34 (26) - (16.13)	<p>Powers of L.P.A.T.</p> <p>(26) Subject to subsections (26.1) to (26.10) and (26.13), after holding a hearing on an appeal under subsection (11) or (19), the Tribunal shall dismiss the appeal. 2017, c. 23, Sched. 3, s. 10 (14).</p> <p>Notice re opportunity to make new decision — appeal under subs. (11)</p> <p>(26.1) Unless subsection (26.3), (26.6), (26.7) or (26.9) applies, on an appeal under subsection (11), the Tribunal shall notify the clerk of the municipality that it is being given an opportunity to make a new decision in respect of the matter, if the Tribunal determines that,</p> <ul style="list-style-type: none"> (a) the existing part or parts of the by-law that would be affected by the amendment that is the subject of the application are inconsistent with a 	<p>Powers of L.P.A.T.</p> <p>(26) The Tribunal may,</p> <ul style="list-style-type: none"> (a) on an appeal under subsection (11) or (19), dismiss the appeal; (b) on an appeal under subsection (11) or (19), amend the by-law in such manner as the Tribunal may determine or direct the council of the municipality to amend the by-law in accordance with the Tribunal's order; or (c) on an appeal under subsection (19), repeal the by-law in whole or in part or direct the council of the municipality to repeal the by-law in whole or in part in accordance with the Tribunal's order. Bill 108 Sched 12 s 6 (10).

	<p>policy statement issued under subsection 3 (1), fail to conform with or conflict with a provincial plan or fail to conform with an applicable official plan; and</p> <p>(b) the amendment that is the subject of the application is consistent with policy statements issued under subsection 3 (1), conforms with or does not conflict with provincial plans and conforms with applicable official plans. 2017, c. 23, Sched. 3, s. 10 (14).</p> <p>Same — appeal under subs. (19)</p> <p>(26.2) Unless subsection (26.3), (26.8) or (26.9) applies, if, on an appeal under subsection (19), the Tribunal determines that a part of the by-law to which the notice of appeal relates is inconsistent with a policy statement issued under subsection 3 (1), fails to conform with or conflicts with a provincial plan or fails to conform with an applicable official plan,</p> <p>(a) the Tribunal shall repeal that part of the by-law; and</p> <p>(b) the Tribunal shall notify the clerk of the municipality that it is being given an opportunity to make a new decision in respect of the matter. 2017, c. 23, Sched. 3, s. 10 (14).</p> <p>Powers of L.P.A.T. — Draft by-law with consent of parties</p> <p>(26.3) Unless subsection (26.9) applies, if a draft by-law is presented to the Tribunal with the consent of all of the parties specified in subsection (26.11), the Tribunal shall approve the draft by-law except for any part of it that is inconsistent with a policy statement issued under subsection 3 (1), fails to conform with or conflicts with a provincial plan or fails to conform with an applicable official plan. 2017, c. 23, Sched. 3, s. 10 (14).</p> <p>Notice to make new decision</p> <p>(26.4) If subsection (26.3) applies and the Tribunal determines that any part of the draft by-law is inconsistent with a policy statement issued under subsection 3 (1), fails to conform with or conflicts with a provincial plan or fails to conform with an applicable official plan, the Tribunal shall notify the clerk of the municipality that it is being given an opportunity to</p>	
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	<p>make a new decision in respect of the matter. 2017, c. 23, Sched. 3, s. 10 (14).</p> <p>Rules that apply if notice received</p> <p>(26.5) If the clerk has received notice under subsection (26.1), clause (26.2) (b) or subsection (26.4), the following rules apply:</p> <ol style="list-style-type: none"> 1. The council of the municipality may prepare and pass another by-law in accordance with this section, except that clause (12) (b) does not apply. 2. The reference to “within 150 days after the receipt by the clerk of the application” in subsection (11) shall be read as “within 90 days after the day notice under subsection (26.1), clause (26.2) (b) or subsection (26.4) was received”. 2017, c. 23, Sched. 3, s. 10 (14). <p>Second appeal, subs. (11) — failure to make decision</p> <p>(26.6) On an appeal under subsection (11) that concerns the failure to make a decision on an application in respect of which the municipality was given an opportunity to make a new decision in accordance with subsection (26.5), the Tribunal may amend the by-law in such manner as the Tribunal may determine or direct the council of the municipality to amend the bylaw in accordance with the Tribunal’s order. 2017, c. 23, Sched. 3, s. 10 (14).</p> <p>Second appeal, subs. (11) — refusal</p> <p>(26.7) Unless subsection (26.9) applies, on an appeal under subsection (11) that concerns the refusal of an application in respect of which the municipality was given an opportunity to make a new decision in accordance with subsection (26.5), the Tribunal may amend the by-law in such manner as the Tribunal may determine or direct the council of the municipality to amend the by-law in accordance with the Tribunal’s order if the Tribunal determines that,</p> <ol style="list-style-type: none"> (a) the existing part or parts of the by-law that would be affected by the amendment that is the subject of the application are inconsistent with a policy statement issued under subsection 3 (1), fail to conform with or conflict with a provincial plan or fail to conform with an applicable official plan; and 	
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	<p>(b) the amendment that is the subject of the application is consistent with policy statements issued under subsection 3 (1), conforms with or does not conflict with provincial plans and conforms with all applicable official plans. 2017, c. 23, Sched. 3, s. 10 (14).</p> <p>Second appeal — subs. (19)</p> <p>(26.8) Unless subsection (26.9) applies, on an appeal under subsection (19) that concerns a new decision that the municipality was given an opportunity to make in accordance with subsection (26.5), the Tribunal may repeal the by-law in whole or in part or amend the by-law in such manner as the Tribunal may determine or direct the council of the municipality to repeal the by-law in whole or in part or to amend the by-law in accordance with the Tribunal's order, if the Tribunal determines that the decision is inconsistent with policy statements issued under subsection 3 (1), fails to conform with or conflicts with provincial plans or fails to conform with an applicable official plan. 2017, c. 23, Sched. 3, s. 10 (14).</p> <p>Draft by-law with consent of the parties</p> <p>(26.9) If, on an appeal referred to in subsection (26.7) or (26.8), a draft by-law is presented to the Tribunal with the consent of all of the parties specified in subsection (26.11), the Tribunal shall approve the draft by-law as a zoning by-law except for any part of it that is inconsistent with a policy statement issued under subsection 3 (1), fails to conform with or conflicts with a provincial plan or fails to conform with an applicable official plan. 2017, c. 23, Sched. 3, s. 10 (14).</p> <p>Same</p> <p>(26.10) If subsection (26.9) applies and the Tribunal determines that any part of the draft by-law is inconsistent with a policy statement issued under subsection 3 (1), fails to conform with or conflicts with a provincial plan or fails to conform with an applicable official plan, the Tribunal may refuse to amend the zoning by-law or amend the zoning by-law in such manner as the Tribunal may determine or direct the council of the municipality to amend the zoning by-law in accordance with the Tribunal's order. 2017, c. 23, Sched. 3, s. 10 (14).</p>	
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	<p>Specified parties (26.11) For the purposes of subsection (26.3) and (26.9), the specified parties are:</p> <ol style="list-style-type: none"> 1. The municipality. 2. The Minister, if the Minister is a party. 3. If applicable, the applicant. 4. If applicable, all appellants of the decision which was the subject of the appeal. 2017, c. 23, Sched. 3, s. 10 (14). <p>Effect on original by-law (26.12) If subsection (26.3) or (26.9) applies in the case of an appeal under subsection (19), the by-law that was the subject of the notice of appeal shall be deemed to have been repealed. 2017, c. 23, Sched. 3, s. 10 (14).</p> <p>Non-application of s. 24 (4) (26.13) An appeal under subsection (11) shall not be dismissed on the basis that the by-law is deemed to be in conformity with an official plan under subsection 24 (4). 2017, c. 23, Sched. 3, s. 10 (14).</p>	
S. 34 (27)	<p>Matters of provincial interest (27) Where an appeal is made to the Tribunal under subsection (11) or (19), the Minister, if he or she is of the opinion that a matter of provincial interest is, or is likely to be, adversely affected by the by-law, may so advise the Tribunal in writing not later than 30 days after the day the Tribunal gives notice under subsection (24) and the Minister shall identify,</p> <ol style="list-style-type: none"> (a) the part or parts of the by-law by which the provincial interest is, or is likely to be, adversely affected; and (b) the general basis for the opinion that a matter of provincial interest is, or is likely to be, adversely affected. 2017, c. 23, Sched. 3, s. 10 (15). 	<p>Matters of provincial interest (27) Where an appeal is made to the Tribunal under subsection (11) or (19), the Minister, if he or she is of the opinion that a matter of provincial interest is, or is likely to be, adversely affected by the by-law, may so advise the Tribunal in writing not later than 30 days before the day fixed by the Tribunal for the hearing of the appeal and the Minister shall identify,</p> <ol style="list-style-type: none"> (a) the part or parts of the by-law by which the provincial interest is, or is likely to be, adversely affected; and (b) the general basis for the opinion that a matter of provincial interest is, or is likely to be, adversely affected. 2017, c. 23, Sched. 3, s. 10 (15). Bill 108 Sched 12 s 6 (11).
S. 34 (29)	<p>Applicable rules if notice under subs. (27) received (29) If the Tribunal has received a notice from the Minister under subsection (27), the following rules apply:</p> <ol style="list-style-type: none"> 1. Subsections (26) to (26.12) do not apply to the appeal. 	<p>No order to be made (29) If the Tribunal has received a notice from the Minister under subsection (27) and has made a decision on the bylaw, the Tribunal</p>

	<p>2. The Tribunal may make a decision as to whether the appeal should be dismissed or the by-law should be repealed or amended in whole or in part or the council of the municipality should be directed to repeal or amend the by-law in whole or in part.</p> <p>3. The Tribunal shall not make an order in respect of the part or parts of the by-law identified in the notice. 2017, c. 23, Sched. 3, s. 10 (16).</p>	<p>shall not make an order under subsection (26) in respect of the part or parts of the by-law identified in the notice. Bill 108 Sched 12 s 6 (12).</p>
S. 34 (30)	<p>Coming into force (30) If one or more appeals have been filed under subsection (19), the by-law does not come into force until all of such appeals have been withdrawn or finally disposed of, whereupon the by-law, except for those parts of it repealed under subsection (26.2) or (26.8) or amended under subsection (26.8) or as are repealed or amended by the Lieutenant Governor in Council under subsection (29.1), shall be deemed to have come into force on the day it was passed. 1996, c. 4, s. 20 (13); 2004, c. 18, s. 6 (4); 2017, c. 23, Sched. 3, s. 10 (17).</p>	<p>Coming into force (30) If one or more appeals have been filed under subsection (19), the by-law does not come into force until all of such appeals have been withdrawn or finally disposed of, whereupon the by-law, except for those parts of it repealed or amended under subsection (26) or as are repealed or amended by the Lieutenant Governor in Council under subsection (29.1), shall be deemed to have come into force on the day it was passed. 1996, c. 4, s. 20 (13); 2004, c. 18, s. 6 (4); 2017, c. 23, Sched. 3, s. 10 (17). Bill 108 Sched 12 s 6 (13).</p>
S. 35.2 (5)	<p>Restrictions on authority (5) If a council of a municipality passes a by-law giving effect to policies described in subsection 16 (4),</p> <p>(a) the council may, subject to the prohibitions or restrictions contained in the regulations, authorize the erection or location of some or all of the required affordable housing units in or on lands, buildings or structures other than those that are the subject of the development or redevelopment giving rise to the by-law requirement for affordable housing units; and</p> <p>(b) the council may, subject to the prohibitions or restrictions contained in the regulations, use its authority under section 37 with respect to the development or redevelopment giving rise to the by-law requirement for affordable housing units. 2016, c. 25, Sched. 4, s. 4.</p>	<p>Restrictions on authority (5) If a council of a municipality passes a by-law giving effect to policies described in subsection 16 (4), the council may, subject to the prohibitions or restrictions contained in the regulations, authorize the erection or location of some or all of the required affordable housing units in or on lands, buildings or structures other than those that are the subject of the development or redevelopment giving rise to the by-law requirement for affordable housing units. Bill 108 Sched 12 s 7.</p>
S. 36 (3)	<p>Appeal to L.P.A.T. (3) Where an application to the council for an amendment to the by-law to remove the holding symbol is refused or the council fails to make a decision thereon within 150 days after receipt by the clerk of the application, the applicant may appeal to the Tribunal and the Tribunal</p>	<p>Appeal to L.P.A.T. (3) Where an application to the council for an amendment to the by-law to remove the holding symbol is refused or the council fails to make a decision thereon within 90 days after receipt by the clerk of the application, the applicant may appeal to the Tribunal and the Tribunal</p>

	shall hear the appeal and dismiss the same or amend the by-law to remove the holding symbol or direct that the by-law be amended in accordance with its order. 2017, c. 23, Sched. 3, s. 11 (1).	shall hear the appeal and dismiss the same or amend the by-law to remove the holding symbol or direct that the by-law be amended in accordance with its order. 2017, c. 23, Sched. 3, s. 11 (1). Bill 108 Sched 12 s 8 (1).
S. 36 (4)	Application of subss. 34 (10.7, 10.9-20.4, 22-34) (4) Subsections 34 (10.7), (10.9) to (20.4) and (22) to (34) do not apply to an amending by-law passed by the council to remove the holding symbol, but the council shall, in the manner and to the persons and public bodies and containing the information prescribed, give notice of its intention to pass the amending by-law. R.S.O. 1990, c. P.13, s. 36 (4); 1994, c. 23, s. 22 (2); 1996, c. 4, s. 22; 2009, c. 33, Sched. 21, s. 10 (6); 2017, c. 23, Sched. 3, s. 11 (2).	Application of subss. 34 (10.7, 10.9-20.4, 22-34) (4) Subsections 34 (10.7) and (10.9) to (25.1) do not apply to an amending by-law passed by the council to remove the holding symbol, but the council shall, in the manner and to the persons and public bodies and containing the information prescribed, give notice of its intention to pass the amending by-law. R.S.O. 1990, c. P.13, s. 36 (4); 1994, c. 23, s. 22 (2); 1996, c. 4, s. 22; 2009, c. 33, Sched. 21, s. 10 (6); 2017, c. 23, Sched. 3, s. 11 (2). Bill 108 Sched 12 s 8 (2).
S.37	Increased density, etc., provision by-law 37 (1) The council of a local municipality may, in a by-law passed under section 34, authorize increases in the height and density of development otherwise permitted by the by-law that will be permitted in return for the provision of such facilities, services or matters as are set out in the by-law. Condition (2) A by-law shall not contain the provisions mentioned in subsection (1) unless there is an official plan in effect in the local municipality that contains provisions relating to the authorization of increases in height and density of development. Agreements (3) Where an owner of land elects to provide facilities, services or matters in return for an increase in the height or density of development, the municipality may require the owner to enter into one or more agreements with the municipality dealing with the facilities, services or matters. Registration of agreement (4) Any agreement entered into under subsection (3) may be registered against the land to which it applies and the municipality is entitled to enforce the provisions thereof against the owner and, subject to the	Community benefits charges Definitions 37 (1) In this section, “specified date” means the date prescribed under the <i>Development Charges Act, 1997</i> for the purposes of section 9.1 of that Act; (“date précisée”) “valuation date” means, with respect to land that is the subject of development or redevelopment, (a) the day before the day the building permit is issued in respect of the development or redevelopment, or (b) if more than one building permit is required for the development or redevelopment, the day before the day the first permit is issued. (“date d’évaluation”) Community benefits charge by-law (2) The council of a municipality may by by-law impose community benefits charges against land to pay for the capital costs of facilities, services and matters required because of development or redevelopment in the area to which the by-law applies. What charge can be imposed for (3) A community benefits charge may be imposed only with respect to development or redevelopment that requires,

<p>provisions of the <i>Registry Act</i> and the <i>Land Titles Act</i>, any and all subsequent owners of the land. R.S.O. 1990, c. P.13, s. 37.</p> <p>Special account</p> <p>(5) All money received by the municipality under this section shall be paid into a special account and spent only for facilities, services and other matters specified in the by-law. 2015, c. 26, s. 27.</p> <p>Investments</p> <p>(6) The money in the special account may be invested in securities in which the municipality is permitted to invest under the <i>Municipal Act, 2001</i> or the <i>City of Toronto Act, 2006</i>, as the case may be, and the earnings derived from the investment of the money shall be paid into the special account, and the auditor in the auditor's annual report shall report on the activities and status of the account. 2015, c. 26, s. 27.</p> <p>Treasurer's statement</p> <p>(7) The treasurer of the municipality shall each year, on or before the date specified by the council, give the council a financial statement relating to the special account. 2015, c. 26, s. 27.</p> <p>Requirements</p> <p>(8) The statement shall include, for the preceding year,</p> <ul style="list-style-type: none"> (a) statements of the opening and closing balances of the special account and of the transactions relating to the account; (b) statements identifying, <ul style="list-style-type: none"> (i) any facilities, services or other matters specified in the by-law for which funds from the special account have been spent during the year, (ii) details of the amounts spent, and (iii) for each facility, service or other matter mentioned in subclause (i), the manner in which any capital cost not funded from the special account was or will be funded; and I any other information that is prescribed. 2015, c. 26, s. 27. <p>Copy to Minister</p> <p>(9) The treasurer shall give a copy of the statement to the Minister on request. 2015, c. 26, s. 27.</p> <p>Statement available to public</p>	<ul style="list-style-type: none"> (a) the passing of a zoning by-law or of an amendment to a zoning by-law under section 34; (b) the approval of a minor variance under section 45; I a conveyance of land to which a by-law passed under subsection 50 (7) applies; (d) the approval of a plan of subdivision under section 51; I a consent under section 53; (f) the approval of a description under section 9 of the <i>Condominium Act, 1998</i>; or (g) the issuing of a permit under the <i>Building Code Act, 1992</i> in relation to a building or structure. <p>Excluded development or redevelopment</p> <p>(4) A community benefits charge may not be imposed with respect to such types of development or redevelopment as are prescribed.</p> <p>Excluded facilities, services and matters</p> <p>(5) A community benefits charge may not be imposed with respect to the following:</p> <ol style="list-style-type: none"> 1. Facilities, services or matters associated with any of the services set out in subsection 2 (4) of the <i>Development Charges Act, 1997</i>. 2. Such other facilities, services or matters as are prescribed. <p>In-kind contributions</p> <p>(6) A municipality that has passed a community benefits charge by-law may allow an owner of land to provide to the municipality facilities, services or matters required because of development or redevelopment in the area to which the by-law applies.</p> <p>Notice of value of in-kind contributions</p> <p>(7) Before the owner of land provides facilities, services or matters in accordance with subsection (6), the municipality shall advise the owner of land of the value that will be attributed to them.</p> <p>Deduction of value of in-kind contributions</p> <p>(8) The value attributed under subsection (7) shall be deducted from the amount the owner of land would otherwise be required to pay under the community benefits charge by-law.</p>
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	<p>(10) The council shall ensure that the statement is made available to the public. 2015, c. 26, s. 27.</p>	<p>Community benefits charge strategy (9) Before passing a community benefits charge by-law under subsection (2), the municipality shall prepare a community benefits charge strategy that, (a) identifies the facilities, services and matters that will be funded with community benefits charges; and (b) complies with any prescribed requirements.</p> <p>Consultation (10) In preparing the community benefits charge strategy, the municipality shall consult with such persons and public bodies as the municipality considers appropriate.</p> <p>Limitation (11) Only one community benefits charge by-law passed by the council of a given municipality may be in effect at a time.</p> <p>Maximum amount of community benefits charge (12) The amount of a community benefits charge payable in any particular case shall not exceed an amount equal to the prescribed percentage of the value of the land as of the valuation date.</p> <p>Payment under protest and appraisal provided by owner (13) If the owner of land is of the view that the amount of the community benefits charge exceeds the amount permitted under subsection (12), the owner shall, (a) pay the charge under protest; and (b) within the prescribed time period, provide the municipality with an appraisal of the value of the land as of the valuation date.</p> <p>No appraisal under cl. (13) (b) (14) If an owner of land pays a community benefits charge under protest but does not provide an appraisal in accordance with clause (13) (b), the payment is deemed not to have been made under protest.</p> <p>Appraisal provided by the municipality (15) If the municipality disputes the value of the land identified in the appraisal referred to in clause (13) (b), the municipality shall, within the</p>
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		<p>prescribed time period, provide the owner with an appraisal of the value of the land as of the valuation date.</p> <p>No appraisal under subs. (15)</p> <p>(16) If the municipality does not provide an appraisal in accordance with subsection (15), the municipality shall immediately refund to the owner the difference, if any, between the amount of the community benefits charge imposed by the municipality and the maximum amount determined in accordance with subsection (12) based on the value of the land identified in the appraisal referred to in clause (13) (b).</p> <p>Appraisal under subs. (15) within 5%</p> <p>(17) If the municipality provides an appraisal in accordance with subsection (15) and the value of the land identified in that appraisal is within 5 per cent of the value identified in the appraisal referred to in clause (13) (b), the municipality shall immediately refund to the owner the difference, if any, between the amount of the community benefits charge imposed by the municipality and the maximum amount determined in accordance with subsection (12) based on the value of the land identified in the appraisal referred to in clause (13) (b) or subsection (15), whichever identifies the higher value of the land.</p> <p>Appraisal under subs. (15) not within 5%</p> <p>(18) If the municipality provides an appraisal in accordance with subsection (15) and the value of the land identified in that appraisal is not within 5 per cent of the value identified in the appraisal referred to in clause (13) (b), the municipality shall request that a person selected by the owner from the list referred to in subsection (22) prepare an appraisal of the value of the land as of the valuation date.</p> <p>Time period for appraisal referred to in subs. (18)</p> <p>(19) The municipality shall provide the owner with the appraisal referred to in subsection (18) within the prescribed time period.</p> <p>Appraisal under subs. (18)</p> <p>(20) If an appraisal is prepared in accordance with subsection (18), the municipality shall immediately refund to the owner the difference, if any, between the amount of the community benefits charge imposed by the</p>
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		<p>municipality and the maximum amount determined in accordance with subsection (12) based on the value of the land identified in the appraisal referred to in subsection (18).</p> <p>Non-application of 38ubs. (16), (17) and (20)</p> <p>(21) For greater certainty, a refund is not required under subsection (16), (17) or (20) if the maximum amount determined in accordance with subsection (12) based on the value of the land identified in the applicable appraisal is greater than the amount of the community benefits charge imposed by the municipality.</p> <p>List of appraisers</p> <p>(22) A municipality that has passed a community benefits charge by-law shall maintain a list of at least three persons who,</p> <ul style="list-style-type: none">(a) are not employees of the municipality or members of its council; <p>and</p> <ul style="list-style-type: none">(b) have an agreement with the municipality to perform appraisals for the purposes of subsection (18). <p>Same</p> <p>(23) A municipality shall maintain the list referred to in subsection (22) until the later of,</p> <ul style="list-style-type: none">(a) the day on which the community benefits charge by-law is repealed; <p>and</p> <ul style="list-style-type: none">(b) the day on which there is no longer any refund that is or could be required to be made under subsection (20). <p>No building without payment</p> <p>(24) No person shall construct a building on the land proposed for development or redevelopment unless,</p> <ul style="list-style-type: none">(a) the payment required by the community benefits charge by-law has been made or arrangements for the payment that are satisfactory to the council have been made; and(b) any facilities, services or matters being provided in accordance with subsection (6) have been provided or arrangements for their provision that are satisfactory to the council have been made. <p>Special account</p>
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		<p>(25) All money received by the municipality under a community benefits charge by-law shall be paid into a special account.</p> <p>Investments</p> <p>(26) The money in the special account may be invested in securities in which the municipality is permitted to invest under the <i>Municipal Act, 2001</i> or the <i>City of Toronto Act, 2006</i>, as the case may be, and the earnings derived from the investment of the money shall be paid into the special account.</p> <p>Requirement to spend or allocate monies in special account</p> <p>(27) In each calendar year, a municipality shall spend or allocate at least 60 per cent of the monies that are in the special account at the beginning of the year.</p> <p>Reports and information</p> <p>(28) A council of a municipality that passes a community benefits charge by-law shall provide the prescribed reports and information to the prescribed persons or classes of persons at such times, in such manner and in accordance with such other requirements as may be prescribed.</p> <p>Application of subs. (30)</p> <p>(29) Subsection (30) applies with respect to the following:</p> <ol style="list-style-type: none"> 1. A special account established in accordance with subsection 37 (5), as it read on the day before the day section 9 of Schedule 12 to the <i>More Homes, More Choice Act, 2019</i> comes into force. 2. A reserve fund established in accordance with section 33 of the <i>Development Charges Act, 1997</i> before the day section 2 of Schedule 3 to the <i>More Homes, More Choice Act, 2019</i> comes into force in respect of any of the services described in subsection 9.1 (3) of the <i>Development Charges Act, 1997</i>. <p>Transition respecting special account and reserve fund described in subs. (29)</p> <p>(30) The following rules apply with respect to a special account or reserve fund described in subsection (29):</p> <ol style="list-style-type: none"> 1. If the municipality passes a community benefits charge by-law under this section before the specified date, the municipality shall, on the day it
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		<p>passes the by-law, allocate the money in the special account or reserve fund to the special account referred to in subsection (25).</p> <p>2. If the municipality has not passed a community benefits charge by-law under this section before the specified date, the special account or reserve fund is deemed to be a general capital reserve fund for the same purposes for which the money in the special account or reserve fund was collected.</p> <p>3. Despite paragraph 2, subsection 417 (4) of the <i>Municipal Act, 2001</i> and any equivalent provision of, or made under, the <i>City of Toronto Act, 2006</i> do not apply with respect to the general capital reserve fund referred to in paragraph 2.</p> <p>4. If paragraph 2 applies and the municipality passes a community benefits charge by-law under this section on or after the specified date, the municipality shall, on the day it passes the by-law, allocate any money remaining in the general capital reserve fund referred to in paragraph 2 to the special account referred to in subsection (25).</p> <p>Credit under s. 38 of <i>Development Charges Act, 1997</i></p> <p>(31) If the municipality passes a community benefits charge by-law under this section before the specified date, any credit under section 38 of the <i>Development Charges Act, 1997</i> that was held as of the day before the day the by-law is passed and that relates to any of the services described in subsection 9.1 (3) of that Act may be used by the holder of the credit with respect to a community benefits charge that the holder is required to pay under a community benefits charge by-law. Bill 108 Sched 12 s 9.</p>
S. 37.1	N/A	<p>Transitional matters respecting repealed s. 37, etc.</p> <p>Definitions</p> <p>37.1 (1) In this section,</p> <p>“by-law described in the repealed subsection 37 (1)” means a by-law passed under section 34 that includes, under subsection 37 (1) as it read on the day before the effective date, any requirement to provide facilities, services or matters; (“règlement municipal visé au paragraphe 37 (1) abrogé”) “effective date” means the day section 9 of Schedule 12</p>

		<p>to the <i>More Homes, More Choice Act, 2019</i> comes into force. (“date d’effet”)</p> <p>Continued application of repealed 41ubs. 37 (1) to (5)</p> <p>(2) Despite their repeal by section 9 of Schedule 12 to the <i>More Homes, More Choice Act, 2019</i>, the following provisions continue to apply to a local municipality until the applicable date described in subsection (5) of this section:</p> <ol style="list-style-type: none"> 1. Subsections 37 (1) to (4), as they read on the day before the effective date. 2. Subsection 37 (5), as it read on the day before the effective date, except that the reference to a special account in that subsection shall be read as a reference to the special account referred to in subsection 37 (25). <p>By-law described in repealed subs. 37 (1)</p> <p>(3) On and after the applicable date described in subsection (5), the following rules apply if, before that date, the local municipality has passed a by-law described in the repealed subsection 37 (1):</p> <ol style="list-style-type: none"> 1. Subsections 37 (1) to (4), as they read on the day before the effective date, continue to apply with respect to the by-law and the lands that are the subject of the by-law. 2. Subsection 37 (5), as it read on the day before the effective date, continues to apply with respect to the by-law and the lands that are the subject of the by-law, except that the reference to a special account in that subsection shall be read as a reference to the special account referred to in subsection 37 (25). 3. Despite subsections 2 (4) and 9 (1) of the <i>Development Charges Act, 1997</i>, the development or redevelopment of the lands that are the subject of the by-law is subject to any development charge by-law that relates to any of the services described in subsection 9.1 (3) of that Act and that applied to the lands on the day before the applicable date described in subsection (5) of this section, regardless of whether the development charge by-law has expired or been repealed. 4. For the purposes of paragraph 3, the following rules apply:
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		<p>i. the reference to a development charge by-law is a reference to the by-law, as it read on the day before the applicable date described in subsection (5),</p> <p>ii. despite section 34 of the <i>Development Charges Act, 1997</i>, if paragraph 3 applies with respect to a development charge by-law, the municipality shall pay each development charge collected under the by-law into the special account referred to in subsection 37 (25) of this Act.</p> <p>5. The development or redevelopment of the lands that are the subject of the by-law described in the repealed subsection 37 (1) is not subject to a community benefits charge by-law passed under section 37.</p> <p>6. The development or redevelopment of the lands that are the subject of the by-law described in the repealed subsection 37 (1) is subject to any by-law under section 42, as it read on the day before the day subsection 12 (3) of Schedule 12 to the <i>More Homes, More Choice Act, 2019</i> comes into force, that applied to the lands on the day before the effective date, regardless of whether the by-law has been repealed.</p> <p>7. For the purposes of paragraph 6, the reference to a by-law under section 42 is a reference to the by-law, as it read on the day before the effective date.</p> <p>Non-application of subs. (3)</p> <p>(4) Subsection (3) does not apply with respect to the lands that are the subject of a by-law described in the repealed subsection 37 (1) if, on or after the applicable date described in subsection (5), the by-law,</p> <p>(a) is amended to remove any requirement to provide facilities, services or matters that was included under subsection 37 (1), as it read on the day before the effective date; or</p> <p>(b) is repealed.</p> <p>Applicable date</p> <p>(5) The applicable date referred to in subsections (2), (3) and (4) and paragraph 5 of subsection 51.1 (7) is the earlier of,</p> <p>(a) the day the municipality passes a by-law under section 37; and</p> <p>(b) the date prescribed under the <i>Development Charges Act, 1997</i> for the purposes of section 9.1 of that Act. Bill 108 Sched 12 s 10.</p>
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S. 38 (5)	Application (5) If a notice of appeal is filed under subsection (4) or (4.1), subsections 34 (23) to (26), as they read on the day before subsection 12 (2) of Schedule 3 to the Building Better Communities and Conserving Watersheds Act, 2017 comes into force, apply with necessary modifications to the appeal. 1996, c. 4, s. 23; 2017, c. 23, Sched. 3, s. 12 (2).	Application (5) If a notice of appeal is filed under subsection (4) or (4.1), subsections 34 (23) to (26) apply with necessary modifications to the appeal. 1996, c. 4, s. 23; 2017, c. 23, Sched. 3, s. 12 (2). Bill 108 Sched 12 s 11.
S. 42 (0.1)	Conveyance of land for park purposes Definitions (0.1) In this section, “dwelling unit” means any property that is used or designed for use as a domestic establishment in which one or more persons may sleep and prepare and serve meals; (“logement”) “effective date” means the day subsection 28 (1) of the Smart Growth for Our Communities Act, 2015 comes into force. (“date d’effet”) 2015, c. 26, s. 28 (1).	N/A (Subsection 42 (0.1) is repealed.) Bill 108 Sched 12 s 12 (1).
S. 42 (2)	(2) REPEALED: 2015, c. 26, s. 28 (2).	Community benefits charge by-law (2) Subject to paragraph 6 of subsection 37.1 (3), a by-law under subsection (1) is of no force and effect if a community benefits charge by-law under section 37 passed by the council of the local municipality is in force. Bill 108 Sched 12 s 12 (2).
S. 42 (3) - (4.3), (6.0.1) - (6.0.3)	Alternative requirement (3) Subject to subsection (4), as an alternative to requiring the conveyance provided for in subsection (1), in the case of land proposed for development or redevelopment for residential purposes, the by-law may require that land be conveyed to the municipality for park or other public recreational purposes at a rate of one hectare for each 300 dwelling units proposed or at such lesser rate as may be specified in the by-law. R.S.O. 1990, c. P.13, s. 42 (3). Official plan requirement (4) The alternative requirement authorized by subsection (3) may not be provided for in a by-law passed under this section unless there is an official plan in effect in the local municipality that contains specific policies dealing with the provision of lands for park or other public	N/A (Subsection 42 (3) to (4.3) and (6.0.1) to (6.0.3) are repealed.) Bill 108 Sched 12 s 12 (3).

	<p>recreational purposes and the use of the alternative requirement. R.S.O. 1990, c. P.13, s. 42 (4).</p> <p>Parks plan</p> <p>(4.1) Before adopting the official plan policies described in subsection (4), the local municipality shall prepare and make available to the public a parks plan that examines the need for parkland in the municipality. 2015, c. 26, s. 28 (3).</p> <p>Same</p> <p>(4.2) In preparing the parks plan, the municipality,</p> <p>(a) shall consult with every school board that has jurisdiction in the municipality; and</p> <p>(b) may consult with any other persons or public bodies that the municipality considers appropriate. 2015, c. 26, s. 28 (3).</p> <p>Same</p> <p>(4.3) For greater certainty, subsection (4.1) and clause (4.2) (a) do not apply with respect to official plan policies adopted before the effective date. 2015, c. 26, s. 28 (3). Bill 108 Sched 12 s 12 (3)</p> <p>Payment in lieu</p> <p>Same</p> <p>(6.0.1) If a rate authorized by subsection (3) applies, the council may require a payment in lieu, calculated by using a rate of one hectare for each 500 dwelling units proposed or such lesser rate as may be specified in the by-law. 2015, c. 26, s. 28 (4).</p> <p>Deemed amendment of by-law</p> <p>(6.0.2) If a by-law passed under this section requires a payment in lieu that exceeds the amount calculated under subsection (6.0.1), in circumstances where the alternative requirement set out in subsection (3) applies, the by-law is deemed to be amended to be consistent with subsection (6.0.1). 2015, c. 26, s. 28 (4).</p> <p>Transition</p> <p>(6.0.3) If, on or before the effective date, in circumstances where the alternative requirement set out in subsection (3) applies, a payment in</p>	
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	lieu has been made or arrangements for a payment in lieu that are satisfactory to the council have been made, subsections (6.0.1) and (6.0.2) do not apply. 2015, c. 26, s. 28 (4). Bill 108 Sched 12 s 12 (3)	
S. 42 (6.1)	No building without payment (6.1) If a payment is required under subsection (6) or (6.0.1), no person shall construct a building on the land proposed for development or redevelopment unless the payment has been made or arrangements for the payment that are satisfactory to the council have been made. 2006, c. 23, s. 17 (1); 2015, c. 26, s. 28 (5).	No building without payment (6.1) If a payment is required under subsection (6), no person shall construct a building on the land proposed for development or redevelopment unless the payment has been made or arrangements for the payment that are satisfactory to the council have been made. 2006, c. 23, s. 17 (1); 2015, c. 26, s. 28 (5). Bill 108 Sched 12 s 12 (4).
S. 42 (6.2)	Redevelopment, reduction of payment (6.2) If land in a local municipality is proposed for redevelopment, a part of the land meets sustainability criteria set out in the official plan and the conditions set out in subsection (6.3) are met, the council shall reduce the amount of any payment required under subsection (6) or (6.0.1) by the value of that part. 2006, c. 23, s. 17 (1); 2015, c. 26, s. 28 (6).	Redevelopment, reduction of payment (6.2) If land in a local municipality is proposed for redevelopment, a part of the land meets sustainability criteria set out in the official plan and the conditions set out in subsection (6.3) are met, the council shall reduce the amount of any payment required under subsection (6) by the value of that part. 2006, c. 23, s. 17 (1); 2015, c. 26, s. 28 (6). Bill 108 Sched 12 s 12 (5).
S. 42 (6.3)	Redevelopment, reduction of payment Same (6.3) The conditions mentioned in subsection (6.2) are: 1. The official plan contains policies relating to the reduction of payments required under subsection (6) or (6.0.1). 2. No land is available to be conveyed for park or other public recreational purposes under this section. 2006, c. 23, s. 17 (1); 2015, c. 26, s. 28 (7).	Redevelopment, reduction of payment Same (6.3) The conditions mentioned in subsection (6.2) are: 1. The official plan contains policies relating to the reduction of payments required under subsection (6). 2. No land is available to be conveyed for park or other public recreational purposes under this section. 2006, c. 23, s. 17 (1); 2015, c. 26, s. 28 (7). Bill 108 Sched 12 s 12 (6).
S. 42 (6.4)	Determination of value (6.4) For the purposes of subsections (6), (6.0.1) and (6.2), the value of the land shall be determined as of the day before the day the building permit is issued in respect of the development or redevelopment or, if more than one building permit is required for the development or redevelopment, as of the day before the day the first permit is issued. 2006, c. 23, s. 17 (1); 2015, c. 26, s. 28 (8).	Determination of value (6.4) For the purposes of subsections (6) and (6.2), the value of the land shall be determined as of the day before the day the building permit is issued in respect of the development or redevelopment or, if more than one building permit is required for the development or redevelopment, as of the day before the day the first permit is issued. 2006, c. 23, s. 17 (1); 2015, c. 26, s. 28 (8). Bill 108 Sched 12 s 12 (7).
S. 42 (15)	Special account	Special account

	<p>(15) All money received by the municipality under subsections (6), (6.0.1) and (14) and all money received on the sale of land under subsection (5), less any amount spent by the municipality out of its general funds in respect of the land, shall be paid into a special account and spent only for the acquisition of land to be used for park or other public recreational purposes, including the erection, improvement or repair of buildings and the acquisition of machinery for park or other public recreational purposes. 1994, c. 23, s. 25; 2009, c. 33, Sched. 21, s. 10 (10); 2015, c. 26, s. 28 (10).</p>	<p>(15) All money received by the municipality under subsections (6) and (14) and all money received on the sale of land under subsection (5), less any amount spent by the municipality out of its general funds in respect of the land, shall be paid into a special account and spent only for the acquisition of land to be used for park or other public recreational purposes, including the erection, improvement or repair of buildings and the acquisition of machinery for park or other public recreational purposes. 1994, c. 23, s. 25; 2009, c. 33, Sched. 21, s. 10 (10); 2015, c. 26, s. 28 (10). Bill 108 Sched 12 s 12 (8).</p>
<p>S. 42 (17) - (20)</p>	<p>Treasurer's statement (17) The treasurer of the municipality shall each year, on or before the date specified by the council, give the council a financial statement relating to the special account. 2015, c. 26, s. 28 (11). Requirements (18) The statement shall include, for the preceding year, (a) statements of the opening and closing balances of the special account and of the transactions relating to the account; (b) statements identifying, (i) any land or machinery acquired during the year with funds from the special account, (ii) any building erected, improved or repaired during the year with funds from the special account, (iii) details of the amounts spent, and (iv) for each asset mentioned in subclauses (i) and (ii), the manner in which any capital cost not funded from the special account was or will be funded; and (c) any other information that is prescribed. 2015, c. 26, s. 28 (11). Copy to Minister (19) The treasurer shall give a copy of the statement to the Minister on request. 2015, c. 26, s. 28 (11). Statement available to public (20) The council shall ensure that the statement is made available to the public. 2015, c. 26, s. 28 (11).</p>	<p>Reports and information (17) A council of a municipality that passes a by-law under this section shall provide the prescribed reports and information to the prescribed persons or classes of persons at such times, in such manner and in accordance with such other requirements as may be prescribed. Bill 108 Sched 12 s 12 (9).</p>

S. 45 (1.0.3)	<p>Criteria by-law (1.0.3) The council of a local municipality may, by by-law, establish criteria for the purposes of clause (1.0.1) (b) and the following provisions as they read on the day before section 14 of Schedule 3 to the Building Better Communities and Conserving Watersheds Act, 2017 comes into force, apply, with necessary modifications, in respect of the by-law:</p> <ol style="list-style-type: none"> 1. Clause 34 (12) (a). 2. Subsections 34 (13), (14.1) to (15), (17) to (19.0.1), (20) to (20.4), (22) to (25.1) and (25.2) to (26). 2015, c. 26, s. 29 (1); 2017, c. 23, Sched. 3, s. 14. 	<p>Criteria by-law (1.0.3) The council of a local municipality may, by by-law, establish criteria for the purposes of clause (1.0.1) (b) and the following provisions apply, with necessary modifications, in respect of the by-law:</p> <ol style="list-style-type: none"> 1. Clause 34 (12) (a). 2. Subsections 34 (13), (14.1) to (15), (17) to (19.0.1), (20) to (20.4), (22) to (25.1) and (25.2) to (26). 2015, c. 26, s. 29 (1); 2017, c. 23, Sched. 3, s. 14. Bill 108 Sched 12 s 13 (1).
S. 45 (17)	<p>Dismissal without hearing (17) Despite the <i>Statutory Powers Procedure Act</i> and subsection (16), the Tribunal may dismiss all or part of an appeal without holding a hearing, on its own initiative or on the motion of any party, if,</p> <p>(a) it is of the opinion that,</p> <ol style="list-style-type: none"> (i) the reasons set out in the notice of appeal do not disclose any apparent land use planning ground upon which the Tribunal could allow all or part of the appeal, (ii) the appeal is not made in good faith or is frivolous or vexatious, (iii) the appeal is made only for the purpose of delay, or (iv) the appellant has persistently and without reasonable grounds commenced before the Tribunal proceedings that constitute an abuse of process; <p>(b) the appellant has not provided written reasons for the appeal;</p> <p>(c) the appellant has not paid the fee charged under the Local Planning Appeal Tribunal Act, 2017; or</p> <p>(d) the appellant has not responded to a request by the Tribunal for further information within the time specified by the Tribunal. 2017, c. 23, Sched. 5, s. 98 (5).</p>	<p>Dismissal without hearing (17) Despite the <i>Statutory Powers Procedure Act</i> and subsection (16), the Tribunal may, on its own initiative or on the motion of any party, dismiss all or part of an appeal without holding a hearing if,</p> <p>(a) it is of the opinion that,</p> <ol style="list-style-type: none"> (i) the reasons set out in the notice of appeal do not disclose any apparent land use planning ground upon which the Tribunal could allow all or part of the appeal, (ii) the appeal is not made in good faith or is frivolous or vexatious, (iii) the appeal is made only for the purpose of delay, or (iv) the appellant has persistently and without reasonable grounds commenced before the Tribunal proceedings that constitute an abuse of process; <p>(b) the appellant has not provided written reasons for the appeal;</p> <p>(c) the appellant has not paid the fee charged under the Local Planning Appeal Tribunal Act, 2017; or</p> <p>(d) the appellant has not responded to a request by the Tribunal for further information within the time specified by the Tribunal. 2017, c. 23, Sched. 5, s. 98 (5). Bill 108 Sched 12 s 13 (2).</p>
S. 51 (20) - (21.2)	<p>Notice (20) At least 14 days before a decision is made by an approval authority under subsection (31), the approval authority shall ensure that,</p>	<p>Public meeting (20) Before a decision is made by an approval authority under subsection (31), the approval authority shall ensure that a public meeting is held, if required by regulation, notice of which shall be given</p>

	<p>(a) notice of the application is given, if required by regulation, in the manner and to the persons and public bodies and containing the information prescribed; and</p> <p>(b) a public meeting is held, if required by regulation, notice of which shall be given in the manner and to the persons and public bodies and containing the information prescribed. 1996, c. 4, s. 28 (4).</p> <p>Request</p> <p>(21) An approval authority may request that a local municipality or a planning board having jurisdiction over the land that is proposed to be subdivided give notice of the application or hold the public meeting referred to in subsection (20) or do both. 1996, c. 4, s. 28 (4).</p> <p>Responsibilities</p> <p>(21.1) A local municipality or planning board that is requested to give the notice referred to in clause (20) (a) shall ensure that, (a) the notice is given in accordance with the regulation made under clause (20) (a); and (b) the prescribed information and material are submitted to the approval authority within 15 days after the notice is given. 1996, c. 4, s. 28 (4).</p> <p>Same</p> <p>(21.2) A local municipality or planning board that is requested to hold the public meeting referred to in clause (20) (b) shall ensure that,</p> <p>(a) notice of the meeting is given in accordance with the regulation made under clause (20) (b);</p> <p>(b) the public meeting is held; and</p> <p>(c) the prescribed information and material are submitted to the approval authority within 15 days after the meeting is held. 1996, c. 4, s. 28 (4).</p>	<p>in the manner and to the persons and public bodies prescribed and shall contain the information prescribed.</p> <p>Request</p> <p>(21) An approval authority may request that a local municipality or a planning board having jurisdiction over the land that is proposed to be subdivided hold the public meeting referred to in subsection (20).</p> <p>Responsibilities</p> <p>(21.1) A local municipality or planning board that is requested to hold the public meeting referred to in subsection (20) shall ensure that,</p> <p>(a) notice of the meeting is given in accordance with subsection (20);</p> <p>(b) the public meeting is held; and</p> <p>(c) the prescribed information and material are submitted to the approval authority within 15 days after the meeting is held. Bill 108 Sched 12 s 14 (1).</p>
S. 51 (34)	<p>Appeal to L.P.A.T.</p> <p>(34) If an application is made for approval of a plan of subdivision and the approval authority fails to make a decision under subsection (31) on it within 180 days after the day the application is received by the approval authority, the applicant may appeal to the Tribunal with respect to the proposed subdivision by filing a notice with the approval authority,</p>	<p>Appeal to L.P.A.T.</p> <p>(34) If an application is made for approval of a plan of subdivision and the approval authority fails to make a decision under subsection (31) on it within 120 days after the day the application is received by the approval authority, the applicant may appeal to the Tribunal with respect to the proposed subdivision by filing a notice with the approval authority,</p>

	accompanied by the fee charged under the Local Planning Appeal Tribunal Act, 2017. 1994, c. 23, s. 30; 1996, c. 4, s. 28 (6); 2004, c. 18, s. 8; 2017, c. 23, Sched. 5, ss. 80, 81.	accompanied by the fee charged under the Local Planning Appeal Tribunal Act, 2017. 1994, c. 23, s. 30; 1996, c. 4, s. 28 (6); 2004, c. 18, s. 8; 2017, c. 23, Sched. 5, ss. 80, 81. Bill 108 Sched 12 s 14 (2).
S. 51 (39)	<p>Appeal</p> <p>(39) Subject to subsection (43), not later than 20 days after the day that the giving of notice under subsection (37) is completed, any of the following may appeal the decision, the lapsing provision or any of the conditions to the Tribunal by filing with the approval authority a notice of appeal that must set out the reasons for the appeal, accompanied by the fee charged under the Local Planning Appeal Tribunal Act, 2017:</p> <ol style="list-style-type: none"> 1. The applicant. 2. A person or public body who, before the approval authority made its decision, made oral submissions at a public meeting or written submissions to the approval authority. 3. The Minister. 4. The municipality in which the land is located or the planning board in whose planning area the land is located. 5. If the land is not located in a municipality or in the planning area of a planning board, any person or public body. 2006, c. 23, s. 22 (8); 2017, c. 23, Sched. 5, ss. 80, 81. 	<p>Appeal</p> <p>(39) Subject to subsection (43), not later than 20 days after the day that the giving of notice under subsection (37) is completed, any of the following may appeal the decision, the lapsing provision or any of the conditions to the Tribunal by filing with the approval authority a notice of appeal that must set out the reasons for the appeal, accompanied by the fee charged under the Local Planning Appeal Tribunal Act, 2017:</p> <ol style="list-style-type: none"> 1. The applicant. 2. A public body that, before the approval authority made its decision, made oral submissions at a public meeting or written submissions to the approval authority. 2.1 A person listed in subsection (48.3) who, before the approval authority made its decision, made oral submissions at a public meeting or written submissions to the approval authority. 3. The Minister. 4. The municipality in which the land is located or the planning board in whose planning area the land is located. 5. If the land is not located in a municipality or in the planning area of a planning board, any person or public body. 2006, c. 23, s. 22 (8); 2017, c. 23, Sched. 5, ss. 80, 81. Bill 108 Sched 12 s 14 (3), (4).
S. 51 (43)	<p>Appeal</p> <p>(43) At any time before the approval of the final plan of subdivision under subsection (58), any of the following may appeal any of the conditions to the Tribunal by filing with the approval authority a notice of appeal that must set out the reasons for the appeal, accompanied by the fee charged under the Local Planning Appeal Tribunal Act, 2017:</p> <ol style="list-style-type: none"> 1. The applicant. 2. A public body that, before the approval authority made its decision, made oral submissions at a public meeting or written submissions to the approval authority. 	<p>Appeal</p> <p>(43) At any time before the approval of the final plan of subdivision under subsection (58), any of the following may appeal any of the conditions to the Tribunal by filing with the approval authority a notice of appeal that must set out the reasons for the appeal, accompanied by the fee charged under the Local Planning Appeal Tribunal Act, 2017:</p> <ol style="list-style-type: none"> 1. The applicant. 2. A public body that, before the approval authority made its decision, made oral submissions at a public meeting or written submissions to the approval authority.

	<p>3. The Minister.</p> <p>4. The municipality in which the land is located or the planning board in whose planning area the land is located.</p> <p>5. If the land is not located in a municipality or in the planning area of a planning board, any public body. 2006, c. 23, s. 22 (9); 2017, c. 23, Sched. 5, ss. 80, 81.</p>	<p>2.1 A person listed in subsection (48.3) who, before the approval authority made its decision, made oral submissions at a public meeting or written submissions to the approval authority.</p> <p>3. The Minister.</p> <p>4. The municipality in which the land is located or the planning board in whose planning area the land is located.</p> <p>5. If the land is not located in a municipality or in the planning area of a planning board, any public body. 2006, c. 23, s. 22 (9); 2017, c. 23, Sched. 5, ss. 80, 81. Bill 108 Sched 12 s 14 (5).</p>
S. 51 (48)	<p>Appeal</p> <p>(48) Any of the following may appeal any of the changed conditions imposed by the approval authority to the Tribunal by filing with the approval authority a notice of appeal that must set out the reasons for the appeal, accompanied by the fee charged under the Local Planning Appeal Tribunal Act, 2017:</p> <p>1. The applicant.</p> <p>2. A person or public body who, before the approval authority gave approval to the draft plan of subdivision, made oral submissions at a public meeting or written submissions to the approval authority or made a written request to be notified of changes to the conditions.</p> <p>3. The Minister.</p> <p>4. The municipality in which the land is located or the planning board in whose planning area the land is located. 5. If the land is not located in a municipality or in the planning area of a planning board, any person or public body. 2006, c. 23, s. 22 (10); 2017, c. 23, Sched. 5, ss. 80, 81.</p>	<p>Appeal</p> <p>(48) Any of the following may appeal any of the changed conditions imposed by the approval authority to the Tribunal by filing with the approval authority a notice of appeal that must set out the reasons for the appeal, accompanied by the fee charged under the Local Planning Appeal Tribunal Act, 2017:</p> <p>1. The applicant.</p> <p>2. A public body that, before the approval authority gave approval to the draft plan of subdivision, made oral submissions at a public meeting or written submissions to the approval authority or made a written request to be notified of changes to the conditions.</p> <p>2.1. A person listed in subsection (48.3) who, before the approval authority gave approval to the draft plan of subdivision, made oral submissions at a public meeting or written submissions to the approval authority or made a written request to be notified of changes to the conditions.</p> <p>3. The Minister.</p> <p>4. The municipality in which the land is located or the planning board in whose planning area the land is located. 5. If the land is not located in a municipality or in the planning area of a planning board, any person or public body. 2006, c. 23, s. 22 (10); 2017, c. 23, Sched. 5, ss. 80, 81. Bill 108 Sched 12 s 14 (6), (7).</p>
S. 51 (48.3)	N/A	Persons referred to in para. 2.1 of subs. (39), etc.

		<p>(48.3) The following are listed for the purposes of paragraph 2.1 of subsection (39), paragraph 2.1 of subsection (43) and paragraph 2.1 of subsection (48):</p> <ol style="list-style-type: none"> 1. A corporation operating an electric utility in the local municipality or planning area to which the plan of subdivision would apply. 2. Ontario Power Generation Inc. 3. Hydro One Inc. 4. A company operating a natural gas utility in the local municipality or planning area to which the plan of subdivision would apply. 5. A company operating an oil or natural gas pipeline in the local municipality or planning area to which the plan of subdivision would apply. 6. A person required to prepare a risk and safety management plan in respect of an operation under Ontario Regulation 211/01 (Propane Storage and Handling) made under the Technical Standards and Safety Act, 2000, if any part of the distance established as the hazard distance applicable to the operation and referenced in the risk and safety management plan is within the area to which the plan of subdivision would apply. 7. A company operating a railway line any part of which is located within 300 metres of any part of the area to which the plan of subdivision would apply. 8. A company operating as a telecommunication infrastructure provider in the area to which the plan of subdivision would apply. Bill 108 Sched 12 s 14 (8).
S. 51 (52.4)	<p>New evidence at hearing Same (52.4) If subsection (52.3) applies and if the approval authority so requests, the Tribunal shall not admit the information and material into evidence until subsection (52.5) has been complied with and the prescribed time period has elapsed. 2017, c. 23, Sched. 3, s. 16.</p>	<p>New evidence at hearing Same (52.4) When subsection (52.3) applies, the Tribunal may, on its own initiative or on a motion by the approval authority or any party, consider whether the information and material could have materially affected the approval authority's decision and, if the Tribunal determines that it could have done so, it shall not be admitted into evidence until subsection</p>

		(52.5) has been complied with and the prescribed time period has elapsed. Bill 108 Sched 12 s 14 (9).
S. 51 (53)	<p>Dismissal without hearing (53) Despite the <i>Statutory Powers Procedure Act</i> and subsection (52), the Tribunal may dismiss an appeal without holding a hearing on its own initiative or on the motion of any party, if,</p> <p>(a) it is of the opinion that,</p> <p>(i) the reasons set out in the notice of appeal do not disclose any apparent land use planning ground upon which the Tribunal could give or refuse to give approval to the draft plan of subdivision or determine the question as to the condition appealed to it,</p> <p>(ii) the appeal is not made in good faith or is frivolous or vexatious,</p> <p>(iii) the appeal is made only for the purpose of delay, or</p> <p>(iv) the appellant has persistently and without reasonable grounds commenced before the Tribunal proceedings that constitute an abuse of process;</p> <p>(b) REPEALED: 2006, c. 23, s. 22 (14). € the appellant has not provided written reasons for the appeal;</p> <p>(d) the appellant has not paid the fee charged under the <i>Local Planning Appeal Tribunal Act, 2017</i>; or</p> <p>€ the appellant has not responded to a request by the Tribunal for further information within the time specified by the Tribunal. 1994, c. 23, s. 30; 1996, c. 4, s. 28 (14, 15); 2006, c. 23, s. 22 (12-14); 2017, c. 23, Sched. 5, s. 99 (7).</p>	<p>Dismissal without hearing (53) Despite the <i>Statutory Powers Procedure Act</i> and subsection (52), the Tribunal may, on its own initiative or on the motion of any party, dismiss an appeal without holding a hearing if,</p> <p>(a) it is of the opinion that,</p> <p>(i) the reasons set out in the notice of appeal do not disclose any apparent land use planning ground upon which the Tribunal could give or refuse to give approval to the draft plan of subdivision or determine the question as to the condition appealed to it,</p> <p>(ii) the appeal is not made in good faith or is frivolous or vexatious,</p> <p>(iii) the appeal is made only for the purpose of delay, or</p> <p>(iv) the appellant has persistently and without reasonable grounds commenced before the Tribunal proceedings that constitute an abuse of process;</p> <p>(b) REPEALED: 2006, c. 23, s. 22 (14). € the appellant has not provided written reasons for the appeal;</p> <p>(d) the appellant has not paid the fee charged under the <i>Local Planning Appeal Tribunal Act, 2017</i>; or</p> <p>€ the appellant has not responded to a request by the Tribunal for further information within the time specified by the Tribunal. 1994, c. 23, s. 30; 1996, c. 4, s. 28 (14, 15); 2006, c. 23, s. 22 (12-14); 2017, c. 23, Sched. 5, s. 99 (7). Bill 108 Sched 12 s 14 (10).</p>
S. 51.1 (0.1)	<p>Definitions (0.1) In this section,</p> <p>“dwelling unit” means any property that is used or designed for use as a domestic establishment in which one or more persons may sleep and prepare and serve meals; (“logement”)</p> <p>“effective date” means the day subsection 32 (1) of the <i>Smart Growth for Our Communities Act, 2015</i> comes into force. (“date d’effet”) 2015, c. 26, s. 32 (1).</p>	<p>Definition (S.1) In this section,</p> <p>“effective date” means the day section 9 of Schedule 12 to the <i>More Homes, More Choice Act, 2019</i> comes into force. Bill 108 Sched 12 s 15 (1).</p>

<p>S. 51.1 (2) - (2.3)</p>	<p>Other criteria (2) If the approval authority has imposed a condition under subsection (1) requiring land to be conveyed to the municipality and if the municipality has an official plan that contains specific policies relating to the provision of lands for park or other public recreational purposes, the municipality, in the case of a subdivision proposed for residential purposes, may, in lieu of such conveyance, require that land included in the plan be conveyed to the municipality for park or other public recreational purposes at a rate of one hectare for each 300 dwelling units proposed or at such lesser rate as may be determined by the municipality. 1994, c. 23, s. 31.</p> <p>Parks plan (2.1) Before adopting the official plan policies described in subsection (2), the municipality shall prepare and make available to the public a parks plan that examines the need for parkland in the municipality. 2015, c. 26, s. 32 (1).</p> <p>Same (2.2) In preparing the parks plan, the municipality, (a) shall consult with every school board that has jurisdiction in the municipality; and (b) may consult with any other persons or public bodies that the municipality considers appropriate. 2015, c. 26, s. 32 (1).</p> <p>Same (2.3) For greater certainty, subsection (2.1) and clause (2.2) (a) do not apply with respect to official plan policies adopted before the effective date. 2015, c. 26, s. 32 (1). Bill 108 Sched 12 s 15 (2)</p>	<p>N/A (Subsections 51.1 (2), (2.1) and (2.2) are repealed.) Sched 12 s 15 (2).</p>
<p>S. 51.1 (3)</p>	<p>Payment in lieu (3) If the approval authority has imposed a condition under subsection (1) requiring land to be conveyed to the municipality and subsection (2) does not apply, the municipality may require a payment in lieu, to the value of the land otherwise required to be conveyed. 2015, c. 26, s. 32 (2).</p>	<p>Payment in lieu (3) If the approval authority has imposed a condition under subsection (1) requiring land to be conveyed to the municipality, the municipality may require a payment in lieu, to the value of the land otherwise required to be conveyed. 2015, c. 26, s. 32 (2). Bill 108 Sched 12 s 15 (3).</p>

S. 51.1 (3.1)	<p>Payment in lieu</p> <p>Same</p> <p>(3.1) If the approval authority has imposed a condition under subsection (1) requiring land to be conveyed to the municipality and subsection (2) applies, the municipality may require a payment in lieu, calculated by using a rate of one hectare for each 500 dwelling units proposed or such lesser rate as may be determined by the municipality. 2015, c. 26, s. 32 (2).</p> <p>Transition</p> <p>(3.2) If the draft plan of subdivision is approved on or before the effective date, the approval authority has imposed a condition under subsection (1) requiring land to be conveyed to the municipality and subsection (2) applies,</p> <p>(a) subsection (3.1) does not apply; and</p> <p>(b) subsection (3), as it reads on the day before the effective date, continues to apply. 2015, c. 26, s. 32 (2). Bill 108 Sched 12 s 15 (4)</p>	<p>N/A</p> <p>(Subsections 51.1 (3.1) and (3.2) are repealed.) Bill 108 Sched 12 s 15 (4).</p>
S. 51.1 (4)	<p>Determination of value</p> <p>(4) For the purpose of determining the amount of any payment required under subsection (3) or (3.1), the value of the land shall be determined as of the day before the day of the approval of the draft plan of subdivision. 1994, c. 23, s. 31; 2015, c. 26, s. 32 (3).</p>	<p>Determination of value</p> <p>(4) For the purpose of determining the amount of any payment required under subsection (3), the value of the land shall be determined as of the day before the day of the approval of the draft plan of subdivision. 1994, c. 23, s. 31; 2015, c. 26, s. 32 (3). Bill 108 Sched 12 s 15 (5).</p>
S. 51.1 (5)	<p>Application</p> <p>(5) Subsections 42 (5) and (12) to (20) apply with necessary modifications to a conveyance of land or a payment of money under this section. 1994, c. 23, s. 31; 2015, c. 26, s. 32 (4).</p>	<p>Application</p> <p>(5) Subsections 42 (5) and (12) to (17) apply with necessary modifications to a conveyance of land or a payment of money under this section. 1994, c. 23, s. 31; 2015, c. 26, s. 32 (4). Bill 108 Sched 12 s 15 (6).</p>
S. 51.1 (6) - (7)	N/A	<p>Non-application of by-law under s. 37</p> <p>(6) The development or redevelopment of land within a plan of subdivision is not subject to a community benefits charge bylaw under section 37, if the approval of the plan of subdivision is the subject of a condition that is imposed under subsection (1) on or after the effective date.</p> <p>Transition</p>

		<p>(7) If the draft plan of subdivision is approved before the effective date and the approval authority has imposed a condition under subsection (1), the following rules apply with respect to the land within the draft plan of subdivision:</p> <ol style="list-style-type: none"> 1. Subject to paragraph 2, this section, as it read on the day before the day subsection 15 (2) of Schedule 12 to the <i>More Homes, More Choice Act, 2019</i> comes into force, continues to apply with respect to the land. 2. Subsection (5), as it reads on and after the day subsection 15 (2) of Schedule 12 to the <i>More Homes, More Choice Act, 2019</i> comes into force, applies with respect to the land. 3. Subsections 37 (1) to (4), as they read on the day before the effective date, apply with respect to the land. 4. Subsection 37 (5), as it read on the day before the effective date, applies with respect to the land, except that the reference to a special account in that subsection shall be read as a reference to the special account referred to in subsection 37 (25). 5. Despite subsections 2 (4) and 9 (1) of the <i>Development Charges Act, 1997</i>, the development or redevelopment of the land is subject to any development charge by-law that relates to any of the services described in subsection 9.1 (3) of that Act and that applied to the land on the day before the applicable date described in subsection 37.1 (5) of this Act, regardless of whether the development charge by-law has expired or been repealed. 6. For the purposes of paragraph 5, the following rules apply: <ol style="list-style-type: none"> i. the reference to a development charge by-law is a reference to the by-law, as it read on the day before the applicable date described in subsection 37.1 (5), ii. despite section 34 of the <i>Development Charges Act, 1997</i>, if paragraph 5 applies with respect to a development charge by-law, the municipality shall pay each development charge collected under the by-law into the special account referred to in subsection 37 (25) of this Act.
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		7. The development or redevelopment of the land is not subject to a community benefits charge by-law under section 37. Bill 108 Sched 12 s 15 (7).
S. 53 (7.1)	Responsibilities (7.1) A local municipality or planning board that is requested under subsection (6) or (7) to give notice shall ensure that, (a) the notice is given in accordance with the regulation made under clause (5) (a); and (b) the prescribed information and material are submitted to the council or the Minister, as the case may be, within 15 days after the notice is given. 1996, c. 4, s. 29 (1).	Responsibilities (7.1) A local municipality or planning board that is requested under subsection (6) or (7) to give notice shall ensure that, (a) the notice is given in accordance with clause (5) (a); and (b) the prescribed information and material are submitted to the council or the Minister, as the case may be, within 15 days after the notice is given. 1996, c. 4, s. 29 (1). Bill 108 Sched 12 s 16 (1).
S. 53 (7.2)	Responsibilities Same (7.2) A local municipality or planning board that is requested under subsection (6) or (7) to hold a public meeting shall ensure that, (a) notice of the meeting is given in accordance with the regulation made under clause (5) (b); (b) the public meeting is held; and (c) the prescribed information and material are submitted to the council or the Minister, as the case may be, within 15 days after the meeting is held. 1996, c. 4, s. 29 (1).	Responsibilities Same (7.2) A local municipality or planning board that is requested under subsection (6) or (7) to hold a public meeting shall ensure that, (a) notice of the meeting is given in accordance with clause (5) (b); (b) the public meeting is held; and (c) the prescribed information and material are submitted to the council or the Minister, as the case may be, within 15 days after the meeting is held. 1996, c. 4, s. 29 (1). Bill 108 Sched 12 s 16 (2).
S. 53 (31)	Dismissal without hearing (31) Despite the <i>Statutory Powers Procedure Act</i> and subsection (30), the Tribunal may dismiss an appeal without holding a hearing, on its own initiative or on the motion of any party, if, (a) it is of the opinion that, (i) the reasons set out in the notice of appeal do not disclose any apparent land use planning ground upon which the Tribunal could give or refuse to give the provisional consent or could determine the question as to the condition appealed to it, (ii) the appeal is not made in good faith or is frivolous or vexatious, (iii) the appeal is made only for the purpose of delay, or	Dismissal without hearing (31) Despite the <i>Statutory Powers Procedure Act</i> and subsection (30), the Tribunal may, on its own initiative or on the motion of any party, dismiss an appeal without holding a hearing if, (a) it is of the opinion that, (i) the reasons set out in the notice of appeal do not disclose any apparent land use planning ground upon which the Tribunal could give or refuse to give the provisional consent or could determine the question as to the condition appealed to it, (ii) the appeal is not made in good faith or is frivolous or vexatious, (iii) the appeal is made only for the purpose of delay, or

	<p>(iv) the appellant has persistently and without reasonable grounds commenced before the Tribunal proceedings that constitute an abuse of process;</p> <p>(b) the appellant did not make oral submissions at a public meeting or did not make written submissions to the council or the Minister before a provisional consent was given or refused and, in the opinion of the Tribunal, the appellant does not provide a reasonable explanation for having failed to make a submission;</p> <p>(c) the appellant has not provided written reasons for the appeal;</p> <p>(d) the appellant has not paid the fee charged under the Local Planning Appeal Tribunal Act, 2017; or</p> <p>(e) the appellant has not responded to a request by the Tribunal for further information within the time specified by the Tribunal. 2017, c. 23, Sched. 5, s. 100 (6).</p>	<p>(iv) the appellant has persistently and without reasonable grounds commenced before the Tribunal proceedings that constitute an abuse of process;</p> <p>(b) the appellant did not make oral submissions at a public meeting or did not make written submissions to the council or the Minister before a provisional consent was given or refused and, in the opinion of the Tribunal, the appellant does not provide a reasonable explanation for having failed to make a submission;</p> <p>(c) the appellant has not provided written reasons for the appeal;</p> <p>(d) the appellant has not paid the fee charged under the Local Planning Appeal Tribunal Act, 2017; or</p> <p>(e) the appellant has not responded to a request by the Tribunal for further information within the time specified by the Tribunal. 2017, c. 23, Sched. 5, s. 100 (6). Bill 108 Sched 12 s 16 (3).</p>
S. 70.1 (1) 24.1	24.1 prescribing information for the purposes of clause 37 (8) (c);	<p>24.1 prescribing types of development or redevelopment for the purposes of subsection 37 (4);</p> <p>24.1.1 prescribing facilities, services or matters for the purposes of paragraph 2 of subsection 37 (5);</p> <p>24.1.2 prescribing requirements for the purposes of clause 37 (9) (b);</p> <p>24.1.3 prescribing the percentage referred to in subsection 37 (12) to be applied to the value of land;</p> <p>24.1.4 prescribing time periods for the purposes of clause 37 (13) (b) and subsections 37 (15) and (19); Bill 108 Sched 12 s 17 (1).</p>
S. 70.1 (1) 24.2	24.2 prescribing information for the purposes of clause 42 (18) (c);	N/A (Paragraph 24.2 of subsection 70.1. (1) is repealed.) Bill 108 Sched 12 s 17 (2).
S. 70.1 (1) 27	27. requiring that notice be given under subsections 51 (20) and 53 (5);	27. requiring that notice be given under subsection 53 (5); Bill 108 Sched 12 s 17 (3).
S. 70.1 (31)	31 respecting any other matter that this Act refers to as a matter prescribed, specified or determined under the regulations, or as a matter otherwise dealt with by the regulations, other than matters respecting which the Lieutenant Governor in Council has authority to make regulations under sections sections 70 and 70.2, subsection 70.2.2 (5)	31 respecting any other matter that this Act refers to as a matter prescribed, specified or determined under the regulations, or as a matter otherwise dealt with by the regulations, other than matters respecting which the Lieutenant Governor in Council has authority to make regulations under sections sections 70, 70.2 and 70.3. 2006, c. 23, s.

	and section 70.3. 2006, c. 23, s. 26; 2015, c. 26, s. 35; 2016, c. 25, Sched. 4, s. 10 (1-6).	26; 2015, c. 26, s. 35; 2016, c. 25, Sched. 4, s. 10 (1-6). Bill 108 Sched 12 s 17 (4).
S. 70.1 (3.1)	N/A	Same (3.1) A regulation made under paragraph 24.1.3 of subsection (1) may prescribe different percentages for different municipalities or classes of municipalities and for different values of land. Bill 108 Sched 12 s 17 (5)
S. 70.2 (2) (a)	<p>Contents</p> <p>(2) A regulation under subsection (1) may,</p> <p>(a) vary, supplement or override any provision in Part V or any municipal by-law passed under Part V as necessary to establish a development permit system;</p> <p>(b) authorize or require a local municipality to pass a by-law to vary, supplement or override a by-law passed under Part V as necessary to establish a development permit system;</p> <p>(c) exempt a municipality which has adopted or established a development permit system from any provision of Part V set out in the regulation;</p> <p>(d) prohibit a municipality which has adopted or established a development permit system from passing a by-law under those provisions of Part V that are specified in the regulation;</p> <p>(e) set out procedures for appealing to the Tribunal in respect of a development permit or a condition in a permit, including prescribing persons or public bodies that may appeal to the Tribunal in that regard;</p> <p>(f) prescribe policies that must be contained in an official plan before a development permit system may be adopted or established;</p> <p>(g) prescribe conditions or criteria that must be met before a municipality passes a by-law adopting or establishing a development permit system;</p> <p>(h) prescribe conditions or criteria that must be met before a development permit may be issued or that must be included in a development permit;</p> <p>(i) prescribe powers that the municipality may exercise in administering a development permit system;</p>	<p>Contents</p> <p>(2) A regulation under subsection (1) may,</p> <p>(a) vary, supplement or override any provision in Part V as necessary to establish a development permit system, including, for greater certainty, providing that there is no appeal in respect of a by-law passed by a municipality to adopt or establish a development permit system;</p> <p>(a.1) vary, supplement or override any municipal by-law passed under Part V as necessary to establish a development permit system;</p> <p>(b) authorize or require a local municipality to pass a by-law to vary, supplement or override a by-law passed under Part V as necessary to establish a development permit system;</p> <p>(c) exempt a municipality which has adopted or established a development permit system from any provision of Part V set out in the regulation;</p> <p>(d) prohibit a municipality which has adopted or established a development permit system from passing a by-law under those provisions of Part V that are specified in the regulation;</p> <p>(e) set out procedures for appealing to the Tribunal in respect of a development permit or a condition in a permit, including prescribing persons or public bodies that may appeal to the Tribunal in that regard;</p> <p>(f) prescribe policies that must be contained in an official plan before a development permit system may be adopted or established;</p> <p>(g) prescribe conditions or criteria that must be met before a municipality passes a by-law adopting or establishing a development permit system;</p>

	<p>(j) limit or restrict the manner in which municipalities may exercise the power to issue development permits or pass bylaws adopting or establishing a development permit system;</p> <p>(k) establish different standards or procedures for different municipalities or classes of municipalities;</p> <p>(l) authorize the municipalities to appoint employees to carry out the duties required under the development permit system and delegate to them the powers necessary to carry out these duties;</p> <p>(m) require any owner of land, upon the request of the municipality, to enter into agreements with the municipality as a condition to obtaining a development permit;</p> <p>(n) revoke any provision in a development permit by-law or any condition in a development permit in respect of any defined area and set out other provisions or conditions that apply in respect of that area;</p> <p>(o) prescribe provisions that must be contained in a development permit system;</p> <p>(p) exempt any development or class of development, any municipality or class of municipality or any areas from a development permit area or a development permit by-law;</p> <p>(q) provide for transitional matters that may be necessary to implement a development permit system or to cease using a development permit system. 1994, c. 23, s. 46; 2015, c. 26, s. 36 (1); 2017, c. 23, Sched. 5, s. 102.</p>	<p>(h) prescribe conditions or criteria that must be met before a development permit may be issued or that must be included in a development permit;</p> <p>(i) prescribe powers that the municipality may exercise in administering a development permit system;</p> <p>(j) limit or restrict the manner in which municipalities may exercise the power to issue development permits or pass bylaws adopting or establishing a development permit system;</p> <p>(k) establish different standards or procedures for different municipalities or classes of municipalities;</p> <p>(l) authorize the municipalities to appoint employees to carry out the duties required under the development permit system and delegate to them the powers necessary to carry out these duties;</p> <p>(m) require any owner of land, upon the request of the municipality, to enter into agreements with the municipality as a condition to obtaining a development permit;</p> <p>(n) revoke any provision in a development permit by-law or any condition in a development permit in respect of any defined area and set out other provisions or conditions that apply in respect of that area;</p> <p>(o) prescribe provisions that must be contained in a development permit system;</p> <p>(p) exempt any development or class of development, any municipality or class of municipality or any areas from a development permit area or a development permit by-law;</p> <p>(q) provide for transitional matters that may be necessary to implement a development permit system or to cease using a development permit system. 1994, c. 23, s. 46; 2015, c. 26, s. 36 (1); 2017, c. 23, Sched. 5, s. 102. Bill 108 Sched 12 s 18.</p>
S. 70. 2. 2	<p>Orders and by-laws re development permit system</p> <p>Orders</p> <p>(1) The Minister may, by order,</p>	<p>Orders re development permit system</p> <p>(1) The Minister may, by order, require a local municipality to adopt or establish a development permit system that applies to,</p> <p>(a) the area specified in the order, in the case of an order that delineates the area's boundaries; or</p>

	<p>(a) require a local municipality to adopt or establish a development permit system for one or more purposes specified under subsection (5); or</p> <p>(b) require an upper-tier municipality to act under subsection (3). 2015, c. 26, s. 37.</p> <p>Non-application of <i>Legislation Act, 2006</i>, Part III</p> <p>(2) Part III (Regulations) of the <i>Legislation Act, 2006</i> does not apply to an order made under subsection (1). 2015, c. 26, s. 37.</p> <p>By-laws</p> <p>(3) An upper-tier municipality may, by by-law, require a local municipality that is its lower-tier municipality to adopt or establish a development permit system for one or more purposes specified under subsection (5). 2015, c. 26, s. 37.</p> <p>Effect of order or by-law</p> <p>(4) When an order made under subsection (1) or a by-law passed under subsection (3) is in effect, the local municipality,</p> <p>(a) shall adopt or establish a development permit system; and</p> <p>(b) has discretion to determine what parts of its geographic area are to be governed by the development permit system. 2015, c. 26, s. 37.</p> <p>Regulations</p> <p>(5) The Lieutenant Governor in Council may, by regulation, specify purposes in respect of which orders and by-laws requiring the adoption or establishment of development permit systems may be made under subsections (1) and (3). 2015, c. 26, s. 37.</p>	<p>(b) an area surrounding and including a specified location, in the case of an order that does not delineate the area's boundaries.</p> <p>Non-application of <i>Legislation Act, 2006</i>, Part III</p> <p>(2) Part III (Regulations) of the <i>Legislation Act, 2006</i> does not apply to an order made under subsection (1).</p> <p>Effect of order under cl. (1) (a)</p> <p>(3) When an order made under clause (1) (a) is in effect, the local municipality shall, within the time period, if any, specified in the order, adopt or establish a development permit system in respect of the area referred to in clause (1) (a).</p> <p>Effect of order under cl. (1) (b)</p> <p>(4) When an order made under clause (1) (b) is in effect, the local municipality shall, within the time period, if any, specified in the order, adopt or establish a development permit system in respect of,</p> <p>(a) the specified location referred to in clause (1) (b); and</p> <p>(b) an area surrounding the specified location referred to in clause (1) (b).</p> <p>Determination of boundaries</p> <p>(5) For the purposes of clause (4) (b), the local municipality has discretion to determine the boundaries of the area that is to be governed by the development permit system. Bill 108 Sched 12 s 19.</p>
S. 70.10	N/A	<p>Regulations re transitional matters, 2019 amendments</p> <p>(1) The Minister may make regulations providing for transitional matters respecting matters and proceedings that were commenced before, on or after the effective date.</p> <p>Same</p> <p>(2) A regulation made under this section may, without limitation,</p> <p>(a) determine which matters and proceedings may be continued and disposed of under this Act, as it read on the day before the effective</p>

		<p>date, and which matters and proceedings must be continued and disposed of under this Act, as it reads on and after the effective date;</p> <p>(b) for the purpose of subsection (1), deem a matter or proceeding to have been commenced on the date or in the circumstances specified in the regulation.</p> <p>Same</p> <p>(3) If a regulation under this section provides for a matter or proceeding to be continued and disposed of under this Act, as it reads on and after the effective date, where the notice of appeal was filed under subsection 17 (24) or (36), 22 (7) or 34 (11) or (19) before the effective date, the regulation may also,</p> <p>(a) require the Tribunal to give a notice to an appellant, specifying the period of time during which a new notice of appeal may be provided to the Tribunal;</p> <p>(b) require the appellant to provide a new notice of appeal to the Tribunal within the period of time specified by the Tribunal in the notice required under clause (a);</p> <p>(c) deem an appeal to have been dismissed where the new notice of appeal was not received within the period of time specified by the Tribunal in the notice required under clause (a);</p> <p>(d) provide that, despite the Local Planning Appeal Tribunal Act, 2017, an appellant is not required to pay a fee charged under that Act.</p> <p>Conflict</p> <p>(4) A regulation made under this section prevails over any provision of this Act specifically mentioned in the regulation.</p> <p>Definition</p> <p>(5) In this section,</p> <p>“effective date” means the day section 20 of Schedule 12 to the More Homes, More Choice Act, 2019 comes into force. Bill 108 Sched 12 s 20.</p>
<p>Commencement</p> <p>This Schedule comes into force on a day to be named by proclamation of the Lieutenant Governor. Bill 108 Sched 12 s 21.</p>		

Report to Planning and Environment Committee

To: Chair and Members
Planning & Environment Committee

From: George Kotsifas P. Eng.,
Managing Director, Development & Compliance Services and
Chief Building Official

Subject: 110312 Ontario Limited
Portion of 146 Exeter Road (Block 36 and 37, Richardson
Subdivision 39T-15501)

Public Participation Meeting on: May 27, 2019 at 4:00pm

Recommendation

That, on the recommendation of the Director, Development Services based on the application of 110312 Ontario Limited relating to the property located on a portion of 146 Exeter Road (Block 36 and 37, Richardson Subdivision 39T-15501), the proposed by-law attached hereto as Appendix "A" **BE INTRODUCED** at the Municipal Council meeting on June 11, 2019 to amend Zoning By-law No. Z.-1, in conformity with the Official Plan, to change the zoning of the subject property **FROM** a Holding Residential R5 Special Provision/Residential R6 Special Provision (h*h-100*h-198*R5-4(23)/R6-5(51)) Zone, **TO** a Holding Residential R4 Special Provision /Residential R5 Special Provision/Residential R6 Special Provision (h*h-100*h-198*R4-6()/R5-4(23)/R6-5(51)) Zone.

Executive Summary

Summary of Request

The requested amendment is to permit fifty-six (56) street townhouse dwellings along two new roads.

Purpose and Effect of Recommended Action

The purpose and effect of the recommended action is to re-zone a portion of the lands at 146 Exeter Road, more specifically, a portion of Block 36 and all of Block 37 in draft approved plan 39T-15501, to permit street townhouse dwellings, in addition to the multi-family uses already permitted. Special provisions for lot frontage, front yard setbacks for main dwelling and garage, and maximum driveway and garage widths, will also be added to the zone.

Rationale of Recommended Action

1. The recommended amendment is consistent with, and will serve to implement the policies of the Provincial Policy Statement, 2014 which encourage infill and intensification and the provision of a range of housing types, and efficient use of existing infrastructure;
2. The recommended amendment is consistent with the policies of the Multi-Family, Medium Density Residential designation and will implement an appropriate housing form in accordance with Official Plan policies;
3. The proposed residential uses and scale of development are consistent with the policies of the Southwest Area Secondary Plan;
4. The subject lands are of a suitable size and shape to accommodate the development proposed.
5. Additional considerations such as on-street parking, street trees, and design, will be addressed at site plan.

Analysis

1.0 Site at a Glance

1.1 Property Description

The subject site consists of a portion of a larger parcel known municipally as 146 Exeter Road. It is situated midpoint between Wonderland Road South and White Oaks Road, in the former Township of Westminster. Portions of the subject property include the former site of the Southwest Optimist Baseball Complex, which at one time contained up to 16 baseball diamonds. The subject lands are part of a draft approved plan of subdivision; known as the Richardson Subdivision, which overall consists of 25 low density blocks, 18 medium density blocks, 2 park blocks, 4 multi-use pathway blocks, 1 stormwater management block, 1 future stormwater management or residential block, 1 light industrial block, 2 open space blocks, 1 school block, 1 future road block, as well as several 0.3 m reserves and road widenings, all served by 4 new secondary collector roads, and 11 new local streets.

The subject lands are within Phase 1 of the draft plan, which will consists of a 5.17 ha (12.8 acres) portion of the site, which contains 2 medium density blocks and one future road, all served by 3 new local streets/neighbourhood streets.

1.2 Current Planning Information (see more detail in Appendix D)

- The London Plan Place Type – Neighbourhoods
- Official Plan Designation – Multi-Family, Medium Density Residential
- Existing Zoning – a Holding Residential R5 Special Provision/Residential R6 Special Provision (h h-100 h-198 R5-4(23) R6-5(51)) Zone

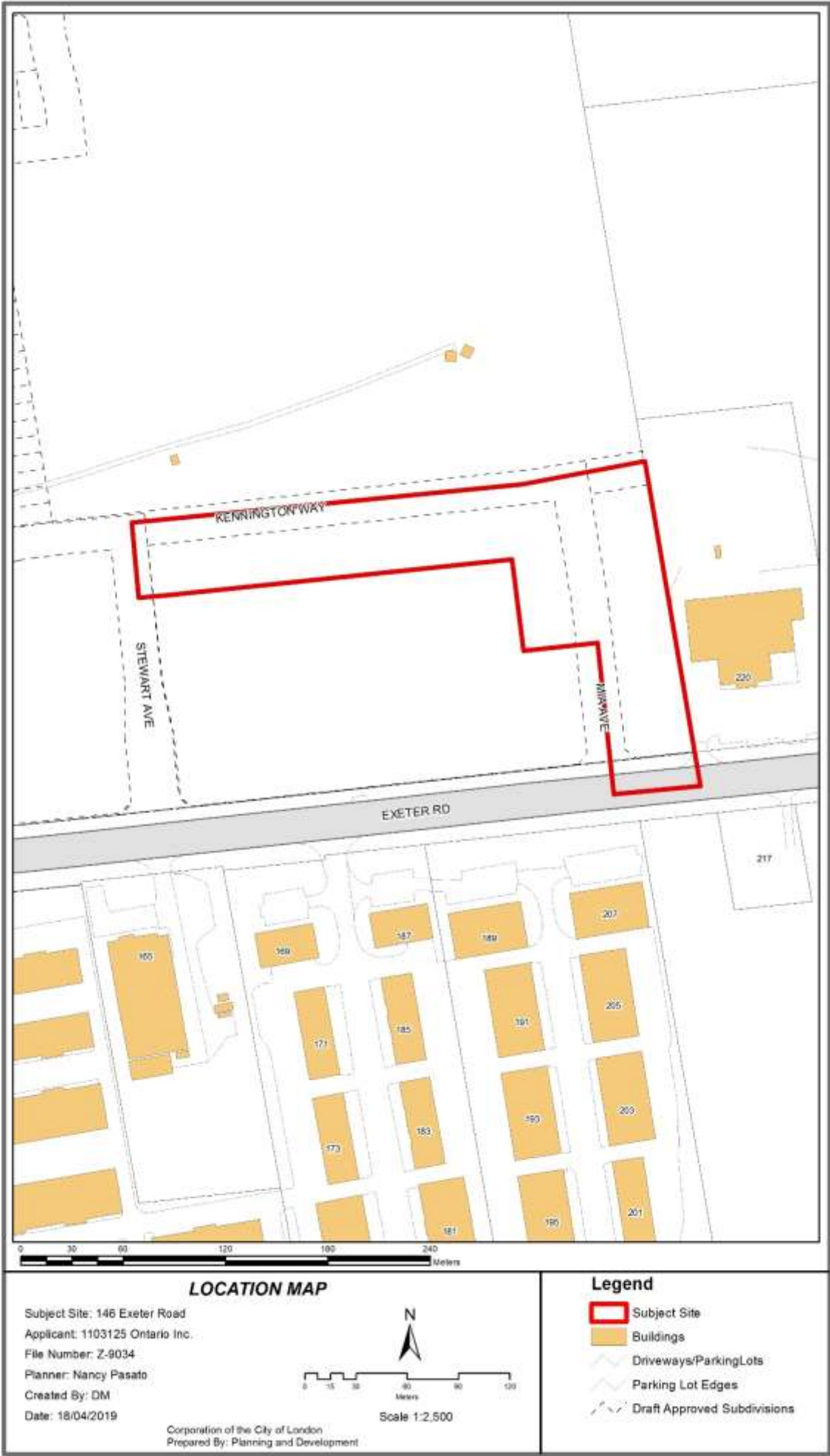
1.3 Site Characteristics

- Current Land Use – vacant/softball diamonds
- Frontage – varies - along future Kennington Way - 250.09 m (820.5 feet), along future Mia Avenue - 158.2 m (519.2 feet)
- Depth – varies - 30 m - 38.37 metres (98.4 feet - 125.9 feet)
- Area – Total area of rezoning = 1.45 ha (3.6 ac); total area of smallest lot = 210 m² (2260.4 ft²)
- Shape – rectangular

1.4 Surrounding Land Uses

- North – vacant
- East – industrial mall
- South – industrial mall
- West – vacant/future medium density development

1.5 Location Map



2.0 Description of Proposal

2.1 Development Proposal

The Applicant is proposing to add a new zone to the portion of the existing Multi-Family Residential block fronting both Mia Avenue and Kennington Way to permit fifty-six (56) street townhouse dwellings. No elevations were submitted as part of the application but

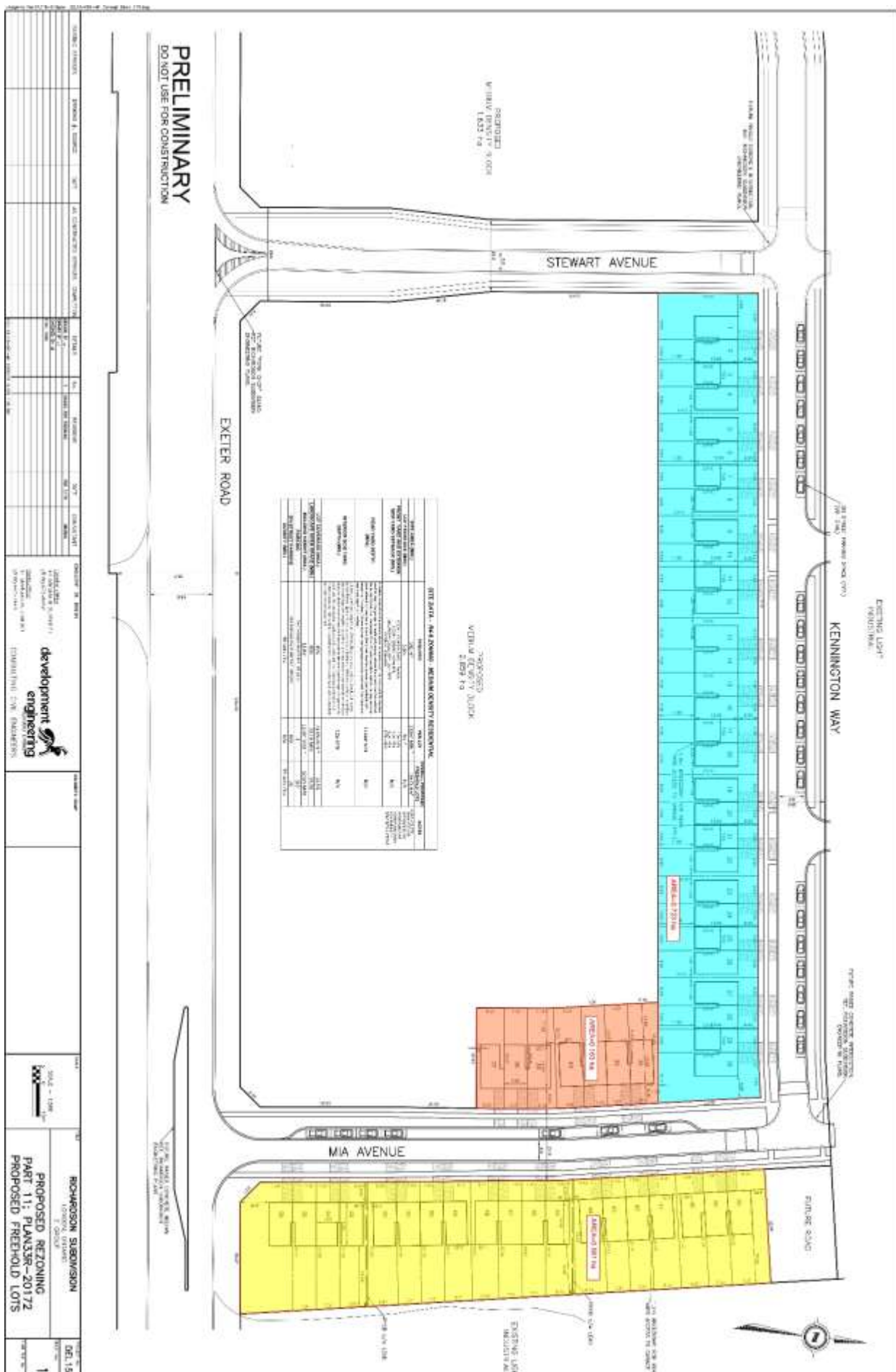


Figure 1- proposed townhouse development with driveway locations and on street parking

generally the design will be two storeys in height, with a minimum of 7.0m frontage along a public street, and depths ranging from 30m to 38m.

3.0 Relevant Background

3.1 Planning History

The Southwest London Area Plan (SWAP) was initiated in 2009 and presented to Planning Committee on April 26, 2010. The Area Plan was intended to provide a comprehensive land use plan, servicing requirements and a phasing strategy for future development within the Urban Growth Area south of Southdale Road, east of Dingman Creek and north of the Highway 401/402 corridor. On November 20, 2012, Municipal Council passed By-Law No. C.P.-1284-(st)-331 to approve Official Plan Amendment 541 (relating to the Secondary Plan). The Secondary Plan was appealed by numerous parties on the basis that it was incomplete and incapable of providing direction expected of a secondary plan and for various site specific land use issues. The outcome of the appeal resulted in changes to the plan. The plan (with amendments) was approved by the Ontario Municipal Board on April 29, 2014.

A draft plan of subdivision (file 39T-15501/Z-8470) was submitted for the lands located at 132, 146 and 184 Exeter Road on March 12, 2015. After several revisions and a recirculation, a public meeting was held on December 12, 2016. Municipal Council approved the plan and the associated zoning by-law amendment, and the Approval Authority granted draft approval on January 27, 2017. The approved plan consists of 25 low density blocks, 18 medium density blocks, 2 park blocks, 4 multi-use pathway blocks, 1 stormwater management block, 1 future stormwater management or residential block, 1 light industrial block, 2 open space blocks, 1 school block, 1 future road block, as well as several 0.3 m reserves and road widenings, all served by 4 new secondary collector roads, and 11 new local streets. The subject lands encompasses all of Block 37, and portion of Block 35 and 36 within the draft approved plan

Through the original draft plan of subdivision and implementing zoning by-law amendment, staff interpreted these lands to be within the Medium Density Residential designation of the SWAP and the 1989 Official Plan. The same interpretation has been applied to this application.

3.2 Requested Amendment

The Applicant has requested a zoning by-law amendment to add the Residential R4 (R4-6) Zone to the existing multi-family medium density zoning on site. The R4-6 Zone permits street townhouse dwellings (freehold). The application of the R4-6 would be limited to the potential lots along future Kennington Way and a portion of proposed lots along future Mia Avenue, for a total of 56 dwellings.

3.3 Community Engagement (see more detail in Appendix B)

No public or stakeholder responses were received on this zoning application.

No comments on the zoning amendment were received from stakeholder.

Future comments on the site plan were received from Urban Design and include the following:

- Corner lots should be treated with enhanced side facades and limited fencing along the right-of-way in order to be consistent with the policies of the SWASP, as such;
 - Both front and side elevations shall be of equal quality in terms of their architectural components, number and proportions of openings, materials and attention to detail.
 - Fencing along the exterior property line will be limited to a maximum of 50% of the length of the property line

Engineering also provided comments related to the site plan, which will require the following:

- All necessary SWM servicing and drainage requirements/controls for this site will be implemented as part of the approval of Draft Plan for Richardson Subdivision – 39T-15501 and associated Consent/site plan agreement(s).
- Ensure driveways are a minimum of 1.5m away from utilities as per the streets by-law
- The applicant should look to pair driveways to provide for on street parking opportunities and allow for the placement of street trees and utilities
- Detailed comments regarding driveway location and design will be made through the site plan process
- The street facing townhouses will be required to have individual storm, sanitary and water services connected to the municipal watermain and sewers within Kennington Way and Mia Avenue.
- The recommendations of the noise report will be incorporated into any development agreement for the site.

3.4 Policy Context (see more detail in Appendix C)

Provincial Policy Statement 2014

The Provincial Policy Statement (PPS) 2014 provides policy direction on matters of provincial interest related to land use and development. Section 1.1 Managing and Directing Land Use to Achieve Efficient and Resilient Development and Land Use Patterns of the PPS encourages healthy, livable and safe communities. The PPS identifies that healthy and liveable communities are sustained by accommodating an appropriate range and mix of residential uses, including second units, affordable housing, and housing for older persons (1.1.1(b)). It also promotes cost-effective development patterns and standards to minimize land consumption and servicing costs. The PPS encourages settlement areas (1.1.3 Settlement Areas) to be the main focus of growth and development. Appropriate land use patterns within settlement areas are established by providing appropriate densities and mix of land uses that efficiently use land and resources along with the surrounding infrastructure, public service facilities and are also transit-supportive (1.1.3.2).

The PPS also promotes an appropriate range and mix of housing types and densities to meet projected requirements of current and future residents (1.4 Housing). It directs planning authorities to permit and facilitate all forms of housing required to meet the social, health and wellbeing requirements of current and future residents, and direct the development of new housing towards locations where appropriate levels of infrastructure and public service facilities are or will be available to support current and projected needs. It encourages densities for new housing which efficiently use land, resources, and the surrounding infrastructure and public service facilities, and support the use of active transportation and transit in areas where it exists or is to be developed.

The subject lands are not located within an area identified as having potential archaeological significance. There are no known Natural Hazards or Human-Made Hazards issues associated with this application (3.0).

The recommended amendment will permit the development of more affordable housing options within the subdivision and within the greater area, provide an alternative housing form, and provide a mix of housing choice. The addition of street townhouse dwellings will add to the range and mix of uses in the area.

The London Plan

The London Plan is the new Official Plan for the City of London (Council adopted, approved by the Ministry with modifications, and the majority of which is in force and effect). The London Plan policies under appeal to the *Local Planning Appeals Tribunal* (Appeal PL170100) and not in force and effect are indicated with an asterisk throughout this report. The London Plan policies under appeal are included in this report for informative purposes indicating the intent of City Council, but are not determinative for the purposes of this planning application.

The London Plan provides direction to build a mixed-use compact city by ensuring a mix of housing types within our neighbourhoods so that they are complete and support aging in place. (59_5)

The London Plan also provides direction to build strong, healthy and attractive neighbourhoods for everyone by designing complete neighbourhoods by meeting the needs of people of all ages, incomes and abilities, allowing for aging in place and accessibility to amenities, facilities and services. (61_2)

Secondary plans and larger residential development proposals should include a 25% affordable housing component through a mix of housing types and sizes. In keeping with this intent, 40% of new housing units within a secondary plan, and lands exceeding five hectares in size outside of any secondary plan, should be in forms other than single detached dwellings (518_). This application ensures that additional housing forms provide an even greater mix of housing (and affordable housing) options.

The subject lands are located within the *‘Neighbourhoods’ Place Type in the London Plan, and are located on a Neighbourhood Street (Kennington Way and Mia Avenue). The subject site’s location on a *Neighbourhood Street permits a range of housing types, in a form that can include townhouses up to *2.5 storeys.

**Use*

The recommended amendment to permit the development of street townhomes is consistent with the vision of the Neighbourhoods Place Type (*Table 10). Street townhomes are a permitted use along neighbourhood streets.

**Intensity*

*Policy 935_ 1. and *Table 11 provides the range of permitted heights in the Neighbourhoods Place Type based on street classification. A maximum height of 2.5 storeys is supported. The Applicant has indicated these townhomes will generally be two storeys in height. Overall, the proposed two storey height of this development meets the intensity requirements for the subject site.

**Form*

*Policy 936_2 discourages rear lotting and noise walls to protect amenity areas. The proposed uses will not rear lot onto the Civic Boulevard (Exeter Road). Side flanking lots will be required to implement noise attenuation into their design. Additional urban design considerations will be required through the site plan process.

The London Plan policies are in addition to the Southwest Area Secondary Plan (“SWAP”) policies that also provide guidance on form issues, such as building form, parking locations, landscaping, etc. When considering the two policy documents, the more detailed or alternative policy direction in SWAP would supersede the policies in the London Plan.

Southwest Area Secondary Plan

The Southwest Area Secondary Plan (“SWAP”) provides the primary policy guidance regarding the use and development of land within the SWAP boundary.

The vision for the SWAP (Policy 20.5.1.3.) includes the creation of new distinct neighbourhoods that promote a mix of uses, and diverse mix of residential housing, an emphasis on design parameters with placemaking features, and walkability within and between neighbourhoods.

Through the General Policies of the SWAP, 20.5.3.1 i) (Affordable Housing), opportunities for affordable housing shall be integrated into neighbourhoods and developments that also provide for regular market housing. The addition of street townhouse dwellings introduces another more affordable housing form, in addition to the mix of single detached dwellings and cluster housing permitted in the immediate area.

From an urban design perspective, Policy 20.5.3.9. iii) d) requires special consideration for design of corner lots to take advantage of their visibility. This will be incorporated at site plan. Policy 20.5.3.9. iii) e) seeks to limit garages so that they are not the dominant feature in the streetscape. As part of the special provisions in the zoning, attached garages shall not project beyond the façade of the dwelling or the façade (front face) of any porch, or contain garage doors that occupy more than 50% of the frontage of a lot.

SWAP includes the subject site in the “Medium Density Residential” designation in the “Central Longwoods Residential Neighbourhood”. The intent of the Low and Medium Density Residential designations is to encourage a mix of housing types, forms and intensities throughout the Central Longwoods Neighbourhood and within individual developments, at an intensity that is higher than is found in more recent suburban neighbourhoods. This is to be achieved by requiring a minimum density of development and encouraging the integration of a range of housing types within individual developments. The primary permitted uses in the Medium Density Residential designation will be permitted in the Low and Medium Density Residential designations, including low density forms such as single detached, semi-detached and duplex dwellings, triplexes and fourplexes, and higher intensity uses, such as townhomes and low rise apartments. The Central Longwoods Residential Neighbourhood requires development within the Medium Density Residential (MDR) designation to be at a minimum density of 30 units/ha and a maximum density of 75 units/ha. The proposed net density for the proposed townhouse lots (39 units per hectare) will meet the minimum densities required as per the SWAP.

1989 Official Plan

Like its successor the London Plan, the 1989 Official Plan (“Official Plan”) contains policies that guide the use and development of land within the City of London. The subject site is designated “Multi-Family, Medium Density Residential”. The more detailed or alternative policy direction in SWAP also supersedes the policy direction in the 1989 Official Plan.

The requested Zoning By-law Amendment is subject to the requirements of a Planning Impact Analysis (“PIA”). The proposed townhouse dwellings provides a housing form that is compatible with the planned surrounding residential land uses. The subject site is of a sufficient size and configuration to accommodate the proposed development. The development meets or exceeds the minimums required in the R4-6 Zone. The proposed low-rise form is consistent with the height requirements of the Official Plan. The subject site is removed from the natural heritage features (wetland complex) located to the west of the site. The UTRCA has no objections to the proposed application. The development proposal will serve to strengthen the future transit and transportation system.

Zoning By-law No.Z.-1

The current Holding Residential R5/R6 Special Provision (h*h-100*h-198*R5-4(23)/R6-5(51)) Zone permits medium density cluster housing uses such as single detached, semi-detached, duplex, triplex, apartment buildings, townhouses and stacked townhouses, at a maximum height of 12.0 metres, with a special provision for a minimum density of 30 units per hectare and a maximum density of 75 units per hectare. These zones permit a wide range of housing forms. The special provision to require minimum and maximum densities is as per the SWAP.

The recommended amendment proposes to add an R4 Special Provision (R4-6(__)) Zone to the existing zoning to facilitate freehold street townhouse dwellings along the two local streets/neighbourhood streets. The R4 Zone provides for and regulates medium density residential development in the form of street townhousing. Different intensities of development are permitted through the use of zone variations. These uses are low rise in nature (generally two storeys) and are a contemplated housing form through the 1989 Official Plan and The London Plan. The proposed density of 39 units per hectare is in keeping with the density requirements for the Multi-Family, Medium Density Residential designation in the 1989 Official Plan.

The following special provisions are recommended:

- A minimum lot frontage of 7.0m (23.0 feet) - this will ensure that the units have sufficient frontage to ensure municipal services and utilities can be adequately spaced within the City's boulevard;
- A maximum front yard setback for the main dwelling of 6.0m (19.7 feet) - To ensure a street oriented development in close proximity to the street;
- A minimum front yard setback for garages of 6.0m (19.7 feet) - Garage setbacks from public streets should be a minimum of 6 metres from the street line to provide sufficient distance for parking between building and sidewalk.
- Garages shall not project beyond the façade of the dwelling or façade (front face) of any porch, and shall not occupy more than 50% of lot frontage - design considerations as per the SWAP.

These special provisions are supported to encourage and foster improved design for the site.

The existing holding provisions that were added to the Zone through the subdivision application will be retained for the subject site.

More information and detail on applicable planning policy is available in Appendix C of this report.

4.0 Key Issues and Considerations

4.1 On Street Parking and Street Trees

The PPS (1.1.1.) encourages healthy, liveable and safe communities sustained by promoting efficient development and land use patterns, accommodating an appropriate range and mix of residential (including second units, affordable housing and housing for older persons), promoting cost-effective development patterns and standards to minimize land consumption and servicing costs, and improving accessibility for persons with disabilities and older persons by identifying, preventing and removing land use barriers which restrict their full participation in society. Generally, the policies of The London Plan and the SWAP require a mix of housing types.

As part of the 1989 Official Plan, the Small Lot Subdivision Guidelines were adopted in April of 2000 (revised in November of 2001). In response to issues with new small lot subdivisions (considered to be a detached lot with frontage less than 12 metres (39.4 feet)), guidelines were prepared to encourage creative and flexible approaches to small lot subdivision design. As lot width decreases in suburban areas, the visual balance between the garage door and the front entry of the home has shifted. Difficulties resulting from the concentration of too many small lot subdivisions include reduced front yard for landscaping and less outdoor amenity area, garage dominated streetscape, particularly with double car garages, lack of front doors or windows on the main floor reduces opportunities for informal surveillance or "eyes on the street" which is an important aspect of crime prevention, reduction or elimination of adequate on-street parking, less flexibility for placement of municipal utilities and boulevard tree planting, lack of adequate and convenient on-street parking opportunities, and potential traffic conflicts from the increased number of driveways. Narrow lots have less space available to accommodate driveways, street trees, utility structures (eg. transformers), street light poles, limiting the areas needed for snow storage and waste and recycling bins.

Although this application is for detached dwellings, and the small lot subdivision guidelines do not apply, the above noted issues are still prevalent. As part of the complete application, the Applicant was required to demonstrate how adequate on-street parking can be accommodated given the reduced lot frontages. The Applicant has shown paired driveways, and on-street parking locations on the opposite side of the street. Through the parking plan they are able to provide 29 on-street parking spaces (the guidelines require one parking space per two lots). The proposed parking plan will

be added to the subdivision agreement and used for future building permit applications. Placement of street trees will also be determined through site plan.

5.0 Conclusion

The recommended amendment is consistent with the Provincial Policy Statement, 2014, the Official Plan, and is in keeping with the London Plan. The proposed addition of the R4 Zone will implement an appropriate housing form in accordance with 1989 Official Plan, The London Plan and SWAP policies. The subject lands are of a suitable size and shape to accommodate the development proposed. Additional considerations such as on street parking, street trees, and design, will be addressed at site plan.

Prepared by:	Nancy Pasato, MCIP, RPP Senior Planner, Development Services
Recommended by:	Paul Yeoman, RPP, PLE Director, Development Services
Submitted by:	George Kotsifas, P.ENG Managing Director, Development and Compliance Services and Chief Building Official
Note: The opinions contained herein are offered by a person or persons qualified to provide expert opinion. Further detail with respect to qualifications can be obtained from Development Services.	

May 17, 2019
NP/np

Y:\Shared\DEVELOPMENT SERVICES\11 - Current Planning\DEVELOPMENT APPS\2019 Applications 9002 to\9017Z - 1081 Riverside Dr (NP)\Draft PEC Report 1081 Riverside.docx

CC: Matt Feldberg, Manager, Development Services (Subdivisions)
Lou Pompilii, Manager, Development Services - Planning
Ismail Abushehada, Manager, Development Services - Engineering

Appendix A

Bill No. (number to be inserted by Clerk's Office)
2019

By-law No. Z.-1-19_____

A by-law to amend By-law No. Z.-1 to rezone
an area of land located on a portion of 146
Exeter Road (Block 36 and 37, Richardson
Subdivision 39T-15501).

WHEREAS 110312 Ontario Inc. has applied to rezone an area of land
located on a portion of 146 Exeter Road (Block 36 and 37, Richardson Subdivision 39T-
15501), as shown on the map attached to this by-law, as set out below;

AND WHEREAS this rezoning conforms 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 on a portion of 146 Exeter Road (Block 36 and 37,
Richardson Subdivision 39T-15501), as shown on the attached map comprising part of
Key Map No. A111, from a Holding Residential R5 Special Provision/Residential R6
Special Provision (h*h-100*h-198*R5-4(23)/R6-5(51)) Zone, to a Holding Residential R4
Special Provision /Residential R5 Special Provision/Residential R6 Special Provision
(h*h-100*h-198*R4-6()/R5-4(23)/R6-5(51)) Zone;.

2) Section Number 8.4 of the Residential R4 (R4-6) Zone is amended by
adding the following Special Provision:

-) R4-6() (Portion of 146 Exeter Road)
- a) Regulations
- | | | |
|------|--|------------------------|
| i) | Lot Frontage
(Minimum) | 7.0 metres (23.0 feet) |
| ii) | Front Yard Setback,
Main Dwelling
(Maximum) | 6.0 metres (19.7 feet) |
| iii) | Front Yard Depth,
Garages
(Minimum) | 6.0 metres (19.7 feet) |
| iv) | Garages shall not project beyond the façade of the dwelling or
façade (front face) of any porch, and shall not occupy more than
50% of lot frontage. | |

3) 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.

4) 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. P.13*, 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 11, 2019.

Ed Holder
Mayor

Catharine Saunders
City Clerk

First Reading – June 11, 2019
Second Reading – June 11, 2019
Third Reading – June 11, 2019

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



Appendix B – Public Engagement

Community Engagement

Public liaison: On March 14, 2019, Notice of Application was sent to 6 property owners in the surrounding area. Notice of Application was also published in the *Public Notices and Bidding Opportunities* section of *The Londoner* on March 14, 2019. A “Planning Application” sign was also posted on the site.

No replies received.

Nature of Liaison: The purpose and effect of this zoning change is to permit street townhouse dwellings in addition to the already permitted uses. Possible change to Zoning By-law Z.-1 from a Holding Residential R5 Special Provision/Residential R6 Special Provision (h*h-100*h-198*R5-4(23)/R6-5(51)) Zone to a Holding Residential R4/Residential R5 Special Provision/Residential R6 Special Provision (h*h-100*h-198*R4-6/R5-4(23)/R6-5(51)) Zone to permit street townhouse dwellings with a minimum lot frontage of 7.0 meters and maximum height of 12.0 meters.

Responses: No comments received.

Concern for: n/a

Responses to Public Liaison Letter and Publication in “The Londoner”

Telephone	Written

Agency/Departmental Comments

April 11, 2019: Development Services - Urban Design

The following design matters should be addressed through the site plan process:

- Corner lots should be treated with enhanced side facades and limited fencing along the right-of-way in order to be consistent with the policies of the SWASP, as such;
- Both front and side elevations shall be of equal quality in terms of their architectural components, number and proportions of openings, materials and attention to detail.
- Fencing along the exterior property line will be limited to a maximum of 50% of the length of the property line

April 8, 2019: Development Services - Engineering

No major engineering comments for the proposed rezoning.

The following cursory comments are to be considered as part of future site plan application:

- All necessary SWM servicing and drainage requirements/controls for this site will be implemented as part of the approval of Draft Plan for Richardson Subdivision – 39T-15501 and associated Consent/site plan agreement(s).
- Ensure driveways are a minimum of 1.5m away from utilities as per the streets by-law
- The applicant should look to pair driveways to provide for on street parking opportunities and allow for the placement of street trees and utilities
- Detailed comments regarding driveway location and design will be made through the site plan process
- The street facing townhouses will be required to have individual storm, sanitary and water services connected to the municipal watermain and sewers within Kennington Way and Mia Avenue.
- The recommendations of the noise report will be incorporated into any development agreement for the site.

Appendix C – Policy Context

The following policy and regulatory documents were considered in their entirety as part of the evaluation of this requested land use change. The most relevant policies, by-laws, and legislation are identified as follows:

Provincial Policy Statement (PPS) 2014

Section 1.1 – Managing and directing land use to achieve efficient and resilient development and land use patterns
Section 1.6 - Infrastructure and Public Service Facilities

London Plan

55_ Direction #1 Plan strategically for a prosperous city
58_ Direction #4 Become one of the greenest cities in Canada
59_ Direction #5 Build a mixed-use compact city
61_ Direction #7 Build strong, healthy and attractive neighbourhoods for everyone
71_ The Growth Framework, Figure 3 - Primary Transit Area
90_ Primary Transit Areas
Table 10 – Range of permitted uses in Neighbourhood Place Type
916-921 – Permitted Uses
1576-1579 – Planning and Development Applications

1989 Official Plan

3.1.
3.1.1.
3.1.2.
3.1.3.
3.2. – Low Density Residential Designation
3.3. - Multi-Family, Medium Density Residential
3.7 - Planning Impact Analysis
20 - Secondary Plans

Southwest Area Secondary Plan

20.5.1.4. - Principles of the Secondary Plan
20.5.3.1. - Housing
20.5.3.9. - Urban Design
20.5.4.1. - Residential
20.5.4.3. - Open Space
20.5.10 - Central Longwoods Residential Neighbourhood

Z.-1 Zoning By-law

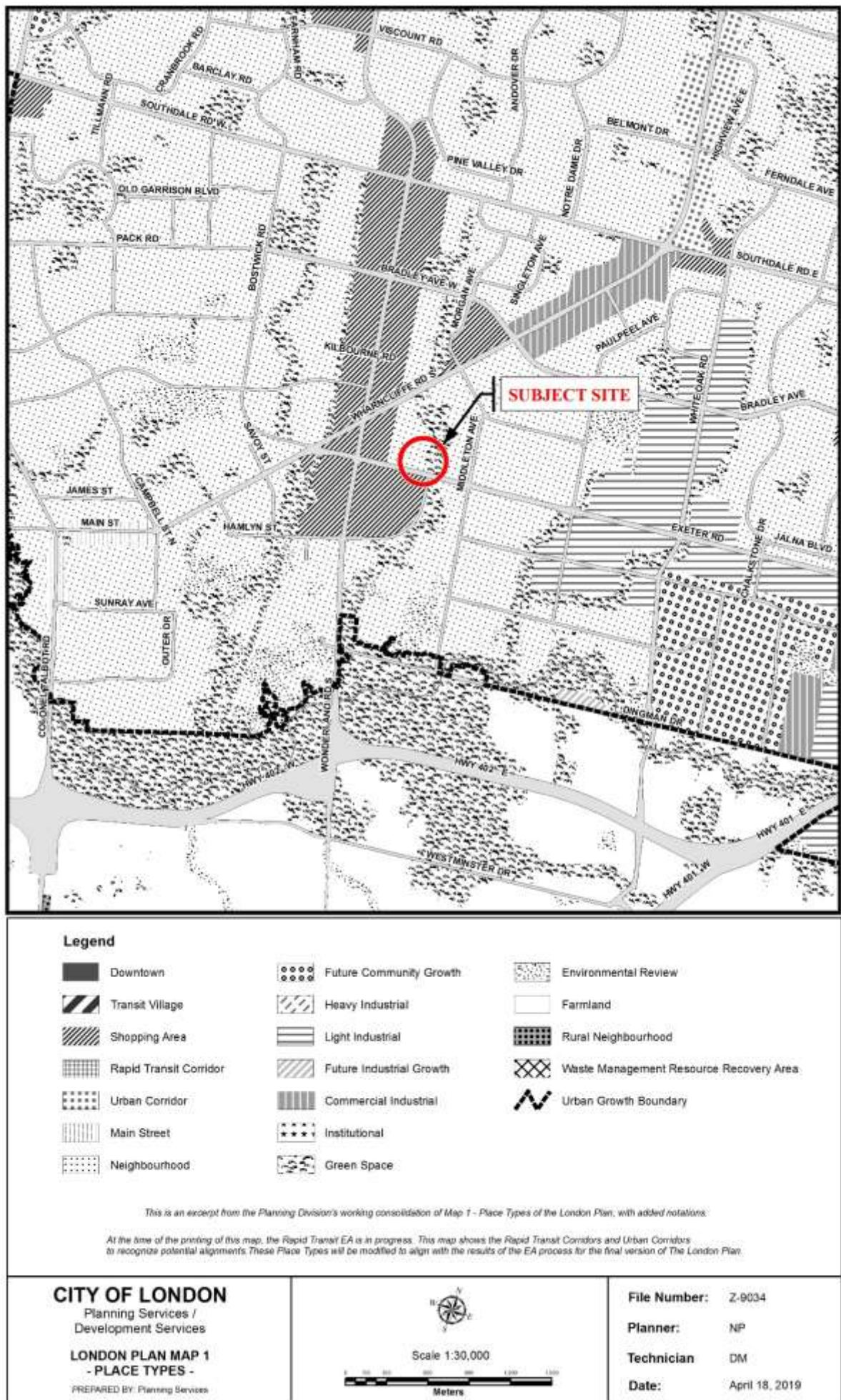
Section 2 – Definitions

Section 4 – General Provisions

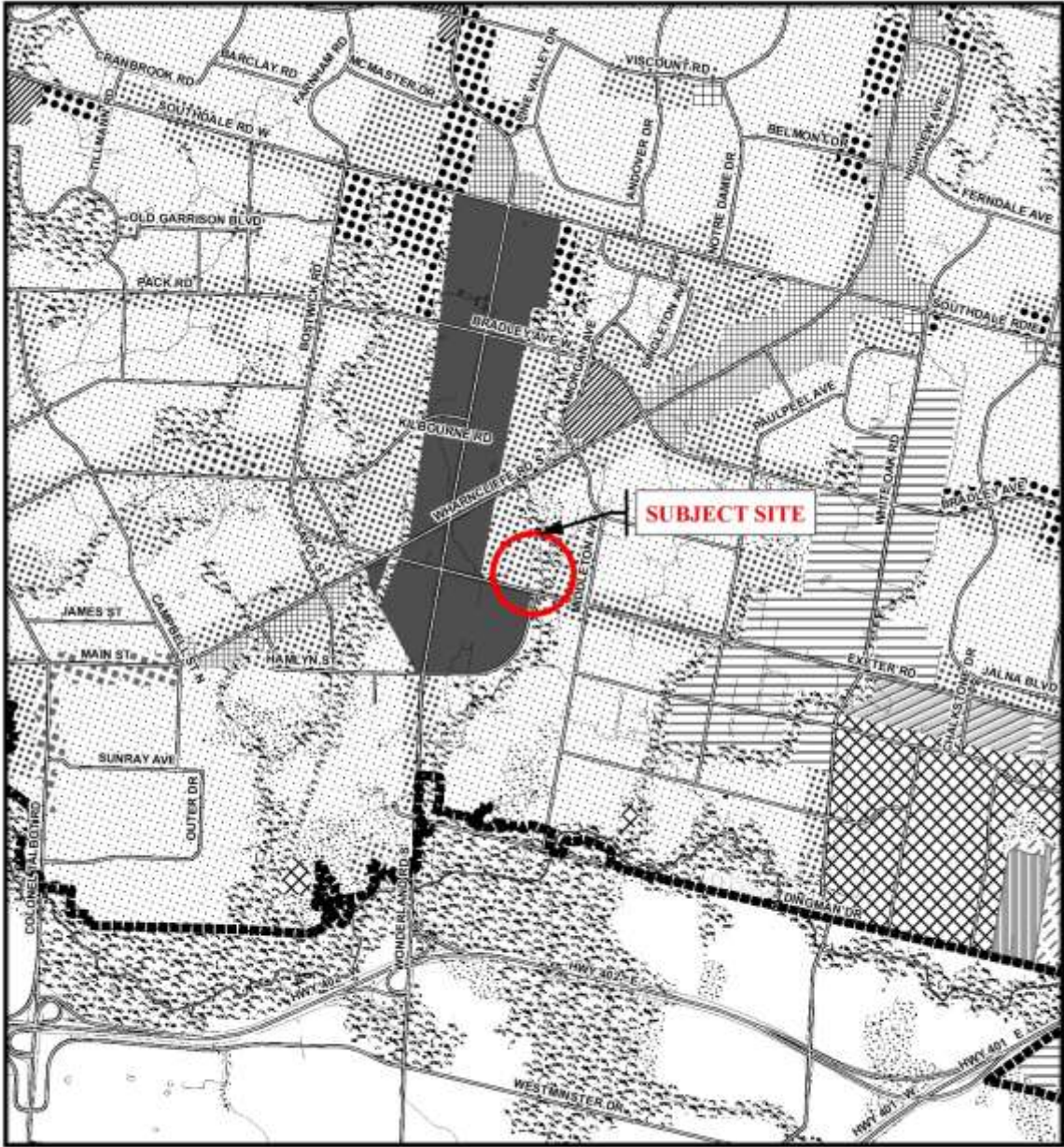
Section 8 – Residential R4 (R4-6) zone

Appendix D – Relevant Background

Additional Maps



Project Location: E:\Planning\Projects\p_officialplan\work\consolid00\excerpts_LondonPlan\mxd\Z-9034-LP-Placetypes-Excerpt.mxd



Legend

Downtown

Wonderland Road Community Enterprise Corridor

Enclosed Regional Commercial Node

New Format Regional Commercial Node

Community Commercial Node

Neighbourhood Commercial Node

Main Street Commercial Corridor

Auto-Oriented Commercial Corridor

Multi-Family, High Density Residential

Multi-Family, Medium Density Residential

Low Density Residential

Office Area

Office/Residential

Regional Facility

Community Facility

Open Space

Urban Reserve - Community Growth

Urban Reserve - Industrial Growth

Office Business Park

General Industrial

Light Industrial

Commercial Industrial

Transitional Industrial

Rural Settlement

Environmental Review

Agriculture

Urban Growth Boundary

CITY OF LONDON

Planning Services / Development Services

OFFICIAL PLAN SCHEDULE A - LANDUSE -

PREPARED BY: Graphics and Information Services

Scale 1:30,000

0 100 200 300 400 500 600 700 800 900 1000

Meters

FILE NUMBER: Z-9034

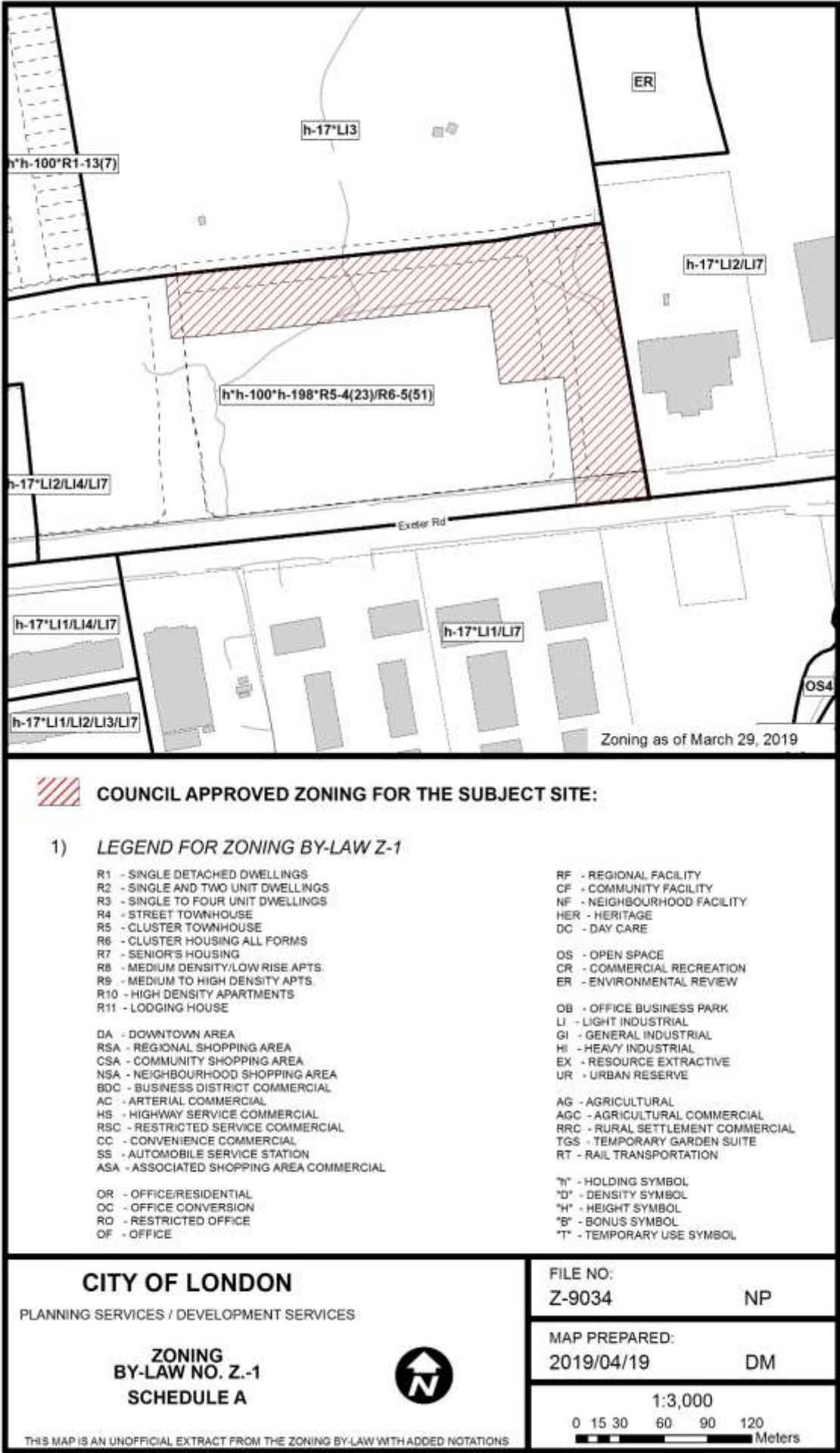
PLANNER: NP

TECHNICIAN: DM

DATE: 2019/04/18

PROJECT LOCATION: e:\planning\projects\ip_officialplan\work\conso\00\excerpts\md_templates\scheduleA_b&w_8x14_with_SWAP.mxd

119



Report to Planning and Environment Committee

To: Chair and Members
Planning & Environment Committee
From: George Kotsifas P. Eng.,
Managing Director, Development & Compliance Services and
Chief Building Official
Subject: The Corporation of the City of London
146 Exeter Road
Public Participation Meeting on: May 27, 2019 at 4:00pm

Recommendation

That, on the recommendation of the Director, Development Services, the following actions be taken with respect to the application of the Corporation of the City of London relating to the property located at 146 Exeter Road:

- (a) the proposed by-law attached hereto as Appendix "A" **BE INTRODUCED** at the Municipal Council meeting on June 11, 2019 to amend the Official Plan to:
 - i) change the designation on Schedule "A" - Land Use **FROM** a "Multi-Family, Medium Density Residential" designation, **TO** a "Low Density Residential" and "Open Space" designation;
 - ii) change Section 20.5 (Southwest Area Secondary Plan), Schedule 4 (Southwest Area Land Use Plan), **FROM** "Medium Density Residential" **TO** "Low Density Residential and "Open Space", and Schedule 10 (Central Longwoods Residential Neighbourhood Land Use Designations), **FROM** "Medium Density Residential" **TO** "Low Density Residential" and "Open Space";
- (b) the proposed by-law attached hereto as Appendix "B" **BE INTRODUCED** at the Municipal Council meeting on June 11, 2019 to amend Zoning By-law No. Z.-1, in conformity with the Official Plan as amended in part (a) above, to change the zoning of the subject property **FROM** an Open Space (OS1) Zone, **TO** a Residential R1 Special Provision (R1-4(29)) Zone;
- (c) the proposed by-law attached hereto as Appendix "C" **BE INTRODUCED** at the Municipal Council meeting on June 11, 2019, to amend The London Plan by **AMENDING** Policy 1565_ List of Secondary Plans, 5. Southwest Area Secondary Plan, Section 20.5 (Southwest Area Secondary Plan), Schedule 4 (Southwest Area Land Use Plan), **FROM** "Medium Density Residential" **TO** "Low Density Residential and "Open Space", and Schedule 10 (Central Longwoods Residential Neighbourhood Land Use Designations), **FROM** "Medium Density Residential" **TO** "Low Density Residential" and "Open Space";

IT BEING NOTED THAT the amendments will come into full force and effect concurrently with The London Plan.

Executive Summary

Summary of Request

The requested amendment will permit twelve (12) single detached dwellings, and amend the land use designation to Low Density Residential and Open Space to better reflect the approved and planned uses in the area.

Purpose and Effect of Recommended Action

The purpose and effect of the recommended action is to redesignate portions of the park, stormwater management pond (Pincombe 3) and lands along the west side of Middleton Avenue to “Low Density Residential”, and to redesignate a portion of the lands to “Open Space” to recognize a natural heritage component on Schedule “A” of the Official Plan and on Schedule 4 (Southwest Area Land Use Plan) and Schedule 10 (Central Longwoods) of the Southwest Area Secondary Plan, and to re-zone Block 38 of the draft approved plan of subdivision 39T-15501 (Richardson Subdivision) to permit single detached dwellings, with a special provision to limit maximum driveway and garage widths.

Rationale of Recommended Action

1. The recommended amendment is consistent with, and will serve to implement the policies of the Provincial Policy Statement, 2014 which encourage a range of housing types, efficient use of infrastructure, and the protection of the natural environment.
2. The proposed change to the Southwest Area Secondary Plan is consistent with The London Plan.
3. The recommended zoning amendment is consistent with the policies of The London Plan, and the amended Southwest Area Secondary Plan.
4. The proposed change is being recommended in relation to Municipal Council's previous recommendations for the draft plan of subdivision for these lands to more accurately reflect the planned and approved uses in this area.

Analysis

1.0 Site at a Glance

1.1 Property Description

The subject site consists of a portion of a larger parcel known municipally as 146 Exeter Road. It is situated midpoint between Wonderland Road South and White Oaks Road, in the former Township of Westminster. Portions of the subject property include the former site of the Southwest Optimist Baseball Complex, which at one time contained up to 16 baseball diamonds. The subject lands are part of a draft approved plan of subdivision; known as the Richardson Subdivision, which overall consists of 25 low density blocks, 18 medium density blocks, 2 park blocks, 4 multi-use pathway blocks, 1 stormwater management block, 1 future stormwater management or residential block, 1 light industrial block, 2 open space blocks, 1 school block, 1 future road block, as well as several 0.3 m reserves and road widening, all served by 4 new secondary collector roads, and 11 new local streets. The subject lands are within Phase 1a of the draft plan, adjacent to the future stormwater management pond.

1.2 Current Planning Information (see more detail in Appendix “F”)

- Official Plan Designation – Multi-Family, Medium Density Residential
- The London Plan Place Type – Neighbourhoods
- Existing Zoning – Open Space (OS1)

1.3 Site Characteristics

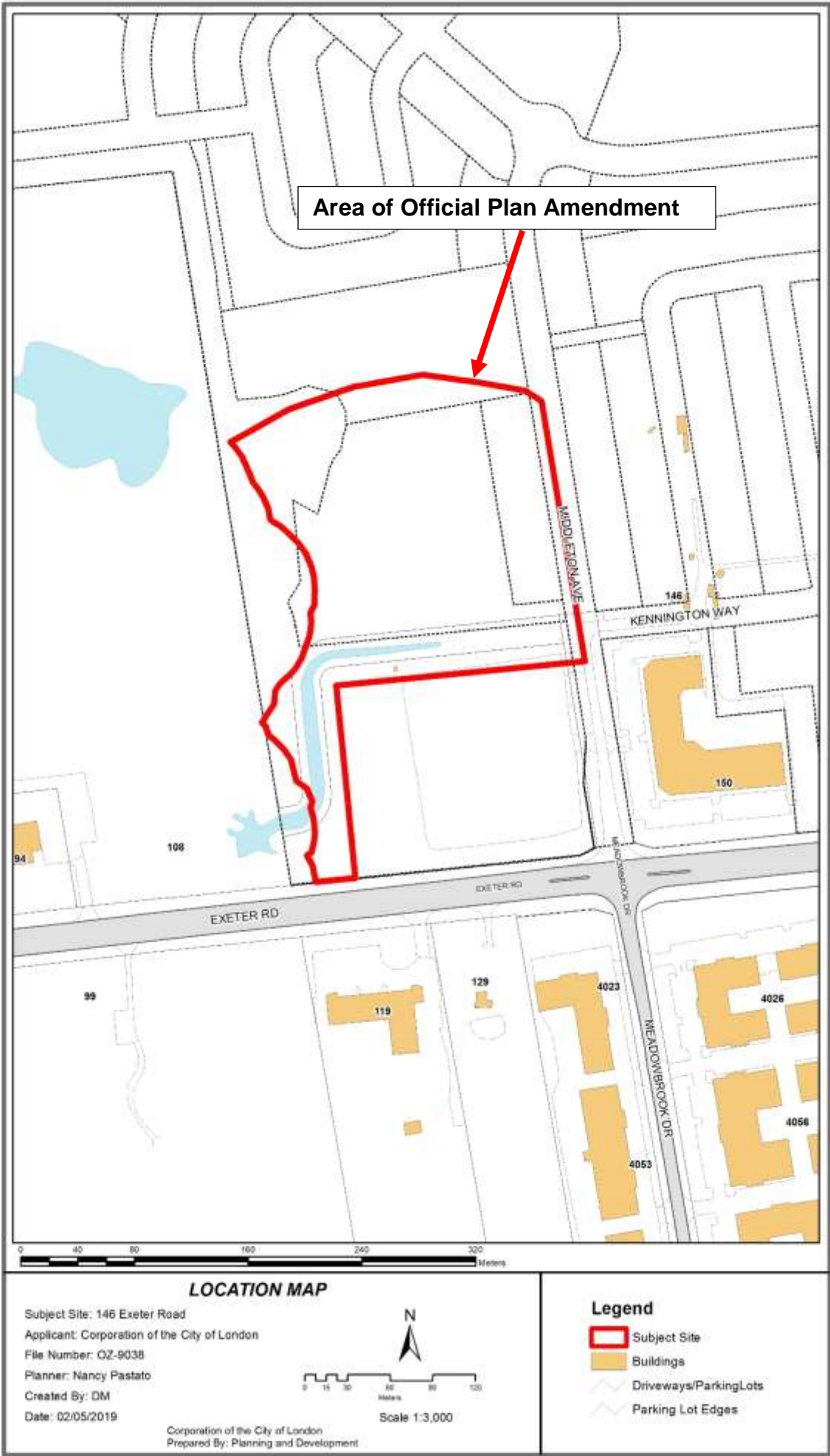
- Current Land Use – vacant/softball diamonds/open space
- Frontage – Middleton Avenue - 145.3 m (476.6 feet)
- Depth – 34.8 m (114.2 feet)
- Area – 5056.4 m² (54,427.1 ft²)
- Shape – rectangular

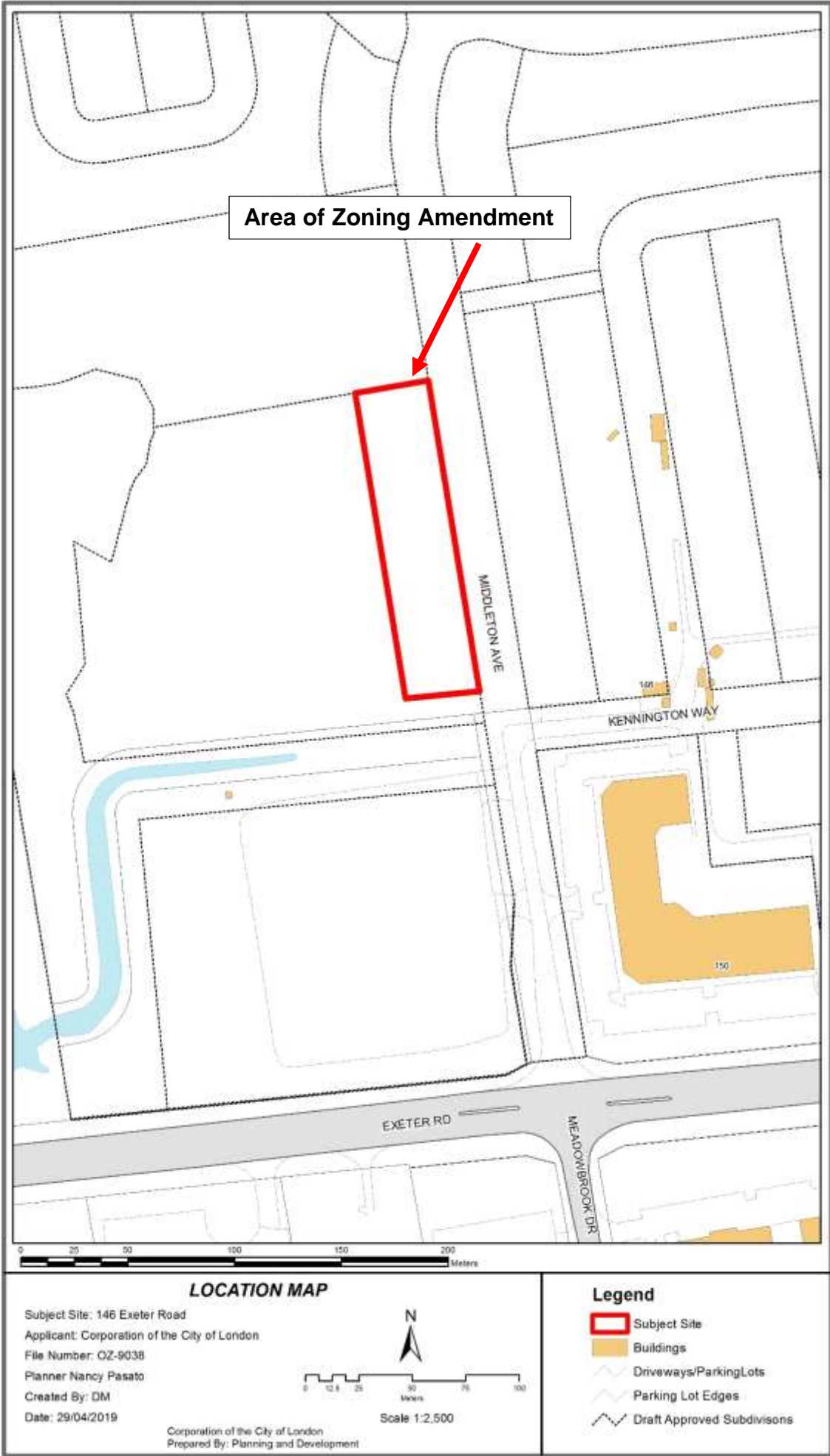
1.4 Surrounding Land Uses

- North – vacant/future residential and park
- East – vacant/future residential

- South – vacant/future residential/open space
- West – Environmentally Significant Area/Stormwater Management Pond

1.5 LOCATION MAP





2.0 Description of Proposal

2.1 Development Proposal

The City has initiated an Official Plan, a London Plan, and a Zoning By-law amendment(s) to permit single detached dwellings on a portion of the lands, as well as amendments to correct the current land use designations for the remainder of the lands that reflect planned and approved land uses in this area.

3.0 Relevant Background

3.1 Planning History

The Southwest London Area Plan (SWAP) was initiated in 2009 and was presented to the Planning and Environment Committee on April 26, 2010. The Area Plan was intended to provide a comprehensive land use plan, servicing requirements and a phasing strategy for future development within the Urban Growth Area south of Southdale Road, east of Dingman Creek and north of the Highway 401/402 corridor. On November 20, 2012, Municipal Council passed By-Law No. C.P.-1284-(st)-331 to approve Official Plan Amendment 541 (relating to the Secondary Plan). The Secondary Plan was appealed by numerous parties on the basis that it was incomplete and incapable of providing direction expected of a secondary plan and for various site specific land use issues. The outcome of the appeal resulted in changes to the plan. The plan (with amendments) was approved by the Ontario Municipal Board on April 29, 2014.

A draft plan of subdivision (file 39T-15501/Z-8470) was submitted for the lands located at 132, 146 and 184 Exeter Road on March 12, 2015. After several revisions and a recirculation, a public meeting was held on December 12, 2016. Municipal Council approved the plan and the associated zoning by-law amendment, and the Approval Authority granted draft approval on January 27, 2017. The approved plan consists of 25 low density blocks, 18 medium density blocks, 2 park blocks, 4 multi-use pathway blocks, 1 stormwater management block, 1 future stormwater management or residential block, 1 light industrial block, 2 open space blocks, 1 school block, 1 future road block, as well as several 0.3 m reserves and road widening, all served by 4 new secondary collector roads, and 11 new local streets.

Through the draft plan of subdivision process, the Applicant provided Block 47 for the future stormwater management pond (known as Pincombe SWMF 3), and had anticipated that a residential block would be available adjacent to the pond and the road (see below). At the time of the draft approval, the functional SWM facility design had yet to be completed, and the proposed size of the Pincombe Drain SWM Pond was unknown. It was anticipated that once the functional design was completed for the pond, either additional lands would be necessary (which may have included a portion or all of this Block), or, if additional lands were not needed, the City would initiate a zone change to an appropriate residential zone.

On December 19, 2016, the Municipal Council resolution on the draft plan approval included the following:

“12. That on the recommendation of the Senior Planner, Development Services, the following actions be taken with respect to the application of Barry Zagdanski, c/o Z-Group, relating to the properties located at 132, 146 and 184 Exeter Road:

... g) the Civic Administration BE REQUESTED to initiate a Zoning By-law amendment application on behalf of the property owner to rezone Block 38 of this draft plan of subdivision should it be determined this block is not necessary for stormwater management purposes;”

Soon after draft plan of subdivision approval was granted, the City completed its functional design of the Pincombe SWMF 3 pond. The City has recently issued a

subdivision agreement for SWMF lands to the applicant. Through design, it was determined that Block 46 was not needed for the purposes of the SWM, nor was it needed as a component of the park system, as the district park is to be located to the north of these lands. As per Council's recommendation, Staff have initiated the change to permit residential on these lands.

3.2 Requested Amendment

As per Staff and Council's recommendation, Staff have initiated a Zoning By-law amendment for the portion of the lands located along Middleton Avenue (previously Street P) and adjacent to the stormwater management pond (Pincombe SWMF 3). The application proposes to apply a Residential R1 Special Provision (R1-4(29)) Zone, which will permit single detached dwellings with a minimum lot frontage of 12.0 metres (39.4 feet), a minimum lot area of 360 square metres (3,875 square feet), and a special provision to ensure garages shall not project beyond the façade of the dwelling or façade (front face) of any porch, and shall not occupy more than 50% of lot frontage. This zone is identical to the zoning applied to the east of this site along Middleton Avenue.

Staff have also initiated a 1989 Official Plan and Southwest Area Secondary Plan amendment (and London Plan amendment) as part of this application, to apply more appropriate land use designations which reflect the planned and approved uses in the area, and to recognize a significant natural heritage feature by applying the appropriate Open Space designation.

3.3 Community Engagement (see more detail in Appendix "D")

No responses were received from the public on this application.

No significant responses were received from stakeholders on this site.

3.4 Policy Context (see more detail in Appendix "E")

Provincial Policy Statement (PPS), 2014

The PPS provides direction for land use planning that focuses growth within settlement areas, and encourages an efficient use of land, resources, and public investment in infrastructure. To support this, the PPS defines a number of policies to promote strong, liveable, healthy and resilient communities. These policies are set out in Section 1.0, and address such matters as efficient development and land use patterns, housing, public spaces/open space, infrastructure and public service facilities, long-term economic prosperity, and energy and air quality.

The Provincial Policy Statement provides policy direction on matters of provincial interest related to land use planning and development. Section 1.1 Managing and Directing Land Use to Achieve Efficient and Resilient Development and Land Use Patterns of the PPS encourages healthy, livable and safe communities which are sustained by accommodating an appropriate range and mix of residential, employment and institutional uses to meet long-term needs. The PPS also promotes cost-effective development patterns and standards to minimize land consumption and servicing costs and encourages settlement areas to be the main focus of growth and development (1.1.3).

The PPS acknowledges that the long-term prosperity, environmental health and social well-being of Ontario depends upon the conservation and protection of our natural heritage and agricultural resources. Section 2.0 of the PPS establishes a number of policies that serve to protect sensitive natural features and water resources.

The London Plan

The London Plan is the new Official Plan for the City of London (Council adopted, approved by the Ministry with modifications, and the majority of which is in force and effect). The London Plan policies under appeal to the *Local Planning Appeals Tribunal* (Appeal PL170100) and not in force and effect are indicated with an asterisk throughout

this report. The London Plan policies under appeal are included in this report for informative purposes indicating the intent of City Council, but are not determinative for the purposes of this planning application.

The London Plan provides direction to build a mixed-use compact city by ensuring a mix of housing types within our neighbourhoods so that they are complete and support aging in place. (59_5)

The London Plan also provides direction to build strong, healthy and attractive neighbourhoods for everyone by designing complete neighbourhoods by meeting the needs of people of all ages, incomes and abilities, allowing for aging in place and accessibility to amenities, facilities and services. (61_2)

The subject site is outside of the *Primary Transit Area, which is the focus of intensification and higher intensity development. The lands are located within the *'Neighbourhoods' Place Type in The London Plan, and is located on a Neighbourhood Connector (Middleton Avenue). The subject site's location on the Neighbourhood Connector permits a wide range of housing types in a form that can include single detached dwellings, up to and including townhouses and triplexes, at a height of 1-2.5 storeys.

The subject site is within the Southwest Area Secondary Plan (SWAP). Policy *1558_ recognizes that secondary plans are adopted and form a part of The London Plan. Where there is a conflict or inconsistency between the parent policies or maps of The London Plan and the policies or maps of a secondary plan, the secondary plan policies or maps will prevail.

Southwest Area Secondary Plan (SWAP)

The purpose of the Secondary Plan is to establish a vision, principles and policies for the development of the Southwest Planning Area. This Secondary Plan provides a greater level of detail than the general policies in the City Official Plan. The Southwest Area Secondary Plan is organized around identified Neighbourhoods. In addition to general and implementation policies related to future development, specific Southwest Planning Area-based land use designations and policies are defined for each Neighbourhood. The Secondary Plan serves as a basis for the review of planning applications which will be used in conjunction with the other policies of the Official Plan.

The subject site is within the Central Longwoods Residential Neighbourhood of the Southwest Area Secondary Plan. The lands are currently designated Medium Density Residential. The policies of the SWAP permit multiple housing forms (such as single detached, townhouse, and low rise apartments) at a minimum density of 30 units per hectare and a maximum density of 75 units per hectare.

Any amendment to the text or Schedules of the Secondary Plan represents an Official Plan amendment. Any applications to amend this Secondary Plan shall be subject to all of the applicable policies of this Secondary Plan, as well as all of the applicable policies of the City of London Official Plan. Amendments to the Plan may be supported by the City, provided the fundamental principles of the Plan are achieved.

Official Plan

Generally, the lands are within the Multi-Family, Medium Density Residential designation in the Official Plan, which are primarily developed or planned for medium density housing forms, such as townhomes and low rise apartments.

4.0 Key Issues and Considerations

4.1 Southwest Area Secondary Plan Amendments

The PPS promotes accommodating an appropriate range and mix of uses (1.1.1. b)),

avoiding development and land use patterns which may cause environmental or public health and safety concerns (1.1.1. c)), promoting cost-effective development patterns and standards to minimize land consumption and servicing costs (1.1.1. e)) and promoting development and land use patterns that conserve biodiversity and consider the impacts of a changing climate (1.1.1. h)). This proposed change ensures diversity of housing, provides for lots along the secondary collector road (efficient use of land and pattern of development) and protecting and recognizing the natural heritage features in the area.

From a high level review, the change in designation in the SWAP will not affect the policies of The London Plan, and the proposed change meets the general intent of the PPS, and conforms to the *Neighbourhoods Place Type.

Policies of The London Plan specify that *secondary plans and larger residential development proposals should include a 25% affordable housing component through a mix of housing types and sizes. In keeping with this intent, 40% of new housing units within a secondary plan, and lands exceeding five hectares in size outside of any secondary plan, should be in forms other than single detached dwellings (518_)*. A calculation reveals that 53% of the residential land area in the subdivision (minus roads, parks, school and infrastructure) continues to be allocated for medium density/affordable housing. The change in designation does not detract from the amount of medium density and affordable housing that can be built in the subdivision.

As per the SWAP Implementation policies, the fundamental principles of the Plan will not change with the proposed amendments. Notably, the change will still allow for a diverse and connected community with a mix of uses, a range of land uses including residential, open space, public, and community facilities, the protection of a linear park and pathways by connecting diverse land uses within and between neighbourhoods, enhanced recreational opportunities throughout the neighbourhoods (20.5.1.4 i), provide for a range of housing choices and densities (20.5.1.4 ii), provide a green and attractive environment that integrates the natural and built setting and protects the natural environment, and encourages development patterns that provide extensive visual and physical public access to natural features (20.5.1.4. iv), and provide a model of sustainable growth management by extending infrastructure in a logical and cost-effective manner, and designing a road network of walkable connected streets and Neighbourhoods (20.5.1.4. v)).

The change in land use will allow for medium density housing to be focused and easily accessible along the arterial road/Civic Boulevard (transit supportive), and clearly establish and protect the components of the natural heritage system within policy and designation.

Policies in The London Plan and the SWAP encourage views into the Open Space, which will continue to be provided along the frontage of Middleton Avenue where the Open Space will be visible through the view corridor created through the City's park.

4.2 Zoning Amendment

Residential R1 Special Provision (R1-4(29) Zone

The PPS contains policies on the efficient use of lands (1.1.), the provision of appropriate infrastructure (1.6.6.), and the protection of significant natural heritage features (2.1.1. and 2.1.4.).

The proposed change will rezone an area of land that is not needed for the development of the area's infrastructure (as part of the Pincombe 3 SWM Pond). It will allow the lands to be developed for housing which is a more efficient use, given its location along a secondary collector/neighbourhood connector road. The subject lands are not within or nearby a component of the natural heritage.

The proposed zoning amendment will include lands that are not needed for the

stormwater management pond. The proposed residential lands have access to municipal infrastructure and services, will not impact the surrounding area, and will not impact the adjacent natural heritage feature(s). The proposal fits within the context of the area and provides a housing form that is available on the west side of Middleton Avenue. The addition of these lots will provide greater neighbourhood character and create a street wall of development along the secondary collector. Views into the open space are maintained through adjacent Open Space and park areas. A special provision has been added, similar to lands to the east, to ensure garages shall not project beyond the façade of the dwelling or façade (front face) of any porch, and shall not occupy more than 50% of lot frontage. This special provision meets the intent of the SWAP.

No additional holding provisions have been added to the site, as the conditions for removing the holding provision have generally been met for Phase 1a. The required security has been submitted and the subdivision agreement has been signed, and the proposed lots are under the 80 unit threshold for requiring the second access and water looping. All issues have been resolved and the holding provisions are no longer required.

The proposed change incorporates the recommendation of Council and meets the overall intent of the PPS, The London Plan, the SWAP, and the 1989 Official Plan.

5.0 Conclusion

The recommended amendment is consistent with the Provincial Policy Statement, 2014, the Official Plan, the Southwest Area Plan and is in keeping with The London Plan. . This City initiated amendment application will permit single detached dwellings on a portion of the lands, as well as clarify and reinforce the appropriate land use designations for the remainder of the lands that reflect planned and approved uses in this area.

Prepared by:	Nancy Pasato, MCIP, RPP Senior Planner, Development Services
Recommended by:	Paul Yeoman, RPP, PLE Director, Development Services
Submitted by:	George Kotsifas, P.ENG Managing Director, Development and Compliance Services and Chief Building Official
Note: The opinions contained herein are offered by a person or persons qualified to provide expert opinion. Further detail with respect to qualifications can be obtained from Development Services.	

May 16, 2019
NP/np

\\FILE1\users-x\pdda\Shared\DEVELOPMENT SERVICES\4 - Subdivisions\2019\OZ-9038 - Portion of 146 Exeter Road (City) (NP)\OZ-9038 - Draft PEC Report 146 Exeter Road.docx

CC: Matt Feldberg, Manager, Development Services (Subdivisions)
Lou Pompili, Manager, Development Services - Planning
Ismail Abushehada, Manager, Development Services - Engineering

Appendix “A” - 1989 Official Plan Amendment

Bill No. (number to be inserted by Clerk's Office)
2019

By-law No. C.P.-1284-
A by-law to amend the Official Plan for
the City of London, 1989 relating to 146
Exeter Road.

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 11, 2019.

Ed Holder
Mayor

Catharine Saunders
City Clerk

First Reading – June 11, 2019
Second Reading – June 11, 2019
Third Reading – June 11, 2019

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

A. PURPOSE OF THIS AMENDMENT

The purpose of this Amendment is to change Schedule “A” - Land Use from “Multi-Family, Medium Density Residential” designation, to “Low Density Residential” and “Open Space” designation; and to change Section 20.5 (Southwest Area Secondary Plan), Schedule 4 (Southwest Area Land Use Plan), from “Medium Density Residential” to “Low Density Residential and “Open Space”, and Schedule 10 (Central Longwoods Residential Neighbourhood Land Use Designations), from “Medium Density Residential” to “Low Density Residential” and “Open Space”.

B. LOCATION OF THIS AMENDMENT

This Amendment applies to lands located at 146 Exeter Road in the City of London.

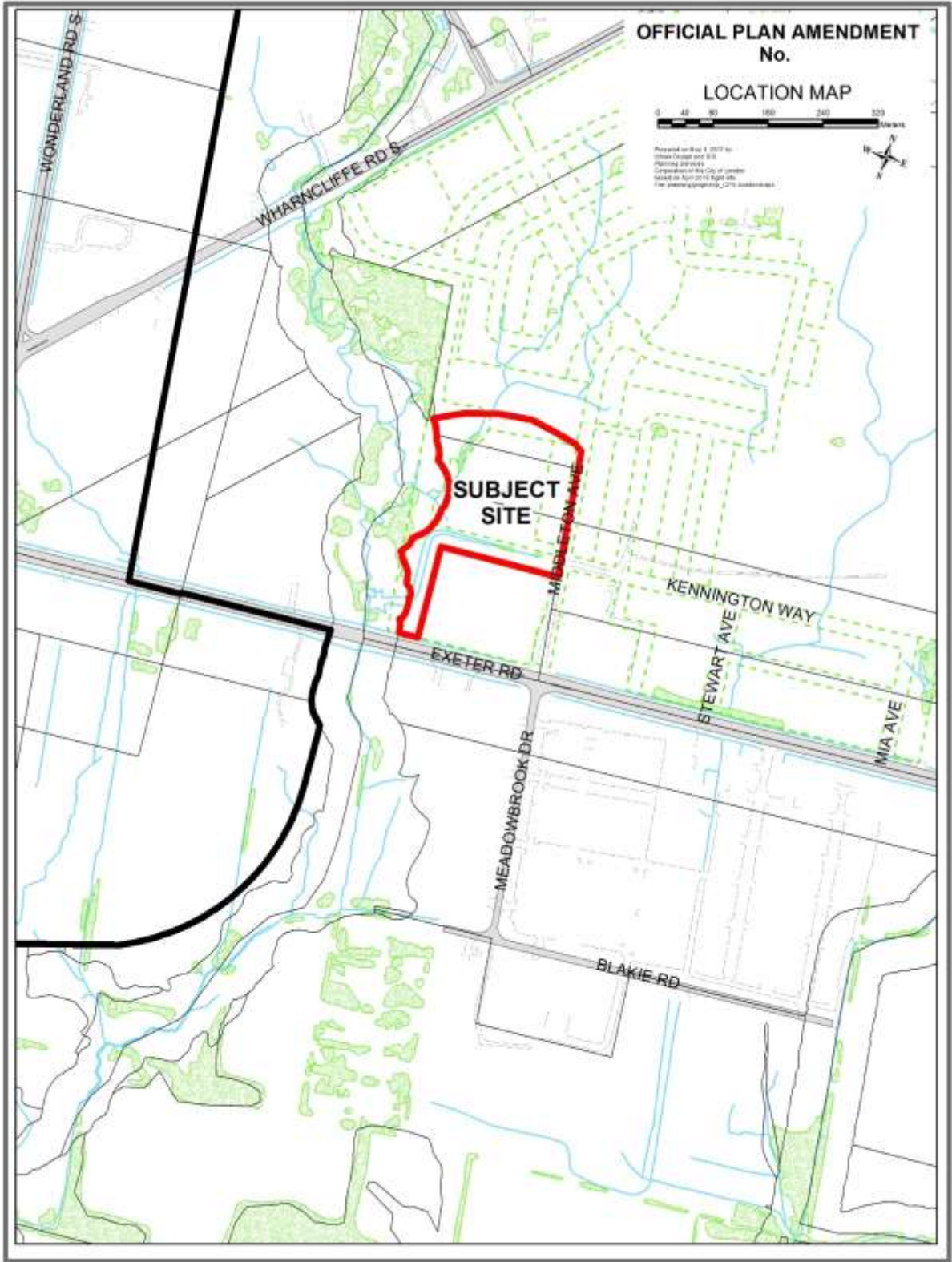
C. BASIS OF THE AMENDMENT

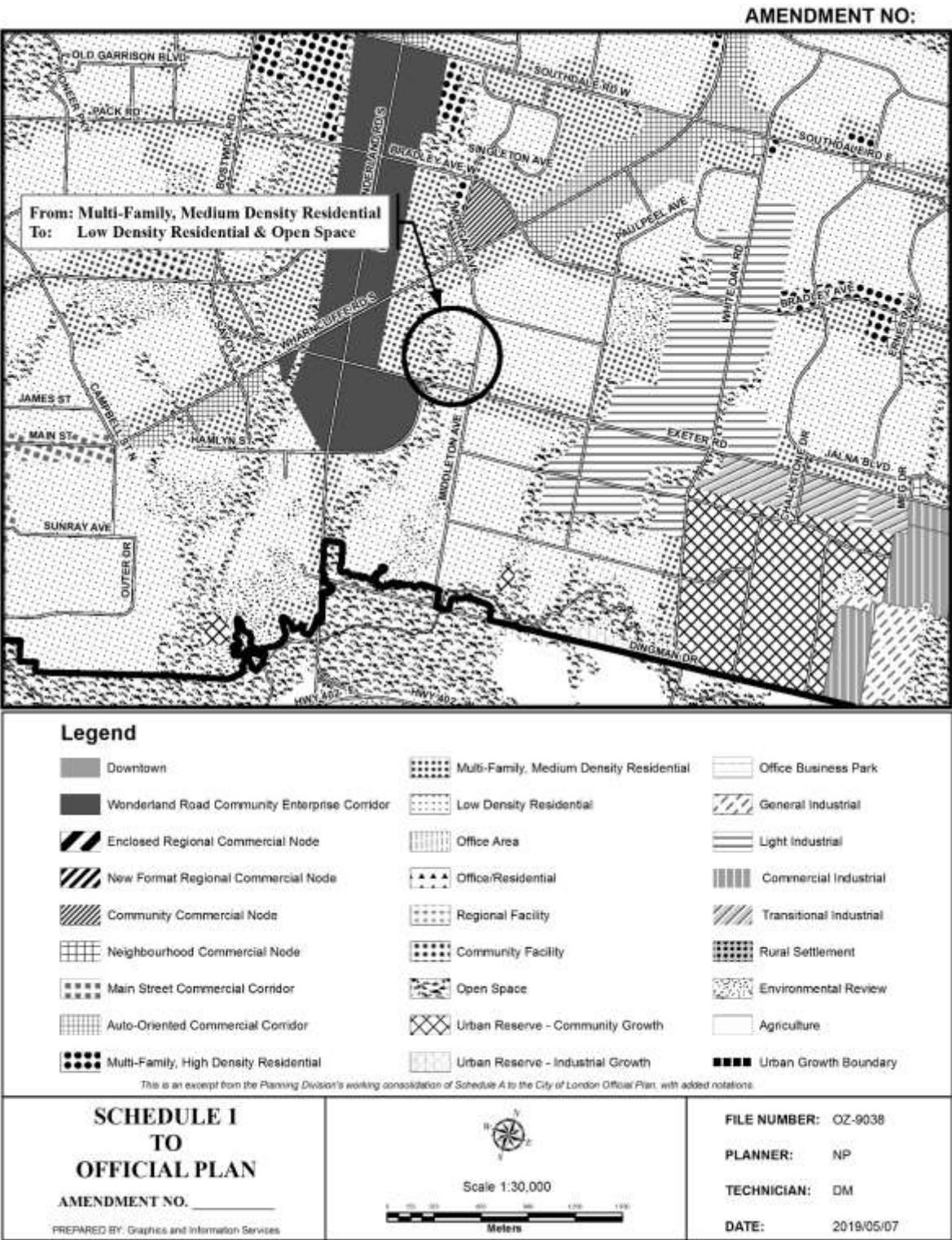
This amendment will correct land uses and facilitate the protection of a natural heritage feature, as well as facilitate additional residential development.

D. THE AMENDMENT

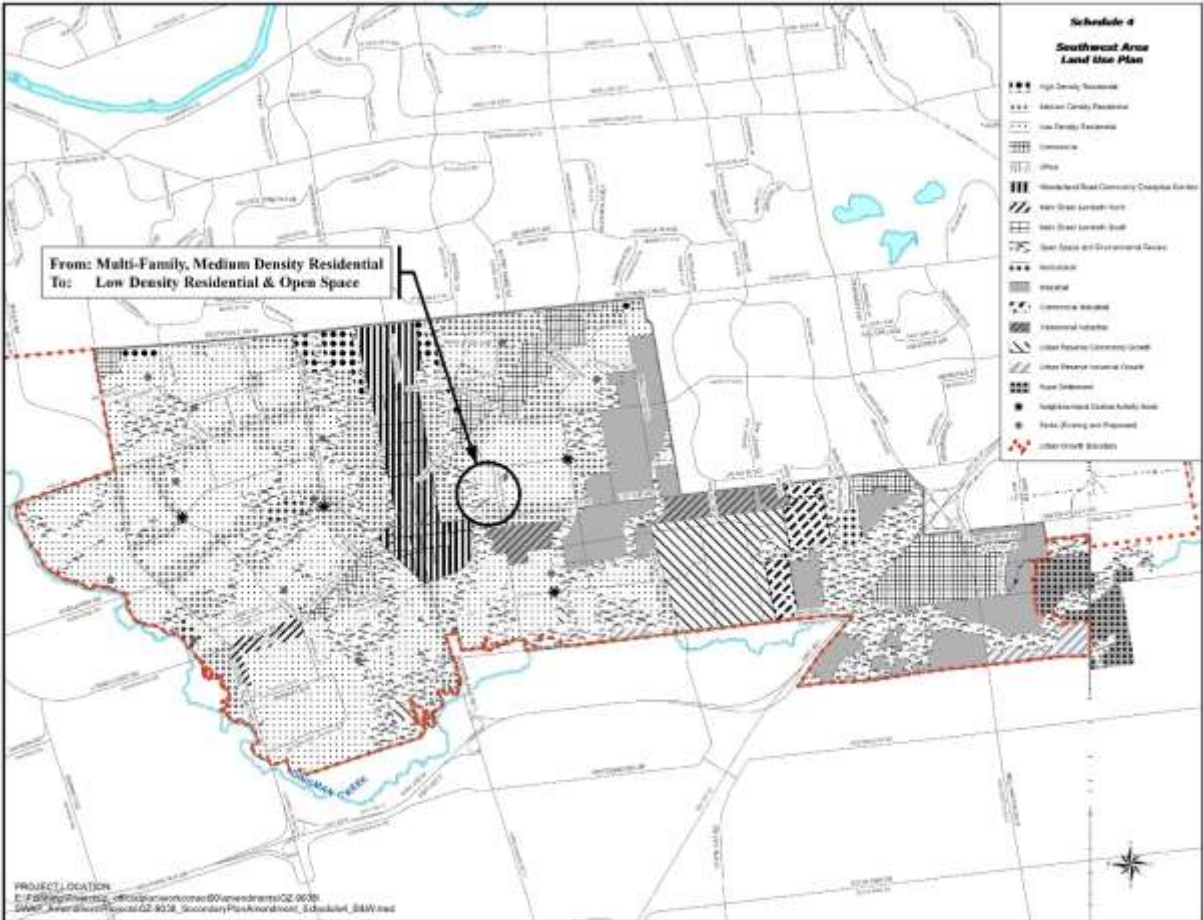
The Official Plan for the City of London is hereby amended as follows:

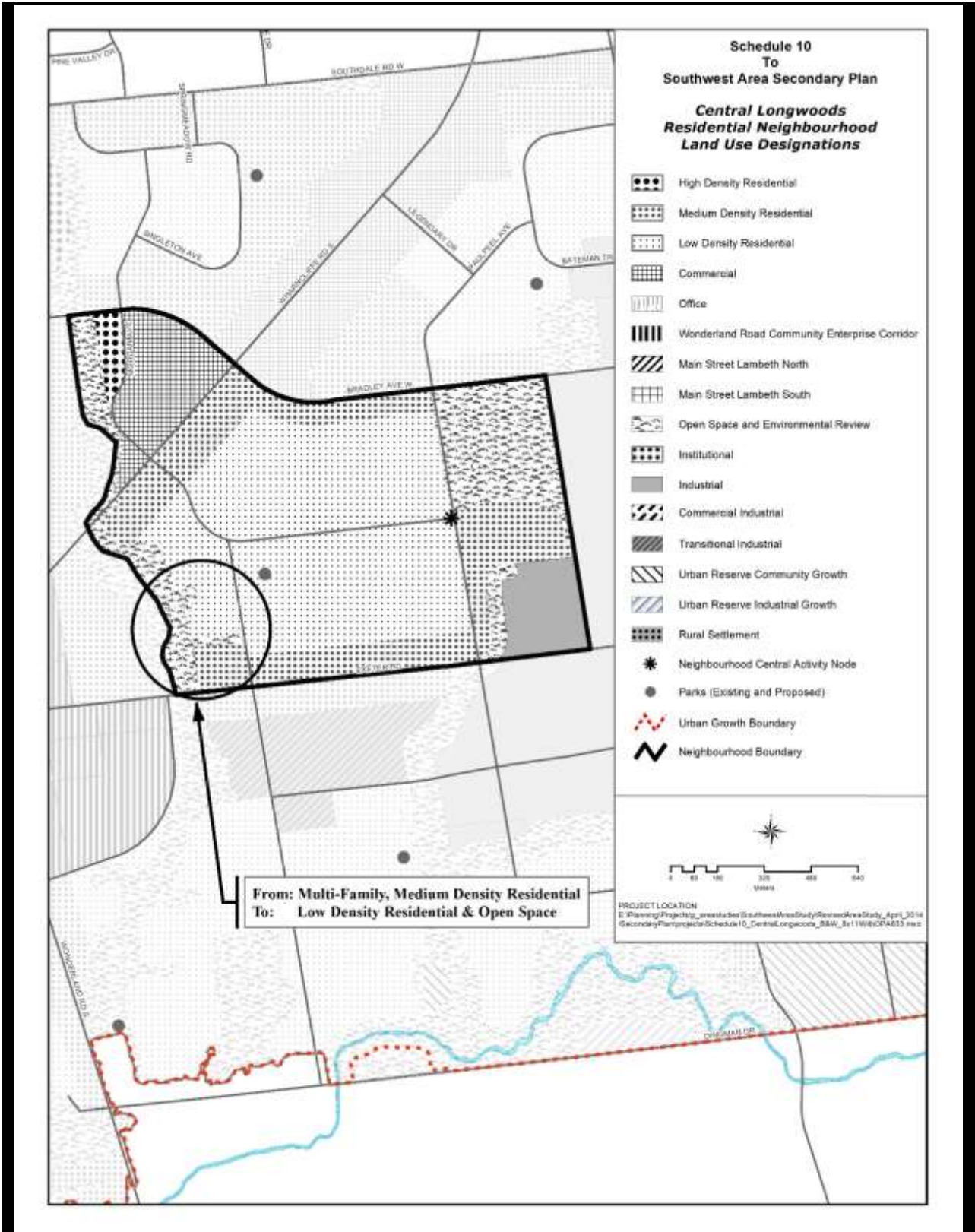
1. Schedule “A”, Land Use, to the Official Plan for the City of London Planning Area is amended by redesignating those lands located at 146 Exeter Road in the City of London, as indicated on “Schedule 1” attached hereto from Multi-Family Medium Density Residential to Low Density Residential and Open Space.
2. The Southwest Area Secondary Plan for the City of London Planning Area is amended by redesignating those lands located at 146 Exeter Road in the City of London, as indicated on “Schedule 4”, and “Schedule 10” attached hereto from Medium Density Residential to Low Density Residential and Open Space.





PROJECT LOCATION: e:\planning\projects\p_officialplan\work\coneo00\amendments\OZ-9038\mxds\scheduleA_b&w_8x11_with_SWAP.mxd





Appendix “B” - Zoning By-law Amendment

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

2019

By-law No. Z.-1-19_____

A by-law to amend By-law No. Z.-1 to
rezone an area of land located at 146
Exeter Road.

WHEREAS the Corporation of the City of London has applied to rezone an area of land located at 146 Exeter Road, 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 146 Exeter Road, as shown on the attached map comprising part of Key Map No. A111, from an Open Space (OS1) Zone, to a Residential R1 Special Provision (R1-4(29)) Zone.

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.

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 11, 2019.

Ed Holder
Mayor

Catharine Saunders
City Clerk

First Reading – June 11, 2019
Second Reading – June 11, 2019
Third Reading – June 11, 2019

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



Appendix “C” - London Plan Amendments

Bill No. (number to be inserted by Clerk's Office)
2019

By-law No. C.P.-XXXX-____

A by-law to amend The London Plan for
the City of London, 2016 relating to 146
Exeter Road.

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 London Plan for
the City of London Planning Area – 2016, 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 11, 2019

Ed Holder
Mayor

Catharine Saunders
City Clerk

First Reading – June 11, 2019
Second Reading – June 11, 2019
Third Reading – June 11, 2019

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

A. PURPOSE OF THIS AMENDMENT

The purpose of this Amendment is to amend Policy 1565_5. Southwest Area Secondary Plan by changing Schedule 4 (Southwest Area Land Use Plan), from “Medium Density Residential” to “Low Density Residential” and “Open Space”, and Schedule 10 (Central Longwoods Residential Neighbourhood Land Use Designations), from “Medium Density Residential” to “Low Density Residential” and “Open Space”.

B. LOCATION OF THIS AMENDMENT

This Amendment applies to lands located at 146 Exeter Road in the City of London.

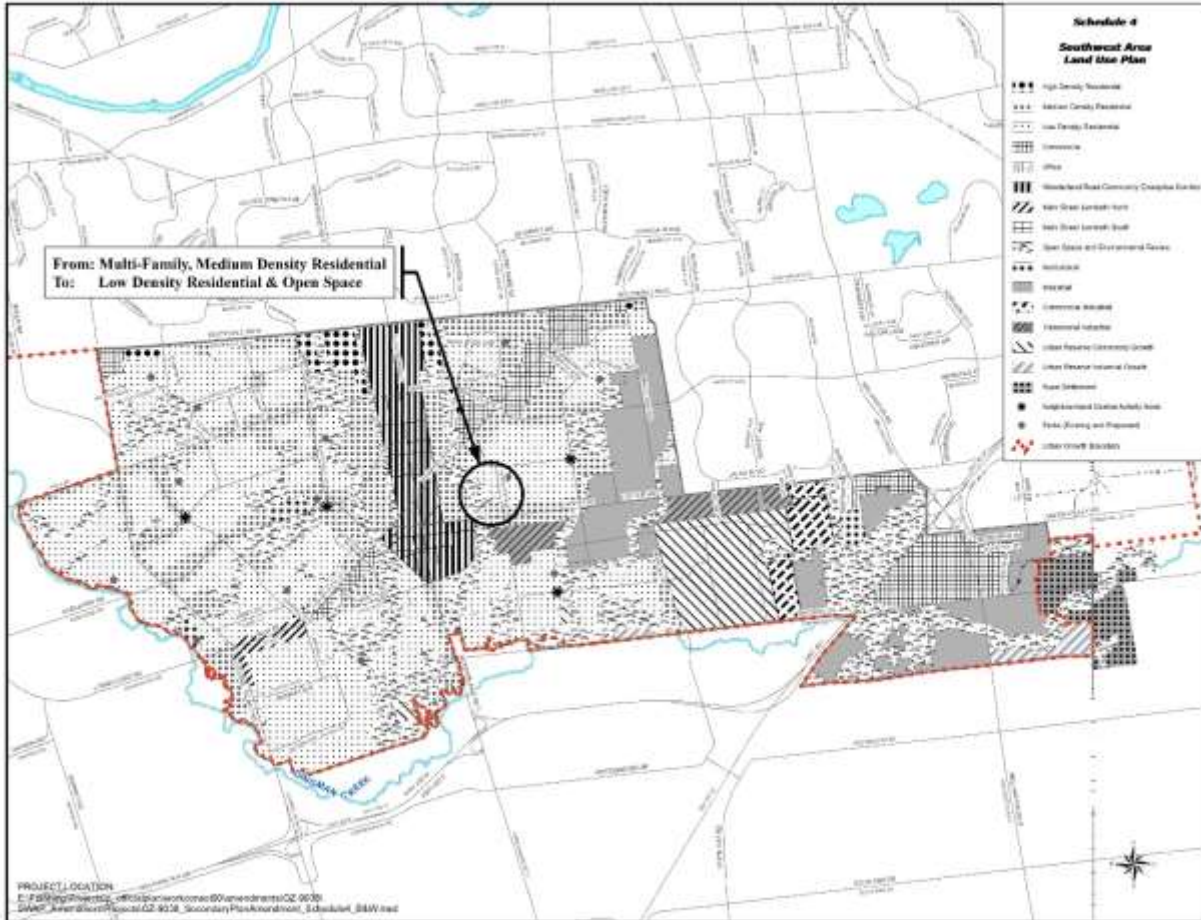
C. BASIS OF THE AMENDMENT

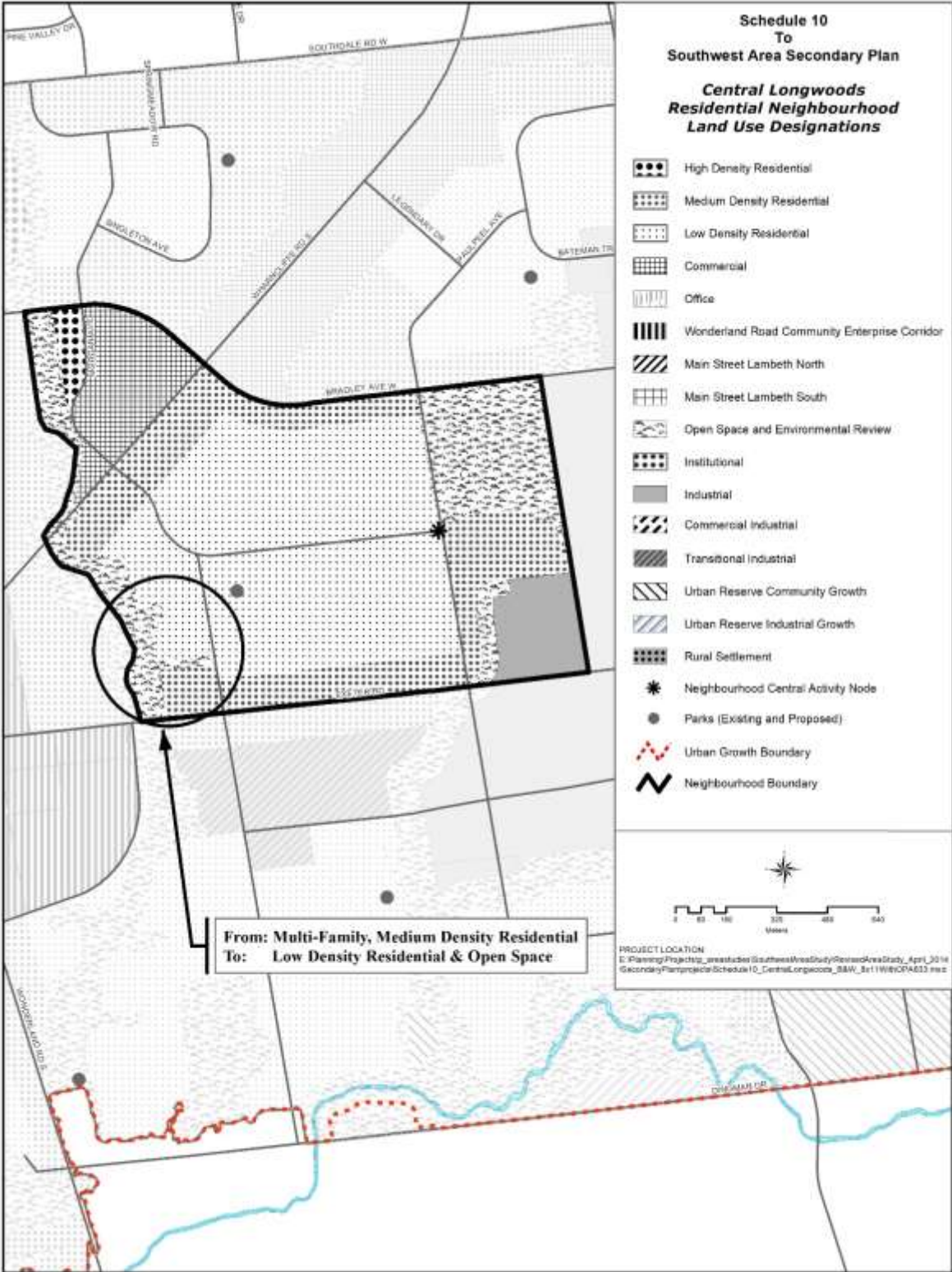
This amendment will correct land uses and facilitate the protection of a natural heritage feature, as well as facilitate additional residential development.

D. THE AMENDMENT

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

1. Policy 1535_5. Southwest Area Secondary Plan of The London Plan for the City of London, those lands located at 146 Exeter Road in the City of London, as indicated on “Schedule 1” attached hereto by changing Schedule 4 (Southwest Area Land Use Plan), from “Medium Density Residential” to “Low Density Residential and “Open Space”, and Schedule 10 (Central Longwoods Residential Neighbourhood Land Use Designations), from “Medium Density Residential” to “Low Density Residential” and “Open Space”.





Appendix “D” – Public Engagement

Community Engagement

Public Liaison: On April 2, 2019, Notice of Application was sent to 2 property owners in the surrounding area. Notice of Application was also published in the *Public Notices and Bidding Opportunities* section of *The Londoner* on April 11, 2019, and a revised notice was published on April 25, 2019. A “Planning Application” sign was also posted on the site. A revised notice of Public Meeting was sent to 7 property owners in the surrounding area on May 9, 2019.

No replies received.

Nature of Liaison: The purpose and effect of this Official Plan and Zoning change is to permit single detached dwellings on a portion of the site. Possible amendment to the Official Plan to Schedule “A” to change the land use designation from “Multi-Family, Medium Density Residential” to “Low Density Residential” to permit single detached dwellings and “Open Space” to recognize a natural heritage component; and to amend Section 20.5 of the Official Plan (Southwest Area Secondary Plan), Schedule 4 (Southwest Area Land Use Plan), from “Medium Density Residential” to “Low Density Residential” to permit single detached dwellings and “Open Space” to recognize a natural heritage component; and Schedule 10 (Central Longwoods Residential Neighbourhood Land Use Designations), from “Medium Density Residential” to “Low Density Residential” to permit single detached dwellings and “Open Space” to recognize a natural heritage component. Possible amendment to The London Plan (New Official Plan) - as per policy 1565, to amend the Southwest Area Secondary Plan, Schedule 4 Southwest Area Land Use Plan, from “Medium Density Residential” to “Low Density Residential” to permit single detached dwellings and “Open Space” to recognize a natural heritage component; and Schedule 10 (Central Longwoods Residential Neighbourhood Land Use Designations), from “Medium Density Residential” to “Low Density Residential” to permit single detached dwellings and “Open Space” to recognize a natural heritage component. Possible change to Zoning By-law Z.-1 FROM an Open Space (OS1) Zone TO a Residential R1 Special Provision (R1-4(29)) Zone to permit single detached dwelling with a minimum lot frontage of 12 meters and a minimum lot area of 360 square meters, with a special provision to limit garages from projecting beyond the façade of the dwelling or façade (front face) of any porch, limiting garages to no more than 50% of lot frontage.

Responses: No comments received.

Concern for: n/a

Responses to Public Liaison Letter and Publication in “The Londoner”

Telephone	Written

Agency/Departmental Comments

March 5, 2019: Development Services - Engineering

No comments for the re-zoning application.

The following items are to be considered during the development application approval stage:

Wastewater

- The sanitary sewer available is the existing 250mm sanitary sewer on Hyde Park Road.

- As shown on City Plan #6990 the subject lands are served by a 150mm sanitary PDC.

Transportation

- Close and restore driveway to Riverside Drive in accordance with City Standards
- Road widening dedication of 13.0m from centre line is required on Hyde Park Road & Riverside Drive
- 6.0m x 6.0m daylight triangle is required.

April 9, 2019: London Hydro (email)

London Hydro has no objection to this proposal or possible official plan and/or zoning amendment. Any new or relocation of the existing service will be at the expense of the owner.

May 8, 2019: Upper Thames River Conservation Authority (email)

CONSERVATION AUTHORITIES ACT

As shown on the enclosed mapping, the subject lands are regulated by the UTRCA in accordance with Ontario Regulation 157/06 made pursuant to Section 28 of the Conservation Authorities Act. The regulation limit is comprised of a riverine flooding hazard associated with a tributary of the Pincombe Drain, and the 120 metre area of interference surrounding a wetland. The UTRCA has jurisdiction over these lands and the landowners will be required to obtain written approval from the Authority prior to undertaking any site alteration or development within this area including filling, grading, construction, alteration to a watercourse and/or interference with a wetland.

Dingman Creek Stormwater Servicing Class Environmental Assessment (EA)

The subject lands are located within the Dingman Creek Subwatershed, forming part of the Dingman Creek Stormwater Servicing Class EA (Dingman Creek EA) to evaluate Stormwater Servicing and includes an update to flood plain modeling by the Conservation Authority. In order to capture those areas within the watershed which may be impacted by revised floodline information (which is still being refined by the UTRCA and currently undergoing a peer review), a Dingman Subwatershed Screening Area Map has been developed to help guide planning decisions as an interim measure until the Dingman Creek EA has been completed.

UTRCA ENVIRONMENTAL PLANNING POLICY MANUAL (2006)

The UTRCA's Environmental Planning Policy Manual is available online at:

<http://thamesriver.on.ca/planning-permits-maps/utrca-environmental-policy-manual/>

Policy which is applicable to the subject lands includes:

3.2.2 General Natural Hazard Policies

These policies direct new development and site alteration away from hazard lands. No new hazards are to be created and existing hazards should not be aggravated. The Authority also does not support the fragmentation of hazard lands which is consistent with the Provincial Policy (PPS) and is intended to limit the number of owners of hazardous land and thereby reduce the risk of unregulated development etc.

3.2.3 Riverine Flooding Hazard Policies

These policies address matters such as the provision of detailed flood plain mapping, flood plain planning approach and uses that may be allowed in the flood plain subject to satisfying the UTRCA's Section 28 permit requirements.

3.2.6 & 3.3.2 Wetland Policies

New development and site alteration is not permitted in wetlands. Furthermore, new development and site alteration may only be permitted in the area of interference and /or adjacent lands of a wetland if it can be demonstrated through the preparation of an Environmental Impact Study (EIS) that there will be no negative impact on the hydrological and ecological function of the feature.

An EIS was completed for the Draft Plan of Subdivision (39T-15501) and no further investigation is required for the purpose of this application.

DRINKING WATER SOURCE PROTECTION

Clean Water Act

The subject lands have been reviewed to determine whether or not they fall within a vulnerable area (Wellhead Protection Area, Highly Vulnerable Aquifer, and Significant Groundwater Recharge Areas). Upon review, we can advise that the subject lands are not within a vulnerable area. For policies, mapping and further information pertaining to drinking water source protection, please refer to the approved Source Protection Plan at:

<https://www.sourcewaterprotection.on.ca/approved-source-protection-plan/>

RECOMMENDATION

As indicated, the subject lands are regulated by the UTRCA and are located within the Dingman Subwatershed Screening Area. The UTRCA has no objections to this application, however a Section 28 permit may be required prior to development pending the outcome of the Dingman Creek EA.

Appendix “E” – Policy Context

The following policy and regulatory documents were considered in their entirety as part of the evaluation of this requested land use change. The most relevant policies, by-laws, and legislation are identified as follows:

Provincial Policy Statement (PPS) 2014

Section 1.1 – Managing and directing land use to achieve efficient and resilient development and land use patterns
Section 1.6 - Infrastructure and Public Service Facilities
Section 2.1 - Natural Heritage

London Plan

55_ Direction #1 Plan strategically for a prosperous city
58_ Direction #4 Become one of the greenest cities in Canada
59_ Direction #5 Build a mixed-use compact city
61_ Direction #7 Build strong, healthy and attractive neighbourhoods for everyone
71_ The Growth Framework, Figure 3 - Primary Transit Area
90_ Primary Transit Areas
452-466 - Civic Infrastructure
475_ Stormwater Management
Table 10 – Range of permitted uses in Neighbourhood Place Type
916-921 – Permitted Uses
1576-1579 – Planning and Development Applications

1989 Official Plan

3.1.
3.1.1.
3.1.2.
3.1.3.
3.2. – Low Density Residential Designation
3.3. - Multi-Family, Medium Density Residential
3.7 - Planning Impact Analysis
20 - Secondary Plans

Southwest Area Secondary Plan

20.5.1.4. - Principles of the Secondary Plan
20.5.3.1. - Housing
20.5.3.6. - Natural Heritage
20.5.3.9. - Urban Design
20.5.4.1. - Residential
20.5.4.3. - Open Space
20.5.10 - Central Longwoods Residential Neighbourhood

Z.-1 Zoning By-law

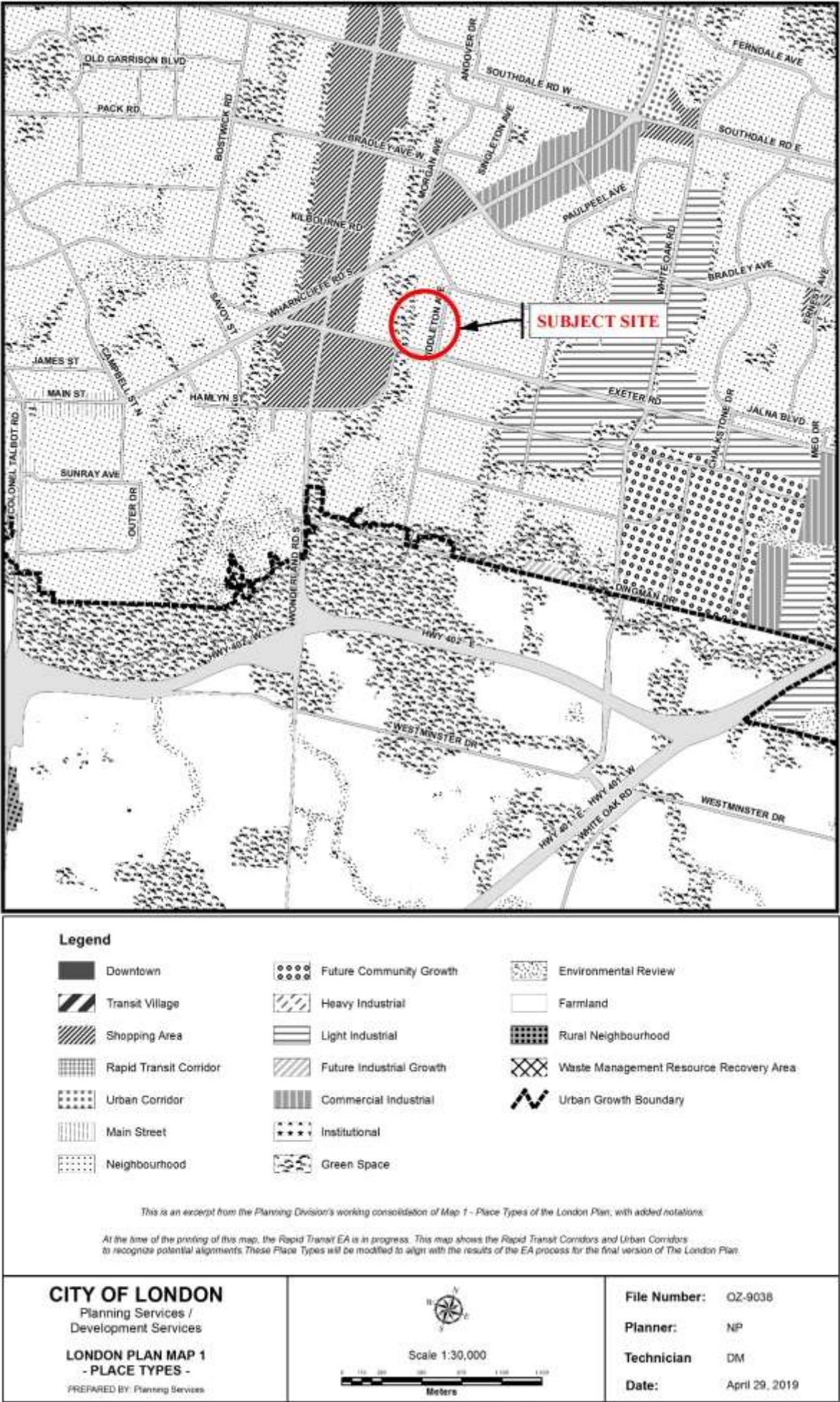
Section 2 – Definitions

Section 4 – General Provisions

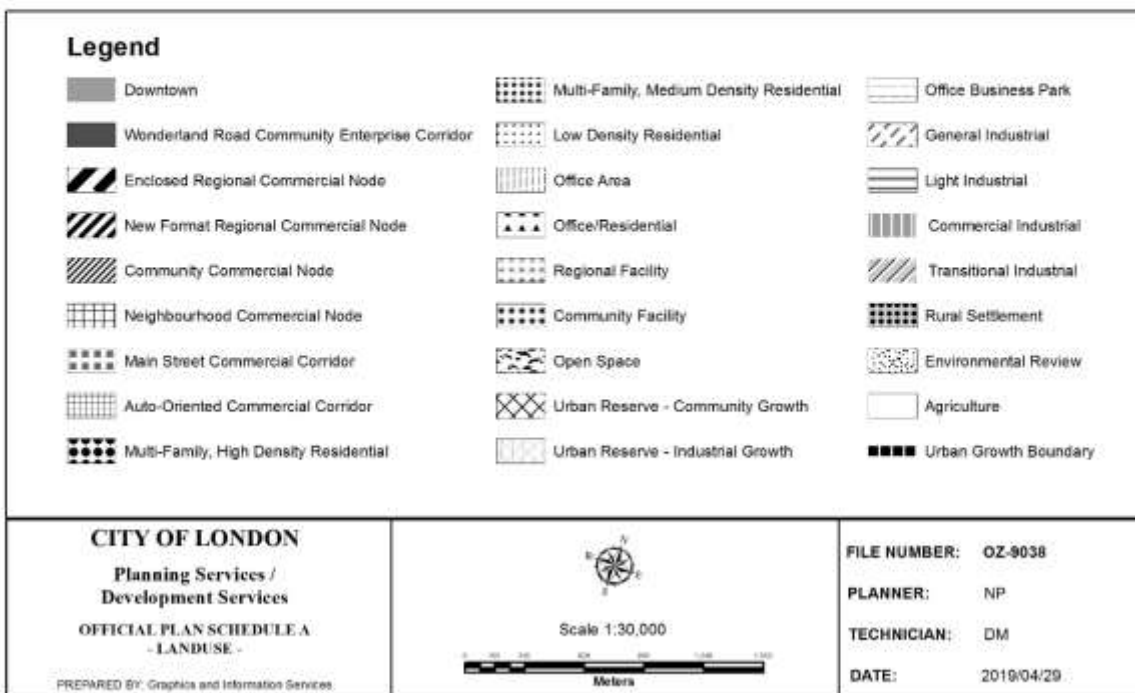
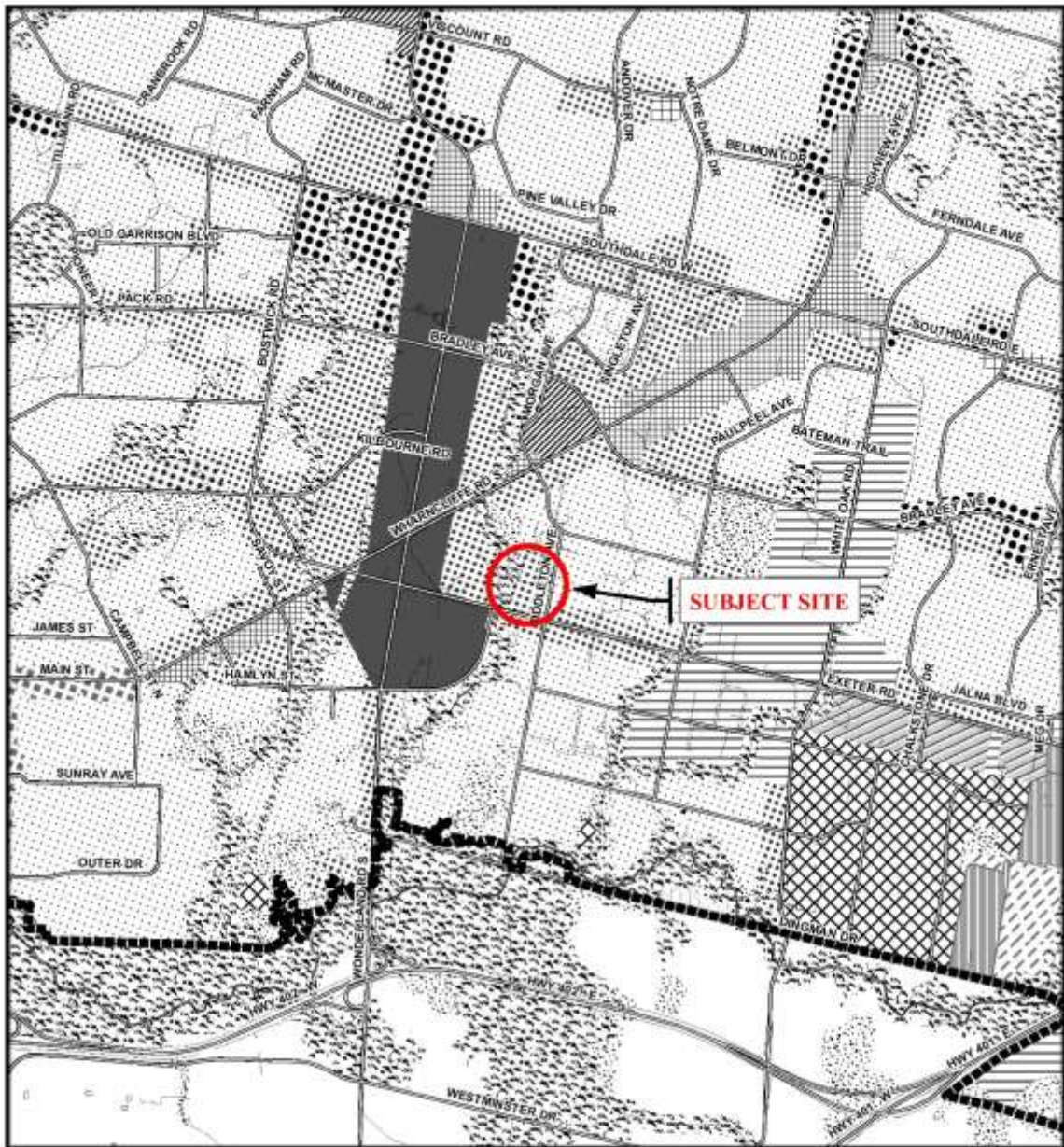
Section 5 – Residential R1 (R1-4) zone

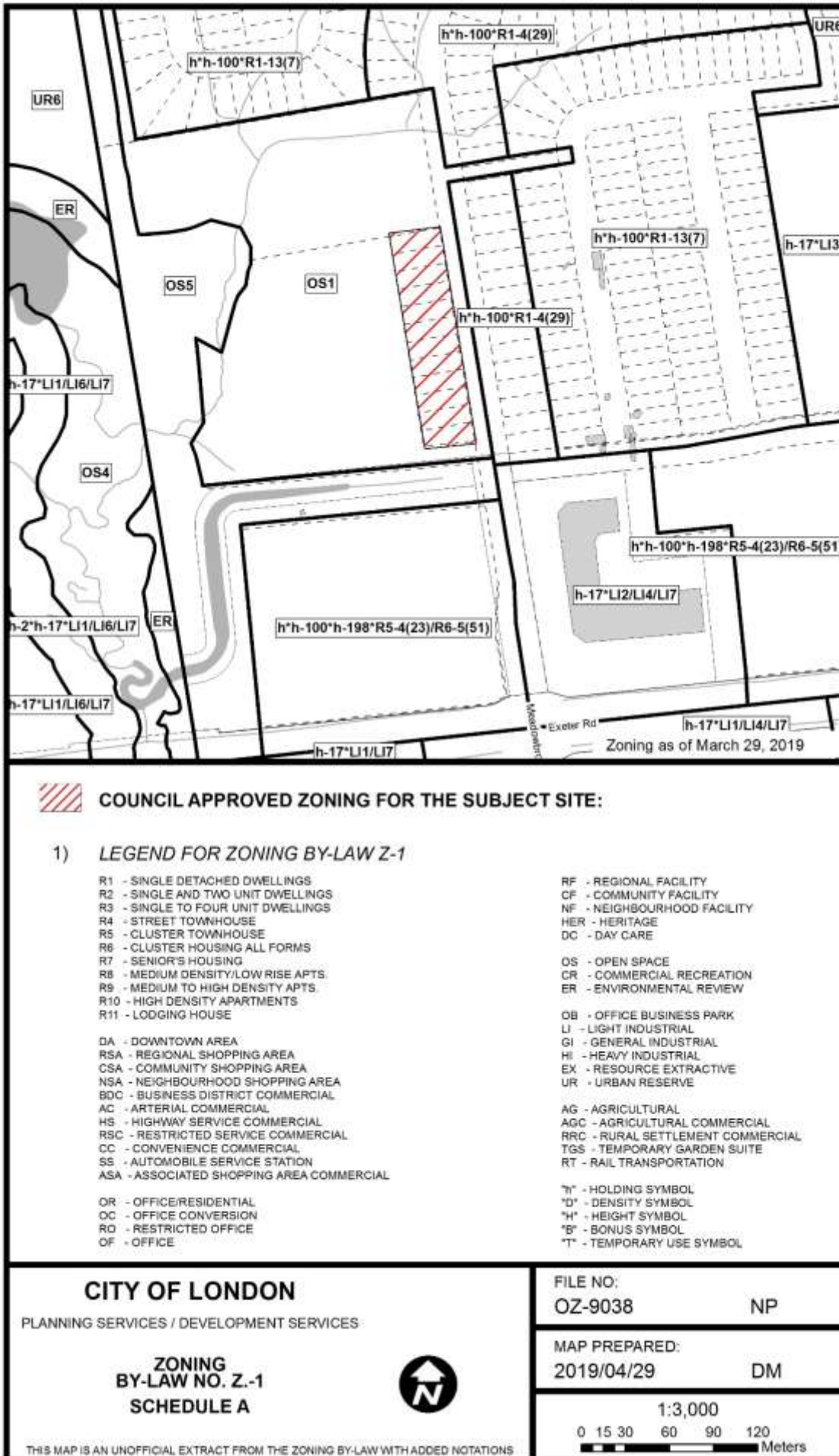
Appendix “F” – Relevant Background

Additional Maps



Project Location: \\cfile1\giswork\Planning\Projects\p_official\plan\work\consolid00\excerpts_LondonPlan\mxd\OZ-9038-EXCERPT_Map1_PlaceTypes_b&w_8x14.mxd





Report to Planning and Environment Committee

To: Chair and Members
Planning & Environment Committee
From: George Kotsifas, P. Eng
Managing Director, Development & Compliance Services &
Chief Building Official
Subject: Application By: Yardigans Estate Liquidation Services
1350 Trafalgar Street
Public Participation Meeting on: May 27, 2019

Recommendation

That, on the recommendation of the Director, Development Services, with respect to the application of Yardigans Estate Liquidation Services relating to the property located at 1350 Trafalgar Street, the proposed by-law attached hereto as Appendix "A" **BE INTRODUCED** at the Municipal Council meeting June 11, 2019 to amend Zoning By-law No. Z.-1, in conformity with the Official Plan, to change the zoning of the subject property **FROM** a General Industrial (GI1) Zone, **TO** a General Industrial Special Provision (GI1(_)) Zone.

Executive Summary

Summary of Request

Request to allow for a new commercial use and identify an associated parking rate to facilitate an adaptive reuse for one unit in the existing building.

Purpose and the Effect of Recommended Action

The purpose and effect of the recommended amendment will allow for the “second hand goods outlet” as new use, with a total floor space maximum of 1,500m², as well as a new parking rate of 1 space per 65m².

Rationale of Recommended Action

1. The proposed reuse of the existing unit is consistent with the Provincial Policy Statement 2014, and maintains the economic contributions of the employment lands;
2. The proposed commercial use is appropriate for the subject site and conforms to the 1989 Official Plan Brydges Area Specific Policy and the general intent of The London Plan;
3. The recommended amendment will ensure the continued operation and viability of the industrial area for current and future uses; and,
4. The commercial use has demonstrated there will be no adverse impacts produced that would affect nearby sensitive uses or the long-term viability of the adjacent industrial uses.

Analysis

1.0 Site at a Glance

1.1 Property Description

The subject site is a purpose-built industrial building with approximately four individual units currently used for a renovation store and self-storage establishment. The site is

located on the east side of Highbury Avenue North and the north side of Trafalgar Street. There are Canadian National (CN) Railway tracks directly to the north of the site, commercial and industrial uses to the east, west and south, and low density residential uses located further south.

1.2 Current Planning Information (see more detail in Appendix D)

- Official Plan Designation – General Industrial (GI)
- The London Plan Place Type – Light Industrial (LI)
- Existing Zoning – General Industrial (GI1) Zone

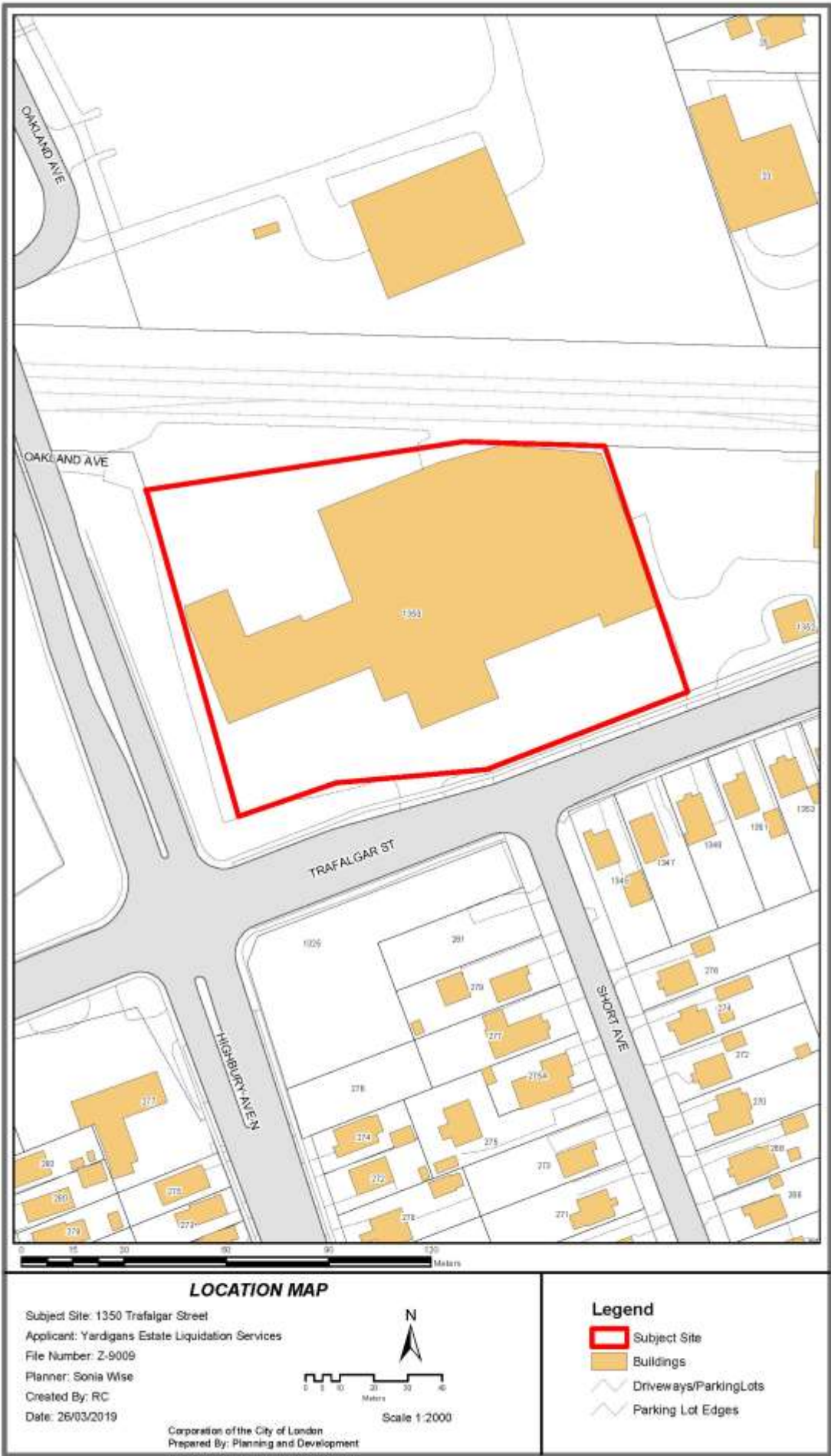
1.3 Site Characteristics

- Current Land Use – industrial, commercial and self-storage
- Frontage – 98m (321 ft)
- Depth – Varies
- Area – 1.2ha (3 ac)
- Shape – Irregular

1.4 Surrounding Land Uses

- North – Railway
- East – Restaurant and Industrial
- South – Service Station and Restaurant
- West – Commercial Plaza

1.6 Location Map



2.0 Description of Proposal

2.1 Development Proposal

The development proposal is for an adaptive reuse of an interior unit in the existing building at 1350 Trafalgar Street for a new use defined as a “second hand goods outlet”. The existing built form is not proposed to change. A new definition and parking rate is proposed to allow for the use, which is proposed to occupy up to a maximum of 1,500m² gross floor area.



Figure 1: Conceptual Site Plan

2.2 Detailed Description of Operation

The proposed use is of a commercial and industrial nature and employs approximately five (5) employees in a total space of 1,470m². There is a retail/wholesale component of the site where the public can access the goods and products derived from estate liquidations in a large floor space which occupies 1,030m². The remaining 440m² is more industrial in nature which is used for the storage, dismantling, cleaning, and re-conditioning various furniture and appliances.

The applicant has identified that most other liquidators use third parties to dispose of goods such as charitable non-profit organizations, or auctioneering businesses, or items are taken to landfill sites. The proposed use would incorporate all features of estate liquidation in one business model, including the delivery, refurbishment, and wholesale or retail sales.

3.0 Relevant Background

3.1 Planning History

In 2017, the Brydges Street Area Review study (O-8749) recommended a new specific policy to Chapter 10 of the 1989 Official Plan to allow for limited commercial uses within the industrial portion of the Brydges Street Area, as industrial lands within the interior of the City such as the subject site, were struggling to attract new industrial users. The

study area included industrial parcels south along the CN Rail Yard between Egerton and Hale Streets and north of the rail yard along Brydges Street.

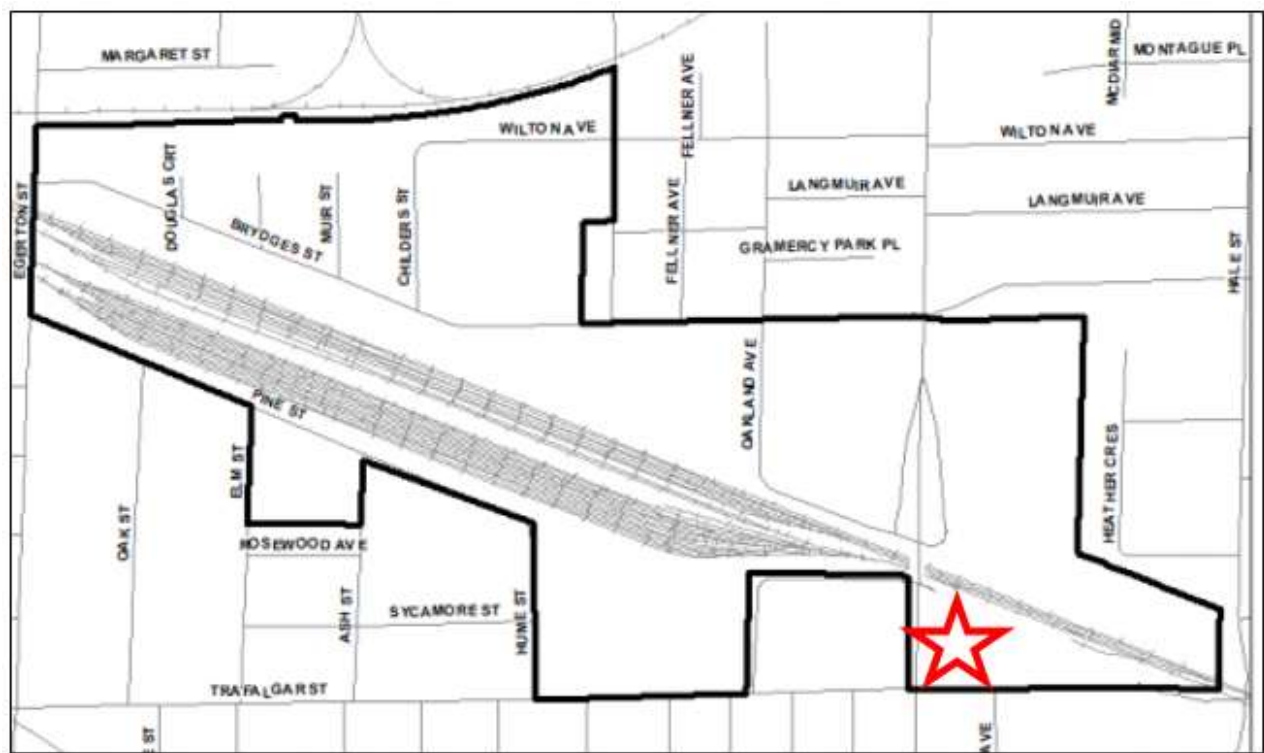


Figure 2: Brydges Street Special Policy Area Boundary

3.2 Requested Amendment

The requested amendment is to introduce a new use and parking rate for a “second hand goods outlet” through a special provision to the General Industrial (GI1) Zone. A special provision is also proposed to limit the size of the use to the existing unit measuring 1,500m² of gross floor area.

The applicant proposed the following definition for a ‘second-hand and used goods outlet’:

Second-Hand and Used Goods Outlet: A commercial industrial use and an establishment that retails and wholesales household and business goods and products that have been used or are second hand, as opposed to brand new, and to which can be dismantled, cleaned, serviced, and repaired as part of the process of recycling and re-selling the goods in the establishment. The maximum floor area is proposed to be restricted to 1,500m² within the existing building.

The recommended definition has been modified for clarity to a “Second Hand Goods Outlet” as follows:

Second Hand Goods Outlet: means a building, or part thereof, used for the storing, selling, dismantling, refurbishing, and repair of used goods, wares and materials; but does not include a retail store, material recovery facility or a salvage yard.

3.3 Community Engagement (see more detail in Appendix B)

1 reply was received that requested more information about the application and expressed concern about a loss of local jobs.

3.4 Policy Context (see more detail in Appendix C)

Provincial Policy Statement (PPS) 2014

The Provincial Policy Statement (PPS) 2014, provides policy direction on matters of provincial interest related to land use planning and development. The Provincial Policy

Statement encourages healthy, liveable and safe communities that are sustained by accommodating an appropriate range and mix of employment uses, including industrial and commercial to meet long-term needs (1.1.3).

The London Plan

The London Plan is the new Official Plan for the City of London (Council adopted, approved by the Ministry with modifications, and the majority of which is in force and effect). *The London Plan* policies under appeal to the *Local Planning Appeals Tribunal* (Appeal PL170100) and not in force and effect are indicated with an asterisk (*) throughout this report. *The London Plan* policies under appeal are included in this report for informative purposes indicating the intent of City Council, but are not determinative for the purposes of this planning application.

The site is within the Light Industrial Place Type where industries generating minimal planning impacts are permitted (1110). The London Plan will be amended to add the Brydges Street Area policies to the specific policies of the Industrial Place Types at a future time when the plan is in full force and effect.

Official Plan

The site is within the General Industrial designation, which permits any industrial use that includes assembling, fabricating, manufacturing, processing, repairing and wholesale and warehouse establishments (7.2). The General Industrial Designation is also applied to certain older industrial areas that may be located adjacent to residential uses like the lands on the south side of Trafalgar Street.

Chapter 10 Brydges Street Specific Policy Area

The Site is located within the Brydges Street Specific Policy Area which contemplates a limited amount of commercial uses in industrial areas through site-specific zoning amendments (10.1.3.cxlix).

Zoning

The existing zoning is the General Industrial (GI1) Zone which provides for and regulates a broad range of industrial activities, though does not allow the specific nature of the requested “second hand goods outlet” commercial use.

4.0 Key Issues and Considerations
--

4.1 Use

Section 1.3 of the PPS contains the Employment policies, which promote economic development and competitiveness by providing an appropriate mix and range of employment uses (1.3.1a). The subject site is located within an existing industrial designated area and future industrial place type which forms part of the City’s economy and employment sector. The adaptive reuse of the unit will allow for an alternative employment use within an existing industrial area. The PPS promotes opportunities for a diversified economic base, including maintaining a range of economic activities and ancillary uses which take into account the needs of existing and future businesses (1.3.1 b)). The proposed commercial/industrial use maintains the industrial nature of the area and moderately diversifies the permitted uses which enhances the viability of the industrial node overall.

Industrial Place Types represent a critical part of The London Plan’s City Structure – where one-third of Londoners work and where many of the goods and services the City produces are designed, manufactured, processed, assembled and then transported to the world. Many of the industrial lands in the core of the City that formed 50-100 years ago are losing their attraction, and some are now transitioning to new uses, such as the subject site proposal for a ‘second hand goods outlet’, that create alternative

employment opportunities (1107).

The site is designated General Industrial in the 1989 Official Plan, and within the Light Industrial Place Type in The London Plan. The main permitted uses in the General Industrial Designation are industrial uses that include assembling, fabricating, manufacturing, processing, repairing, wholesaling and warehousing (7.2.1). Within the Light Industrial Place Type, a broad range of industrial uses that are unlikely to impose significant impacts on surrounding light industrial land uses due to their emissions such as noise, odour, particulates and vibration may be permitted (*1115). Though the long-term intent for the site in The London Plan is for less intensive industrial uses for the future, neither the General Industrial designation, nor the Light Industrial Place Type allow for the commercial nature of the “second hand goods outlet”.

The site is also within the Brydges Street Specific Policy Area, which supplements the industrial uses with a limited amount of commercial uses that maintain the existing building stock and reduce vacancy in industrial areas. A limited amount of new commercial uses may be permitted through a site-specific zoning by-law amendment provided the following evaluation criteria can be met:

Evaluation Criteria

a. The commercial use is located within an existing building

The building at 1350 Trafalgar Street is existing and the proposed amendment will apply to permissions within a portion of the existing building. The total gross floor area of the entire building is approximately 6,227m², and the proposed ‘second hand goods outlet’ is proposed to occupy 1,500m² in one unit.

b. Additions to or enlargement of the building to accommodate commercial uses will be discouraged. Substantial additions or alterations to existing buildings to accommodate commercial uses will not be permitted;

No external works to add, expand or enlarge the existing building or site are proposed. The request is to adaptively reuse one unit in the existing building which will make efficient use of the space without requiring any additions or enlargements to the building.

c. The commercial use does not fit well within the Downtown, Enclosed Regional Commercial Node, New Format Regional Commercial Node, Community Commercial Node, Neighbourhood Commercial Node, Auto-oriented Commercial Corridor or Main Street Commercial Corridor land use designations due to its planning impacts;

The proposed use requires a large amount of gross floor area for sale, storage, and display, and also includes a repair and restoration component. The retail portion of the operation is similar to other specialty second-hand stores as Goodwill, Value Village or Habitat for Humanity ReStore, which are typically found in, and would be appropriate for, many other designations around the City including the Downtown, the Main Street Commercial Corridor, Neighbourhood Commercial Nodes, and Auto-Oriented Commercial Corridors. A portion of the ‘second hand goods outlet’ use also includes a repair and restoration component for the refurbishment of items which includes activities such as dismantling, cleaning, re-conditioning, re-finishing and repairing items, which are typically more industrial in nature. The proposed repair and restoration portion may have more noticeable impacts for generation of noise, odour or emissions associated with the refurbishment of items than would be expected for a standard retail store and could be considered as quasi-industrial in nature. It is appropriate to separately define and recognize the commercial/industrial nature of the use as more unique than a standard retail store.

d. The commercial use may generate noise, vibration or emission impacts;

The repair and restoration portion of the use could include impacts associated with the generation of noise from tools, odours from lacquers, paint and other solvents, and emissions such as dust from the refurbishment works. The more intensive repair and restoration activities are operated from the rear of the site, near the rail line which is located the furthest distance from the nearby residential uses as possible, and are buffered by the existing building. The retail component of the facility is located along the Trafalgar Street frontage and operated internally to the building which insulates any impacts of noise, vibration or emissions to the surrounding area.

e. The commercial use may generate large volumes of truck traffic;

Yardigans specializes in estate liquidation services which would involve periodic large truck traffic for the shipment of goods to the site, as well as delivery or pick-up of large goods from the site. An existing loading dock is located at the front of the building which facilitates the movement of large items. The site has convenient access to two arterial roads at Highbury Avenue North and Trafalgar Street which are appropriate for, and direct large truck traffic away from, the interior of nearby residential neighbourhoods and streets.

f. The commercial use may require large storage and/or display space;

The proposed use features a variety of furniture, and large household items that require ample gross floor area for display space. The proposed storeroom portion of the site would include approximately 1,030m², and an additional 440m² for storage and refurbishment, which creates a large demand for space that can be accommodated on-site.

g. Minor variances to accommodate additional parking or minor variances that could have an impact on the industrial operations in the area will be discouraged;

A new parking rate is proposed to accompany the newly defined use of 'second hand goods outlet'. The parking for the site is shared between the various tenants on site and no negative impacts are anticipated for the other existing industrial operations. More detailed information is addressed under the 'Parking' section of this report.

h. The commercial use would not prevent the future reuse of the building for industrial uses;

The proposal is adaptively reusing an existing unit in the building with minimal internal alteration. If Yardigans was to cease operation, the space would revert back to a large, vacant unit, which would be easily convertible for alternative industrial tenant(s).

i. The commercial use does not generate significant additional traffic that will interfere with the industrial uses or operations in the areas; and

The proposed use will generate traffic associated with delivery of goods to and from the site, as well as patronage from customers. The anticipated traffic can be managed by the site and will not interfere with the other on-site, or nearby industrial uses. The use is not anticipated to generate significant amounts of traffic, and parking will be shared on-site between all the users of the building which will support peak operation times.

j. The commercial use does not constitute a sensitive land use which would have an impact on, or would impair or interfere with the existing or planned industrial use in the area.

The proposed use is not considered to be of a sensitive nature, though is considered less intensive than traditional general industrial uses. The 'second hand goods outlet' is a complementary and transitional use to both the nearby residential area and the existing industrial uses in the building and nearby area.

Summary of Criteria

The Brydges Street Specific Policy Area considers new commercial uses that maintain the existing building stock and reduce vacancies while new industrial uses are sought. The criteria ensures any commercial uses that locate within the Brydges Street Area do not negatively affect existing or future industrial or nearby residential uses. The proposed ‘second hand goods outlet’ use is an appropriate commercial use to introduce in a historically industrial node, and fits harmoniously with the existing industrial uses, nearby residential uses, and broader area.

4.3 Compatibility

The PPS provides direction to avoid development and land use patterns which may cause environmental or public health and safety concerns (PPS 1.1.1 c)), and The London Plan further requires that the Province’s *D-series Guidelines* be implemented to ensure that industrial uses and sensitive land uses are not located inappropriately close to one another (1138).

The D-6 Guidelines were created by the Ministry of the Environment in 1995 in accordance with the Environmental Protection Act, and are intended to prevent or minimize land use issues due to the encroachment of sensitive land uses and industrial uses on one another. The proposed commercial use is not considered to be of a sensitive nature, and is a complementary land use to the existing industrial uses as well as the nearby residential uses. The proposed zoning amendment has been reviewed in accordance with the D-6 guidelines and does not represent a conflict between sensitive and non-sensitive land uses.

4.4 Form and Scale of Development

The PPS requires that settlement areas are to be the focus of growth and development, and that their vitality and regeneration shall be promoted (PPS 1.1.3.1). The subject site is located within an existing settlement area and industrial building and will repurpose an existing unit for a new and complementary use. The PPS further requires that land use patterns within settlement areas shall be based on densities and a mix of land uses which efficiently use land and resources and are appropriate for, and efficiently use, the infrastructure and public service facilities which are planned or available (PPS 1.1.3.2 a) 1 & 2). The adaptive reuse allows the efficient utilization of the existing site which has access to full municipal services.



Figure 3: Streetview of Subject Site

The Existing Industrial Areas Objectives policies of the 1989 Official Plan recognize the role of older, viable inner-city industrial areas and provide for their continuation and improvement. The policies encourage the rehabilitation or replacement of functionally

obsolete industrial buildings, which is reinforced and further detailed through the Brydges Street Specific Policy Area criteria (7.1.5).

A special provision will allow for a maximum of 1,500m² of gross floor area to be used for the “second hand goods outlet” which is appropriate to allow for the site function, and also to ensure the industrial nature of the remainder of the building is maintained. The proposed use of the site will efficiently reuse the existing floor space in an interior unit of the existing building, and no additional or new development is proposed.

The vehicular access, building setbacks, height and GFA are all existing and will not change through the requested Zoning By-law amendment. Some minor improvements to the site will be undertaken this summer by the owner, to demarcate parking stalls and delineate the boundary between parking and landscaped open space areas to improve the overall function of the site. Any future development or redevelopment of the site that results in a substantive increase in usability will require Site Plan Approval and compliance with the Site Plan Control Area by-law.

4.5 Parking

The proposal is for a new use which also requires consideration and justification for a new associated parking rate. Yardigans employs five (5) people, and includes a retail space of 1,030m², and refurbishment and warehouse space of 440m², for a total gross floor area of 1,470m². The applicant has proposed a parking rate of 1/65m² for the ‘second hand goods outlet’ use which is based on a review of the parking rates for similar uses, as well as consideration for the specific details of the proposed use.

The following existing uses were considered as their parking rates relate to the proposed ‘second hand and used goods establishment’:

- a) Building Supply Outlet requires 1 per 30m² for retail/showroom plus 1 per 200m² warehouse/wholesaling
- b) Department Store requires 1 per 20m²
- c) Home Appliance Store requires 1 per 30m²
- d) Home Furnishings Store 1 per 30m²
- e) Industrial Mall requires 1 per 65m²
- f) Retail Warehousing requires 1 per 1 per 30m² retail/showroom plus 1 per 200m² for warehousing/wholesaling
- g) Service Industrial Use requires 1 per 65m²
- h) Wholesale Establishment 1 per 125m²

The above eight (8) uses were identified as having some commonality with the Yardigans Store in terms of being large, single floor plate commercial users and the types of goods and products they sell. The industrial mall definition was considered to be the most appropriate for the purposes of justifying the parking rate which requires 1 space per 65m² given the shared parking arrangement that serves all the units of the existing building, which equates to 23 spaces required for Yardigans. The industrial mall is defined as “a building or group of buildings held in single ownership or by participants in a condominium corporation or cooperative and divided into units for separate occupancy by different industrial uses for which common loading and parking facilities and other common services may or may not be provided.”

The entire site has 44 parking spaces shown, with the renovation store requiring 14 spaces, the self-storage facility requiring 3 spaces, leaving 27 spaces available for Yardigans. The site is also well-served by public transportation with route 14 along Highbury Avenue North and nearby services with route 2A at Hale Street and Trafalgar Street and route 7 at Brydges Street and Highbury Avenue North within 500m.

More information and detail is available in Appendix B and C of this report.

5.0 Zoning By-law

The proposal is to amend the zone from the General Industrial (GI1) Zone to the

General Industrial Special Provision (GI1(_)) Zone to add a new use of ‘second hand goods outlet’. A newly defined use for the second hand goods outlet will facilitate the specific use and operation for the site, and special provisions will be applied to limit the gross floor area to 1,500m² and establish a new parking rate of 1 space per 65m².

6.0 Conclusion

The proposed ‘second hand goods outlet’ is consistent with the Provincial Policy Statement, 2014, and conforms with the General Industrial policies and Brydges Street Specific Area policies of the 1989 Official Plan and the general intent of the Light Industrial Place Type in The London Plan. The reuse of the existing building provides for an appropriate and compatible land use with the existing industrial and nearby residential uses.

Prepared by:	Sonia Wise, MCIP, RPP Senior Planner, Development Services
Recommended by:	Paul Yeoman, RPP, PLE Director, Development Services
Submitted by:	George Kotsifas, P.ENG Managing Director, Development and Compliance Services and Chief Building Official
Note: The opinions contained herein are offered by a person or persons qualified to provide expert opinion. Further detail with respect to qualifications can be obtained from Development Services.	

May 16, 2019
/sw

Appendix A

Bill No. (number to be inserted by Clerk's Office)
2019

By-law No. Z.-1-19_____

A by-law to amend By-law No. Z.-1 to
rezone an area of land located at 1350
Trafalgar Street.

WHEREAS Yardigans Estate Liquidation Services has applied to rezone an
area of land located at 1350 Trafalgar Street as shown on the map attached to this by-
law, as set out below;

AND WHEREAS this rezoning conforms 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 1350 Trafalgar Street, as shown on the attached map comprising
part of Key Map No. A108, from a General Industrial (GI1) Zone to General Industrial
Special Provision (GI1()) Zone.
- 2) Section Number (41.4) of the General Industrial (GI1) Zone is amended by adding
the following Special Provision:

GI1()	1350 Trafalgar Street
a)	Additional Permitted Use
i)	Second Hand Goods Outlet within existing building
	Second Hand Goods Outlet: means a building, or part thereof, used for the storing, selling, dismantling, refurbishing, and repair of used goods, wares and materials; but does not include a retail store, material recovery facility or a salvage yard.
b)	Regulations
i)	Gross floor area (maximum)1,500m² (16,145 sq ft)
ii)	Parking (minimum)1 per 65m² (699 sq ft)

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.

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.

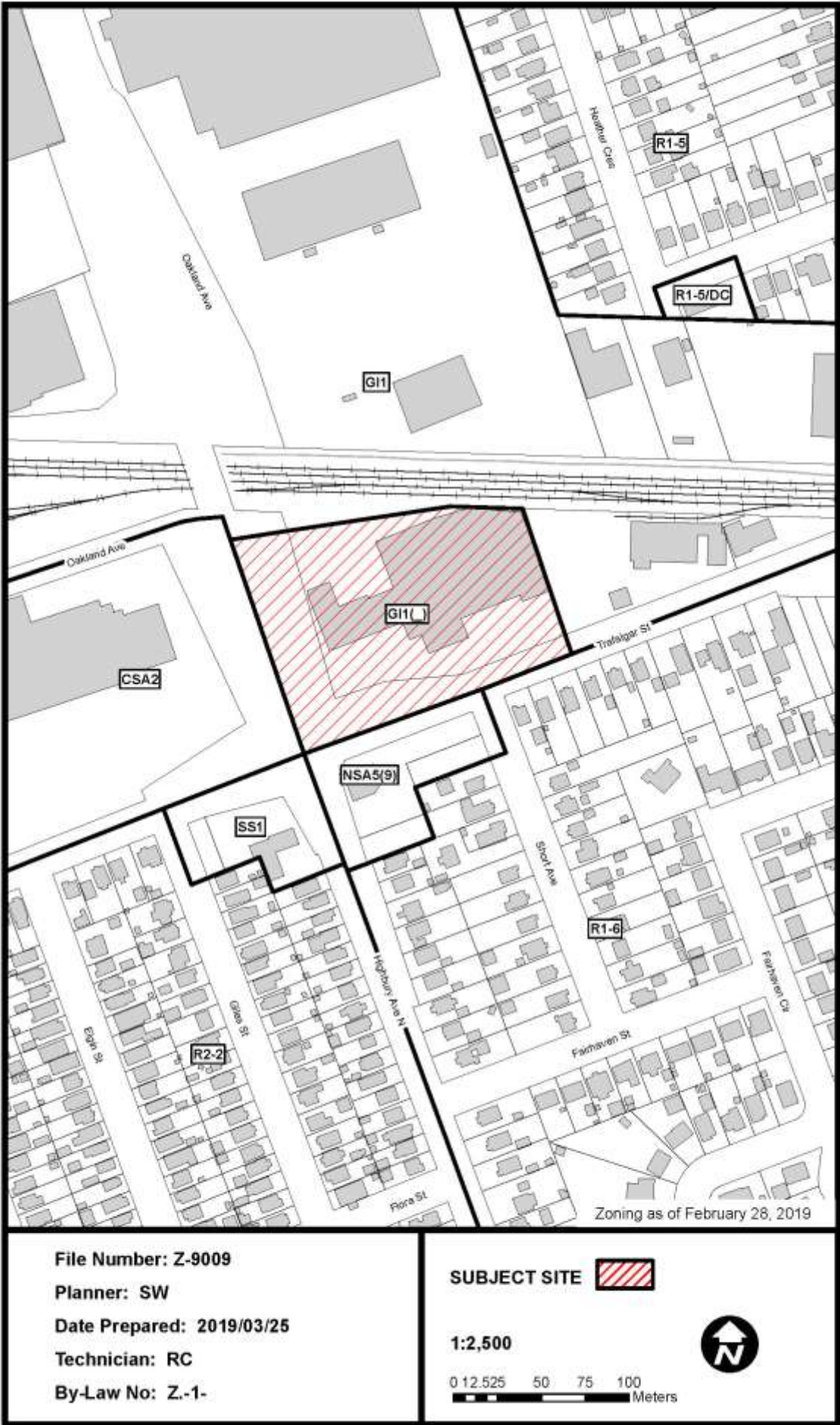
PASSED in Open Council on June 11, 2019.

Ed Holder
Mayor

Catharine Saunders
City Clerk

First Reading – June 11, 2019
Second Reading – June 11, 2019
Third Reading – June 11, 2019

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



Appendix B – Public Engagement

Community Engagement

Public liaison: On January 23, 2019, Notice of Application was sent to 57 property owners in the surrounding area. Notice of Application was also published in the *Public Notices and Bidding Opportunities* section of *The Londoner* on January 24, 2019. A “Planning Application” sign was also posted on the site.

1 reply was received

Nature of Liaison: Possible change to Zoning By-law Z.-1 from a General Industrial (GI1) Zone to a General Industrial Special Provision (GI1(_)) Zone to introduce and permit the new use of a “second-hand and used goods outlet”, with special provisions to restrict the maximum floor area to 1,500m² within the existing building, and introduce a parking rate of 1/65m² for the use.

Responses: A summary of the various comments received include the following:

1 reply was received that requested more information about the application and expressed a concern about a loss of local jobs.

Responses to Public Liaison Letter and Publication in “The Londoner”

Telephone	Written
Sherri Read 145 Fairhaven Circle London ON N5W 1E3	

Agency/Departmental Comments

London Hydro – February 4, 2019

This site is presently serviced by London Hydro. Contact Engineering Dept. if a service upgrade is required to facilitate the new building. Any new and/or relocation of existing infrastructure will be at the applicant's expense. Above-grade transformation is required. Note: Transformation lead times are minimum 16 weeks, Contact Engineering Dept. to confirm requirements & availability.

Development Services – Engineering – February 22, 2019

No comments for the re-zoning application.

The following items are to be considered during the development application approval stage:

Transportation

- Road widening dedication of 18.0m from centre line required on Trafalgar Street
- 6.0mx6.0m daylight triangle required at Highbury and Trafalgar Street
- Close and restore the westerly access
- Close and restore the easterly access
- Detailed comments will be provided through the site plan process regarding access location and design

Canadian National Railway – January 30, 2019

Thank you for circulating CN Rail on the above noted application.

If this application is only related to the change in use, then we have no comments. We would like to be notified if there are any proposed changes to the site that could affect site drainage.

Upper Thames River Conservation Authority – January 28, 2019 Excerpt

The UTRCA has no objections to this application.

Appendix C – Policy Context

The following policy and regulatory documents were considered in their entirety as part of the evaluation of this requested land use change. The most relevant policies, by-laws, and legislation are identified as follows:

Provincial Policy Statement, 2014

- 1.1.1 c – avoid land use conflicts
- 1.1.3.1 – settlement areas
- 1.1.3.2 – efficient use of land
- 1.1.3a – mix and range of employment uses
- 1.3.1 b – diversified economic base

1989 Official Plan

- Chapter 7: General Industrial Designation
- Chapter 10 cxlix: Brydges Street Specific Policy Area

The London Plan

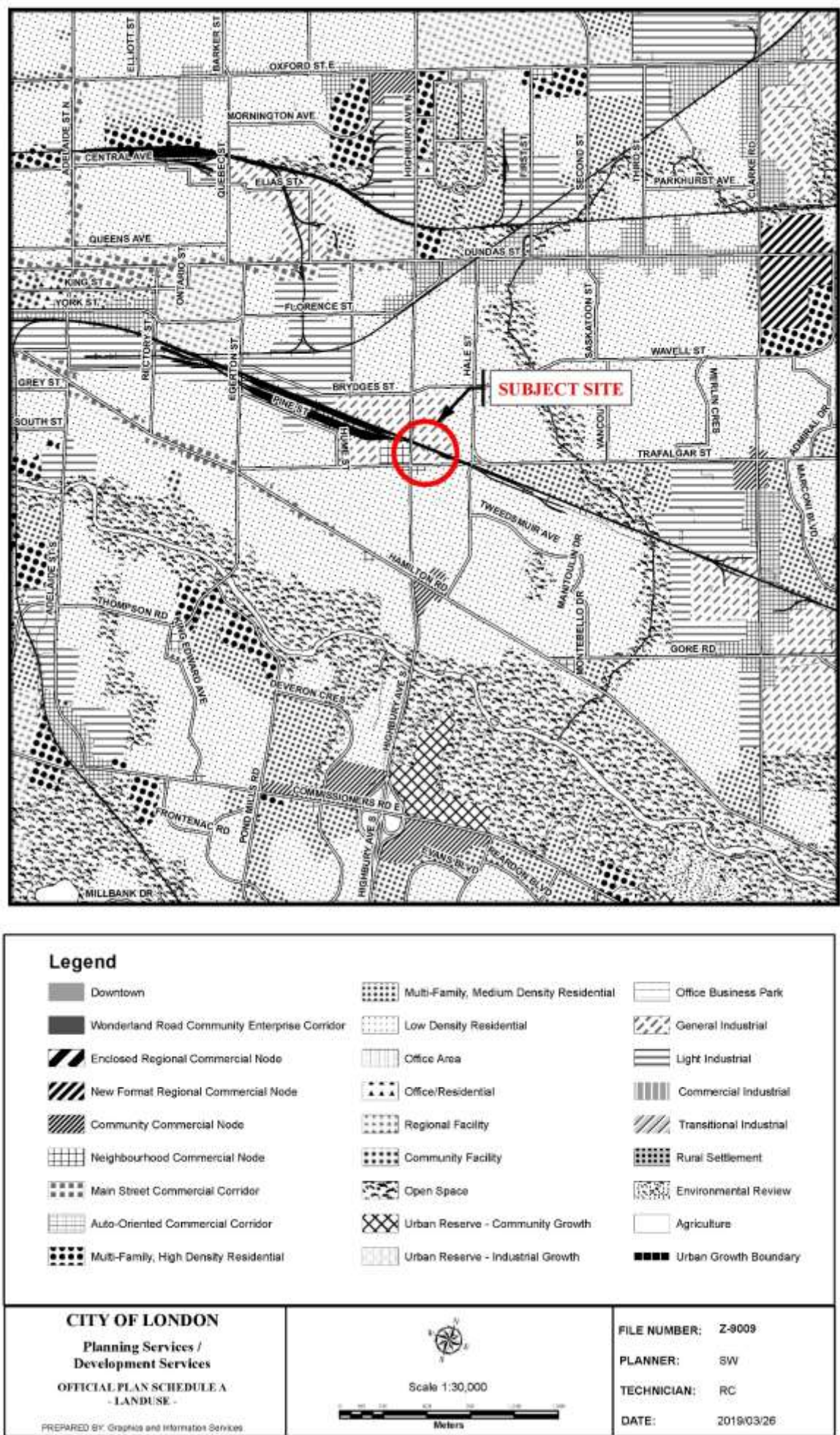
- 1107 – Transitioning industrial areas
- 1110 – Light Industrial Place Type
- 1115* – Permitted Uses
- 1138 – D-6 Guidelines

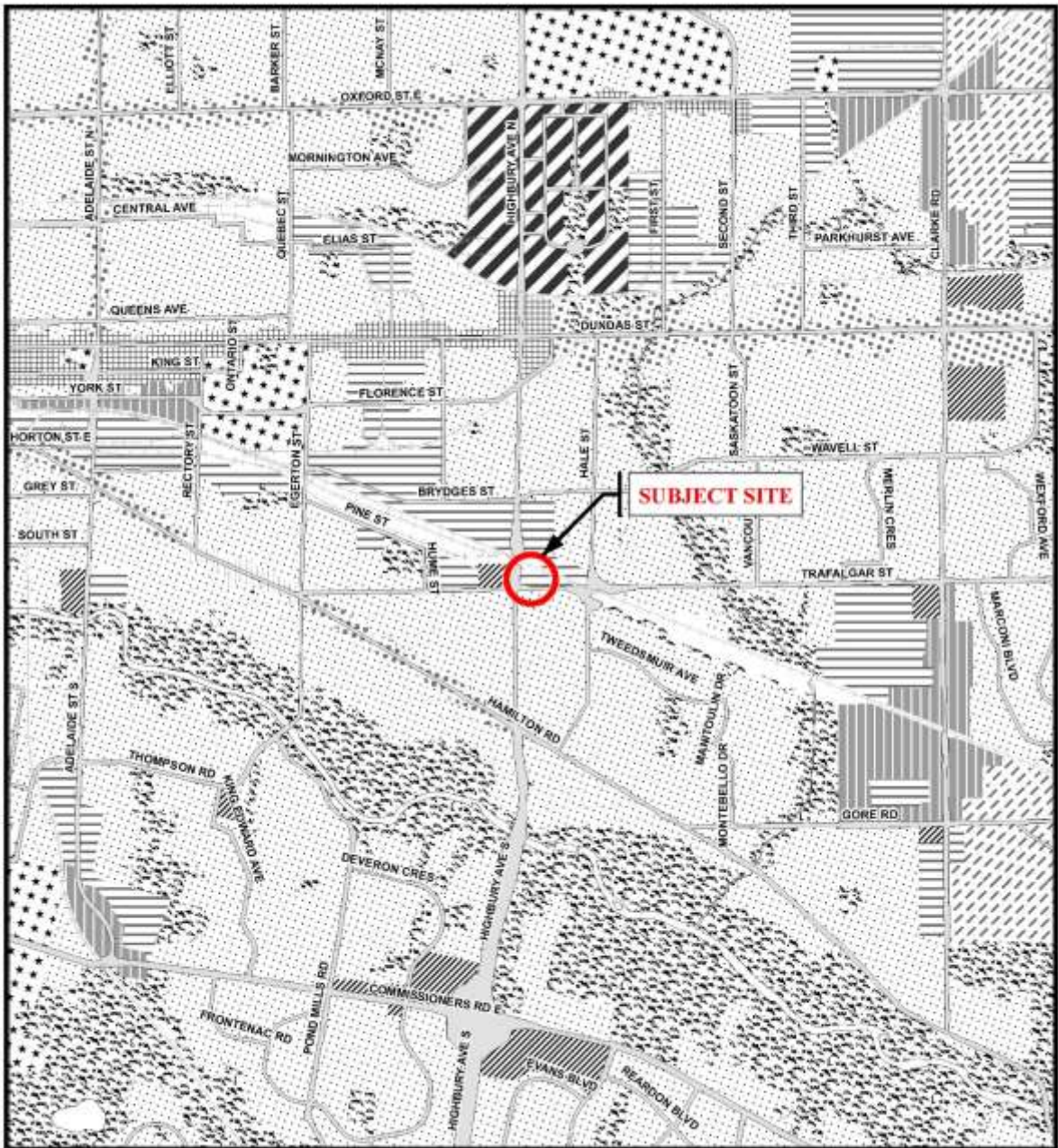
Z.-1 Zoning By-law

- Section 4: General Provisions
- Section 41: General Industrial (GI) Zone

Appendix D – Relevant Background

Additional Maps





Legend

- | | | |
|------------------------|--------------------------|---|
| Downtown | Future Community Growth | Environmental Review |
| Transit Village | Heavy Industrial | Farmland |
| Shopping Area | Light Industrial | Rural Neighbourhood |
| Rapid Transit Corridor | Future Industrial Growth | Waste Management Resource Recovery Area |
| Urban Corridor | Commercial Industrial | Urban Growth Boundary |
| Main Street | Institutional | |
| Neighbourhood | Green Space | |

This is an excerpt from the Planning Division's working consolidation of Map 1 - Place Types of the London Plan, with added notations.

At the time of the printing of this map, the Rapid Transit EA is in progress. This map shows the Rapid Transit Corridors and Urban Corridors to recognize potential alignments. These Place Types will be modified to align with the results of the EA process for the final version of The London Plan.

CITY OF LONDON

Planning Services /
Development Services

**LONDON PLAN MAP 1
- PLACE TYPES -**

PREPARED BY: Planning Services



Scale 1:30,000

Meters

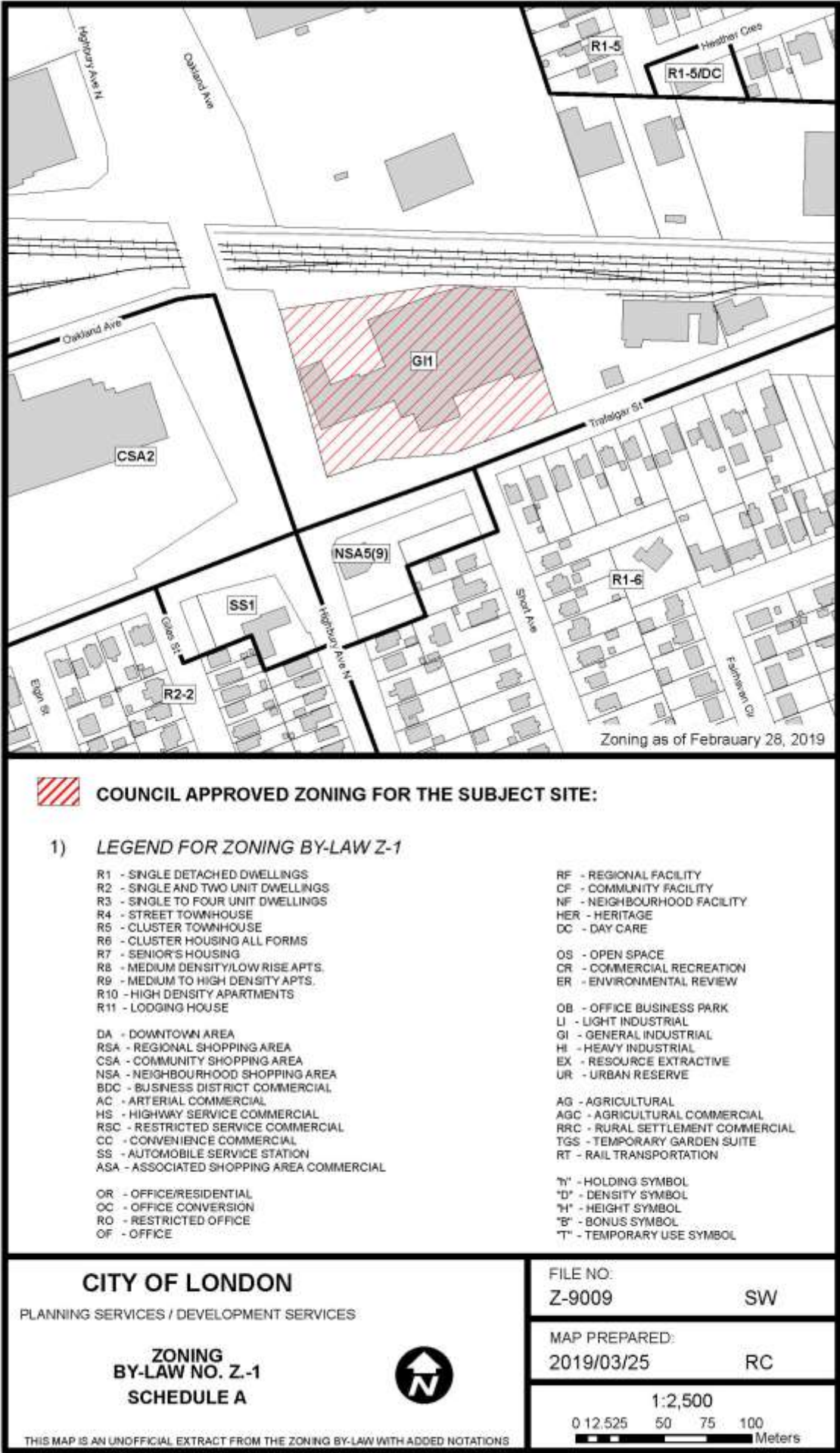
File Number: Z-9009

Planner: SW

Technician RC

Date: March 26, 2019

Project Location: E:\Planning\Projects\p_zoning\z-1\zones\amendments\Z-9009\projects\Z-9009-LP-Placetypes-Excerpt-Map.mxd



Report to Planning and Environment Committee

To: Chair and Members
Planning & Environment Committee
From: George Kotsifas P. Eng.,
Managing Director, Development & Compliance Services and
Chief Building Official
Subject: Westchester Homes Ltd.
348 Sunningdale Road East
Public Participation Meeting on: May 27, 2019

Recommendation

That, on the recommendation of the Director, Development Services, the following actions be taken with respect to the application of Westchester Homes Ltd. relating to the property located at 348 Sunningdale Road East:

- (a) The comments received from the public during the public engagement process attached hereto as Appendix “A”, **BE RECEIVED**
- (b) Planning staff **BE DIRECTED** to make the necessary arrangements to hold a future public participation meeting regarding the above-noted application in accordance with the *Planning Act*, R.S.O 1990, c.P. 13.

IT BEING NOTED that staff will continue to process the application and will consider the public, agency, and other feedback received during the review of the subject application as part of the staff evaluation to be presented at a future public participation meeting.

Executive Summary

Summary of Request

The requested amendment is to allow two townhouse buildings, each three storeys (up to 12 metres) in height for a total of 17 units (27 units per hectare).

Purpose and the Effect

The purpose and effect of the recommended action is to:

- i) Present the requested amendment in conjunction with the statutory public meeting;
- ii) Preserve appeal rights of the public and ensure Municipal Council has had the opportunity to review the Zoning By-law Amendment request prior to the expiration of the 150 day timeframe legislated for a Zoning By-law amendment;
- iii) Introduce the proposed development and identify matters raised to-date through the technical review and public consultation;
- iv) Bring forward a recommendation report for consideration by the Planning and Environment Committee at a future public participation meeting once the review is complete.

Analysis

1.0 Site at a Glance

1.1 Property Description

The subject site is located on the north side of Sunningdale Road East, just east of the T-intersection of Lindisfarne Road and Sunningdale Road East, between Richmond Street and Adelaide Street North.

Formerly the site of a single detached dwelling listed as a Priority 1 structure on the Register of Heritage Resources, the site is now vacant having received a demolition permit from Council in 2015. The site is generally flat with gentle and moderate slopes, with steeper slopes in the northwest and southwest corners. The site is heavily treed near its east and west peripheries, with additional trees in the interior of the property around the former dwelling location.

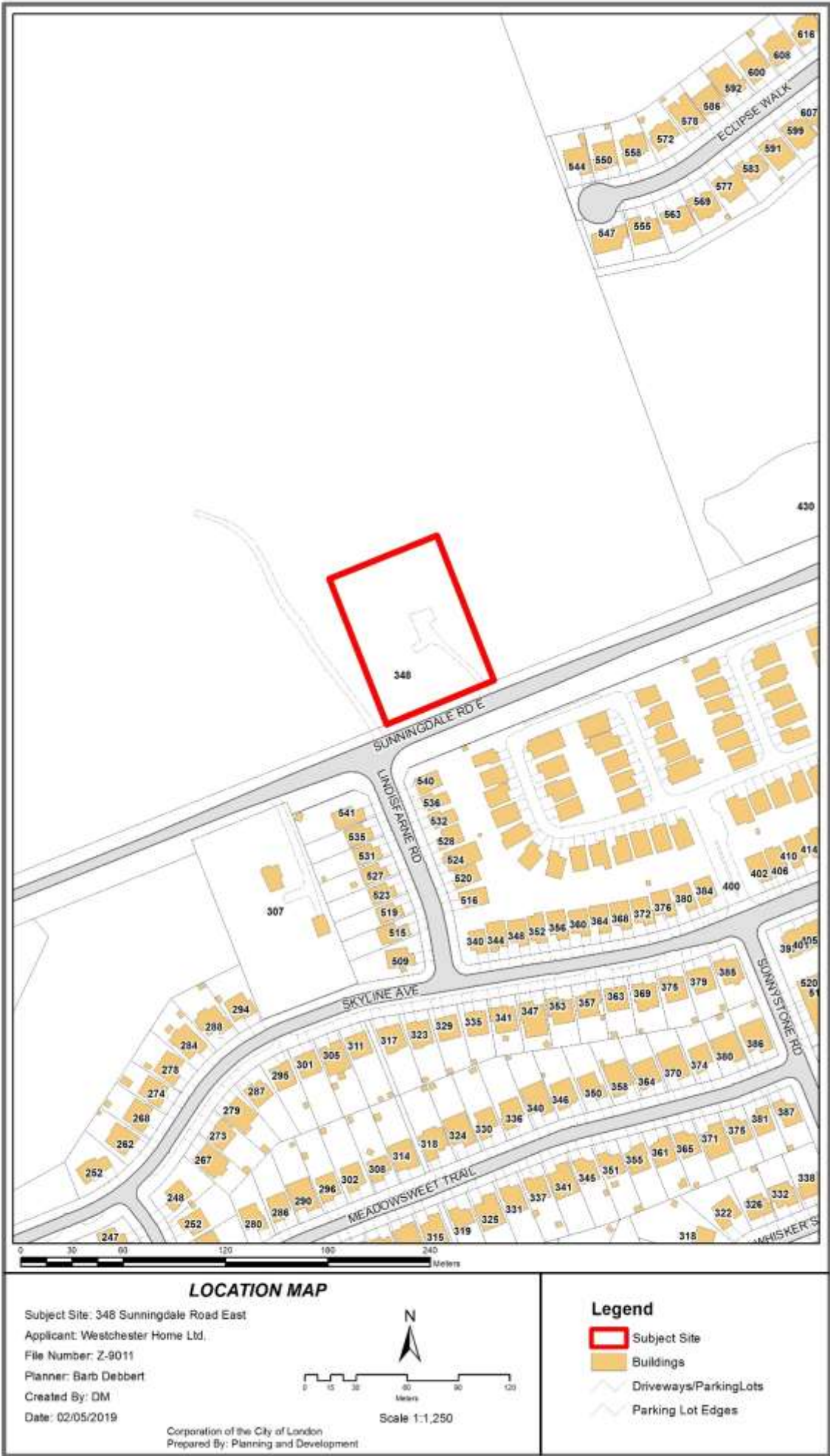
The Powell Drain Wetland and the Uplands North Wetland lie to the north and east of the site, and Upper Thames River Conservation Authority mapping shows their regulated area surrounds the property on the west, north and east sides. Land uses to the south include single detached and cluster single detached dwellings. Heron Haven Park is located on the south side of Sunningdale Road East west of the subject site.

An Imperial Oil pipeline lies within the north part of the existing Sunningdale Road East road allowance. Typically main buildings are required to be set back 20 metres from the centreline of the pipeline.

Sunningdale Road East is a two-lane road with a rural profile and a long left turn lane from Sunningdale Road to Lindisfarne Road. The 2019 Development Charges Background Study, adopted by Council and expected to come into effect by by-law in August, anticipates the Sunningdale Road widening and construction to a 4-lane urban cross section in 2025.



1.2 Location Map



- 1.3 Current Planning Information (see more detail in Appendix D)
- 1989 Official Plan Designation – Multi-Family, Medium Density Residential
 - The London Plan Place Type – Neighbourhoods Place Type
 - Existing Zoning – Urban Reserve (UR1) Zone

1.4 Site Characteristics

- Current Land Use – Vacant
- Frontage – 68.5 metres (224.7 feet)
- Depth – 92 m (301.8 feet))
- Area – 0.635ha (1.57 ac)
- Shape – rectangular

1.5 Surrounding Land Uses

- North – Powell Drain Wetland
- East – Wetland and lands designated for possible future residential development
- South – Low Density Residential
- West – Wooded area and lands designated for possible future residential development

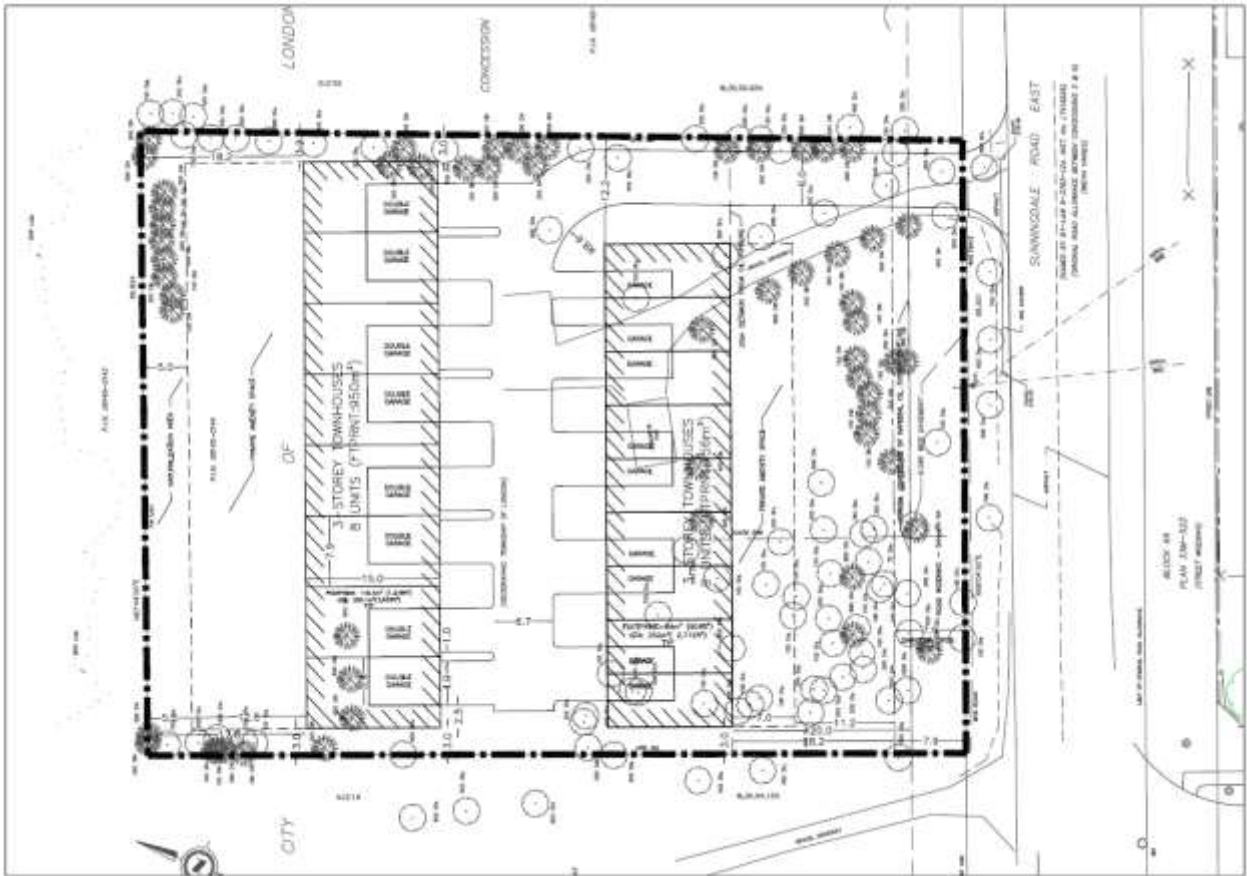
1.6 Intensification (17 residential units)

- The requested residential units do not represent intensification within the Built-area Boundary
- The requested residential units are located outside of the Primary Transit Area.

2.0 Description of Proposal

2.1 Development Proposal

The requested development includes two, 3-storey townhouse buildings containing 8 and 9 units respectively for a total of 17 units. The buildings are situated parallel to Sunningdale Road East, one behind the other. The front building is located 20 metres from the centreline of the Imperial Oil pipeline. Access to the site is located close to the east property line.



2.2 Submitted Studies

The application was accepted as complete on January 18, 2019. The following information was submitted with the application:

- Planning Justification Report
- Urban Design Brief
- Conceptual Site Plan
- Building Elevations
- Environmental Impact Study Report
- Tree Assessment Report and Tree Preservation Plan
- Servicing Feasibility Study
- Stage 1 and 2 Archaeological Assessment
- Stage 3 Archaeological Assessment
- Stage 4 Archaeological Mitigation
- Ministry of Tourism, Culture and Sport Clearance letter for Stage 3 Archaeological Assessment

2.3 Requested Amendment

The requested amendment is for a Zoning By-law amendment from an Urban Reserve (UR1) Zone to a Residential R5 Special Provision (R5-2(_)) Special Provision Zone to permit cluster/stacked townhouse dwellings.

3.0 Relevant Background

3.1 Community Engagement (see more detail in Appendix B)

There were 7 public responses received during the community consultation period.

Concerns for:

- The proposed built form/density are not in keeping with the area
- Colour/architectural design
- Environmental impacts – flora, fauna and ecological buffer to wetland features
- Loss of trees on the site
- Increase in traffic
- Hazardous turning movements/location of driveway
- Not a transit friendly location
- Road noise impacts on occupants of new development
- Ownership tenure of new units
- Site maintenance after construction and occupancy
- Decrease in property value

3.2 Policy Context

Provincial Policy Statement 2014

The Provincial Policy Statement (PPS) 2014 provides policy direction on matters of provincial interest related to land use and development. Section 1.1 Managing and Directing Land Use to Achieve Efficient and Resilient Development and Land Use Patterns of the PPS encourages healthy, livable and safe communities which are sustained by accommodating an appropriate range and mix of residential, employment and institutional uses to meet long-term needs. It also promotes cost-effective development patterns and standards to minimize land consumption and servicing costs. The PPS encourages settlement areas (1.1.3 Settlement Areas) to be the main focus of growth and development. Within the Settlement Areas appropriate land use patterns are established by providing appropriate densities and a mix of land uses that efficiently use land and resources along with the surrounding infrastructure, public service facilities and are also transit-supportive (1.1.3.2).

The policies of the PPS state that new development taking place in designated growth areas should occur adjacent to the existing built-up area and shall have a compact form, mix of uses and densities that allow for the efficient use of land, infrastructure, and public service facilities. (1.1.3.6).

The PPS also promotes an appropriate range and mix of housing types and densities to meet projected requirements of current and future residents (1.4 Housing). It directs planning authorities to permit and facilitate all forms of housing required to meet the social, health and wellbeing requirements of current and future residents, and direct the development of new housing toward locations where appropriate levels of infrastructure and public service facilities are or will be available to support current and projected needs. It encourages densities for new housing which efficiently use land, resources, and the surrounding infrastructure and public service facilities, and support the use of active transportation and transit in areas where it exists or is to be developed.

The PPS protects natural features and areas for the long term. Development and site alteration shall not be permitted in significant wetlands or significant woodlands. Development and site alteration shall not be permitted in habitat of endangered species and threatened species, except in accordance with provincial and federal requirements. Development and site alteration shall not be permitted on adjacent lands to these natural heritage features and areas unless the ecological function of the adjacent lands has been evaluated and it has been demonstrated that there will be no negative impacts on the natural features or on their ecological functions. (2.1 Natural Heritage – 2.1.1, 2.1.4, 2.1.5, 2.1.7 and 2.1.8).

The PPS directs that development and site alteration shall not be permitted on lands containing archaeological resources or areas of archaeological potential unless significant archaeological resources have been conserved. (2.6 Cultural Heritage and Archaeology).

In accordance with section 3 of the Planning Act, all planning decisions “shall be consistent with” the PPS.

The London Plan

The London Plan is the new Official Plan for the City of London (Council adopted, approved by the Ministry with modifications, and the majority of which is in force and effect). *The London Plan* policies under appeal to the *Local Planning Appeals Tribunal* (Appeal PL170100) and not in force and effect are indicated with an asterisk throughout this report. *The London Plan* policies under appeal are included in this report for informative purposes indicating the intent of City Council, but are not determinative for the purposes of this planning application.

The subject site is located in the Neighbourhoods Place Type along a Civic Boulevard which would permit a range of residential uses including single detached, semi-detached, duplex, converted dwellings, townhouses, stacked townhouses, fourplexes and low-rise apartments (Policy *921_).

Neighbourhoods Place Types along a Civic Boulevard also require a minimum height of 2-storeys and permit a maximum height of 4-storeys, while 6-storeys can be achieved through Type 2 bonusing. Zoning is applied to ensure the intensity of development is appropriate to the neighbourhood context, utilizing regulations for such things as height, density, gross floor area, coverage, frontage, minimum parking, setback, and landscaped open space (Policy *935_).

All planning and development applications will conform with the City Design policies of The London Plan. New developments should be designed to avoid the need for noise walls that are required to protect amenity areas as defined by provincial guidelines (Policy *936_). All planning applications are to be evaluated with consideration of the use, intensity and form that is being proposed, subject to specific criteria set out in the Plan (Policy *1578_).

Residential intensification is fundamentally important to achieve the vision and key directions of The London Plan. Intensification within existing neighbourhoods will be encouraged to help realize the vision for aging in place, diversity of built form, affordability, vibrancy, and the effective use of land in neighbourhoods. Such intensification must be undertaken well in order to add value to neighbourhoods rather than undermine their character, quality, and sustainability (Policy *937_).

In addition to The City Design policies of this Plan, residential intensification projects are subject to additional urban design considerations (Policy *953_). New proposals must clearly demonstrate that the proposed intensification project is sensitive to, compatible with, and a good fit within the existing surrounding neighbourhood. The Plan evaluates compatibility and fit from a form perspective on a specific list of criteria to help ensure it is in keeping with the character of the surrounding neighbourhood. Compatibility and fit will be evaluated on matters such as, but not limited to, site layout, building and main entrance orientation, building line and setback from the street, character and features of the neighbourhood, height and massing. The intensity of the proposed development will be appropriate for the size of the lot such that it can accommodate such things as driveways, adequate parking in appropriate locations, landscaped open space, outdoor residential amenity area, adequate buffering and setbacks, and garbage storage areas (Policy *953_).

The Environmental Policies of this Plan require the submission of environmental impact studies to determine whether, or the extent to which, development may be permitted in areas within, or adjacent to, specific components of the Natural Heritage System. They will confirm or refine the boundaries of components of the Natural Heritage System, and will include conditions to ensure that development does not negatively impact the natural features and ecological functions for which the area is identified. (Policy 1431_). The City will require that an environmental impact study be completed to its satisfaction, and in accordance with provincial policy, in consultation with the relevant public agencies prior to the approval of a planning and development application, where development or site alteration is proposed entirely or partially within the distances adjacent to Natural Heritage System components set out in *Table 13 – Areas Requiring Environmental Study (Policy 1432_). Development or site alteration on lands adjacent to features of the Natural Heritage System shall not be permitted unless the ecological function of the adjacent lands has been evaluated and it has been demonstrated that there will be no negative impacts on the natural features or on their ecological functions (Policy 1433_).

The Cultural Heritage policies of this Plan are intended to ensure that new development enhances and is sensitive to our cultural heritage resources (Policy 554_). Development and site alteration shall not be permitted on lands containing archaeological resources or areas of archaeological potential unless significant archaeological resources have been conserved (Policy 611_).

1989 Official Plan

The 1989 Official Plan designates the site as Multi-Family, Medium Density Residential which permits multiple-attached dwellings, such as row houses or cluster houses; low-rise apartment buildings; rooming and boarding houses; emergency care facilities; converted dwellings; and small-scale nursing homes, rest homes and homes for the aged (Section 3.3.1.).

Development within areas designated Multi-Family, Medium Density Residential shall have a low-rise form and a site coverage and density that could serve as a transition between low density residential areas and more intensive forms of commercial, industrial, or high density residential development. Height will be limited to four storeys however, in some instances may be permitted to exceed this limit, if determined through a compatibility report. Generally developments will not exceed 75 uph (Section 3.3.2).

Proposals for development within the Multi-family, Medium Density Residential designation are subject to a Planning Impact Analysis as set out in Section 3.7 of the Official Plan.

The Environmental Policies of this Plan require the submission of environmental impact studies to determine whether, or the extent to which, development may be permitted in areas within, or adjacent to, specific components of the Natural Heritage System. They will confirm or refine the boundaries of components of the Natural Heritage System, and will include conditions to ensure that development does not negatively impact the natural features and ecological functions for which the area is identified. The City will require that an environmental impact study be completed to its satisfaction, and in accordance with provincial policy, in consultation with the relevant public agencies prior to the approval of an Official Plan amendment, Zoning By-Law amendment, subdivision application, consent application or site plan application, where development is proposed entirely or partially within the distances adjacent to Natural Heritage System components set out in Table 15-1. (Section 15.5.1)

The Cultural Heritage Policies of this Plan state that Council will facilitate, in accordance with Provincial Policy efforts to preserve and excavate historic and pre-historic archaeological resources. (Section 13.4.1). Zoning By-law amendments are to be reviewed for their potential impacts to archaeological resources, and archaeological assessment requirements may be imposed where the subject area possesses archaeological resource potential or known archaeological resources, and involved some form of ground disturbance. (Section 13.4.3).

4.0 Matters to be Considered

A complete analysis of the application is underway and includes a review of the following matters, which have been identified to date:

Provincial Policy Statement (PPS)

- Consideration of consistency with policies related to promoting appropriate intensification, efficient use of land, and natural heritage features and archaeological resources.

The London Plan

- Conformity to policies related to the appropriateness of the proposed use, intensity and form, natural heritage features and archaeological resources.
- Impacts on adjacent properties.
- Compatibility with the surrounding area.

1989 Official Plan

- Conformity to policies related to the appropriateness of the proposed use, intensity and form, natural heritage features and archaeological resources.
- Impacts on adjacent properties.
- Compatibility with the surrounding area.

Technical Review

- Appropriate and desirable design and orientation of the proposed townhouses to properly address Sunningdale Road East.
- Concerns with the submitted Environmental Impact Study and related water balance and geotechnical concerns addressed through the provision of revised/new documentation.
- Updated tree assessment report and tree preservation plan to reflect the potential impacts of the widening/reconstruction of Sunningdale Road East and co-ordinate with the revised EIS.
- All engineering comments have been addressed or will be dealt with through holding provisions and/or at site plan approval stage.
- Identifying matters that could be directed to the site plan approval stage.

Zoning

- Suitability of the requested zone and location of zone boundaries pending review of a revised EIS.

Public Feedback

- Evaluating and mitigating potential impacts
- Reviewing proposal for compatibility to the local context

5.0 Conclusion

Development Services staff will review revised submissions and the comments received with respect to the proposed Zoning By-law amendment and will report back to Council with a recommendation based on the current application or a potential revised application for a Zoning By-law amendment. A future public participation meeting will be scheduled when the review is complete and a recommendation is available.

Prepared by:	Barb Debbert Senior Planner, Development Services
Recommended by:	Paul Yeoman, RPP, PLE Director, Development Services
Submitted by:	George Kotsifas, P.ENG Managing Director, Development and Compliance Services and Chief building Official
Note: The opinions contained herein are offered by a person or persons qualified to provide expert opinion. Further detail with respect to qualifications can be obtained from Development Services.	

May 13, 2019
BD/bd

Y:\Shared\DEVELOPMENT SERVICES\11 - Current Planning\DEVELOPMENT APPS\2019 Applications 9002 to\9011Z - 348 Sunningdale Road East (BD)\PEC\Draft Information 348 Sunningdale Road West Z-9011 BD 1of1.docx

Appendix A – Public Engagement

Public liaison: On February 4, 2019 Notice of Application was sent to 111 property owners in the surrounding area. Notice of Application was also published in the *Public Notices and Bidding Opportunities* section of *The Londoner* on January 31, 2019. A “Planning Application” sign was also posted on the site.

7 replies were received

Nature of Liaison: Possible change to Zoning By-law Z.-1 **FROM** an Urban Reserve (UR1) Zone **TO** a Residential R5 Special Provision (R5-2(_)) Zone to permit cluster/stacked townhouse dwellings.

Responses:

Telephone	Written
Patti Ann Reynolds 400 Skyline Avenue East Unit 44 London ON N5X 0B3	Frank Li 536 Lindisfarne Road London ON N5X 0B4
	Margrit Johnson 307 Sunningdale Road East London ON N5X 4B3
	Yong Cai 535 Lindisfarne Road London ON N5X 0A5
	Jiaren Zhang 59-400 Skyline Avenue London ON N5X 0B3
	Solomon Wang 540 Lindisfarne Road London ON N5X 0B4
	Brian Fones 1883 Canvas Way London ON N5X 0J8

From: Li, Frank
Sent: Sunday, February 17, 2019 7:59 PM
To: Debbert, Barb <bdebbert@London.ca>
Subject: feedbacks on file: Z-9011

Dear Barb,
I am writing to you to express my strong objection to the the application file: Z-9011 re: 348 Sunningdale Rd East. My family own the house at 536 Lindisfarne rd. Our community has consensus on it (I just talked to my neighbours).

Here are our concerns:
Exclusively in our community, we have separate two-storey houses only. This two, three storey townhouse does not fit at all. The construction of this scale will inevitably damage our environment and the natural habitat of wildlife. We currently have lots of and many kinds of birds in this mature forest, which is very scarce in London, the forest city. The trees are very tall, and beautiful especially in the fall, a view enjoyed by the whole community.

More importantly, the traffic at the Sunningdale road / Lindisfarne rd turn is already very congested. That's why the city planned to add two lanes to Sunningdale road, which will take many years to finish. Adding another cross road because of this townhouse will make the situation worse and more dangerous for the drivers in our community.

I hope you can seriously consider our concerns and disapprove the proposal. Please feel free to contact me if any questions. Thanks.

Frank

Zhichuan (Frank)

Hello Mr. Drexler,

I was given your contact details by Barb Debbert of Development Services, City of London.

As a home owner close to the subject address I was informed of the zoning by-law amendment applied for by Westchester Homes Ltd.

Would you please direct me to projects already completed by the company so I can gather a sense of type and quality of buildings planned for 348 Sunningdale Road East. I am unable to find a website - something I am hoping you can assist me in finding, or indeed a parent company.

Looking forward to finding out more about the company which will be building in our neighbourhood.

Regards,

Margrit Johnson

Dear Ms. Debbert:

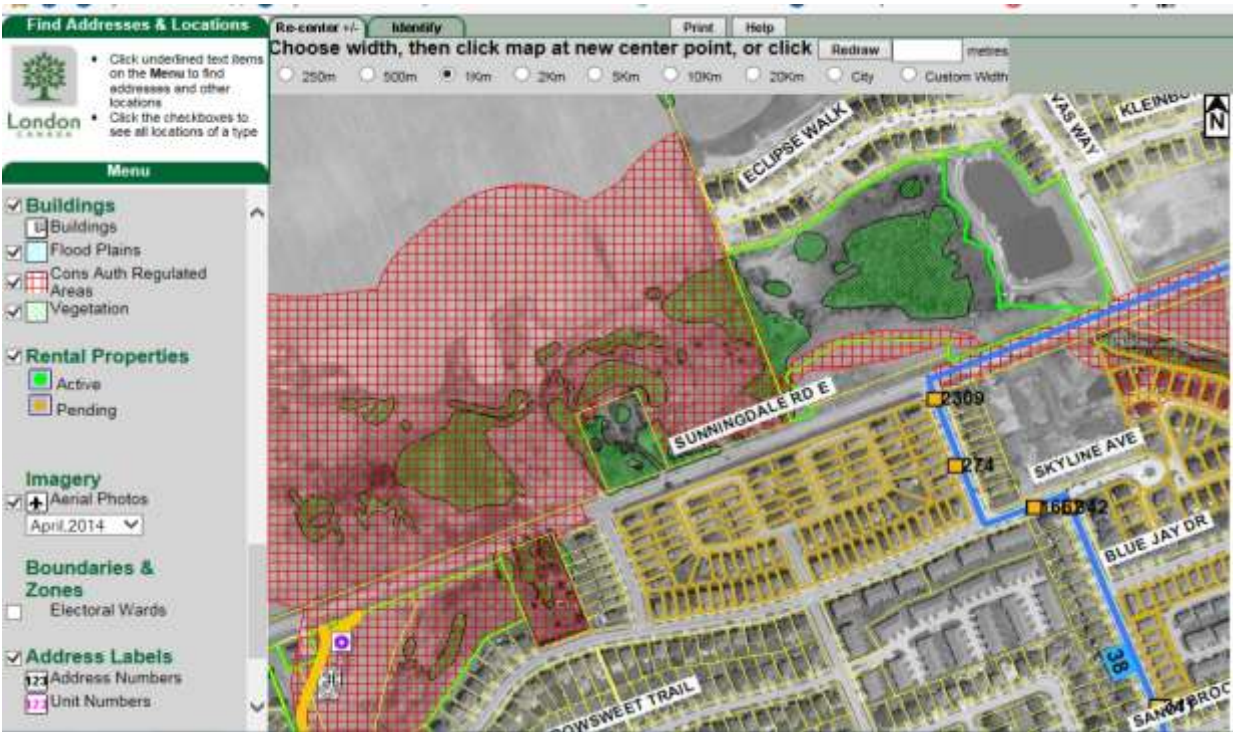
The points below are concerns and questions for the proposed Zoning By-Law Amendment for 348 Sunningdale Road East that must be raised by the Development Services.

1. Two, three-storey, seventeen unit townhouses on this once single-family property will be out of character and will diminish the setting of the single-family one and two storey homes surrounding this property.
2. Although Westchester Homes has provided the Tree Study, there will be inevitable damage to trees when digging for sewers and the entire infrastructure, the impact of heavy machinery for such an enormous project on the size of this property, which to this date, still have healthy large trees. The surrounding vegetation provides habitat for birds, butterflies and bees, which the Applicant deems to be cleared. Will the Landlord of #348 Sunningdale Road guarantee that the residents of 17 unit 3 storey townhomes be respectful of the Protected Lands that surround them?
3. That the Upper Thames River Conservation Authority be kept informed of any future encroachment into the protected areas as the builder had tried to do prior to submission of this application.
4. Should these tall and overbearing townhouses be built, who is to oversee the continued maintenance of the property and buildings so that they do not fall into decline and become an eyesore?
5. The proposed one shared driveway from the 17-townhouse development leading onto Sunningdale Road will cause increased traffic onto Sunningdale and cause more concerns for vehicles turning from Lindisfarne onto Sunningdale Road both

West and East directions, and vehicles turning left from Sunningdale onto Lindisfarne.

6. In the Report, mention is made about bus connection for proposed residents but does not disclose the closest stop is Bluebell, which is a 5-minute walk, crossing Sunningdale Road to sidewalk on the south side without a Pedestrian crosswalk or light. Monday to Friday the bus system runs only every 30 minutes and the last bus is at 9:53 pm and on Saturday; the last bus to the Bluebell stop is at 5:45pm. On Sundays and Holidays the bus runs only every hour and the last bus is at 5:53 pm.
7. When Sunningdale Road is widened in the future, which no one anticipates will be the correct means of solving transportation problems in London, the frontage of property #348 will be cut back for widening of the roadway. The road widening will inevitably destroy some of the frontage trees leaving the rear of the first set of townhouses facing the neighbours of Sunningdale Road to the South.
8. The Applicant has mentioned that seventeen-unit townhouse development will have garbage collected privately. What type of assurance will Upland Residents have that the system will be efficient and not overflowing bins causing refuse to be blown onto surrounding properties?
9. On page 11 of the Planning Justification Report, the mention of “bat boxes to ensure bat habitat is preserved”... the issue will be the trees and disruption of the surrounding natural habitat by such a massive structure to the site where the trees have provided excellent habitat for a variety year round and migrating bird species. Bat populations are not the concern in this neighbourhood.
10. The natural flow of wildlife and birds, which inhabit the area, will be disrupted.
11. Does the City of London need the cramming of seventeen three-storey townhomes on a once single-family dwelling? Does the London Plan need to include demolition of more large trees and filling the green space with cement and chip rock? Does the City of London want to increase the amount of vehicle and pedestrian traffic in an area that is not supported by mass transit?

The two maps following are to demonstrate that the Plan of 2014 showed the area of #348 to be surrounded by regulated area by the Upper Thames River Conservation.





Unfortunately, the City of London has forgotten where this property began and only in four years, how thinking has changed.

2015-06-02

RE: REQUEST FOR DEMOLITION – 348 Sunningdale Road East

NOTICE OF PUBLIC PARTICIPATION MEETING - June 15, 2015

A request has been submitted by the owners of the property at 348 Sunningdale Road East for the demolition of the residential building on that property. The purpose of the demolition is to allow for the possible construction of a single family residence. In accordance with municipal Council policy, where a building is listed on the *Register of Heritage Resources*, and is proposed to be demolished, the matter of the demolition shall be considered at a public participation meeting before the Planning and Environment Committee.

The existing residential building on this property has been identified as a Priority 1 structure on the *Inventory of Heritage Resources*. As an area property owner, this letter is to advise that the Planning and Environment Committee will consider the request to demolish the residential structure at its meeting on Monday, June 15, 2015, on the second floor, City Hall, 300 Dufferin Avenue (northeast corner of Wellington and Dufferin) not before 5:45 p.m.

You may wish to attend and speak to this matter. Comments may be submitted to the agenda through the Committee secretary. (bwestlak@london.ca). Your Ward Councillor, Maureen Cassidy, (mcassidy@london.ca) has been advised of this matter.

Yours truly,

J. Yanchula
Planning Division -Urban Regeneration Manager
519-661-2500 ext. 7544
jyanchul@london.ca

Y:\Shared\policy\HERITAGE\Demolition\348 Sunningdale Road East\Area notification letter June 2, 2015.docx

Sincerely,

Patti Ann and Harry Reynolds

From: Yong Cai
Sent: Sunday, February 24, 2019 10:38 AM
To: Debbert, Barb <bdebbert@London.ca>
Subject: Planning Application for Zoning By-Law Amendment for the Property of 348 Sunningdale Road East File:Z-9011

Dear Barb Debbert,

My name is Yong Cai, a resident at 535 Lindisfarne Rd. Recently I received the Notice of Planning Application for Zoning By-Law Amendment for the Property of 348 Sunningdale Road East File:Z-9011. After reviewing planning, I provided my concerns as follows,

1. The traffic congestion must be considered, which has already been much and much heavier than before when I moved in 2008.
2. The height of townhouses should be as low as possible.
3. **Surrounding trees must be kept original.** These maple trees are very attractive in fall. Lots of people come and take photos during this period, enjoying the colorful trees. Please refer to the attached pictures.
4. Garbage should be always maintained in good and clean conditions, not stink smell, avoiding rats, racons, etc.
5. For the **security issue**, I hope the residents will be good credit residents instead of supervised correctional residents. I heard these townhouses would be for rent instead of for sale, which is not a good idea. This means the residents here are changeable or mixed all the time and it is not good for the security. I know, for this specific reason, quite a few current residents opposed this townhouse planning.

Thank you for the consideration.

Sincerely,
Yong Cai

Dear Barb Debert,
This letter responses to the Proposed 348 Sunningdale Road East, File: Z-9011. I have the following concerns.

- Those beautiful maple trees along with the sunningdale Ave. will be destroyed. I hope those trees can stand there to contribute the beauty of Sunningdale Ave..





- Sunningdale Ave. is becoming traffic unsafe road because road narrow, not enough shoulder, Lindisfarne turn will be more difficult reaching out to Sunningdale and make Richmond intersection jam.
- Three storeys building destroy good views of narrow Sunningdale Ave. Development should not make city view ugly.
- The 17 units townhome too close to major traffic Sunningdale may makes children playing unsafe.
- Townhouse back face the major traffic road not nice looking and the townhouse bedroom will be too noise to sleep not health for the future residents.

Best regards,

Jiaren Zhang
59-400 Skyline Avenue

From: So W
Sent: Sunday, February 24, 2019 10:35 PM
To: Debbert, Barb <bdebbert@London.ca>
Cc: Cassidy, Maureen <mcassidy@london.ca>
Subject: Concerns about re-zoning application for 348 Sunningdale Road East

Hello,

Thanks for the notice of the planning application with file number Z-9011.

I live on the Lindisfarne Rd. I'm deeply concerned about the consequences of re-zoning on environment, safety and society.

The related area is covered with mature forest where wild animals are inhabiting. Building the townhouses will bring devastating environmental damage to the area and will never be recovered. The natural sanctuary will no longer exist and more man-made pollution will be around the area.

The condition of Sunningdale road has been deteriorating for years. The government has done nothing to improve or repair the road condition to maintain the road safety. It was said to re-pave and expand the Sunningdale road, but nothing has happened yet. To build a multiple family project will definitely bring more traffic to the area and reduce the safety for both existing residents and visitors.

My house is only 20 meters away from the mentioned area, this applied project will destroy the natural environment we have been enjoying, bring more safety hazard to my child and society, and ultimately bring down the value of my house. So I clearly oppose the approval of the re-zoning application.

Regards

Solomon Wang

From: Brian Fones
Sent: Tuesday, March 05, 2019 10:38 PM
To: Debbert, Barb <bdebbert@London.ca>
Cc: Cassidy, Maureen <mcassidy@london.ca>
Subject: Public Input on Z-9011 - 348 Sunningdale Road East Zoning By-Law Amendment

Hello Barbara,

Having just noticed a request to change a zoning designation at 348 Sunningdale Road and from a request for comments on City of London "Planapps" by February 25 (without a stated public meeting and with a property invitation board just having been erected recently,) I would like to add my initial comments as a resident in the area for future consideration in this regard.

While this application seems reasonable given the City and London Planning Guidelines for a medium density housing mix, I do have some reservations with the proposed builders offerings, from their report "Planning Justification" of December 4, 2018 and support documents, noting:

1) On the issue of trees; the .653ha site report includes;

"A number of trees are present on the lands, consisting primarily of planted ornamental trees associated with the former residential use" (page 4, Planning Justification.)

The former house mentioned here (now removed) was old so it is assumed that many of these more significant, mature trees could be considered heritage or indigenous trees. Many may be closer the end of their life cycle (assumed; no ageing reported by RKLA .) However, they significantly add to the greenery and natural setting of greater Sunningdale Road and Stoneybrook/Uplands North subdivisions and the northern city boundary.

The developer has made an excellent effort to preserve, as best as possible, healthy trees while allowing for pruning for a reasonable development to proceed. This seems to be a fit for the London Plan for maintaining green space through arbitrary preservation whenever possible. The inventory tree report and guidelines for preservation throughout construction is quite admirable (as compared to common clear-cutting site preparation practices, even when legally permitted.)

My concern on the tree report is over the resulting larger, regional landscape change and greater impact on the north side of Sunningdale. Most of the trees along the eastern boundary side of this project have been marked to be removed. This is where many of the larger, more mature boundary evergreens exist.

As a result, the visual and ecological buffer between a finished site and the Uplands North Wetlands and residential subdivision will be impacted. Possibly with even compounded issues as the proposed site is on a higher grade than most of the residences and ponds in Uplands North. No further natural tree growths of significance will exist between this site all the way to Canvas Way and beyond. Permanent loss of tree vegetation is an issue in this area as nearby flooding of the current wetlands and the subsequent destruction of non-aqueous trees has significantly reduced the number mature trees in the larger ecosystem on the Sunningdale northern boundary (east of the proposed site.)

Suggestion: A full row of new coniferous trees of substance, on the eastern border of the project where trees have been removed, may limit this further urbanization effect coming from this new medium density project, with its higher storied buildings, in a largely single family area of premium homes and significantly preserve more of the

greenspace that this region initially offered the city residents, without hindering the project.

2) The proposed architectural renderings of this medium density site do not fit very well in any description of like residences in the current Uplands North (single family or newer medium density housing projects further east on Sunningdale.) Repetitive, row housing of undifferentiated stock like what is proposed, do not add much value to potential residents, immediate neighbours, or assessments for City of London. While perhaps suitable for major metropolitan centres in Canada or the USA, avant-garde designs like this tend to date themselves quickly and depreciate even faster. I see minimal long term architectural value in such design plans and I would strongly encourage a re-work of the blueprints to what could easily and economically be a better, more architectural attractive fit, for the residents and greater neighbourhood.

3) A personal concern, but perhaps the most controllable change that I would like to recommend, would be that the City should seriously limit construction designs like this, when there is radical differences in effectual building colours when compared to immediate surroundings. The brick colour proposed is white and perhaps most noticeable in the largely feature-less east and westerly unit walls. This does not fit in with any buildings between Adelaide and Richmond Streets, in Stoneybook or Uplands subdivisions. Such esthetics must be waved in favour of more neutral and coordinated neighbourhood and regional colours. A possible, subsequent "white castle effect", arguably in the middle of "nowhere," is not going to be acceptable by any residents who value their property.

White brick facades are vogue at best. Attempts to include such architectural experiments, such as the newer commercial building at Richmond and Hillview, have not been successful or well accepted and have degraded their immediate areas. White brick (even with grey accents) cannot be considered as a suitable fit for these three story buildings.

4) Finally, please consult with your senior urban planners and traffic/road planning colleagues, but a better ingress and egress road to the site would probably be via a more westerly and coordinated connection off Sunningdale. A single intersection closer to facing the existing Lindisfarne Road on the south side, would reduce potential traffic issues on Sunningdale as a result. It should be simple for the developer to reverse their site plans accordingly and at minimal costs.

Thank you for your consideration to these concerns. I would be happy to discuss them with you, your colleagues or principals at Weschester Homes at any point in the future,

Regards,

Brian Fones
1883 Canvas Way

Agency/Departmental Comments

Development Services - Urban Design

Urban Design staff reviewed the submitted conceptual site plan for the zoning by-law amendment at the above noted address and provide the following urban design comments consistent with the Official Plan, applicable by-laws and guidelines;

- Ensure the south row of townhouses is oriented towards the Sunningdale Road frontage, with principle entrances facing the street.
- Include a common walkway parallel to the south of townhouses with individual walkways to the fronts of the units, ensure this common walkway leads to a north-south walkway through the site to the street.

- Include the amenity areas for the townhouses internal to the site in order to avoid a noise wall along the Sunningdale Road frontage.

If you have any questions or concerns please do not hesitate to get in touch with me.

Development Services - Site Plan

Based on the conceptual drawings provided at rezoning the applicant should anticipate the following comments at Site Plan:

- A noise study requirement to address traffic impacts from Sunningdale Road East
- An enhanced elevation requirement for the street-facing units
- A more comprehensive approach to pedestrian circulation on-site

The full expectations will need to be defined through an official request for site plan consultation but the above appear to be particularly pertinent.

Development Services - Ecologist

Here are a couple high level comments on the EIS submitted by BioLogic. Please note there are some additional technical comments and concerns with the report, however there is one primary issue that needs to be addressed before proceeding to the rest of the report. If this issue is not addressed, then Development Services cannot move towards a resolution to this project. Currently, the EIS is not compliant with Provincial Policy Statement (PPS 2014), City of London Official Plan (OP) policies, and the City's Environmental Management Guidelines (EMG).

- 1) The EIS was to assess the Woodland for significance, the resulting evaluation chart located in the Appendix of the EIS did identify the Woodland as a Significant Woodland based on the assessment criteria, however the text of the report ignores the results of the analysis and does not designate the woodland as a Significant Woodland. The EIS cannot be supported based on this position being taken by the proponent's ecologist.
 - a. It is unclear why the proponent's ecologist took this direction after discussions with City staff where it was expected this would be identified as a Significant Woodland and that in this case the City would work with the proponent to identify compensation/restoration of the portion of the feature impacted by the proposed development to allow the development to proceed.
 - b. Furthermore, based on the configuration of the proposed development (Figure 7: Development Proposal), it is clear that a number of trees that are part of the Significant Woodland would be retained (along the pipeline easement), and with a further expansion of the identified Naturalization Area (buffer) along the north end of the site (Figure 7), the removal of this portion of the Significant Woodland could be compensated for in this area, along with the required bat boxes. A reduction in the rear yards of the townhomes at the north end of the site to match the rear yard depths of the townhomes backing onto Sunningdale Road would accomplish the task of providing additional buffer to the PSW and the compensation area for the removal of the portion of Significant Woodland impacted by the proposed development. An approved restoration plan would also be required for this updated buffer/compensation area and could then be supported by Development Services.
- 2) The wetland habitats identified offsite and during the site visit conducted with the proponent and the UTRCA have not been properly identified on the figures or discussed, and the water balance/quality going to this intermittent stream (and the PSW) has not been fully identified.
- 3) The City defers additional comments regarding Water Balance and Hydrogeological issues to the UTRCA.

If these main issues can be resolved, it is anticipated that the other technical comments regarding the draft EIS report can also be resolved to support this development application.

Upper Thames River Conservation Authority

The Upper Thames River Conservation Authority (UTRCA) has reviewed this application with regard for the policies in the *Environmental Planning Policy Manual for the Upper Thames River Conservation Authority (June 2006)*. These policies include regulations made pursuant to Section 28 of the *Conservation Authorities Act*, and are consistent with the natural hazard and natural heritage policies contained in the *Provincial Policy Statement (2014)*. The *Upper Thames River Source Protection Area Assessment Report* has also been reviewed in order to confirm whether the subject lands are located in a vulnerable area. The Drinking Water Source Protection information is being disclosed to the Municipality to assist them in fulfilling their decision making responsibilities under the Planning Act.

PROPOSAL

The proposed Zoning By-law Amendment application would rezone the lands from Urban Reserve (UR1) to Residential R5 Special Provision (R5-2(_)) to allow for the construction of a two (2) townhouse dwelling blocks consisting of 17 units.

CONSERVATION AUTHORITIES ACT

As shown on the enclosed mapping, the subject lands are regulated by the UTRCA in accordance with Ontario Regulation 157/06 made pursuant to Section 28 of the Conservation Authorities Act. The Regulation Limit is comprised of a riverine erosion hazard and the area of interference associated with the Arva Moraine Provincially Significant Wetland. The UTRCA has jurisdiction over lands within the regulated area and requires that landowners obtain written approval from the Authority prior to undertaking any site alteration or development within this area including filling, grading, construction, alteration to a watercourse and/or interference with a wetland.

UTRCA ENVIRONMENTAL PLANNING POLICY MANUAL

The UTRCA's Environmental Planning Policy Manual is available online at: <http://thamesriver.on.ca/planning-permits-maps/utrca-environmental-policy-manual/>
The policy which is applicable to the subject lands includes:

3.2.2 General Natural Hazard Policies

These policies direct new development and site alteration away from hazard lands. No new hazards are to be created and existing hazards should not be aggravated. The Authority also does not support the fragmentation of hazard lands which is consistent with the Provincial Policy Statement (PPS) and is intended to limit the number of owners of hazardous land and thereby reduce the risk of unregulated development etc.

3.2.4 Riverine Erosion Hazard Policies

The Authority generally does not permit development and site alteration in the meander belt or on the face of steep slopes, ravines and distinct valley walls. The establishment of the hazard limit must be based upon the natural state of the slope, and not through re-grading or the use of structures or devices to stabilize the slope.

3.2.6 & 3.3.2 Wetland Policies

New development and site alteration is not permitted in wetlands. Furthermore, new development and site alteration may only be permitted in the area of interference and /or adjacent lands of a wetland if it can be demonstrated through the preparation of an Environmental Impact Study (EIS) that there will be no negative impact on the hydrological and ecological function of the feature.

The UTRCA completed a Site Visit on May 2, 2018 and determined that additional pockets of wetland were identified to the east of the subject lands which will likely increase the regulation limit shown on the enclosed mapping.

An EIS was prepared by BioLogic Incorporated, dated November 20, 2018. The UTRCA's comments on this report are provided below.

SIGNIFICANT WOODLAND

The woodland that is located on the subject lands and adjacent lands has been identified as Significant in the Middlesex Natural Heritage Study (2003) and the Middlesex Natural Heritage Systems Study (2014). New development and site alteration is not permitted in woodlands considered to be significant. Furthermore, new development and site alteration is not permitted on adjacent lands to significant woodlands (within 50 metres* see note below) unless an EIS has been completed to the satisfaction of the UTRCA which demonstrates that there will be no negative impact on the feature or its ecological function.

Note: *Natural Heritage Reference Manual, Second Edition (OMNR, 2010)

We note that Table 4-2 of the *Natural Heritage Reference Manual Second Edition* (OMNR, 2010) identifies adjacent lands from significant natural heritage features as being 120m from the feature for considering potential negative impacts. The *Natural Heritage Reference Manual* provides technical guidance for implementing the natural heritage policies of the *Provincial Policy Statement*, 2005. The UTRCA Environmental Planning Policy Manual (2006) predates the NHRM (2010) and the UTRCA considers the policies of the contemporary implantation manual in its review. This EIS should demonstrate no negative impacts on the ecological form and function of the features. These natural heritage areas should be located and avoided as inappropriate places for development.

An EIS was prepared by BioLogic Incorporated, dated November 20, 2018. The UTRCA's comments on this report are provided below.

DRINKING WATER SOURCE PROTECTION

The subject lands have been reviewed to determine whether or not they fall within a vulnerable area (Wellhead Protection Area, Highly Vulnerable Aquifer, and Significant Groundwater Recharge Areas). Upon review, we can advise that the subject lands **are not** within a vulnerable area. For policies, mapping and further information pertaining to drinking water source protection please refer to the approved Source Protection Plan at: http://maps.thamesriver.on.ca/GVH_252/?viewer=tsrassessmentreport

PEER REVIEW OF TECHNICAL REPORTS

The UTRCA has completed a review of the *Environmental Impact Study Report* prepared by BioLogic Incorporated, dated November 20, 2018, and offer the following comments:

1. As per UTRCA comments dated June 11, 2018, the subject lands contain a Provincially Significant Wetland (PSW) known as the Arva Moraine Wetland Complex. In addition to the mapped PSW, a Site Visit was conducted on May 2, 2018 which identified additional pockets of wetland to the east of the subject lands that are also regulated by the UTRCA. Therefore, the adjacent wetland pockets to the east, the PSW to the north, and the erosion feature at the northwest corner, are within our regulation limit. Recognizing this, the following comments are provided:
 - a) Section 2.4 states "*As agreed in the Scoping meeting of January 11, 2018, there were no regulatory issues for the Subject Lands*". Please remove this statement from the EIS.
 - b) Section 5.3 only discusses the regulation limit in the northwest corner. The EIS will also need to consider wetland interference to the additional pocket(s) of wetland identified to the east.
2. Please provide rationale supporting the amount of buffer needed to the west and east limits of the development envelope, including all proposed roads. Include discussion about the impact of road salt on adjacent natural features and how it will be mitigated.

3. Please show the breeding bird survey locations on a map. Breeding bird surveys should occur three (3) times: early May, late May to early June, and late June to early July. Please discuss why only two (2) surveys were conducted and what implications this may have.
4. Recognizing the adjacent lands contain CUT, CUW, PSW and wetland pockets, please determine candidate Significant Wildlife Habitat for those habitats and discuss appropriate mitigation measures for those candidate habitats given that they cannot be accessed to confirm. Please include the following in this discussion:
 - a) Appendix E states that there is no shrub and early successional breeding bird habitat, yet the subject lands are surrounded by cultural thicket and cultural woodlands.
 - b) Whether the small wetland pocket may be candidate wetland amphibian breeding habitat.
5. Section 4 of the report mentions that the site contributes runoff to the wetland to the north. The UTRCA will require maintaining the base flow requirements to the wetland under the proposed condition through a water balance analysis.
6. Section 4.1.2 and 4.1.4 refer to the water well record on site: *"The water well record for the domestic well on site indicate there is a thin gravel (approx. 1m) of gravel beneath 42m of clay (with streaks of sand)."* The statements provided are an interpretation of geology with depth, not soils. The rationale is unclear. The information provided in the text leads one to interpret that there is no shallow aquifer material, however this is not the case. A professional engineer or geoscientist designation is required to interpret this information, study available information of the area, and highlight deficiencies in the logs.
7. Please show the amphibian survey locations on a map. Section 4.2.5 only discusses two (2) frog species, yet three (3) species were recorded in Appendix 1. Please discuss all three (3) frog species in terms of Significant Wildlife Habitat.
8. Section 6.0 states *"water supply will be from the watermain on Sunningdale Rd. Service depths of between 2 to 4 metres will not interfere with the groundwater on the property"*. This statement is an interpretation of hydrogeology with depth. Rationale was not provided. A professional engineer or geoscientist designation is required to make this statement.
9. Section 7.0 states *"Considering the lack of drainage features, clay soils and relatively steep slopes to the north at the northwest corner, there is likely minor surface flow contributions to the Powell Drain Wetland from the Subject lands"*. As there has been no installation of equipment and no elements of water budget, the consultant is not qualified to make these statements. Further, the wetland located to the north of the site is the Arva Moraine Provincially Significant Wetland.
10. Section 7.0, Recommendation 1 states *"the post development runoff should be managed so that flows do not scour a flow channel down the slope at the northwest corner"*. In addition, Recommendation 14 states *"roof leaders from the northerly townhouse building should be directed to the rear"*. Please provide additional details about how scouring will be managed/prevented in this area.
11. Section 7.0, Recommendation 4 speaks to when vegetation clearing should be avoided. Please change the dates so that vegetation is not removed from April 1 to August 31. Note that is nesting birds are identified on site, the works within the nesting area should not proceed until August 31.
12. Table 7, Decreased Infiltration and Increased Run-off states *"Avoidance; setback distance of 50m is large enough to support sufficient surface flows to the*

wetland, clay soils are not conducive to infiltration". The consultant is not qualified to make these statements.

13. Section 8.0 states "*when there is confirmation on the development plan, the water balance and storm water management requirements will come forward at the Site Plan approval stage*". Given the presence of wetland features on the adjacent lands, the UTRCA comments provided June 11, 2018 state that a water balance is required prior to site approval. The water should:
 - a) Determine the importance of the sheet flow from the (mid) east property line to the Powell Drain and whether the quality or quantity of the flow will change post development.
 - b) Provide support for the statement in Section 7.0 that "*the development footprint will retain any sheet flow that is generated at or near the east boundary in the northern third of the property with a setback of 3.2m to the east property line*".
 - c) Determine whether flow quality or quantity to the wetlands (both PSW and the unevaluated pockets of wetland to the east) will be affected post development.
 - d) Determine whether Recommendation 2 in Section 7.0 will provide adequate quality and quantity to the wetland features.
14. The UTRCA requires the site to maintain stormwater quality under the proposed conditions to avoid negative impact of the development on the adjacent wetlands.
15. The UTRCA requires a cross section of the slope on the north side to ascertain if the development limit should be established at the northern boundary of the site by considering stable slope analysis (toe of slope, top of existing slope, top of stable slope, factor of safety, and 6 metre erosion access allowance). The development limit should be compared with the setback requirements considered for the wetland and the erosion hazard. The greater of the two setbacks shall be applied to the development limit.
16. Overall, the consultant has made statements that are outside of their professional designation and further professionals should be retained to accurately study the site.

RECOMMENDATION

As indicated, the subject lands are regulated by the UTRCA. As per comments provided on June 11, 2018 as part of the Site Plan Consultation application (SPC18-101), the UTRCA requested both an EIS and Water Balance Analysis be completed for the subject lands to form a complete application. The UTRCA has not received a Water Balance Analysis and therefore is of the opinion that this application is premature at this time. The UTRCA recommends this application be deferred until the requested studies have been completed.

Upon re-submission, please address the comments provided herein and provide a Water Balance Analysis to be prepared by a professional engineer to the satisfaction of the UTRCA.

In addition, a Section 28 Permit will be required. Please contact Mark Snowsell or Brent Verscheure, UTRCA Land Use Regulations Officer, for information relating to the Section 28 permit requirements.

Environmental and Ecological Planning Advisory Committee

Council Resolution (April 24, 2019)

That, the following actions be taken with respect to the 4th Report of the Environmental and Ecological Planning Advisory Committee from its meetn held on March 21, 2019:

b) the revised Working Group comment appended to the 4th Report of the Environmental and Ecological Planning Advisory Committee, relating to the property located at 348 Sunningdale Road East BE FORWARDED to the Civic Administration for consideration;

Working Group Comments (Feb 2019)

Theme 1 – Characterization of the Provincially Significant Wetland present to the east, north, and west of the site.

The EIS highlights that the proposed development will be located within a pocket of land bordering the Powell Drain wetland (a unit of the Arva Moraine PSW Complex); the wetland boundary is 32m from the properties northwest corner, 95m from the west property line, and 60m from the northeast corner. As this PSW is located outside of the Subject Lands, a formal evaluation of the wetland's ecological function was not included in this report.

Additionally:

- Figure 3 of the report provides future land uses of the adjacent properties. Land surrounding the PSW has been designated either Low Density Residential or Multi-Family, Medium Density Residential.
- The PSW is likely fed via surface water flow predominately from regions to its north and south. The EIS notes that groundwater was found 41m bgs (pg. 7) and that there were no seeps or springs observed on the subject lands; given the groundwater depth, it is unlikely that groundwater would constitute a water source to the PSW.
- The EIS states that there are no species at risk or species of provincial interest listed by NHIC within 1 km of the site. However, this assertion was not based on field work in or around the PSW and a more thorough evaluation may find otherwise.
- Lastly, the EIS indicates that the PSW has not been evaluated (e.g. pg. 13 the report notes that the "functions of the wetland will require further consideration").

Our concern is that future developments in the area will also exclude any evaluation of the PSW as the wetland will be, of course, outside any area being developed. This piecemeal, site-by-site approach could result in degradation of the wetland as the individual impact of any one development may be minor, but the cumulative impact may indeed be consequential. Given the lands adjacent to the development will likely be developed in the future, EEPAC agrees with the EIS and considers it important to characterize the existing ecological functions of the wetland now, before these potential developments occur, in order to develop an overall strategy to protect the wetland's ecological integrity.

Recommendations:

1. Characterize the ecological functions PSW before any of the lands zoned for future development have been developed, including the parcel under consideration.
2. Conduct a water balance assessment in order to understand water flow into and out of the wetland.
3. Develop an area strategy for future developments that protects water flow into and out of wetland from both a quantity and quality perspective, as well as any additional measures necessary to protect the ecological health of the PSW.

Theme 2 – Site water balance assessment

The report discussed that the northwest corner of the site slopes to the north and that the northeast quadrant of the site is flat with evidence of sheet flow to the east of the

site, which in turn presumably drains to the PSW. Sheet flow to the east may also feed the unevaluated wetland patch identified 35m east of the site through air photo interpretation. (N.b. the size of the wetland is estimated at less than 100 m².) Furthermore, Figure 3 of the report appears to show a water channel from the northeast corner of the property, which the report seems to describe as “not a defined channel” but rather a “broad swale” dominated by terrestrial grasses (bottom of page 13). Regardless of whether it is a “swale” or a “channel”, it is possible that this channel/swale provides flow to the PSW, especially during periods of higher precipitation.

The EIS does identify the importance of considering adjacent features and functions of the PSW; however, it does not quantify how the proposed site development will preserve the wetland’s ecological health.

Recommendations:

4. Conduct a water balance assessment to determine water flows pre and post development with a specific focus on water flows to the PSW. Based on this evaluation, propose specific mitigation measures (if needed) to ensure that water quantity and quality objectives are met that ensure the PSW’s existing functions are not impaired.
5. Reconsider whether the channel/swale from the east of the site should be included under section 15.4.15 “Other Drainage Features”.

Theme 3 – Tree preservation/ replacement

The report states that investigations for Ecological Land Classification (ELC) were conducted on October 18, 2017, June 5, 2018 and June 20, 2018. These surveys found that the most densely treed section of the Subject Lands, classified as a Mineral Cultural Woodland Ecosite (CUW1), is concentrated in the southwest corner of the property. This community is dominated by Red Pine (*Pinus resinosa*), Norway Spruce (*Picea abies*) and Sugar Maple (*Acer saccharum*); however, near the south-central edge of the Subject Lands, a mature Tulip Tree (*Liriodendron tulipifera*) was found.

Following a site investigation for potential bat maternity roost habitat (April 25, 2018), 10 trees were identified as potential Species At Risk bat maternity roost habitat. Seven trees located on the Subject Lands have been deemed hazardous and marked for removal. It was recognized in the EIS that three of these trees are candidate bat roosting trees. To mitigate the removal of these trees, the report states that six bat boxes will be installed. In Table 7 (Net Effects Table), however, the report mentions that 17 residential yard lights will also be installed. Although the presence of light fixtures can result in increased foraging opportunities for some bats, these fixtures can negatively impact bats that are emerging, roosting and breeding. Specifically, artificial light can result in delayed emergence from roosts, roost abandonment or avoidance, reduced reproductive success and increased arousal from hibernation (Stone et al., 2015). Thus, light fixtures should be positioned in such a way that light is directed towards the townhouses and away from the surrounding trees.

Although seven trees have been explicitly marked for removal in the RKLA Tree Report, drawing T-1 (Drawing Preservation Plan) shows that several additional trees will be removed. Information about the total number of trees marked for removal should be provided so that the impact of their removal can be adequately assessed. In addition, the ecosystem services being provided by the trees, such as refuge to wildlife, will be lost due to the removal of some trees and the disturbance occurring around the remaining ones; thus, compensation for such loss should be provided.

Recommendations:

6. Light fixtures are positioned in such a way that light is directed towards the townhouse dwelling units and away from the surrounding trees and bat boxes. Alternatively, bat boxes could be positioned in areas where light pollution is minimized, and/or light intensity could be minimized.

7. Considering that the trees marked for removal are broad-leaf deciduous species, at least double as many trees of the same Functional Type should be planted in the surround of the construction area.

Theme 4 – Survey periods for amphibians and breeding birds

The EIS notes that a breeding bird study was conducted on June 5, 2018 (6:45 am or pm?) and June 20, 2018 (7:30- 8:30 am or pm?), and that amphibian monitoring was conducted on April 23, 2018 (9:30- 9:45 am), May 22, 2018 (11:30- 11:45 am) and June 18, 2018 (9:40- 9:50 am) for the Subject Lands. The report states that amphibian monitoring was conducted using the Great Lakes Marsh Monitoring Protocols. These surveys concluded that there is no significant habitat for breeding birds and amphibian species on the Subject Lands.

Regarding the breeding bird study, our concern is that two site visits within the span of 15 days are insufficient for observing the presence of breeding birds, as breeding and nesting time varies throughout spring and summer depending on the bird species.

In regards to amphibian monitoring, our concern is that monitoring was conducted during the day rather than one half-hour after sunset, as stipulated in the Great Lakes Marsh Monitoring Protocols. Since amphibian calling is strongly associated with time of day (Great Lakes Marsh Monitoring Protocols), it is possible that the amphibian surveys conducted in 2018 did not observe all species present in and around the Subject Lands.

Recommendations:

8. As all bird species have varied seasonal and within day activity patterns, more bird surveys need to take place encompassing a larger span of the breeding season (e.g. May, June and July) and at different times of the day. It is also recommended that breeding evidence be evaluated as the guidelines present in the Ontario Breeding Bird Atlas, 2001, so that possible and probable breeding observations be also recorded.
9. Conduct amphibian monitoring prior to construction at the Subject Lands. Monitoring should take place one half-hour after sunset and end by midnight as stipulated in the Great Lakes Marsh Monitoring Protocols.

Parks Planning – Tree Preservation (March 27, 2019)

Parks Planning & Design has reviewed the submitted Tree Assessment Report for the above noted application, and provide the following comments. Please note that review of the submitted EIS and comments pertaining to ecological matters are to be provided separately by the Development Services Ecologist.

- The report is written in the context of a site plan development. It should be framed within the context of a Zoning By-law Amendment application, and note that proposed tree removals and preservation will be subject to further review through detailed design and Site Plan Approval. The report should also reference the submitted EIS and speak to any key overlap.
- Similarly, the Tree Preservation Plan (T-1) should be labelled as preliminary and subject to future grading, or something to that effect.
- It is appreciated that the inventory and assessment has included boundary trees, trees on adjacent private properties within 3m, and trees in the ROW for review. This is also consistent with the requirements of Section 12 of the City's Design Specifications and Requirements Manual. Any removals of these trees would require the land owner's consent as well as City approval, which the report has indicated.
- Matters pertaining to the EIS and ultimate Sunningdale Road profile could substantially alter tree preservation and removals from what is currently

proposed. The report and plan should be updated and recirculated for review once these matters have been resolved.

As added information, boundary trees and trees on adjacent private properties would not require a separate tree permit for removal if ultimately included as part of the accepted Tree Preservation Report and EIS. The landowner's consent and Site Plan Agreement would satisfy the City's requirements.

Engineering

The City of London's Environmental and Engineering Services Department offers the following comments with respect to the aforementioned pre-application:

Comments for the re-zoning application:

The applicant has submitted a servicing feasibility report in order to demonstrate the serviceability of the subject site. Based on the report, the site remains a challenging development and minimum City Standards are not being achieved. We have completed a review and offer the following comments that will need to be further explored prior to any development application;

1. Servicing Feasibility Report

- a) Based on the EA for Sunningdale Road, it appears the centreline grade is proposed to be lower than existing. Considering this, please contact the Transportation Division and obtain the necessary information and provide the ultimate Sunningdale Road urban cross section and ensure this works with the proposed site grading and private service crossings. Also, ensure there is no conflicts with the private services and any proposed sewers that will be installed as part of the Sunningdale project.
- b) Verify as-built information for the 1200mm municipal transmission watermain.
- c) Provide a minimum of 0.6m above the sanitary PDC as per City Standard W-CS-68.
- d) Show approximate location and elevation of Imperial Pipeline (in cross section).
- e) San PDC to be min. 200mm dia at 1%.
- f) Confirm the proposed re-grading of the north ditch will not impact existing capacity and flows within the ditch.

DS and Wastewater would be in support of a holding provision to be placed on the site until the applicant can satisfy the City's concerns and prove that this site is serviceable.

The following items are to be considered during the development application approval stage:

Sanitary

- The 230l/cap/day should be applied to new proposed areas only and not the existing areas.
- Design sheet is missing areas.
- It should be noted that the proposed sanitary servicing is a temporary connection at no cost to City and if as a result of a future Rd widening EA or if this sewer conflicts with any future project, the Condo Owners shall be required to redirect and connect, all at their cost to their intended ultimate outlet on Sunningdale Rd.

Transportation

- Road widening dedication of 18.0m from centre line required on Sunningdale Road.

- Detailed comments regarding access design and location will be provided through the site plan.

Water

- The Servicing Feasibility study also indicates a fire flow of 9032 l/min would be required for the development and they are proposing a 150mm water service to the site. A 150mm water service would be very undersized for this fire flow demand and would not meet our Standards. (velocities would be over 8 m/s).

Stormwater

- There is no storm sewer on Sunningdale Road East to service the proposed development. As Per as-con 25712, storm flows from this site will outlet directly to wetland with on-site controls for both quality and quantity.
- The site is also identified in the minor flow catchment area of the existing Uplands North SWM facility B2 and therefore the SWM design of the site is also to comply with SWM criteria and environmental targets of the Uplands North Subdivision Functional SWM Report by AECOM – May 2011.
- The subject lands are located in the Stoney Creek Subwatershed. The Owner shall provide a Storm/Drainage Servicing Report demonstrating compliance with the SWM criteria and environmental targets identified in the Stoney Creek Subwatershed Study that may include but not be limited to, quantity/quality control, erosion, stream morphology, etc.

London Hydro

London Hydro has no objection to this proposal or possible official plan and/or zoning amendment. Any new or relocation of the existing service will be at the expense of the owner.

London Hydro has no objection to this proposal or possible official plan and/or zoning amendment. However, London Hydro will require a blanket easement.

Appendix B – Policy Context

The following policy and regulatory documents are being considered in their entirety as part of the evaluation of this requested land use change. The most relevant policies, by-laws, and legislation are identified as follows:

Provincial Policy Statement, 2014

1989 Official Plan

The London Plan (Neighbourhoods Place Type)

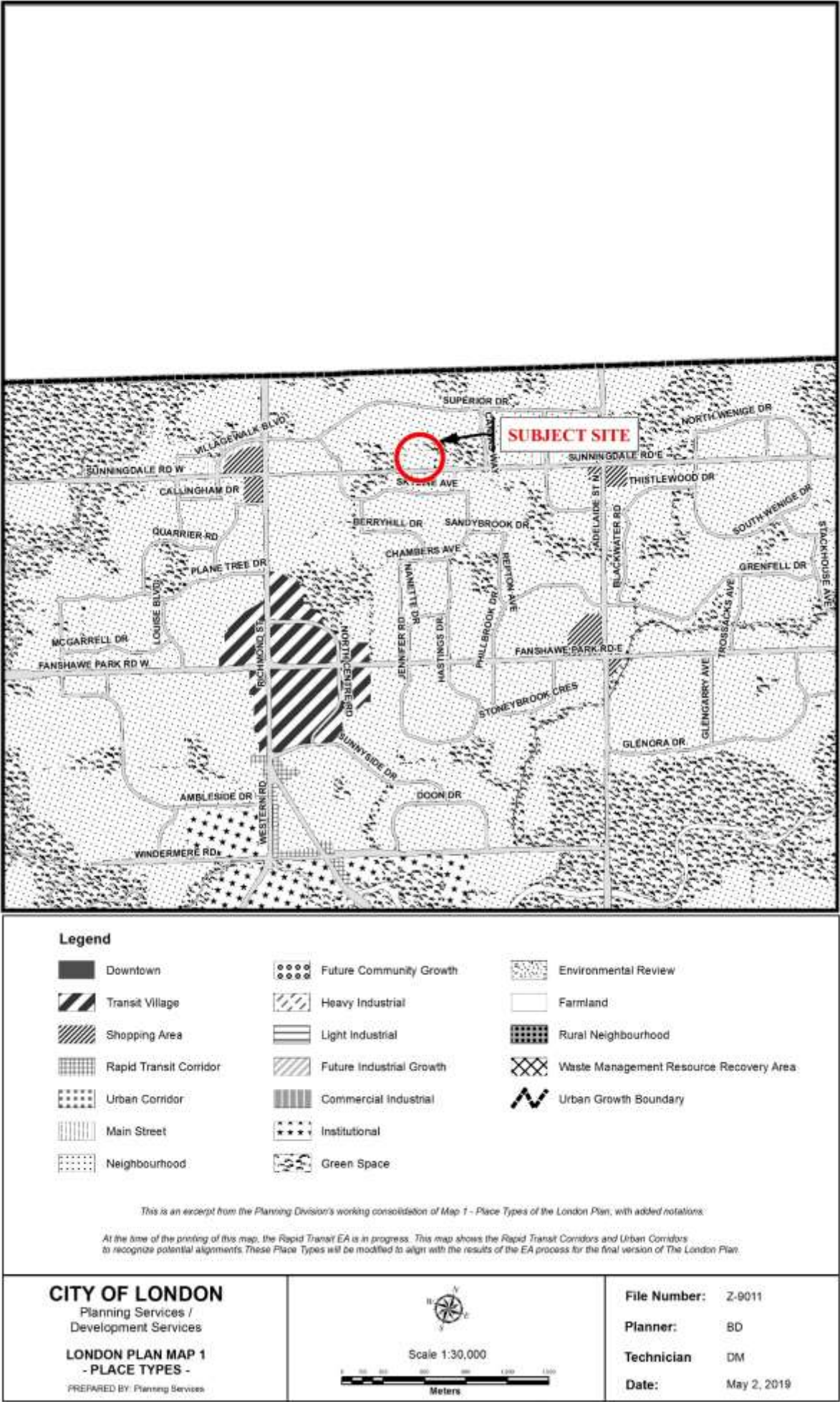
Uplands North Area Plan

Z.-1 Zoning By-law

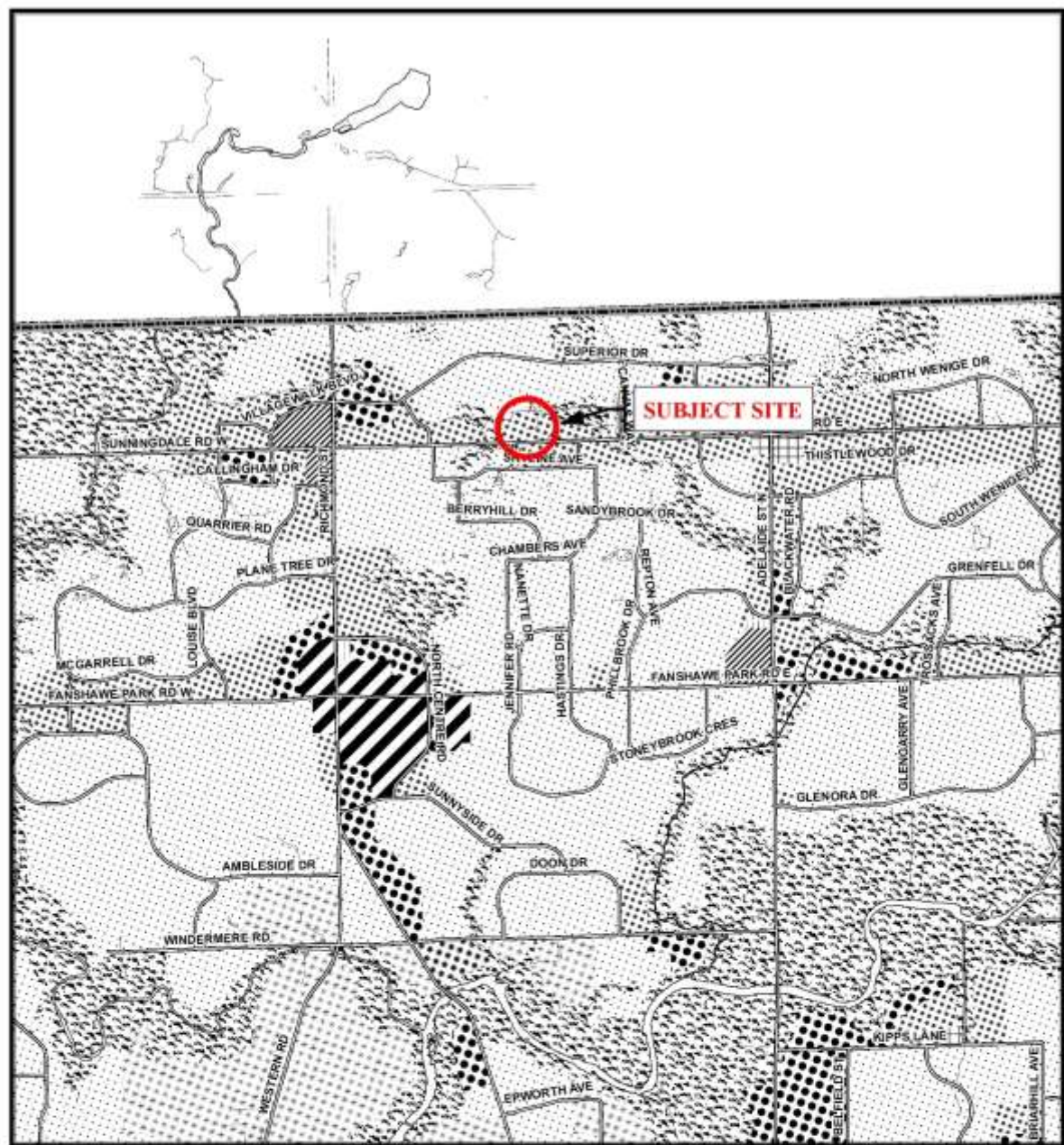
Appendix C – Additional Information

Additional Maps

The London Plan – Map 1 – Place Types



1989 Official Plan – Map 1 – Land Use



Legend

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

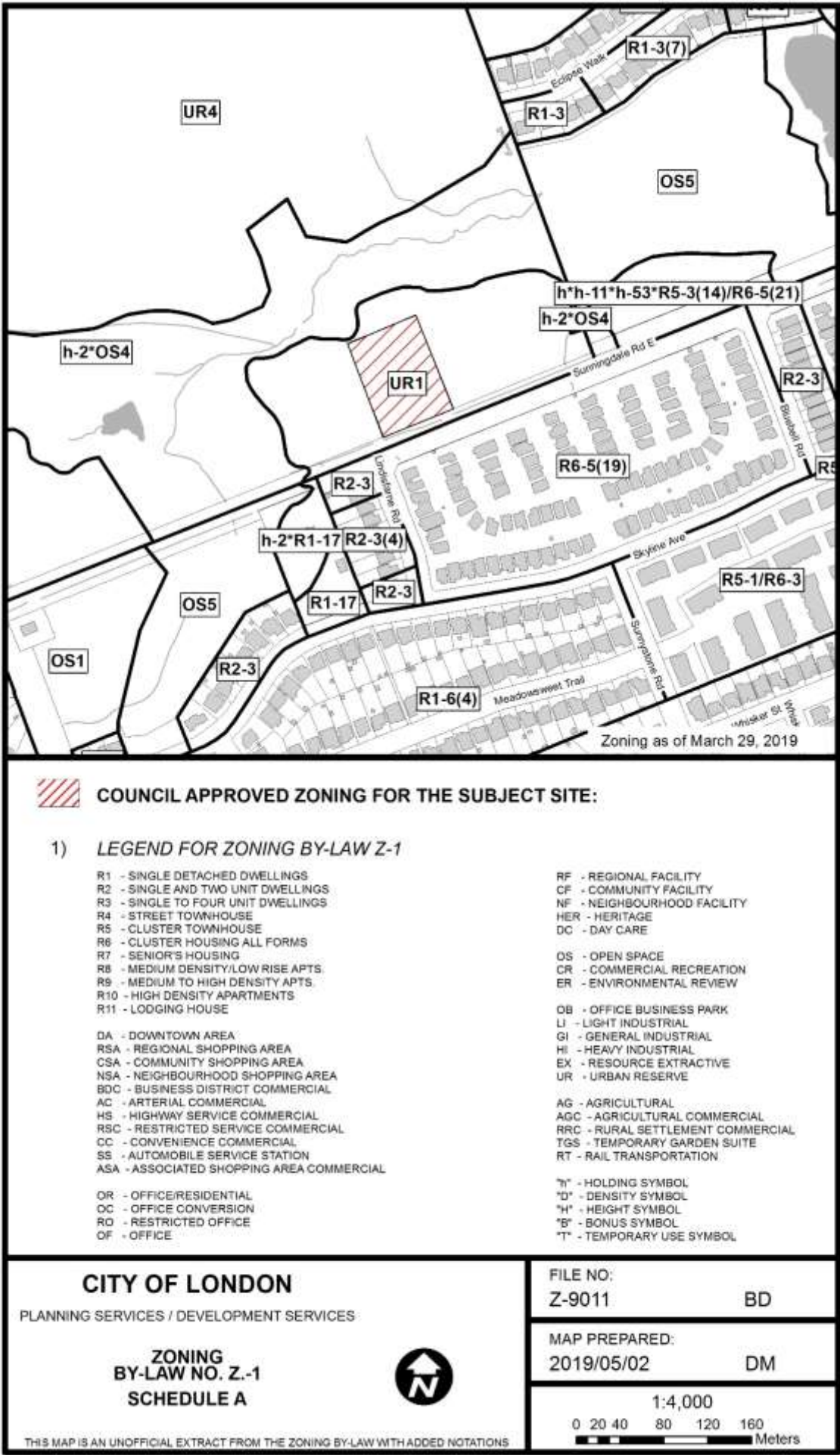
CITY OF LONDON
Planning Services /
Development Services
OFFICIAL PLAN SCHEDULE A
- LANDUSE -
PREPARED BY: Graphics and Information Services

Scale 1:30,000
Meters

FILE NUMBER: Z-9011
PLANNER: BD
TECHNICIAN: DM
DATE: 2019/05/02

PROJECT LOCATION: c:\planning\projects\p_officialplan\work\consolid00\excerpts\mxd_templates\scheduleA_b&w_8x14_with_SWAP.mxd

Zoning By-law Z.-1



Report to Planning and Environment Committee

To: Chair and Members
Planning & Environment Committee
From: G. Kotsifas P. Eng.,
Managing Director, Development & Compliance Services and
Chief Building Official
Subject: Underhill Holdings London Inc.
126 Oxford Street West
Public Participation Meeting on: May 27, 2019 at 5:30

Recommendation

That, on the recommendation of the Director, Development Services based on the application of Underhill Holdings London Inc. relating to the property located at 126 Oxford Street West, the request to amend Zoning By-law No. Z.-1 to change the zoning of the subject property **FROM** a Residential R2 (R2-2) Zone which permits single detached dwellings, semi-detached duplex and converted dwellings **TO** a Residential R3 Special Provision (R3-2 (—)) Zone to permit single detached dwellings, semi-detached dwellings, duplex dwellings, triplex dwellings, converted dwellings and fourplex dwellings, **BE REFUSED** for the following reasons:

- i. The requested amendment is not consistent with the policies of the *Provincial Policy Statement*, 2014 that encourage efficient development and land use patterns, the identification of appropriate locations for intensification and redevelopment, and development that is consistent with development standards such as those approved for the Near Campus Neighbourhoods.
- ii. The requested amendment does not conform to the Residential Intensification policies of the '89 Official Plan which direct intensification to ensure that character and compatibility with the surrounding neighbourhood is maintained.
- iii. The requested amendment does not conform to the Transit Corridor Place Type or the policies for Near Campus Neighbourhoods regarding coordinated and comprehensive applications for intensification as opposed to site-specific developments.
- iv. The requested amendment does not conform to the Transit Corridor Place Type or the policies for Near Campus Neighbourhoods which encourage intensification in medium and high density forms and discourage continued intensification in low density forms of housing.
- v. The requested amendment does not conform to the Residential Intensification policies of The London Plan which direct intensification to ensure that character and compatibility with the surrounding neighbourhood is maintained.
- vi. The requested amendment would constitute “spot” zoning and is not considered appropriate in isolation from the surrounding neighbourhood. The subject site does not have any special attributes which warrant a site specific amendment to permit the proposed form and intensity of development.

Executive Summary

Summary of Request

The requested amendment is to rezone the land from a Residential R2 (R2-2) Zone which permits single detached dwellings, semi-detached duplex and converted dwellings to a Residential R3 Special Provision (R3-2 (L)) Zone to permit single detached dwellings, semi-detached dwellings, duplex dwellings, triplex dwellings, converted dwellings and fourplex dwellings with two (2) parking spaces and a 0.0m front yard setback.

Purpose and the Effect of Recommended Action

The purpose and effect of the amendment is to refuse the proposed amendment to Zoning By-law Z.-1 to permit a fourplex dwelling.

Rationale of Recommended Action

1. The requested amendment is not consistent with the policies of the 2014 *Provincial Policy Statement* that encourage efficient development and land use patterns, the identification of appropriate locations for intensification and re-development, and development that is consistent with development standards such as those approved for the Near Campus Neighbourhoods.
2. The requested amendment is not consistent with the Residential Intensification policies of the '89 Official Plan which direct intensification to ensure that character and compatibility with the surrounding neighbourhood is maintained.
3. The requested amendment is not consistent with the policies for Near Campus Neighbourhoods (962) regarding coordinated and comprehensive applications for intensification as opposed to site-specific developments.
4. The requested amendment is not consistent with Council adopted London Plan, Rapid Transit Corridor Place Type policies (*826) regarding coordinated and comprehensive applications for intensification.
5. The requested amendment is not consistent with the policies for Near Campus Neighbourhoods (962) which encourage intensification in medium and high density designations and forms and discourage continued intensification in low density forms of housing.
6. The requested amendment is not consistent with the Council adopted London Plan, Rapid Transit Corridor Place (*841) policies which encourage intensification in mix used forms and discourage any intensification in low density residential forms of housing.
7. The requested amendment would constitute "spot" zoning and is not considered appropriate in isolation from the surrounding neighbourhood. The subject site does not have any special attributes which warrant a site specific amendment to permit the proposed form and intensity of development.

Analysis

1.0 Site at a Glance

1.1 Property Description

The subject lands are located on the south side of Oxford Street West, west of Rathowen Street. The City issued demolition permits on September 20, 2018 to remove the single detached dwelling and backfill and level the lot.

1.2 Current Planning Information (see more detail in Appendix D)

- Official Plan Designation – Low Density Residential- Near Campus Neighbourhoods
- The London Plan Place Type – Transit Corridor- Near Campus Neighbourhoods
- Existing Zoning –Residential R2 (R2-2)

1.3 Site Characteristics

- Current Land Use – (vacant)
- Frontage – 20 metres
- Depth – 33 metres
- Area – 697 square metres
- Shape – rectangular

1.4 Surrounding Land Uses

- North – townhouse/ detached dwellings
- West – Three unit converted dwelling
- East – Duplex dwellings
- South –Open Space, Emprise Avenue City Park

1.5 Location Map



Proposed Elevations

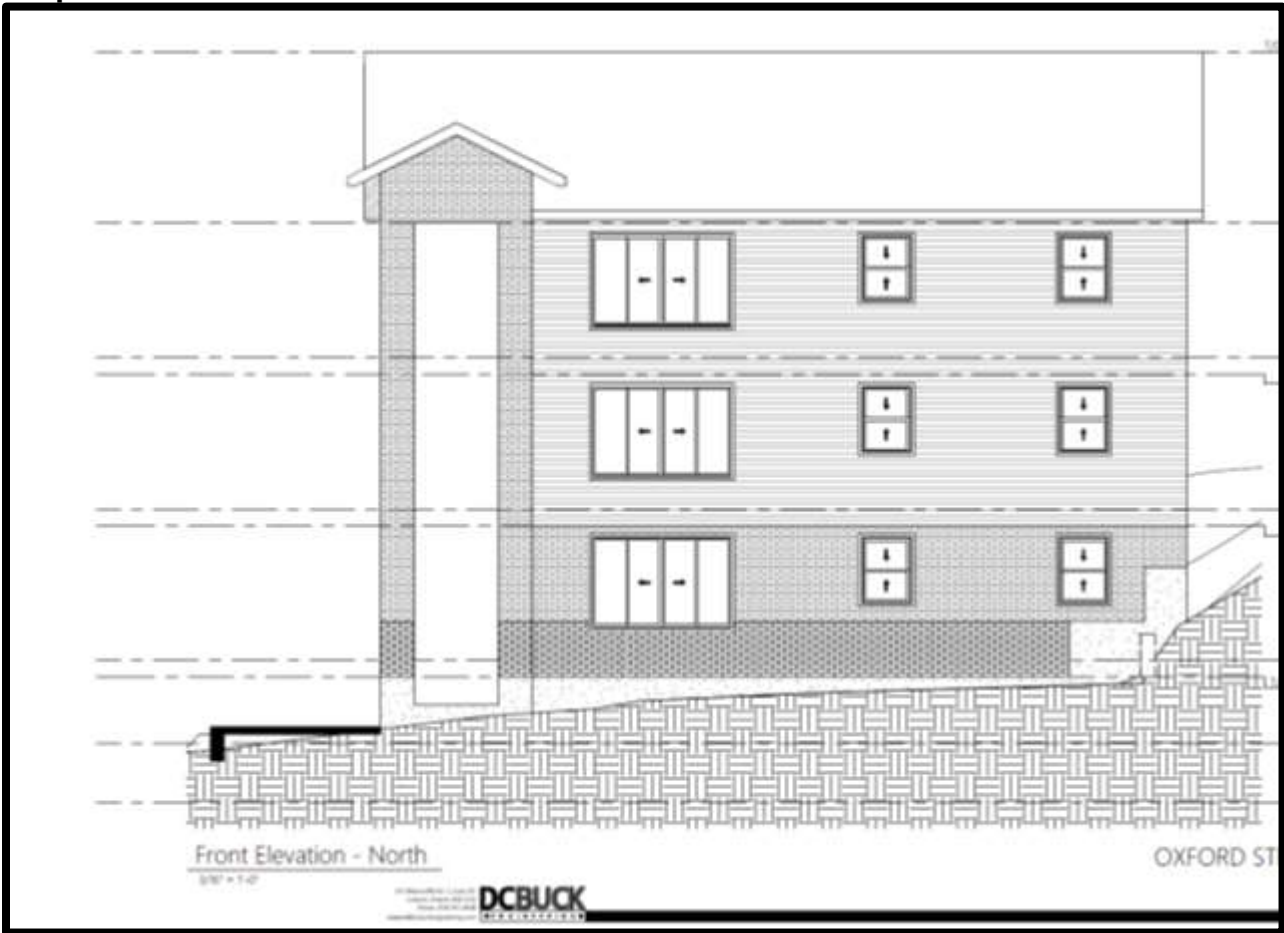


Figure 2

Rendering –



Figure 3

3.2 Requested Amendment

The Applicant has requested to amend Zoning By-law Z.-1 from a Residential R2 (R2-2) Zone to a Residential R3 Special Provision (R3-2 (_)) Zone with a 0.0 minimum front yard setback and 2 parking spaces whereas 4 parking spaces are required and the conceptual site plan depicts 3.

3.3 Community Engagement (see more detail in Appendix A)

There was one comment received in support of the application during the community consultation period.

3.4 Policy Context (see more detail in Appendix B)

Provincial Policy Statement, 2014

The *Provincial Policy Statement, 2014* (PPS) provides policy direction on matters of provincial interest related to land use planning and development. The PPS is more than a set of individual policies. It is intended to be read in its entirety and the relevant policies are to be applied to each situation.

1.1.3.3 Planning authorities shall identify appropriate locations and promote opportunities for intensification and redevelopment where this can be accommodated taking into account existing building stock or areas, including brownfield sites, and the availability of suitable existing or planned infrastructure and public service facilities required to accommodate projected needs.

1.1.3.4 Appropriate development standards should be promoted which facilitate *intensification, redevelopment* and compact form, while avoiding or mitigating risks to public health and safety.

While the PPS is generally supportive of residential infill and intensification, the policies of the PPS largely require that intensification goals and objectives be developed at the municipal level and are not intended to be used to justify all intensification proposals indiscriminately. The City of London has fulfilled the guidelines of the PPS by identifying and encouraging opportunities for intensification in appropriate forms and in appropriate locations. The proposed intensification at this location does not meet the intent of the Municipal approved Near Campus Neighbourhoods that were adopted by Municipal Council in conformity to the PPS.

The London Plan

The London Plan is the new Official Plan for the City of London (Council adopted, approved by the Ministry with modifications, and the majority of which is in force and effect). The London Plan policies and maps under appeal to the Local Planning Appeals Tribunal (Appeal PL170100) are not in force and effect and are indicated with an asterisk throughout this report. The London Plan policies under appeal are included in this report for informative purposes indicating the intent of City Council, but are not determinative for the purposes of this planning application.

The subject lands are located within the *Rapid Transit Corridor Place Type in The London Plan. The range of primary permitted residential, retail, service, office, cultural, institutional, recreational, and other related uses in the form of mixed used buildings. Consideration has also been given to Near Campus Neighbourhoods specific-area policies under Section *962, as well as the general policies of the Our Strategy, Our City, City Building and Design, Rapid Transit Corridor Place Type, and Our Tools sections.

Visions, Key Directions

62_3 Think “big picture” and long-term when making planning decisions – consider the implications of a short-term and/ or site-specific planning decision within the context of this broader view.

62_9 Ensure new development is a good fit within the context of an existing neighbourhood.

The proposed amendment would permit a site specific amendment. The development does not meet the long term planning goals of the Transit Corridor to consolidate lands for future coordinated development. The proposed development will not be a good fit within the existing neighbourhood as it proposes a form of development that does not currently exists in the neighbourhood.

An excerpt from The London Plan Map 1 – Place Types is found at Appendix D.

1989 Official Plan

The Official Plan contains Council's objectives and policies to guide the short-term and long-term physical development of the municipality. The policies promote orderly urban growth and compatibility among land uses. While the objectives and policies in the Official Plan primarily relate to the physical development of the municipality, they also have regard for relevant social, economic and environmental matters. Because the application for Zoning By-law Amendment falls under the policies for *Near Campus Neighbourhoods* of the Official Plan, it is subject to a Planning Impact Analysis and other application assessment requirements.

More information and detail on applicable planning policy is available in Appendix B of this report.

4.0 Key Issues and Considerations

4.1 Use

London Plan

**Policy 837_ Mixed-use buildings with a broad range of residential, retail, service, office, cultural, institutional, recreational, and other related uses will be encouraged in the Rapid Transit Corridor Place Type. Large floor plate, single use buildings will be discouraged.*

The requested amendment to permit the development of a fourplex, representing single use low density form of housing is not consistent with the vision of the Rapid Transit Corridor Place Type.

Official Plan 89

City of London Official Plan policies encourage infill residential development in locations where existing land uses are not adversely affected, where development can efficiently utilize existing municipal services and facilities and promotes development which enhances the character of the residential area. The proposed twelve (12) bedroom fourplex may adversely affect the converted single detached dwelling to the west and duplex dwelling to the east due to lack of landscaping, and reduced parking requirements. The form of the proposed building does not typically lend itself to on-site property or waste management mechanisms. The requested amendment represents an ad-hoc approach to land-use planning.

The recommended amendment to permit the development of a fourplex use is not consistent with the policies of the Official Plan and more specifically the policies for Near Campus Neighbourhoods.

4.2 Intensity

London Plan

**Policy 839_ 1. and *Table 9 provides the range of permitted heights in the Rapid Transit Corridor Place Type. Buildings within the Transit Village Place Type will be a minimum of either two (2) storeys or eight metres in height and will not exceed eight (8) storeys in height. Lot assembly is encouraged to create comprehensive developments that reduce vehicular accesses to the street and to allow for coordinated parking facilities.*

The proposed zoning amendment for this lot is not consistent with the intended intensity of the Rapid Transit Corridor Place Type given its site specific nature which precludes lot assembly, consolidation of vehicular access, and coordination of parking facilities.

Official Plan 89

Residential Intensification may be permitted in the Low Density Residential designation through an amendment to the Zoning By-law. Where the subject lands are within a specific residential area identified under policy 3.5, the application of the residential intensification policies will supplement those specific policies, but will not supersede them.

126 Oxford Street West is located within the Near Campus Neighbourhood Area (Policy 3.5.19). As noted, intensification proposals are required to be in conformity with the Near-Campus Neighbourhood Policies and where there is conflict with the more general Intensification Policies, the Near-Campus Neighbourhood policies shall prevail.

The proposed three (3) storey fourplex zoning amendment for this lot is not consistent with the intended intensity of the Near Campus Neighbourhood policies.

Policies for Near-Campus Neighbourhoods Strategy (NCN)

As the NCN states, one of the characteristic forms of intensification not considered appropriate in Near Campus Neighbourhoods includes large numbers of bedrooms within a single building, particularly within multi-unit buildings such as the proposed fourplex dwelling. One of the indicators of the ability of the lot to accommodate a certain level of intensity is the required minimum number of parking spaces and conformity to the applicable zoning regulation of the proposed zone. The proposed fourplex meets the requirements of lot area and lot frontage of the proposed Residential R3 (R3-2) Zone regulations however twelve (12) bedrooms with three (3) parking spaces and the encroachment into the required road allowance is a more telling depiction of the over-intensification of the proposed development.

4.3 Form

London Plan

**Policy 841 Planning and development applications will be discouraged if they result in the creation of one or more isolated remnant lots that cannot be reasonably developed or assembled with other parcels in the Place Type to develop in accordance with the long-term vision for the Corridor*

The proposed three (3) storey fourplex zoning amendment for this lot is not consistent with the intended form in the Rapid Transit Corridor Place Type given its ad hoc nature that is not conducive to consolidation with abutting lands.

Official Plan 89

The intent of the Near-Campus Neighbourhoods Policies ('NCN') is to provide guidance to encourage residential intensification proposals that are located in the appropriate areas and constructed in purpose-built, higher density building forms designed to accommodate the anticipated level of intensity and are professionally managed to mitigate concerns related to property maintenance, noise, garbage, and parking, among others.

Within Near Campus Neighbourhoods applications for site-specific Zoning By-law amendments and other modifications had been occurring incrementally, on a site-specific basis, in the absence of a comprehensive plan to direct intensification to appropriate areas. While individually an application may seem minor and insignificant, collectively these have resulted in a significant amount of intensity being added to Near Campus Neighbourhoods, creating impacts related to a loss of residential amenity, By-law Enforcement concerns, loss of neighbourhood stability, and other issues.

Notwithstanding these qualities, the Near Campus Neighbourhood Policies refer to preferred forms of residential intensification in Near Campus Neighbourhoods. These forms are medium and large scale apartment buildings that are professionally managed and situated at appropriate locations.

Appropriate locations for these professionally managed apartment buildings are those areas within near-campus neighbourhoods that are designated Multi-Family, Medium Density Residential and Multi-Family, High Density Residential, located along arterial roads and serviced by public transit

The proposed three (3) storey fouxplex zoning amendment for this lot is not consistent with the intended form of the Near Campus Neighbourhood policies.

4.4 Ad Hoc/ Site Specific Zoning

A concern is that an ad-hoc Zoning By-law amendment on the subject site would set precedent for the approval of increased intensity on other lands along this corridor, despite the size of the subject lot. An amendment could establish a benchmark upon which other requests for amendments may be based, making it difficult to refuse an application for a change in land use on parcels of land in proximity to the subject site that meet the requirements of this or other slightly less intense zones not in keeping with the intent of the Residential R2 Zone. In other words, an approved amendment could create a level of expectation that future applications for intensification along Oxford Street West may also be approved. This again speaks to the comprehensive policy adopted by Council in the Near Campus Neighbourhoods.

Policy 3.5.19.10 states that in Low Density Residential Areas in Near Campus Neighbourhoods, residential intensity shall only be supported where a proposal represents a site specific amendment for a lot that is unique within its context. There is nothing unique about the subject site that would distinguish it from neighbouring properties. Therefore a request for residential intensification on this site is not consistent with the policies of the Official Plan,

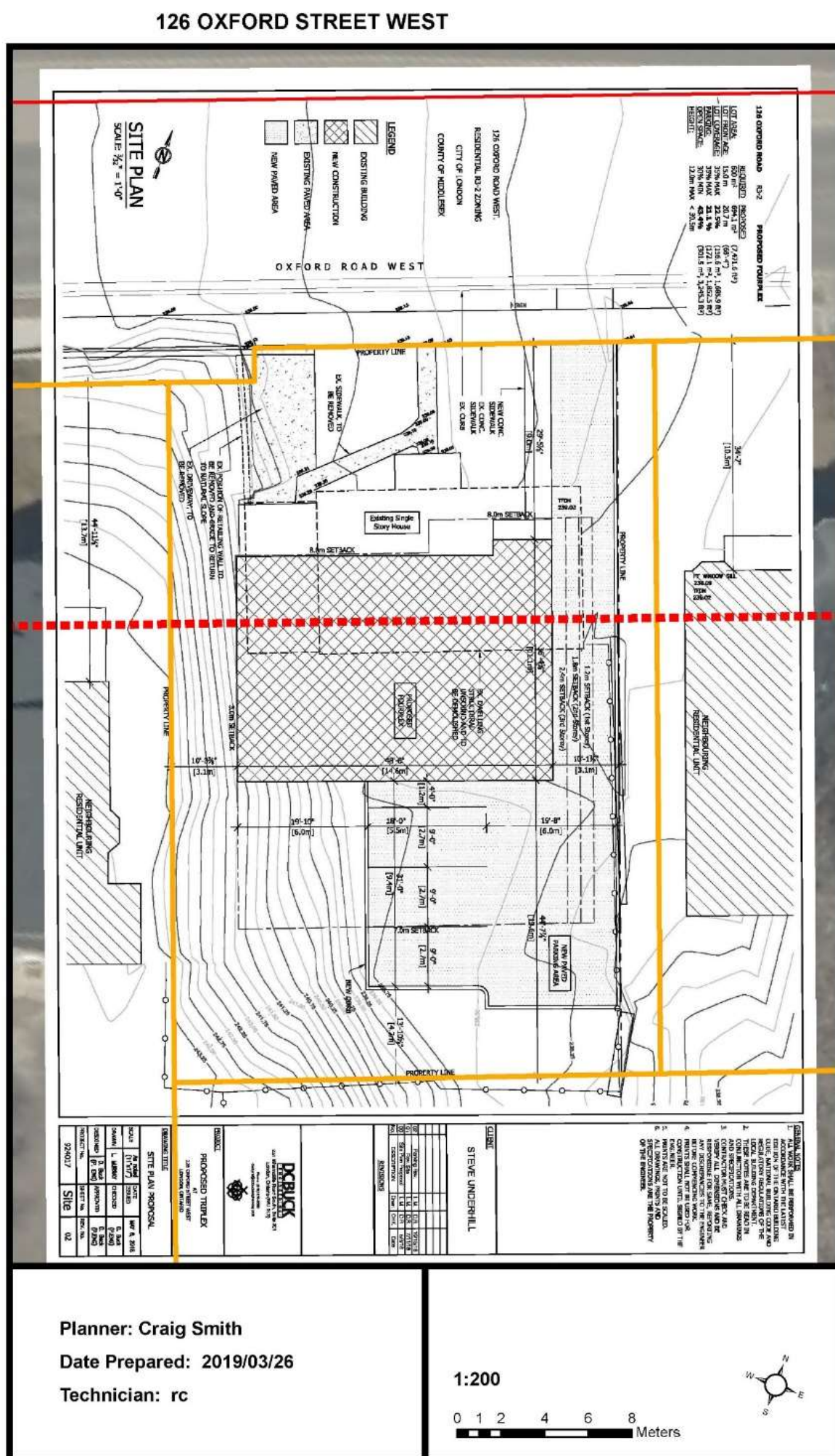
4.6 Road Widening

The property is located on Oxford Street West. Oxford Street West is identified as a Rapid Transit Corridor. A road widening of 24m from centreline is required for the Rapid Transit Corridor. City of London Transportation staff state: *Transportation **does not support** the construction or location of any structures within the ultimate road widening dedication of 24.0m from centre line required along Oxford Street, which is identified as a rapid transit corridor.*

As per the below diagram the proposed fourplex is located in the required 24m road allowance. The proposed zoning by-law amendment would allow a use that cannot be fully accommodated on the lot.

This portion of Oxford Street West is designated as a Rapid Transit Corridor in The London Plan. A required ultimate right of way of 24 metres from centreline is required to accommodate the proposed uses and forms of development that are contemplated in Rapid Transit Corridor Place Type in The London Plan. Further, the ultimate 24 metre right of way is required to implement the approved Bus Rapid Transit plan by supporting the existing feeder transit routes on this corridor and to provide for future rapid transit uses as may be required.

Site Plan Showing Approximate Location of 24m Road Allowance



4.6 Upper Thames River Conservation Authority

The subject lands are regulated by the UTRCA in accordance with Ontario Regulation 157/06 made pursuant to Section 28 of the Conservation Authorities Act. The Regulation Limit is comprised of a riverine erosion hazard, landowners are required to obtain written approval from the Authority prior to undertaking any site alteration or development within this area including filling, grading and construction.

The UTRCA requires that the establishment of the hazard limit must be based upon the natural state of the slope, and not through re-grading or the use of structures or devices to stabilize the slope. As of the date of this report the applicant has not obtained a Section 28 permit or established a development limit along the ravine corridor as per the UTRCA's requirements.

5.0 Conclusion

The requested amendment is not consistent with the policies of the 2014 *Provincial Policy Statement* that encourages efficient development and land use patterns, the identification of appropriate locations for intensification and redevelopment, and development that is consistent with development standards such as those approved for the Near Campus Neighbourhoods..

The requested amendment is not consistent with the Residential Intensification policies of the '89 Official Plan which direct intensification to ensure that character and compatibility with the surrounding neighbourhood is maintained.

The requested amendment is not consistent with Council adopted Rapid Transit Corridor and Near Campus Neighbourhoods Strategy policies regarding coordinated and comprehensive applications for intensification as opposed to site-specific developments.

The requested amendment is not consistent with Council adopted policies pertaining to the Near Campus Neighbourhoods Strategy which encourage intensification in medium and high density designations and forms, and discourage continued intensification in low density forms of housing.

The requested amendment would constitute “spot” zoning and is not considered appropriate in isolation from the surrounding neighbourhood. The subject site is not unique and does not have any special attributes which warrant a site specific amendment to permit the proposed form and intensity of development within the context of the surrounding neighbourhood.

This application perpetuates the ad-hoc amendment applications emblematic of many low density neighbourhoods in proximity to the University of Western Ontario, pressured for greater intensification which have resulted in negative impacts related to parking, garbage, public nuisance, and property standards issues. It is not sound land use planning to support an amendment that has resulted in on-going enforcement in Near Campus Neighbourhoods.

Note: The opinions contained herein are offered by a person or persons qualified to provide expert opinion. Further detail with respect to qualifications can be obtained from Development Services

May 16, 2019
CS/

CC: Michael Tomazincic, Manager, Current Planning

Y:\Shared\DEVELOPMENT SERVICES\11 - Current Planning\DEVELOPMENT APPS\2019 Applications 9002 to 9007Z - 126 Oxford St W (CS)\DraftPEC Report-Z-9007 (C.Smith).docx

Appendix A – Public Engagement

Community Engagement

Public liaison: On January 28, 2019, Notice of Application was sent to all property owners with 120 m of the property. Notice of Application was also published in the *Public Notices and Bidding Opportunities* section of *The Londoner* on January 31, 2019. A “Planning Application” sign was also posted on the site.

Nature of Liaison: The purpose and effect of this zoning change is to permit a fourplex dwelling. Possible change to Zoning By-law Z.-1 **FROM** a Residential R2 (R2-2) Zone **TO** a Residential R3 Special Provision (R3-2 (_)) Zone with a 0.0 minimum front yard setback and 2 parking spaces whereas 4 parking spaces are required

Responses: One comment was received.

Feb.15, 2019

To Whom it may concern

I own a property in close proximity to this proposed new development. I am generally in support of the increase in density for the area. It is well serviced by public transit so reducing the parking requirement will allow a more affordable unit for someone who does not require a vehicle. The general area is quite well developed and is in walking distance to many resources including a nearby mall & the downtown. New built structures require building under a modern building code. This allows for properly designed and engineered buildings to suite multiple tenants.

As well I have had personal dealings with the applicant and he is of very reputable character. And i believe it would become a building that could help revitalize the very old streetscape in that area

Dave Crackel

Owner 171 Cambridge St.

Agency/Departmental Comments

Engineering

*Transportation **does not support** the construction or location of any structures within the ultimate road widening dedication of 24.0m from centre line required along Oxford Street, which is identified as a rapid transit corridor.*

Development Services Engineering

No comments for the re-zoning application.

The following items are to be considered during the development application approval stage:

Water

- *Water is available from the 300mm PVC under the north side of Oxford Street West*
- *The existing water service cannot be reused and will need to be decommissioned.*
- *Specific comments may be offered at the time of development application.*

Wastewater

- *The sanitary sewer available for the proposed new fourplex dwelling is the 250mm sanitary sewer on Oxford Street West.*
- *The structure should have a new 150mm diameter sanitary PDC laid @ 1% to the said 250mm sanitary sewer, all to City Standards.*

Transportation

- *Road widening dedication of 24.0m from centre line required on Oxford Street West*
- *Detailed comments regarding access design and location will be made through the site plan process*

Stormwater

- *The site is located in the regulated area of the Upper Thames River Conservation Authority and therefore, permits/approvals from them may be required as part of any future development application.*
- *As per as-constructed plan # 4893S2, the site at C=0.50 is tributary to the existing 525mm storm sewer along Oxford St W. Any changes in the C value of 0.5 required to accommodate the proposed development will trigger the need for hydraulic calculations (storm sewer capacity analysis) to demonstrate that capacity of the sewer system to service the site is not exceeded and that on-site SWM controls will be designed to the satisfaction of the City Engineer. On-site SWM controls design should include, but not be limited to required storage volume calculations, flow restrictor sizing, etc.*
- *Any proposed LID solution should be supported by a Geotechnical Report and/or hydrogeological investigations prepared with focus on the type of soil, its infiltration rate, hydraulic conductivity (under field saturated conditions), and seasonal high ground water elevation.*
- *Additional SWM related comments will be provided upon future review of this site.*

Upper Thames River Conservation Authority (UTRCA)



"Inspiring a Healthy Environment"



March 4, 2019

City of London – Planning Services
P.O. Box 5035
London, Ontario N6A 4L9

Attention: Craig Smith (sent via e-mail)

Dear Mr. Smith:

Re: File No. Z-9007 - Application to Amend the Zoning By-Law
Applicant: Underhill Holdings London Ltd. c/o Steven Underhill
Agent: Zelinka Priamo c/o Casey Kulchycki
126 Oxford Street West, London, Ontario

The Upper Thames River Conservation Authority (UTRCA) has reviewed this application with regard for the policies in the *Environmental Planning Policy Manual for the Upper Thames River Conservation Authority (June 2006)*. These policies include regulations made pursuant to Section 28 of the *Conservation Authorities Act*, and are consistent with the natural hazard and natural heritage policies contained in the *Provincial Policy Statement (2014)*. The *Upper Thames River Source Protection Area Assessment Report* has also been reviewed in order to confirm whether the subject lands are located in a vulnerable area. The Drinking Water Source Protection information is being disclosed to the Municipality to assist them in fulfilling their decision making responsibilities under the Planning Act.

PROPOSAL

The proposed Zoning By-law Amendment application would rezone the lands from Residential (R2-2) to Residential R3 Special Provision (R3-2(_)) to allow for the construction of a fourplex dwelling.

CONSERVATION AUTHORITIES ACT

As shown on the enclosed mapping, the subject lands are regulated by the UTRCA in accordance with Ontario Regulation 157/06 made pursuant to Section 28 of the Conservation Authorities Act. The Regulation Limit is comprised of a riverine erosion hazard. The UTRCA has jurisdiction over lands within the regulated area and requires that landowners obtain written approval from the Authority prior to undertaking any site alteration or development within this area including filling, grading, construction, alteration to a watercourse and/or interference with a wetland.

In addition to the riverine flooding hazard, the subject lands also contain an online pond and a number of mature trees. The UTRCA conducted a Site Visit on May 15, 2018 as a scoping meeting with Zelinka Priamo and BioLogic for the preparation of an Environmental Impact Study for the proposed development (at the time, an apartment building). An Environmental Impact Study prepared by BioLogic was submitted as a part of this application.

UTRCA Comments
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UTRCA ENVIRONMENTAL PLANNING POLICY MANUAL

The UTRCA's Environmental Planning Policy Manual is available online at:
<http://thamesriver.on.ca/planning-permits-maps/utrca-environmental-policy-manual/>
The policy which is applicable to the subject lands includes:

3.2.2 General Natural Hazard Policies

These policies direct new development and site alteration away from hazard lands. No new hazards are to be created and existing hazards should not be aggravated. The Authority also does not support the fragmentation of hazard lands which is consistent with the Provincial Policy Statement (PPS) and is intended to limit the number of owners of hazardous land and thereby reduce the risk of unregulated development etc.

3.2.4 Riverine Erosion Hazard Policies

The Authority generally does not permit development and site alteration in the meander belt or on the face of steep slopes, ravines and distinct valley walls. The establishment of the hazard limit must be based upon the natural state of the slope, and not through re-grading or the use of structures or devices to stabilize the slope.

The UTRCA attended a Site Visit on July 10, 2018 with James McKay (City of London Ecologist), Casey Kulchyski (agent), and Steven Underhill (applicant) to review the erosion hazard on-site and determine report requirements. On November 1, 2018, the UTRCA advised that a favourable Geotechnical Assessment would be required for this application. Please refer to the "Peer Review of Technical Reports" section of this letter for comments on the Geotechnical Assessment.

DRINKING WATER SOURCE PROTECTION

The subject lands have been reviewed to determine whether or not they fall within a vulnerable area (Wellhead Protection Area, Highly Vulnerable Aquifer, and Significant Groundwater Recharge Areas). Upon review, we can advise that the subject lands are within a vulnerable area. For policies, mapping and further information pertaining to drinking water source protection please refer to the approved Source Protection Plan at:
http://maps.thamesriver.on.ca/GVH_252/?viewer=tsrassessmentreport

PEER REVIEW OF TECHNICAL REPORTS

The UTRCA has completed a review of the *Geotechnical Assessment* prepared by LDS Consultants, dated December 14, 2018, and offer the following comments:

1. Page 1: During the demolition of the existing dwelling, the grade of the site shall not be altered as this may impact surface water runoff (causing localized flooding and ponding) and the erosion hazard. Please confirm that the demolition of the existing dwelling has not changed the site grade.
2. Page 1: Please consider the groundwater effects on the construction of the proposed basement and retaining wall to ensure they will not be affected by the groundwater fluctuation on the site.
3. Drawing 3: Please submit a detailed site plan with suitable scale and contour information identifying the location of the test pits.
4. Drawing 4: Please submit a detailed site plan identifying the location of Slope Profile A-A' alongside the toe of slope, top of slope, stable top of slope, and contour information.
5. Please undertake a stability analysis for the proposed retaining wall and stable slope considering a Factor of Safety (FOS) analysis which includes local soil properties, site

UTRCA Comments
File No. Z-9007

conditions, ground water conditions, seepage, erosion, grading, surface runoff, and local geology, in support of the proposed retaining wall and slope stability on the site.

Section 4.1: The report discussed groundwater seepage and surficial erosion on the western slope. Please consider the existing and proposed conditions of the site/slope including groundwater and erosion in the FOS analysis.

6. Page 6, Section 4.1: Please submit the Slope Stability Rating Chart referenced in the report.
7. Please provide additional details relating to the groundwater seepage on the site and identify the location of the feature on a drawing.
8. How will surface water be safely discharged from the site and with no negative impacts to the surrounding properties?
9. Please consider the stability of the slope when undertaking site grading and preparation for development.
10. Page 16, Section 6.1: Contrary to the report, the site is located within a Significant Groundwater Recharge Area and is within a Highly Vulnerable Aquifer. Please revise accordingly.
11. Page 18, Section 6.4: The report has identified the presence of a seep on the slope and recommends an ecologist complete a review to determine significance. Please confirm if this has been completed and provide appropriate information to the UTRCA.

RECOMMENDATION

As indicated, the subject lands are regulated by the UTRCA. Please address the comments provided herein prior to the UTRCA providing sign-off on this application. In addition, a Section 28 Permit will be required. Please contact Brent Verscheure, UTRCA Land Use Regulations Officer, for information relating to the Section 28 permit requirements.

FEES

Consistent with UTRCA Board of Directors approved policy, Authority Staff are authorized to collect fees for the review of Planning Act applications and for the peer review of technical reports. Our fee for the review of the Zoning By-law Amendment application is \$275.00 and for the peer review of the Geotechnical Assessment is \$1050.00, totaling \$1325.00. This amount will be invoiced to the applicant under separate cover.

Thank you for the opportunity to comment. If you have any questions, please contact the undersigned at extension 430.

Yours truly,
UPPER THAMES RIVER CONSERVATION AUTHORITY



Stefanie Pratt
Land Use Planner
SP/sp

Enclosure: Regulations Mapping (please print on legal size paper for accurate scales)

c.c.: Brent Verscheure, UTRCA Land Use Regulations Officer
Steven Underhill, Underhill Holdings London Ltd.
Casey Kulchycki, Zelinka Priamo Ltd. Planner

Appendix B – Policy Context

The following policy and regulatory documents were considered in their entirety as part of the evaluation of this requested land use change. The most relevant policies, by-laws, and legislation are identified as follows:

The following policy and regulatory documents were considered in their entirety as part of the evaluation of this proposal. The most relevant policies, by-laws, and legislation are identified as follows:

Provincial Policy Statement, 2014

The proposal must be consistent with the Provincial Policy Statement (PPS) policies and objectives aimed at:

1. Building Strong Healthy Communities;
2. Wise Use and Management of Resources; and,
3. Protecting Public Health and Safety.

The policies of the PPS promote healthy, liveable and safe communities by encouraging efficient development and land use patterns which sustain the financial well-being of the municipality, accommodating an appropriate range and mix of land uses and promoting cost-effective development standards to minimize land consumption and servicing costs. However, intensification of Low Density Residential dwellings in the proximity of the University of Western Ontario have resulted in significant costs being borne by the Municipality. The Municipality allocates resources toward pro-active By-law Enforcement patrols in these neighbourhoods, there are increased demands for garbage removal and the London Police Services undertakes Project LEARN twice a year in the near-campus neighbourhoods - which is the most expensive initiative in the London Police budget. These initiatives are a response to the increasing pressures felt through attempts to maximize the intensity of Low Density Residential forms of development in the area. Applications - such as this requested amendment - to intensify the subject site do not sustain the financial well-being of the Municipality.

The policies of the PPS require municipalities to “*identify and promote*” opportunities for intensification and redevelopment, taking into account existing building stock or areas and the availability of suitable existing or planned infrastructure and public service facilities required to accommodate projected needs. It is important to note that this policy allows municipalities to use their own discretion to “*identify and promote*” the areas where intensification is to be directed and should not be interpreted as a requirement for municipalities to approve *all* intensification proposals.

The PPS requires that municipalities promote appropriate development standards which facilitate intensification, redevelopment, and compact form while maintaining appropriate levels of public health and safety. The Official Plan fulfills this requirement through its intensification policies which outline development standards to facilitate appropriate intensification, redevelopment and compact form by establishing criteria which ensure that the form, intensity, and character of proposals are compatible with the surrounding established neighbourhood (see The London Plan and Official Plan Policies sections below).

The London Plan

The Our Strategy, Our City, City Building and Design, Rapid Transit Corridor Place Type, and Our Tools policies in the London Plan have been reviewed and consideration given to how the proposed Zoning By-law Amendment contributes to achieving those policy objectives, including the following specific policies:

59_ Direction #5 Build a mixed-use compact city

1. Implement a city structure plan that focuses high-intensity, mixed-use development to strategic locations - along rapid transit corridors and within the Primary Transit Area.

62_ Direction #8 Make wise planning decision

3. Think “big picture” and long-term when making planning decisions – consider the implications of a short-term and/ or site-specific planning decision within the context of this broader view.

9. Ensure new development is a good fit within the context of an existing neighbourhood.

* 83_ As directed by the policies of this Plan, intensification will be permitted only in appropriate locations and in a way that is sensitive to existing neighbourhoods and represents a good fit. Policies within the City Building and Urban Place Type chapters of this Plan, together with the policies in the Our Tools part of this Plan dealing with planning and development applications, will provide more detailed policy guidance for appropriate forms of intensification. A guideline document may be prepared to provide further detailed direction to ensure appropriate forms of intensification.

193_ In all of the planning and development we do and the initiatives we take as a municipality, we will design for and foster:

- A well-designed built form throughout the city.
- Development that is designed to be a good fit and compatible within its context.

284_ All planning and development proposals will be required to demonstrate how the proposed building is designed to support the planned vision of the place type and establishes character and a sense of place for the surrounding area. This will include matters such as scale, massing, materials, relationship to adjacent buildings, heritage impact and other such form-related considerations. The Our Tools chapter and the Residential Intensification policies in the Neighbourhoods Place Type chapter of this Plan provide further guidance for such proposals.

826_ Our rapid transit corridors will be vibrant, mixed-use, mid-rise communities that border the length of our rapid transit services. Not all the segments of our corridors will be the same in character, use and intensity. Some segments will be primarily residential in nature, allowing only for small-scale commercial uses. In other segments, where large amounts of commercial floor space already exist, opportunities will be made for new stand-alone commercial uses while opening new opportunities for mixed-use development.

* 827_ Located in the Primary Transit Area and also along rapid transit routes, the Rapid Transit Corridors will be some of the most highly-connected neighbourhoods in our city. They will be linked to the Downtown and to the Transit Villages. Most of these corridors will be fundamentally walkable streetscapes, with abundant trees, widened sidewalks, and development that is pedestrian- and transit-oriented. Those parts of the Rapid Transit Corridors that are in close proximity to transit stations may allow for a greater intensity and height of development to support transit usage and provide convenient transportation for larger numbers of residents.

* 837_ The following uses may be permitted within the Rapid Transit Corridor and Urban Corridor Place Types, unless otherwise identified by the Specific-Segment policies in this chapter:

- A range of residential, retail, service, office, cultural, recreational, and institutional uses may be permitted within the Corridor Place Type.
- Mixed-use buildings will be encouraged.
- Large floor plate, single use buildings will be discouraged in Corridors.

* 840_ The following intensity policies apply within the Rapid Transit and Urban Corridor Place Types unless otherwise identified:

- Development within Corridors will be sensitive to adjacent land uses and employ such methods as transitioning building heights or providing sufficient buffers to ensure compatibility.
- Commercial buildings should not exceed 6,000m² in size within Corridors.
- Lot assembly is encouraged within the Corridor Place Types to create comprehensive developments that reduce vehicular accesses to the street and to allow for coordinated parking facilities.
- Lots will be of sufficient size and configuration to accommodate the proposed development and to help mitigate planning impacts on adjacent uses

* 841_ The following form policies apply within the Rapid Transit and Urban Corridor Place Types:

- Planning and development applications will be discouraged if they result in the creation of one or more isolated remnant lots that cannot be reasonably developed or assembled with other parcels in the Place Type to develop in accordance with the long-term vision for the Corridor.

* 965_ The following planning goals will be pursued in Near-Campus Neighbourhoods in an effort to support the Vision for Near-Campus Neighbourhoods. All planning and development applications will be reviewed to evaluate the degree to which they meet these goals:

- Plan for residential intensification in a proactive, coordinated and comprehensive fashion, utilizing secondary plans and master plans where appropriate.
- Identify strategic locations where residential intensification is appropriate within Near-Campus Neighbourhoods and zone these opportunities accordingly; use strong transit connections to link these residential intensification opportunities to campuses.
- Do not allow for incremental changes in use, density, intensity, and lot size that zoning amendments, minor variances and consents to sever are cumulatively leading to undesirable changes in the character and amenity of streetscapes and neighbourhoods.
- Encourage appropriate forms of intensification that support the vision for Near-Campus Neighbourhoods and discourage forms of intensification that may undermine the long-term vision for Near-Campus Neighbourhoods.
- Encourage a balanced mix of residential structure types at the appropriate locations while preserving stable residential areas.
- Encourage residential intensification in mid-rise and high-rise forms of development and discourage a concentration of residential intensification and residential intensity in low-rise forms of housing.
- Direct residential intensification to significant transportation nodes and corridors and away from the interior of neighbourhoods.
- Utilize zoning and other planning tools to allow for residential intensification and residential intensity which is appropriate in form, size, scale, mass, density, and intensity.
- Ensure intensification is located and designed to respect the residential amenity of nearby properties.

The City of London Official Plan OPA 88.

Residential Intensification is a means of providing opportunities for the efficient use of land and encouraging compact urban form. Residential Intensification may be permitted in the Low Density Residential designation through an amendment to the Zoning By-law, subject to the following policies and the Planning Impact Analysis policies under Section 3.7. Where the subject lands are within a specific residential area identified under policy 3.5, the application of the following residential intensification policies will supplement those specific policies, but will not supercede them. Residential Intensification projects shall use innovative and creative urban design techniques to ensure that character and compatibility with the surrounding neighbourhood are maintained as outlined in policy

3.2.3.3. and 3.2.3.4. (Subsections 3.2.3., 3.2.4. and 3.2.5. deleted and 3.2.3. added by OPA 438 Dec. 17/09) 3.2.3.1. Definition Residential Intensification refers to the development of a property, site or area at a higher density than currently exists on the site through: i) redevelopment, including the redevelopment of brownfield sites; ii) the development of vacant and/or underutilized lots within previously developed areas; iii) infill development, including lot creation; iv) the conversion or expansion of existing industrial, commercial and institutional buildings for residential use; and, v) the conversion or expansion of existing residential buildings to create new residential units or accommodation.

NCNS

3.5.19.4 Land Use Planning Goals for Near Campus Neighbourhoods the following land use planning and urban design goals will be pursued in Near Campus Neighbourhoods in an effort to support the vision expressed in Policy 3.5.19.3. All planning and site plan applications will be reviewed to evaluate the degree to which they meet these goals: i) Encourage appropriate intensification (as characterized in Policy 3.5.19.5) that support the vision for near-campus neighbourhoods and discourage inappropriate forms of intensification that may undermine the long-term stability and established vision for Near-Campus Neighbourhoods; ii) In pursuit of balanced neighbourhoods, recognize areas that have already absorbed significant amounts of Residential Intensification and Residential Intensity and direct additional proposals to the preferred locations and in the preferred forms; iii) Encourage a balanced mix of residential structure types at the appropriate locations while preserving stable homogenous areas; iv) Direct Residential Intensification to higher density forms of housing, including mid-rise and high-rise apartment buildings and discourage a concentration of Residential Intensification and Residential Intensity in low density forms of housing; v) Direct Residential Intensification to significant transportation nodes and corridors and away from the interior of low density residential neighbourhoods; vi) Utilize a variety of planning implementation tools to allow for Residential Intensification and Residential Intensity which is appropriate in form, size, scale, mass, density, and/or intensity; vii) Identify where incremental changes in use, density, intensity, and lot size, as a result of zoning amendments, minor variances and consents to sever are collectively leading to undesirable changes in the character and amenity of streetscapes and neighbourhoods and avoid the continuation of such trends; viii) Identify strategic locations where Residential Intensification is appropriate and zone for these opportunities accordingly and utilize strong transit connections to link these Residential Intensification opportunities to campuses; ix) Plan for Residential Intensification in a proactive, coordinated and comprehensive fashion, utilizing area plans, master plans, and precinct plans; x) Ensure that Residential Intensification projects incorporate urban design qualities that enhance streetscapes, complement adjacent properties, and contribute to the functional and aesthetic quality of the neighbourhood; xi) Preserve heritage resources which contribute to the identity of streetscapes and neighbourhoods; xii) Provide for affordable housing opportunities and appropriate locations. xiii) Ensure that intensification can provide for reasonable uses and activities, while not interfering with the reasonable quiet enjoyment of other nearby properties. (OPA 644)

3.5.19.5 Encourage Appropriate Intensification within Near-Campus Neighbourhoods it is a goal of this Plan to encourage appropriate forms of intensification. Planning applications, including minor variances, consents to sever, Official Plan amendments, Zoning By-law amendments, site plan approval, subdivisions, condominiums, area plans, secondary plans, or precinct plans which represent appropriate intensification will be encouraged. For the purposes of these policies, appropriate intensification will be characterized as those which are not comprised of one or more of the following attributes: i) Developments within low density residential neighbourhoods that have already absorbed significant amounts of Residential Intensification and/or Residential Intensity and are experiencing cumulative impacts that undermine the vision for Near-Campus Neighbourhoods; ii) Developments proposed along streetscapes and within neighbourhoods that are becoming unsustainable due to a lack of balance in the mix of short- and long-term residents; iii) Residential Intensity that is too great for the structure type that is proposed; iv) Inadequately sized lots that do not reasonably accommodate the density and intensity of the proposed use; v) Proposed lots and buildings requiring

multiple variances that, cumulatively, are not in keeping with the spirit and intent of the zoning that has been applied; vi) A lack of on-site amenity area; vii) Inadequate parking areas to accommodate expected level of Residential Intensity; viii) Excessive proportions of the site devoted to parking areas and driveways; ix) Built forms or building additions which are not consistent in scale and character with the neighbourhood, streetscape and surrounding buildings; x) Developments which continue an ad-hoc and incremental trend towards Residential Intensification within a given street, block, or neighbourhood, rather than a proactive, coordinated, and planned approach toward Residential Intensification.

3.7 Planning Impact Analysis

A Planning Impact Analysis is used to evaluate applications for an Official Plan amendment and/or zone change, to determine the appropriateness of a proposed change in land use, and to identify ways of reducing any adverse impacts on surrounding land uses. The criteria to be evaluated include:

- *Compatibility of proposed uses with surrounding land uses, and the likely impact of the proposed development on present and future land uses in the area*

There is a concern that this ad-hoc development on a site that is not unique within its context may encourage other landowners to make future applications for similar types of intensification where the City would favour a coordinated and comprehensive plan to assess the area's potential to accommodate a higher intensity of use(s).

- *The size and shape of the parcel of land on which a proposal is to be located, and the ability of the site to accommodate the intensity of the proposed use*

The required 24 metre road allowance and the resolution of the concerns raised by the UTRCA regarding the slope at the rear of the property does not allow for the proposed fourplex to be sited on the lot. The proposed fourplex is too intense for the portion of land that is developable on the site.

- *The supply of vacant land or vacant buildings in the area which is designated and/or zoned for the proposed uses*

There is no designated and/or zoned land that would accommodate the proposed fourplex use in the immediate area. However, lands in close proximity have been designated and zoned to accommodate intensification and special policies have been applied in surrounding neighbourhoods which direct intensification to 'appropriate' areas that are comprehensively planned (See Essex, St. BIGS, George/Grosvenor, North London/Broughdale, etc.).

- *The potential traffic generated by the proposed change, considering the most intense land uses that could be permitted by such a change, and the likely impact of this additional traffic on City streets, pedestrian and vehicular safety, and on surrounding properties*

The requested amendment is not anticipated to create any additional impacts on City streets, pedestrian and vehicular safety or on surrounding properties given the existing volume of traffic on Oxford Street West.

- *Impacts of the proposed change on the transportation system including transit*

There are no impacts anticipated on the transportation system.

- *the height, location and spacing of any buildings in the proposed development, and any potential impacts on surrounding land uses*

The potential impacts are related to intensity, privacy and the lack of a coordinated plan for area intensification. These concerns have been expressed in the prior analysis section.

The Zoning By-law is a comprehensive document used to implement the policies of the Official Plan by regulating the use of land, the intensity of the permitted use, and the built form. This is achieved by applying various zones to all lands within the City of London which identify a list of permitted uses and regulations that frame the context within which development can occur. Collectively, the permitted uses and regulations assess the ability of a site to accommodate a development proposal. It is important to note that all three criteria of use, intensity, and form must be considered and deemed to be appropriate prior to the approval of any development proposal.

As it relates to the subject site, the only use permitted under the current zone is one single detached dwelling, semi detached, duplex or converted dwelling (2 units max) per lot. This address was being used as a single detached dwelling, operating without Residential Rental Unit Licenses.

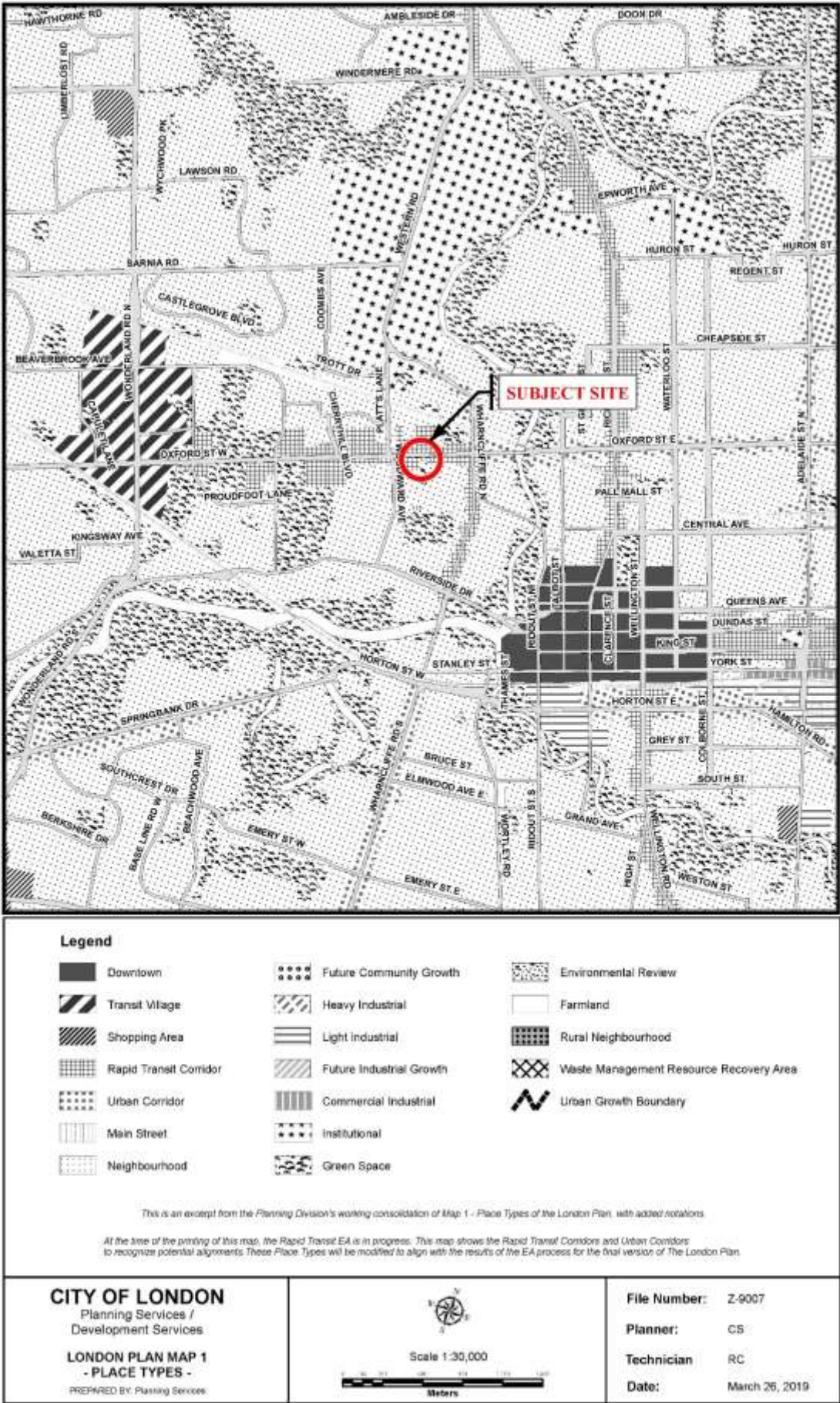
The applicant is seeking an amendment to the Z.-1 Zoning By-law to a Residential R3 (R3-2) Zone. The R3 Zone provides for and regulates low to low-medium density residential development permitting single detached dwellings, semi-detached dwellings, duplex dwellings, triplex dwellings, fourplex dwellings; and allows for the conversion of an existing dwelling. The R3-2 Zone variation is intended to be used throughout the City for most low to medium-low residential developments.

Although the subject site meets most of the minimum requirements of the Zoning By-law regarding the requested Residential R3 (R3-2) zone, the issue is the appropriateness of a site-specific Zoning By-law amendment at this location.

Appendix C – Relevant Background

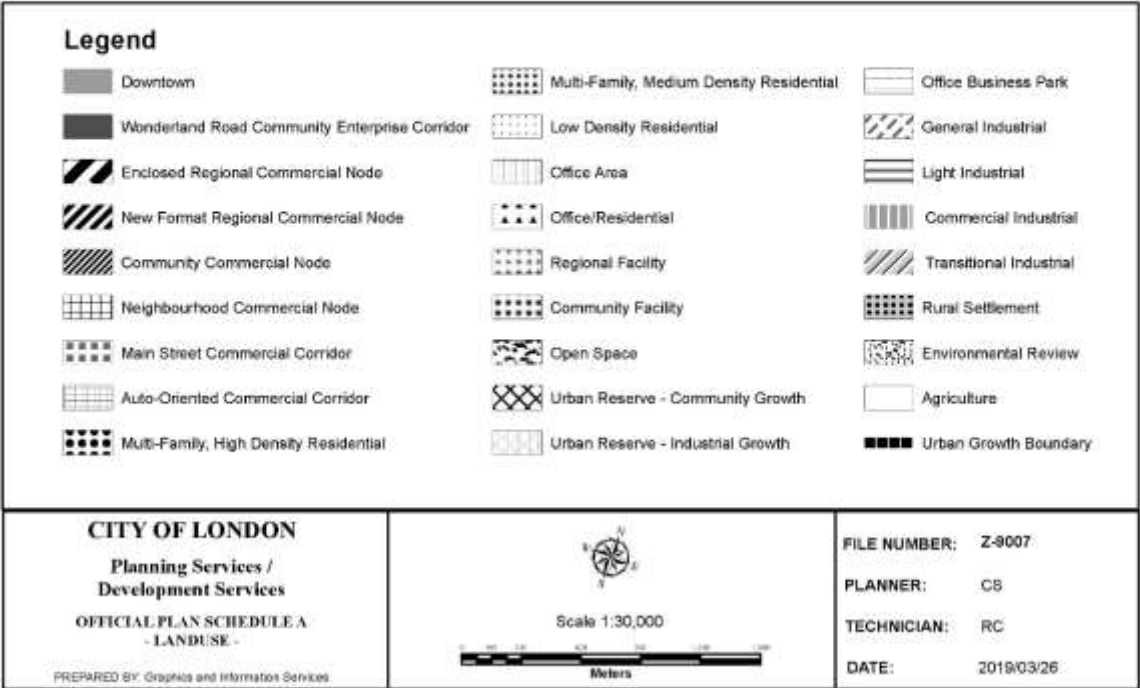
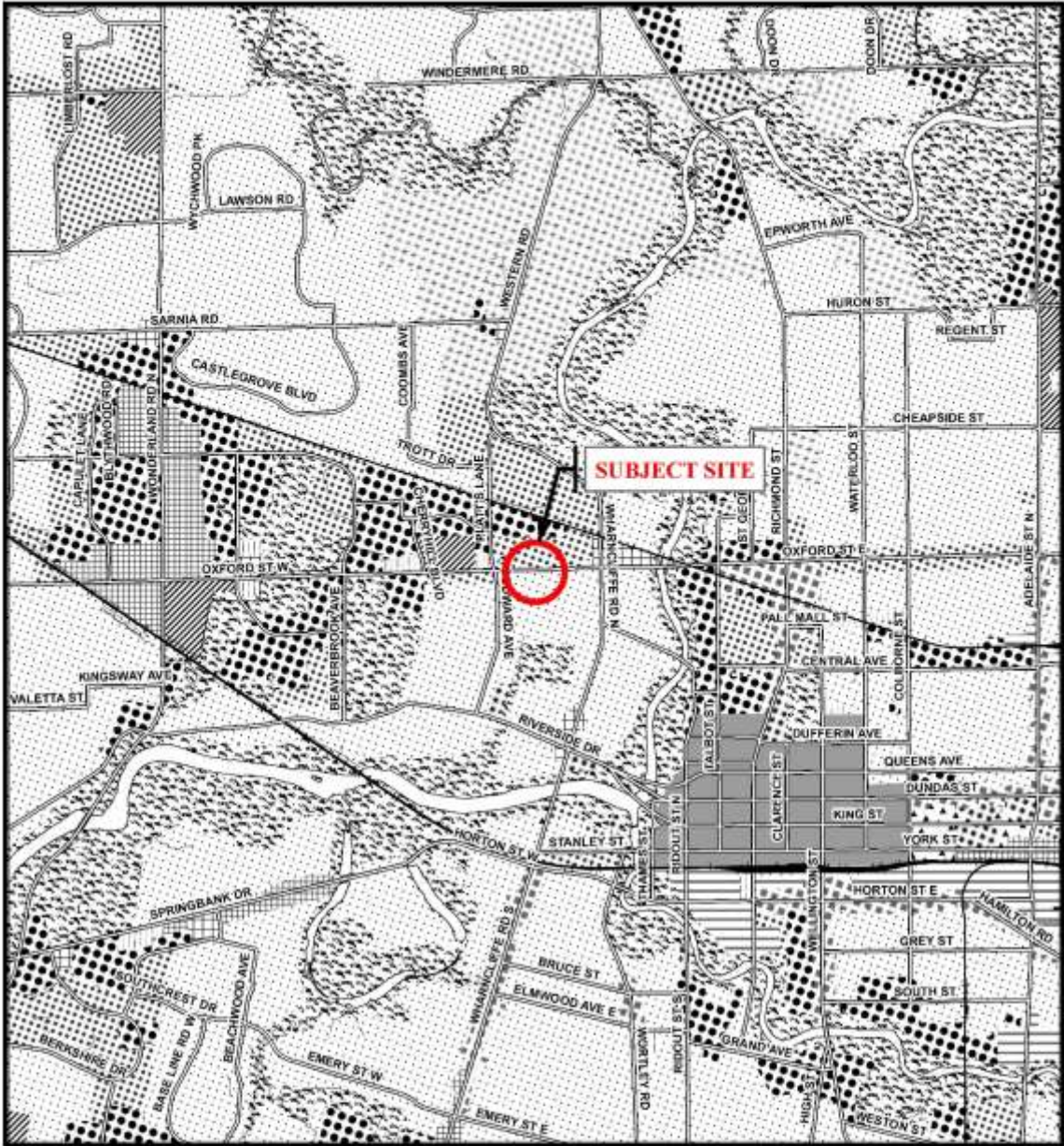
Additional Maps

London Plan Designation



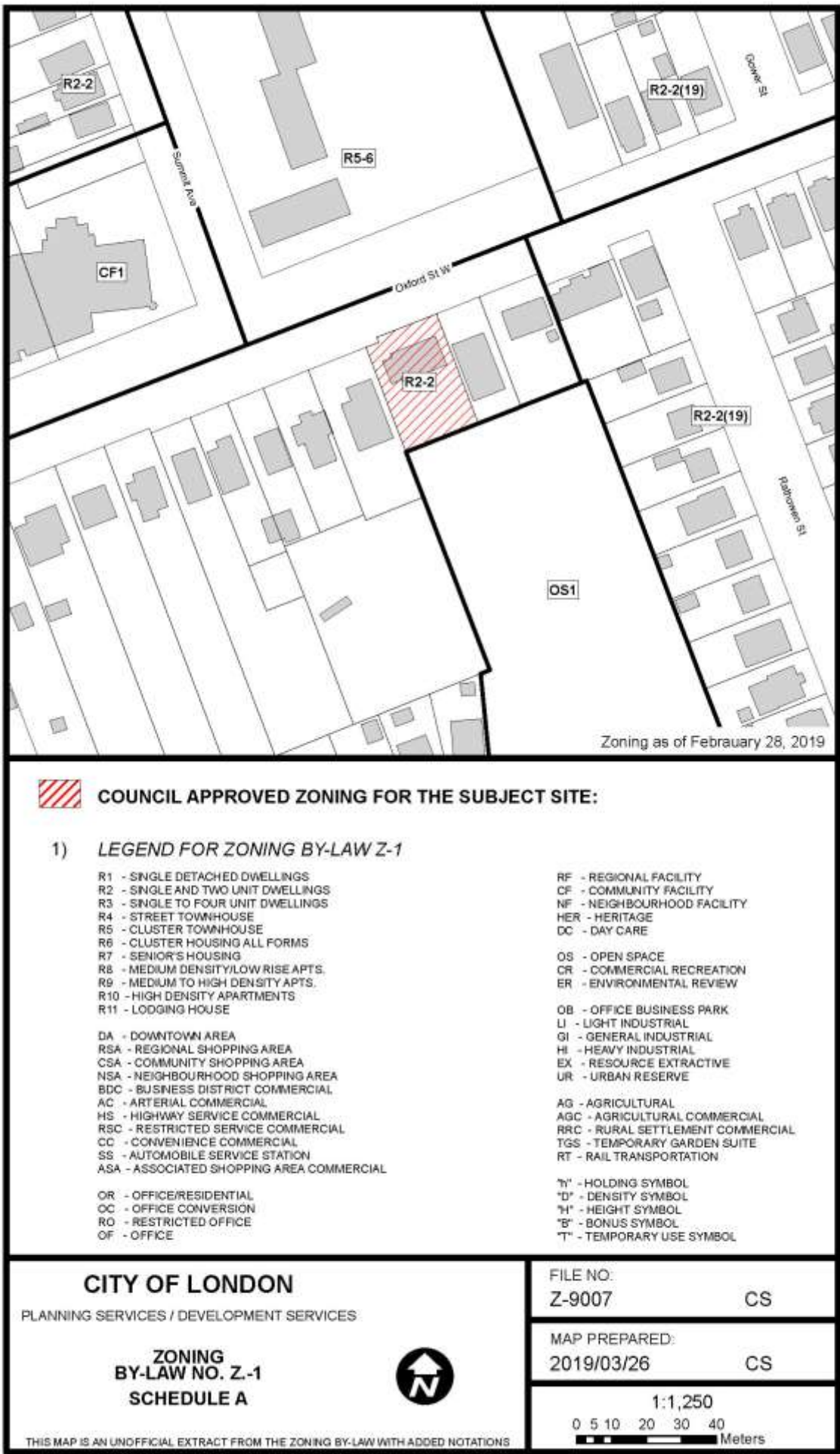
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Official Plan Designation



PROJECT LOCATION: e:\planning\projects\p_officialplan\work\corso\00\excel\p\mxd_templates\scheduleA_b&w_8x14_with_SWAP.mxd

Existing Zoning



Report to Planning and Environment Committee

To: Chair and Members
Planning & Environment Committee
From: George Kotsifas P. Eng.,
Managing Director, Development & Compliance Services and
Chief Building Official
Subject: Royal Premier Homes
307 Fanshawe Park Road East
Public Participation Meeting on: May 27, 2019 at 7:00 PM

Recommendation

That, on the recommendation of the Director, Development Services, the following actions be taken with respect to the application of Royal Premier Homes relating to the property located at 307 Fanshawe Park Road East:

- a) the proposed by-law attached hereto as Appendix "A" **BE INTRODUCED** at the Municipal Council meeting on June 11, 2019 to amend Zoning By-law No. Z.-1, in conformity with the Official Plan, to change the zoning of the subject property **FROM** a Holding Residential R1/ Bonus (h-5*h-54*h-89*R1-8*B-15) Zone, **TO** a Holding Residential R5 Special Provision (h-5*h-54*h-89*R5-7 (_)) Zone; and,
- b) pursuant to Section 34(17) of the Planning Act, as determined by the Municipal Council, no further notice **BE GIVEN** as the change to the Zoning By-law from an R8 category to an R5 category is minor in nature; the recommended R5 zone was publicly considered as part of the Notice of Application; and, the development proposal that has been publicly vetted remains the same notwithstanding the change to the zone category.

Executive Summary

Summary of Request

The requested amendment is to rezone the land from a Holding Residential R1/ Bonus (h-5*h-54*h-89* R1-8*B-15) Zone to a Residential R5 Special Provision (R5-7 (_)) Zone to permit townhouses and stacked townhouses only, with a 4.5 metre minimum front yard setback, a 4.9 meter west interior side yard for a lot depth of 30 metres, a 2.3 metre front yard setback to porch/patios, a maximum height of 12 metres for a lot depth of 30 metres, a maximum height of 10 meters for the balance of the lands, and 75 units per hectare maximum.

Purpose and the Effect of Recommended Action

The purpose and effect of the recommended amendment will allow:

- One 3 storey (12.0m) stacked townhouse building consisting of 24 units.
- One 2 storey (9.0m) stacked townhouse building consisting of 18 units.
- For a total of two stacked townhouse buildings with 42 units (75 units per hectare).

Rationale of Recommended Action

- i) The recommended amendment is consistent with the *Provincial Policy Statement (PPS), 2014*, which encourages healthy, livable and safe communities by accommodating an appropriate range and mix of residential uses (including second

units, affordable housing, and housing for older persons), encourages settlement areas to be the main focus of growth and development, and provide for a range of housing types and densities to meet projected requirements of current and future residents;

- ii) The recommended amendment conforms to the objectives and policies of The London Plan, and the policies of the “Neighbourhoods” Place Type for Use, Intensity, and Form;
- iii) The proposed amendment conforms to the policies of the 1989 Official Plan and the use is consistent with the Low Density Residential designation; and,
- iv) The proposed special provisions for reduced front yard and maximum heights are supported to encourage and foster improved design for the site.

Analysis

1.0 Site at a Glance

1.1 Property Description

The subject lands are located on the south side of Fanshawe Park Road East, east of Hastings Drive. The City issued demolition permits on January 4, 2019 to remove the single detached dwelling and the accessory (barn) structure.

1.2 Current Planning Information (see more detail in Appendix D)

- Official Plan Designation – Low Density Residential
- The London Plan Place Type – Neighbourhoods
- The London Plan Street Classification- Urban Thoroughfare
- Existing Zoning – Holding Residential R1/ Bonus (h-5*h-54*h-89*R1-8*B-15) Zone

1.3 Site Characteristics

- Current Land Use – vacant land (formerly single detached dwelling).
- Frontage – 53.3 metres
- Depth – 105.9 metres
- Area – 0.56 hectares
- Shape – rectangular

1.4 Surrounding Land Uses

- North – Single detached dwellings
- East – Single detached dwellings
- South –Single detached dwellings
- West – Single detached dwellings, approx. 400 metres, Masonville Transit Village.

1.5 Intensification (identify proposed number of units)

- Forty-two (42) units within the Built-area Boundary
- Forty-two (42) units within the Primary Transit Area

1.6 Location Map



2.0 Description of Proposal

2.1 Development Proposal

The proposed concept plan for the site illustrates one 3 storey (12.1m) stacked townhouse building consisting of 24 units, one 2 storey (9.0m) stacked townhouse building consisting of 18 units, for a total of two stacked townhouse buildings with 42 units (75 units per hectare). Although submitted plans reference 3.5 storey and 2.5 storey buildings, it should be noted that a definition of a half storey does not exist. The analysis contained in this report will reference 3 and 2 storey buildings, recognizing that zoning permissions for height are based on metres, not storeys.

The proposed site plan (figure 2) and preliminary building concept (figure 3) and elevations incorporates the following elements:

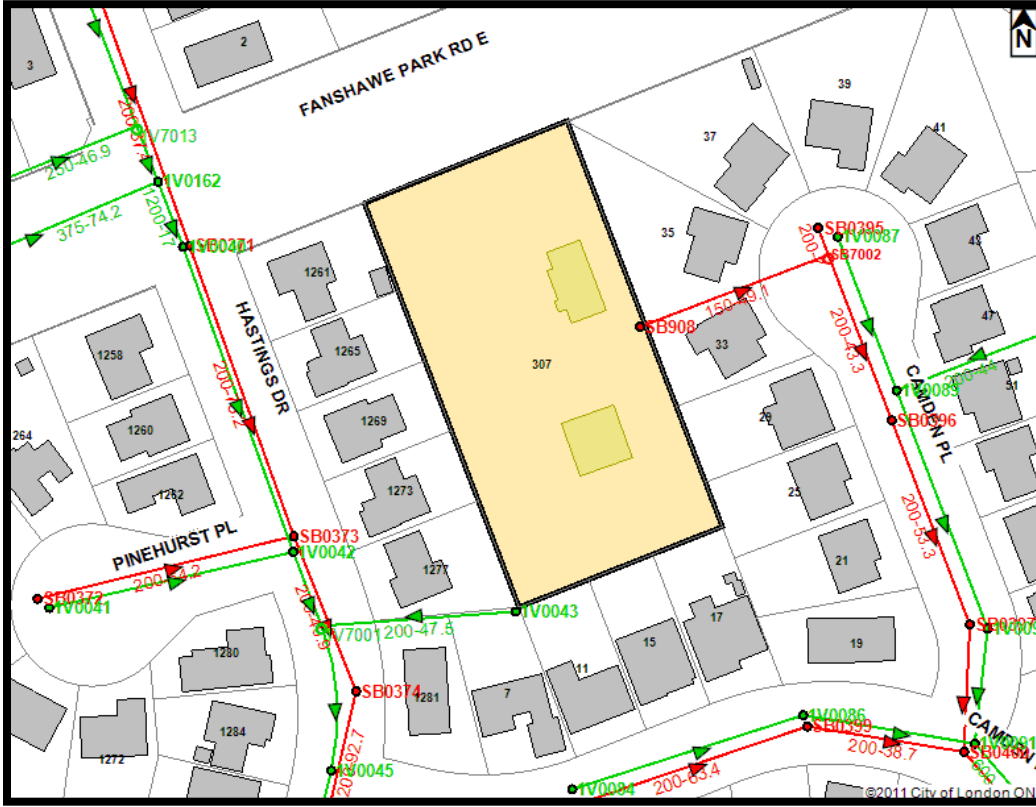
- locating a building along the Fanshawe Park Road frontage with units fronting the street, establishing a built edge and activating the street;
- massing and height that is compatible with the existing neighbourhood (composed primarily of 2 storey homes), with the taller building (3.5 storeys) along the Fanshawe Park Road frontage and the lower building (2.5 storeys) interior to the site; and
- locating all parking in the rear of the site.

It is anticipated that further refinements of the building design and elevations will occur during the site plan approval process. Additional detail regarding the site plan and building design is contained in the Urban Design Brief submitted in conjunction with the rezoning application. It is requested that through the Site Plan Approval process that the design be reviewed by the Urban Design Peer Review Panel.

3.0 Relevant Background

3.1 Planning History

In 1972 subdivision plan (1007) was registered to develop the lands around 307 Fanshawe Park Road East. On the original plan of subdivision 307 Fanshawe Park Road was a “through” lot as it had frontage on Camden Road and Fanshawe Park Road East. At this time easements were registered over 7 Camden Road, 1277 and 1281 Hastings Drive for stormwater servicing and over 33 and 35 Camden Place to provide for sanitary services. Municipal water is provided from Fanshawe Park Road East. A severance was granted in 1975 to allow for creation of the three lots along the Camden Road frontage, municipally known as 11, 15 and 17 Camden Road.



On March 28, 2011 a report was brought forward to the Built and Natural Environment Committee which recommended a Zoning By-law Amendment for 307 Fanshawe Park Road East. The purpose and effect of this zoning amendment was to permit a 16 unit three storey apartment building and a converted dwelling with 2 units. Municipal Council passed the Zoning By-law Amendment on April 4, 2011 with the current Holding Residential R1/ Bonus (h-5*h-54*h-89*R1-8*B-15) Zone.

On January 4, 2019 the City issued building permits to demolish the single detached dwelling and the accessory (barn) structure from the lot. The lot is now currently vacant.

Proposed Site Plan (January 2019)

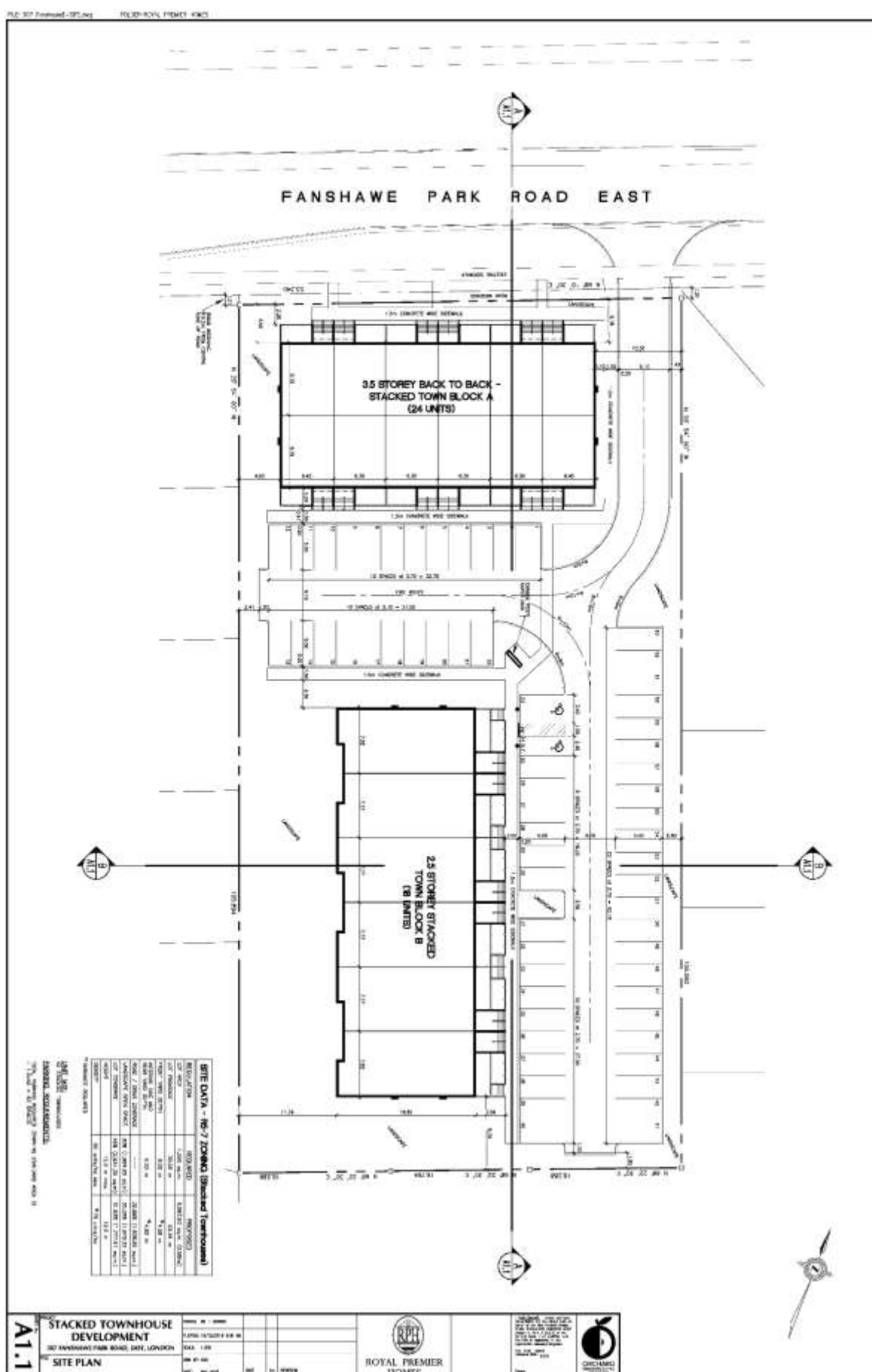


Figure 1

Proposed Site Plan (May 2019)

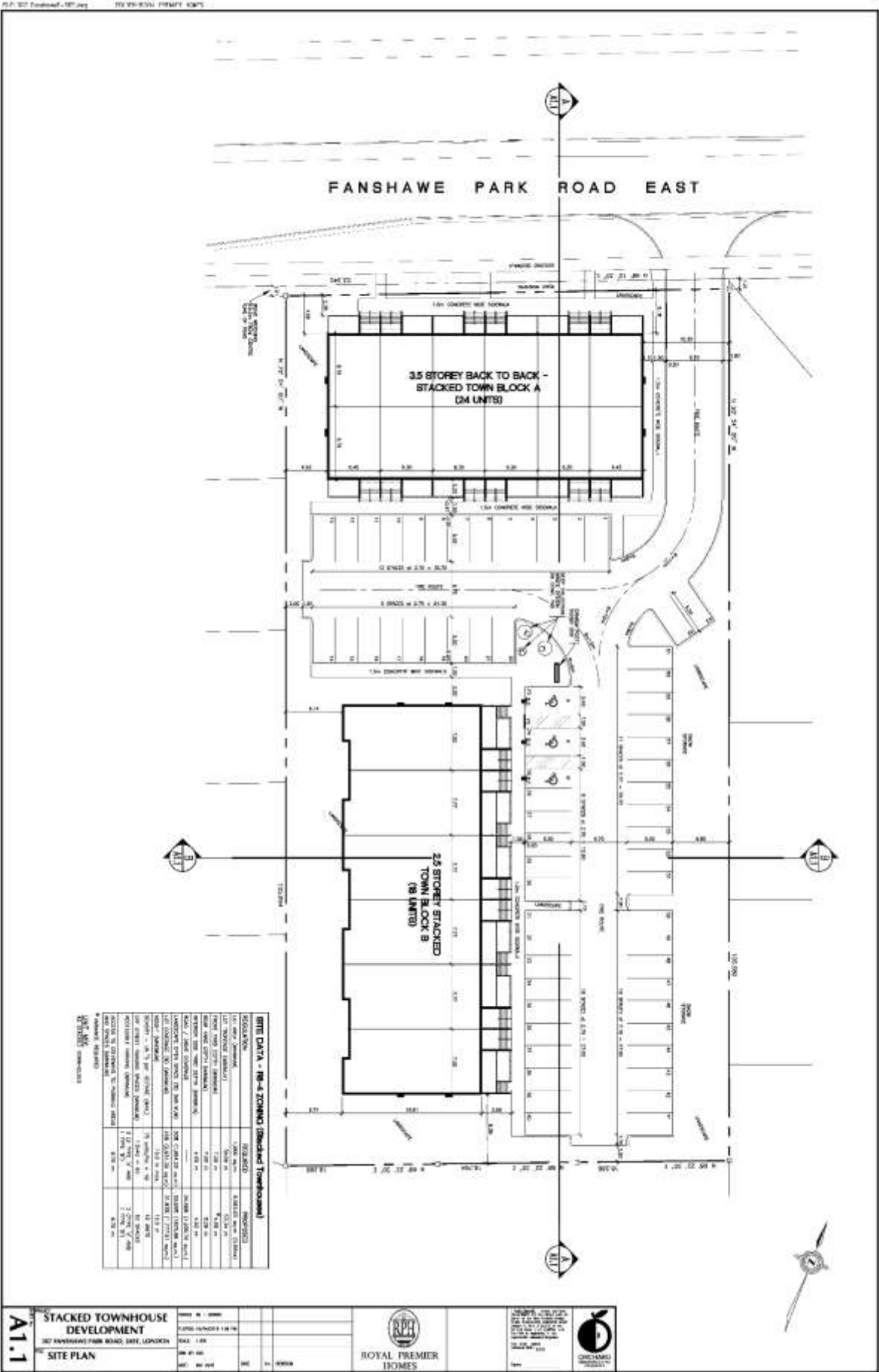


Figure 2

Proposed Elevations

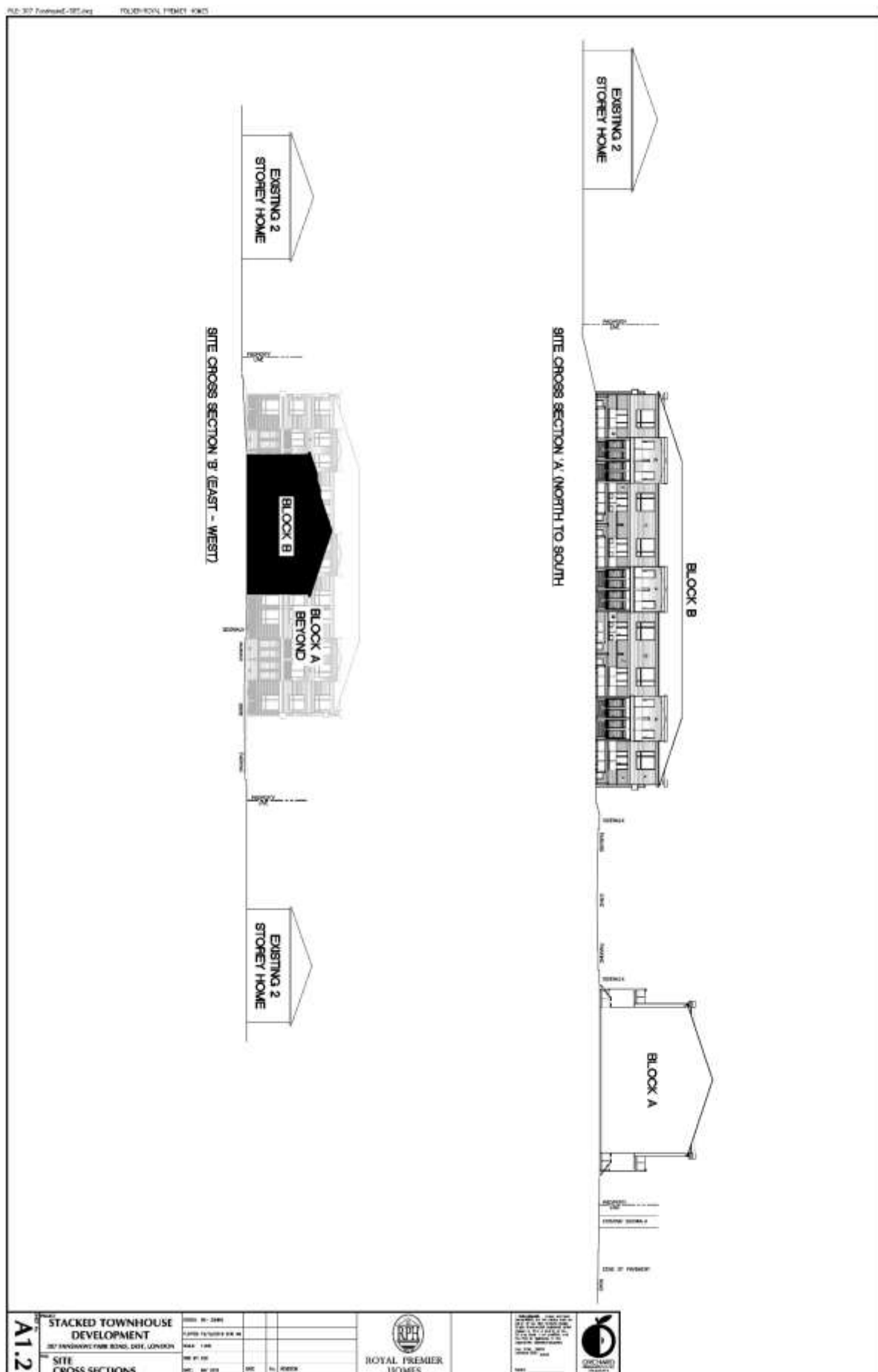


Figure 3



Figure 4



Figure 5

Rendering –



Figure 6

3.2 Requested Amendment

The applicant had requested a Residential R5 Special Provision Zone to permit stacked townhouses at a maximum density of 75 units per hectare and a maximum height of 12.0 metres. On April 17, 2019, the applicant on advice from the City had requested that the zoning amendment be revised to a Residential R8 Special Provision (R8-4(*)) Zone. The proposed Residential R8 Zone permits a density of 75 units per hectare in keeping with the Infill and Intensification policies of the Official Plan.

The City received public comments/ concerns resulting from the circulation of the revised Zoning By-law Amendment to allow a Residential R8 Zone. The public comments/ concerns were that the R8 Zone would permit uses greater than the proposed stacked townhouse development. In response to the comments received, Staff are recommending that the appropriate zone is a Holding Residential R5 Special Provision (h-5*h-54*h-89*100*R5-7 (*)) Zone.

The Applicant has not requested any holding provisions for the site, however, the current zoning includes several holding provisions approved during the previous Zoning By-law Amendment process (2003) that will be retained.

- (h-5) to ensure that development takes a form compatible with adjacent land uses, agreements shall be entered into following public site plan review specifying the issues allowed for under Section 41 of the Planning Act, R.S.O. 1990, c. P.13, prior to the removal of the "h-5" symbol
- (h-54) to ensure there are no land use conflicts between arterial roads and the proposed residential uses, the h-54 shall not be deleted until the owner agrees to implement all noise attenuation measures, recommended in noise assessment reports acceptable to the City of London.
- (h-89) To ensure the orderly development of the lands the "h-89" symbol shall not be deleted until a stormwater servicing report has been prepared and confirmation that stormwater management systems are implemented to the satisfaction of the City Engineer.

3.3 Community Engagement (see more detail in Appendix B)

On January 28, 2019, Notice of Application was sent to all property owners within 120 m of the property. Notice of Application was also published in the *Public Notices and Bidding Opportunities* section of *The Londoner* on January 31, 2019. On April 24, 2019 a Combined Notice of Revised Zoning Amendment and Public Participation meeting was sent out. Notice of the Revised Application and Public Participation meeting was also published in the *Public Notices and Bidding Opportunities* section of *The Londoner* on May 2, 2019, a “Planning Application” sign was also posted on the site.

43 replies were received from the public as part of the community engagement process. A summary of the various comments received include the following.

- the intensity of proposed development is too great, and the scale of the proposed buildings are too dominant; and is generally out of character for the neighbourhood;
- stacked townhouse dwellings are inconsistent with surrounding properties that are zoned for single detached dwellings;
- the number of variance to the standard zone conditions, are an indication that the proposed buildings are too large for the site/number of units and is an over-intensification of the site;
- lack of space for proper garage storage and/or snow storage;
- elevation change will diminish effectiveness of fencing and landscaping to visually screen proposed buildings from adjacent properties;
- diminished quality of life/intrusions of noise, light and traffic, loss of mature trees, garbage (property maintenance);
- insufficient parking for the number of townhouse dwellings and potential off-site parking impacts on adjacent neighbourhood streets;
- insufficient separation distance between proposed buildings on site, and insufficient yard depths/setbacks between proposed buildings and adjacent properties;
- insufficient front yard depth and encroachment into pedestrian space along Fanshawe Park Road East effecting safety of pedestrians and cyclists;
- appearance, architectural style of proposed building relative to existing buildings in the area, and the quality and/or durability of materials and/or construction;
- reduction in property value;
- requested amendment to a R8 Zone variation could permit uses greater than stacked townhouses;
- idling and safety of children in rear yard of 35 Camden Place; and
- Circulation of notice of application and revised notice of application processes.

More information and detail on submitted comments is available in Appendix B of this report. Staff responses are detailed in Section 4.2.

3.3 Policy Context (see more detail in Appendix C)

3.3.1 Provincial Policy Statement, 2014 (PPS)

The proposal must be consistent with the Provincial Policy Statement (PPS) policies and objectives aimed at:

1. Building Strong Healthy Communities;
2. Wise Use and Management of Resources; and,

3. Protecting Public Health and Safety.

The PPS contains strong policies regarding the importance of promoting efficient development and land use patterns, as well as accommodating an appropriate range and mix of land uses, housing types, and densities to meet projected needs of current and future residents (Sections 1.1 and 1.4). The policies for Settlement Areas require that new development should occur adjacent to existing built up areas and shall have a compact form, mix of uses and densities that allow for the efficient use of land, infrastructure and public service facilities (Section 1.1.3.6).

3.3.2 The London Plan

The London Plan is the new Official Plan for the City of London (Council adopted, approved by the Ministry with modifications, and the majority of which is in force and effect). *The London Plan* policies under appeal to the *Local Planning Appeals Tribunal* (Appeal PL170100) and not in force and effect are indicated with an asterisk throughout this report and include many of the Neighbourhoods Place Type policies pertinent to this planning application. *The London Plan* policies under appeal are included in this report for informative purposes indicating the intent of City Council, but are not determinative for the purposes of this planning application.

The subject lands are located within the Neighbourhoods Place Type on *Map 1 – Place Types in *The London Plan*, with frontage on a Urban Thoroughfare (Fanshawe Park Road East). *The London Plan* contemplates a broad range of residential land uses for the subject lands including, but not limited to, single-detached, semi-detached, duplex and converted dwellings, triplexes, fourplexes, townhouses, stacked townhouses and low-rise apartments. *The London Plan* utilizes height as a measure of intensity in the Neighbourhoods Place Type. Within the Neighbourhoods Place Type, fronting onto a Urban Thoroughfare, the range of building heights contemplated include a minimum height of 2-storeys and a maximum height of 4-storeys, and up to 6-storeys through Bonus Zoning. *The London Plan* provides opportunities for residential intensification and redevelopment within the Neighbourhoods Place Type where appropriately located and a good fit with the receiving neighbourhoods.

3.3.3 1989 Official Plan

These lands are designated “Low Density Residential” on Schedule ‘A’ of the 1989 Official Plan. An excerpt from Land Use Schedule ‘A’ is found at Appendix C.

Development within areas designated Low Density Residential shall have a lowrise, low coverage form that minimizes problems of shadowing, view obstruction and loss of privacy is encouraged (3.2.2). The scale of low density residential uses generally ranges up to 30 units per hectare for new or greenfield development. The proposal represents residential intensification and the infilling of a vacant lot within a previously developed area, which according to section 3.2.3. iv) may exceed the range of residential unit types and densities within the Low Density Residential designation, up to 75 units per hectare.

More information and detail on applicable planning policy is available in Appendix C of this report.

4.0 Key Issues and Considerations

4.1 Land Use Compatibility

Through an analysis of the use, intensity and form, Staff have considered the compatibility and appropriateness of the requested amendment and proposed development within the context of the abutting land uses.

4.1.1 Issue and Consideration # 1 - Use

Provincial Policy Statement, 2014 (PPS)

The *PPS* directs growth and development to settlement areas and encourages their regeneration (Policy 1.1.3.1). Land use patterns within settlement areas are to provide for a range of uses and opportunities for intensification and redevelopment (Policy 1.1.3.2 b)). The *PPS* directs that planning authorities consider the housing needs of all residents (Policy 1.4.3 a) and b)).

The proposed amendment encourages intensification within the existing urban area, in close proximity to a major commercial node and is located on an Urban Thoroughfare with access to various forms of transportation options including public transit (buses), walking and cycling paths. The proposed amendment provides for a use that meets the intent of the Provincial Policy Statement.

The London Plan

The London Plan promotes a choice of housing types so that a broad range of housing requirements can be satisfied in a wide range of locations (497_ 7.). The subject lands are located within the Neighbourhoods Place Type with frontage on a Urban Thoroughfare in The London Plan. The range of uses permitted within the Neighbourhoods Place Type is directly related to the classification of street onto which a property has frontage (*Table 10- Range of Permitted Uses in Neighbourhoods Place Type). The London Plan contemplates a broader range of uses along higher-order streets within the Neighbourhoods Place Type (*919_ 2. & 3.). Townhouses, such as the proposed stacked townhouse use, are contemplated within the Neighbourhoods Place Type on all street classifications in The London Plan. The planning approach of connecting the range of land uses to street classifications for the Neighbourhoods Place Type was intended to balance neighbourhood stability and predictability with providing a range and mix of housing types (*919_6.).

The proposed amendment will allow for a use contemplated in The London Plan on an Urban Thoroughfare located within close proximity to a major commercial node. The proposed use is consistent with The London Plan, the existing forms of development and will enhance the urban streetscape.

1989 Official Plan

The designation of the subject site is Low Density Residential which primarily permits low-rise, low density housing forms. Infill housing through residential intensification may be in the form of single detached dwellings, semi-detached dwellings, attached dwellings, cluster housing, and low rise apartments (3.2.3.2). The residential intensification policies contemplate infill development within established settlement areas.

The proposed stacked townhouse development is considered infill as it occurs on a vacant underutilized site within an established residential neighbourhood. The proposed use is consistent with the 1989 Official Plan.

Analysis:

Consistent with the *PPS*, and conforming to the 1989 Official Plan and The London Plan, the recommended stacked townhouse use will add to the range and mix of housing types and provide for an alternative housing option within the neighbourhood that is predominately single detached dwellings. The proposed amendment will permit stacked townhouse uses which will provide a range of housing options within the existing single detached neighbourhood consistent with the *PPS*, and conforming to the 1989 Official Plan and The London Plan. The recommended stacked townhouse use is contemplated in the LDR designation in the 1989 Official Plan as a permitted form of residential

intensification, and is included in the range of primary permitted uses contemplated within the Neighbourhoods Place Type on all street classifications. Although, the proposed stacked townhouse dwellings are a different housing type than single detached dwellings that are predominant in the area, through an analysis of intensity and form below, the stacked townhouse dwellings can be developed on the subject lands in a way that is appropriate for the site and the neighbourhood.

4.1.2 Issue and Consideration # 2 - Intensity

Provincial Policy Statement, 2014 (PPS)

The PPS requires municipalities to identify appropriate locations and promote opportunities for intensification where this can be accommodated taking into account existing building stock [1.1.3.3]. The proposed stacked townhouses represents an appropriate location and form of development to promote intensification. It is located along an arterial road (urban thoroughfare), in close proximity to a major commercial node (Masonville) with access to multiple bus routes. The surrounding building stock is predominantly single detached dwellings. The proposed intensity of the development can be accommodated on the site and within the surrounding context. The PPS also encourages densities for new housing which efficiently use land, resources, and the surrounding infrastructure and public service facilities, and support the use of active transportation and transit in areas where it exists or is to be developed [1.4.3(d)]. The proposed intensity of the development meets the intent of the PPS.

The London Plan

The London Plan contemplates intensification where appropriately located and provided in a way that is sensitive to and a good fit with existing neighbourhoods (*Policy 83_, *Policy 937_, *Policy 939_ 6. and *Policy 953_ 1.). *The London Plan* directs that intensification may occur in all Place Types that allow for residential uses (Policy 84_). The Primary Transit Area will be the focus of residential intensification and transit investment within the City of London (*Policy 90_).

The London Plan utilizes height as a measure of intensity in the Neighbourhoods Place Type. A minimum height of 2-storeys and a maximum height 4-storeys, with bonusing up to 6-storeys, is contemplated within the Neighbourhoods Place Type where a property has frontage on an Urban Thoroughfare (*Table 11 – Range of Permitted Heights in the Neighbourhoods Place Type). The intensity of development must be appropriate for the size of the lot (*Policy 953_3.). The proposed intensity of the development meets the intent of the London Plan.

1989 Official Plan

The scale of low density residential uses generally ranges up to 30 units per hectare for new or greenfield development. The proposal represents residential intensification and the infilling of a vacant lot within a previously developed area, which according to section 3.2.3. iv) may exceed the range of residential unit types and densities within the Low Density Residential designation, up to 75 units per hectare. This would equate to 42 residential units for a property of this size (0.6ha), without the need for an Official Plan amendment. Infill housing may be in the form of single detached dwellings, semi-detached dwellings, attached dwellings, townhouses and low-rise apartments

The form of development proposed is a low-rise stacked townhouse development which is contemplated within the existing low density residential designation; the designation considers residential intensification in a range up to 75 units per hectare, the proposal is for 75 units per hectare, maintaining the intent of the Official Plan infill/intensification policies.

Analysis:

Consistent with the *PPS*, and conforming to the *1989 Official Plan* and *The London Plan*, the recommended stacked townhouse use will allow for three (3) storey (12m) stacked townhouse use fronting onto Fanshawe Park Road and a two (2) storey (9m)

stacked townhouse use in the rear of the property. The proposed zoning will permit a maximum of 12m height in the first 30m of the lot and a maximum of 10m for the balance of the land. The abutting single detached dwellings are zoned Residential R1 (R1-8). The maximum height in the R1-8 zone is 10.5 meters. The height of 12m along Fanshawe Park Road is appropriate to provide for a strong street orientation and built form. The stacked townhouse in the rear is proposed to be 9m in height. To ensure that there is “step down” in height for the rear building, the proposed maximum height on the balance of the lands will be 10m. The height allowed in the rear portion is less than the height permitted in the abutting neighbourhood (R1-8, 10.5m maximum). All proposed setbacks (rear and side yard) meet or exceeds the minimum requirements of the R5-7 Zone regulation (see zoning section 4.2.13) excluding the east side yard setback on the townhouse block fronting Fanshawe Park Road East. The revised site plan provides the required amount of parking and the parking area setback from the east property line is 6.8 meters. The intensity of the proposed stacked townhouse dwellings can be accommodated on the property and meets the intent of the PPS, The London Plan and the 1989 Official Plan.

4.1.3 Issue and Consideration # 3 - Form

Provincial Policy Statement, 2014 (PPS)

The PPS is supportive of development standards which facilitate intensification, redevelopment and compact form (Policy 1.1.3.4). The PPS also identifies that long term economic prosperity should be supported by encouraging a sense of place by promoting a well-designed built form, and by conserving features that help define character (Policy 1.7.1(d)).

The proposed stacked townhouse development facilitates intensification of an underutilized vacant residential land that is located on an Urban Thoroughfare in close proximity of the major commercial node. The location of the 12m stacked townhouse along Fanshawe Park Road promotes a well-designed built form by providing a strong street oriented development. The development proposes a “step down” in height to the second building located in the rear of the property.

The proposed form of the development meets the intent of the PPS.

The London Plan

The London Plan encourages compact forms of development as a means of planning and managing for growth (Policy 7_, Policy 66_). The London Plan encourages growing “inward and upward” to achieve compact forms of development (Policy 59_ 2. Policy 79_). The London Plan plans for infill and intensification of various types and forms (Policy 59_ 4.). To manage outward growth, The London Plan encourages supporting infill and intensification in meaningful ways (Policy 59_ 8.). The urban regeneration policies of The London Plan provide for intensification within urban neighbourhoods, where it is deemed to be appropriate and in a form that fits well with the receiving neighbourhood (Policy 154_8.).

Within the Neighbourhoods Place Type, and according to the urban design considerations for residential intensification, compatibility and fit will be evaluated from a form-based perspective through consideration of the following: site layout in the context of the surrounding neighbourhood; building and main entrance orientation; building line and setback from the street; height transitions with adjacent development; and massing appropriate to the scale of the surrounding neighbourhood (*Policy 953_ 2. a. –f.).

The proposed form of the development meets the intent of The London Plan by orienting its front facing townhouse towards Fanshawe Park Road East, transitioning down in height from the front of the lot towards the more sensitive rear portion, providing adequate setbacks between proposed townhouses and the existing dwellings and ensuring that there is a rear lot interface between the rear townhouse and its closets abutting

neighbours.

1989 Official Plan

The scale of development in the LDR designation shall have a low-rise, low-coverage form (Section 3.2.2). The 1989 Official Plan recognizes residential intensification as a means of providing for the efficient use of land and achieving a compact urban form (Section 3.2.3). In the 1989 Official Plan the redevelopment of underutilized sites constitutes infill; and infill may be in the form of cluster housing. Zoning By-law provisions are to ensure that infill housing proposals recognize the scale of the adjacent land uses and reflect the character of the area (Section 3.2.3.2). Residential intensification must be sensitive to, and a good fit with the receiving neighbourhood based on a review of built form, massing and architectural treatment (Section 3.2.3.4). The Planning Impact Analysis criteria in the 1989 Official Plan, are to be used to evaluate the appropriateness of a proposed change in land use and identify ways to reduce any adverse impacts on surrounding land uses (Section 3.7). See Appendix C of this report for complete Planning Impact Analysis. The proposed form of the development meets the intent of 1989 Official Plan.

Analysis:

Consistent with the PPS, and conforming to the 1989 Official Plan and The London Plan, the recommended intensification of the subject lands would optimize the use of land and public investment in infrastructure and public service facilities in the area. Located within the built-up area of the City and within the Primary Transit Area, the redevelopment and intensification of the subject lands would contribute to achieving more compact forms of growth that are transit supportive. The proposed stacked townhouse dwellings would be a more compact form of development than the single-detached dwelling that had existed on the property.

With regard to whether the recommended amendment would result in a form of development that is compatible and a good fit within the neighbourhood, concerns regarding scale and height; yard depths/setbacks and separation distances; privacy; and tree protection are analyzed below:

4.2 Issue and Consideration # 4 – Issues Raised Through Circulation of the Application

4.2.1 Circulation of notice of application and revised notice of application processes

The application was submitted to the City on December 14, 2018 and was deemed a complete application on January 14, 2019. On January 28, 2019, Notice of Application was sent to all property owners with 120 m of the property. Notice of Application was also published in the *Public Notices and Bidding Opportunities* section of *The Londoner* on January 31, 2019.

A request to amend the proposed zoning by-law amendment was received by email dated April 17, 2019 from the applicant on the advice of the City. The request was to revise the proposed zoning amendment from a Residential R5-7 Zone to a Residential R8-4 Zone. The applicant had also submitted a revised site plan in response to the comments received following the notice of application. The revised site plan (figure 2) is substantively the same (two building, with 42 dwelling units) as was initially submitted (figure 1). The main changes shown on the revised plan is an east interior side yard setback of 6.8m to the parking area, a 6.7m setback from the building to the west lot line, a 6.7m wide driveway width and the location of the deep collection waste system. The changes were proposed to provide a balanced setback between east/west abutting lands and to mitigate some of the concerns raised by the public. These changes would have also been implemented had the applicant continued to pursue the R5-7 zone request since they are the result of public/City feedback and not a result of the City recommended change to the R8 zone.

Following the feedback from the notice of revised Zoning By-law Amendment application the City is proposing that the appropriate zone to implement the proposed stacked townhouse development is a Residential R5 Zone. The Residential R5 Zone permits the townhouse and stacked townhouse uses only. The proposed Special Provisions ensure that the use, intensity and form (as analysis above) maintains the character of the neighbourhood and allows for an appropriate infill development.

On April 24, 2019, Combined Notice of a Revised Application and Notice of Public Participation meeting was sent to all property owners with 120 m of the property. Combined Notice of a Revised Application and Notice of Public Participation was also published in the *Public Notices and Bidding Opportunities* section of *The Londoner* on May 2, 2019 and again on May 9, 2019.

A "Planning Application" sign is also posted on the site

The Planning Act, in subsection 34(12), requires two things of Council in advance of enacting a zoning by-law or any amendment thereto:

- 1) *That a public meeting be held, with the ability of the public to make representations [34(12)(a)(ii)]; and,*
- 2) *That "sufficient information and material is made available to enable the public to understand generally the zoning proposal that is being considered by council" [34(12)(a)(i)].*

Council through The London Plan requires:

1622_ Within 15 days after an affirmative notice of acceptance of a complete application is provided for applications made under the Planning Act requiring public notice, the City will provide a Notice of Application to the persons and public bodies prescribed under the Planning Act, and make the required information and material available to the public.

Section 19.12.4. The City of London Official Plan: *A Committee of Council shall hold one or more public meeting(s) at which any member of the public may express their views on a planning proposal(s). In the case of an amendment to the Official Plan, or the adoption or amendment of a community improvement plan or Zoning By-law, notification of the initial public meeting shall be given a minimum of ten (10) days prior to the date of the public meeting. For the approval or revision of a plan of subdivision, or a vacant land or common element condominium notification of the public meeting shall be given a minimum of fourteen (14) days prior to the date of the public meeting.*

Within 15 days of accepting the complete application, Notice of Application was circulated. The proposed revised proposed zoning by-law amendment was circulated 30 days prior to the Public Participation meeting and the Notice of Public Participation meeting was advertised more than 10 days prior to the meeting.

All statutory requirements of the Planning Act and the City's Official Plan have been met. Given that the development proposal has not changed since it was initially submitted for the R5 zone, all the comments /concerns received from the public during the earliest stages of the application review period remain valid. All of the above listed concerns relate to the form of development and are not particular to actual zone class.

4.2.2 Zoning

The Zoning By-law is a comprehensive document used to implement the policies of The London Plan and Official Plan by regulating the use of land, the intensity of the permitted use, and the built form. This is achieved by applying various zones to all lands within the City of London which identify a list of permitted uses and regulations that frame the context within which development can occur. Collectively, the permitted uses and regulations assess the ability of a site to accommodate a development proposal. It is important to note that all three criteria of use, intensity, and form must be considered and deemed to be appropriate prior to the approval of any development proposal.

The applicant has submitted an application to amend the Zoning By-law to permit a two building stacked townhouse development. The development consists of one 3 storey, 12m high building located along Fanshawe Park Road East with 24 units and a second 2 storey, 9m high building located in the rear portion with 18 units for a total of 42 units.

The applicant had originally proposed that the Zoning be amended to a Residential R5 Special Provision Zone R5-7 (*) Zone. The requested special provision would permit:

- a 4.5 metre front yard setback to the main structure (whereas 6.0m is required);
- a 2.3 metre front yard setback to porch/patios (whereas 3.0m is required);
- 6.1 meter driveway width (whereas 6.7m is required);
- a 4.9 metre west interior side yard setback (whereas 6.0m is required); and
- a density of 75 units per hectare (whereas 60 units per hectare is required).

All other requirements of the R5-7 zoning regulation are met, see full R5-7 regulation below.

BY-LAW RESTRICTIONS		REQUIRED (R5-7)	AS SHOWN ON PLAN
Residential Type		Townhouses and Stacked Townhouses	Stacked Town
Lot Area (m ²)		1000	5583.93
Lot Frontage (m) (min)		30.0	53.34
Front Yard (m) (min)	Arterial	8.0	4.58**
Rear Yard (m) (min)		6.0	8.79
Interior Side Yards (m) (min)		6.0	4.92 (west)** 10.30 (east)
Landscaped Open Space (%) (min)		30	35.29
Lot Coverage (%) (max)		45	31.83
Height (m) (max)		12.0	12.0
Density – Units per Hectare (max)		60	75**
GENERAL PROVISIONS		REQUIRED	PROVIDED
Off-street Parking Spaces (min)		1.5*42 = 63	1.5*42 = 63

Following the submission of comments following the notice of application the City did express a concern to the applicant that the proposed development concept was inconsistent with the intent of the R5 zone category which caps density of 60 units per hectare – whereas the application was seeking 75 units per hectare permitted under the Low Density Residential designation. The applicant considered the Staff perspective and decided to amend the application to request the same development but under an R8 zone. Other than the proposed change from R5 to R8 Zone, the requested range of uses and the requested special zoning criteria remains unchanged under both applications.

Following the feedback from the notice of revised Zoning By-law Amendment application, the City is proposing that the appropriate zone to implement the proposed stacked townhouse development is a Residential R5 Zone. The Residential R5 Zone permits townhouse and stacked townhouse uses only. The proposed Special Provisions ensure that the use, intensity and form (as reviewed above) maintains the character of the neighbourhood and allows for an appropriate infill development.

The proposed special provision are:

- Density of 75 units per hectare (maximum)
- Front Yard Depth 4.5 metres (minimum)
- Front Yard Setback 2.3 metres (minimum) to patio/porch
- West interior side yard 4.9 metres (minimum) for a lot depth of 30 metres
- Height 12 metres (maximum) for a Lot Depth of 30 metres
- Height 10 metres (maximum) for balance of the lands.

It is recognized that intensification is possible for this site, and that infill and intensification policies in the Low Density Residential designation can be introduced for this development at this location, it is recommended that the Residential R5 (R5-7) Zone be maintained, with Special Provisions to allow for the specific development proposal submitted with this application (figure 2). The Residential R5 Special Provision Zone will ensure that the development as shown today is the development proposal that will be considered through the Site Plan Approval process. The proposed Residential R5 Special Provision zone ensure that the use intensity and form as shown in the submitted site plan (figure 2) will be built. Any substantive changes to the proposed R5 Special Provision would require an amendment to the special provisions and therefore would go through a public process (zoning by-law amendment) and re-evaluation of whether the changed proposal is appropriate.

4.2.3 Scale and Height

The scale or height of the proposed stacked townhouse dwellings proposed at three (3) storeys (12m) and two (2) storeys conforms to the minimum height of 2-storeys and maximum height of 4-storeys contemplated in the Neighbourhoods Place Type where the property has frontage on an Urban Thoroughfare; as well as conform to the low-rise form of development contemplated in the LDR designation and would be compatible with the scale of the adjacent land uses in the surrounding residential neighbourhood that are typically 2-storey(s) in height.

To ensure that the ultimate form of development would maintain a 2 and 3 storey height that is compatible with the scale of the adjacent land uses, the recommended amendment includes among the special provisions a maximum height of 12 metres for a lot depth of 30m maximum and a maximum height of 10m for the balance of lands. The proposed maximum heights is in keeping with the 10.5 metre maximum height permitted in the abutting Residential R1 Zone that surround the subject lands, and is consistent with the maximum height of 12 metres that is the standard condition permitted in the Residential R5 Zone variations.

4.2.4 Yard Depth/Setbacks

The proposed development provides for setbacks that meet or exceed the required setbacks for the rear and most side yards. The proposed front yard setback reduction allows for a building along the Fanshawe Park Road frontage with units fronting the street which establishes a built edge and activates the street. The massing and height that is compatible with the existing neighbourhood (composed primarily of 2 storey homes), with the taller building three (3) storey building along the Fanshawe Park Road frontage and the lower building two (2) storey building in the interior of the site providing an appropriate transition into the neighbourhood.

4.2.5 Privacy

Loss of privacy is important to achieving residential intensification that is sensitive to, and compatible with the abutting neighbourhood. It is recognized that the yard depths alone required to achieve absolute visual privacy and prevent overlook are much greater than those that can be feasibly provided in the built-up area of the City while providing for meaningful intensification. By exceeding the minimum interior side yard depth that would be required for a similar height building in the existing Residential R1 Zone, the recommended amendment does not exacerbate the potential for overlook that could occur with the existing as-of-right zoning on the subject lands. Additionally, the proposed

development meets the minimum zoning requirements for rear and side yard depths which have been established to provide appropriate level of separation to reduce the impacts of overlook.

4.2.6 Traffic Impacts/Safety/Idling

Area residents expressed the following concerns about potential traffic impacts, including:

- Fanshawe Park Road has too much traffic and the proposed development will increase the amount of traffic on Fanshawe Road East;
- Access to this site will create unsafe conditions resulting in increased vehicular accidents on Fanshawe Park Road East and Hastings Drive;
- creating unsafe conditions with the existing bike path.
- resulting in increased traffic in the neighborhood to accommodate turning maneuvers to access the site;
- idling of cars; and
- an unsafe condition for children in the rear yard of 35 Camden Place.

On May 8, 2019, the applicant submitted a Transportation Impact Analysis. The City's Transportation department reviewed the report and provides the following:

Transportation has reviewed the report prepared in support of the proposed development at 307 Fanshawe Park Road East, and are in agreement with the conclusion and analysis. The site will generate few trips (19 in the AM peak hour and 24 in the PM peak hour) the adjacent road network will be able to accommodate the additional vehicle trips with minimal impact to existing operating conditions. The use of U-turns to access the site while less conventional than is typically seen in London is a lawful vehicle maneuver, and the use of left turn lanes at the nearby intersections will prevent impacts to through vehicle movements.

The site is located on Fanshawe Park Road East an Urban Thoroughfare in close proximity to the Masonville commercial node. 34,000 vehicles travel on Fanshawe Park Road East every day in front of this site and 2,500 vehicles use Hasting Drive daily. As shown in the accepted Transportation Impact study, the addition of the proposed development and its impact on Fanshawe Park Road East and the abutting neighbourhood will be nominal.

As noted in the Transportation Impact Study, access to Fanshawe Park Road East will be limited to rights in and rights out. There may be some delay entering Fanshawe Park Road East during peak hours. The addition of the limited amount of cars accessing Fanshawe Park Road East with the 34,000 vehicles travelling Fanshawe Park Road will represent a very minute increase to the existing exhaust levels. The location of the driveway with fencing along the east property line will not result in any new impacts on 35 Camden Place.

4.2.7 Lighting

Area residents expressed concerns that lighting will be directed onto the abutting residential uses.

Through the public Site Plan Approval process the applicant is required to enter into a development agreement which specifically requires that all lighting of the site shall be properly oriented and its intensity controlled so as to prevent glare on adjacent roadways and residential properties in conformity with the Site Plan Control By-law.

4.2.8 Fencing

The abutting property owners raised questions including; what is the requirement for fencing; and can enhanced fencing be required.

Through the public Site Plan Approval process 1.8 metre board on board fencing is required. Fencing is reviewed during the public Site Plan Approval process and will be enforceable through the schedules/details shown on the site and landscape plans in the Development Agreement.

4.2.9 Garbage

Concerns were raised regarding the outdoor storage and the location of the pick up space at the rear of the property. Noise, odour and the attraction of pests were the main consideration regarding the outdoor location.

On the revised site plan (figure 2) the applicant shows garbage storage in deep collection waste systems located centrally on the property. The location of the garbage storage and pickup areas will be further considered through the public Site Plan Approval process.

4.2.10 Snow Storage

Concerns were raised about whether there will be sufficient snow storage and specific requirements to have a dedicated snow storage space. The submitted revised site plan (figure 2) shows a 6.8 meter setback along the east property line to the parking area. The proposed area will be sufficient to accommodate snow storage.

Section 1.4 of the Site Plan Design Manual requires that snow storage areas be provided. The location of the snow storage areas will be considered through the public Site Plan Approval process and snow melt is to be considered through the site plan review process as it relates to storm water management.

4.2.11 Housing tenure and decreased property values

Some members of the public expressed concerns that the use of the building, combined with the proposed built form, would reduce the saleability and price of the surrounding homes. Conclusive information regarding the impact on property values associated with higher density forms of housing or tenure characteristics is difficult to determine. Very often the impact on property values is related to such matters as the design of the higher density development, property upkeep and maintenance, property management, and the quality of construction. These issues relate more to the design and management of the use rather than the actual use itself. Municipal planning is not based on property values, but rather on assessing issues such as planning impact, appropriate land use, scale, density, massing and design.

4.2.12 Amount of parking

Concern was raised that not enough parking is provided on site and will create parking issues in the neighbourhood.

Zoning By-law Z.-1 requires that all required parking is provided on the lot. The current proposal shows 63 surface parking spaces on the site. The Zoning By-law requires 1.5 parking space per unit for stacked townhouse development. The by-law would require a minimum of 63 parking spaces be provided for the stacked townhouse use. The applicant is proposing 63 spaces to be provided on the site.

4.2.13 Design

Design issues to be considered through the SPA process include the following:

- all lighting be oriented and its intensity controlled so as to prevent glare on adjacent residential properties and roadways;
- enhanced fencing;
- preservation of the existing vegetative buffer (cedar hedge) for the purpose of providing a privacy buffer to abutting properties;

- required structures that clearly address concerns that have been raised regarding storm water management and the potential for flooding, standing water, and problems caused by snow storage melt.

A review of the development application by the Urban Design Peer Review Panel to provide advice to the applicant, Staff and City Council on design issues is requested to be completed prior to the public site plan meeting.

4.2.14 Stormwater Management/Flooding

Neighbourhood residents expressed concerns that due to the existing slope of the land, water run-off and pooling onto surrounding yards is already a problem and that the proposed development would exasperate the issue.

On May 7, 2019, the applicant submitted a Servicing Feasibility Study. The City’s Development Services department reviewed the report and provides the following:

The City has reviewed the Feasibility Study prepared by Strik, Baldinelli, and Moniz (SBM) Ltd. and have concluded that the Stormwater Management (SWM) Strategy for the site is acceptable to proceed for the re-zoning application. As part of the future site plan application, further reports and documentation will be required to be submitted in order to refine the design and to satisfy the City’s drainage by-law and SWM standards. This information will be required to be reviewed and accepted by the City prior to the removal of the h-89 holding provision

In the submitted Feasibility Study it shows that there are opportunities on the site to capture, store and drain stormwater completely on the site in conformity with the City’s Drainage By-law. Through the Site Plan approval process and Public Site Plan meeting stormwater management will be further refined to ensure that there are no new impacts on the abutting property.

5.0 Conclusion

The subject lands are considered to be an underutilized lot appropriate for residential infill and intensification. The proposed development of two stacked townhouse blocks is consistent with the Provincial Policy Statement, The London Plan and the ’89 Official Plan policies for Residential Intensification.

Prepared by:	C. Smith, MCIP, RPP Senior Planner, Development Services
Recommended by:	Paul Yeoman, RPP, PLE Director, Development Services
Submitted by:	George Kotsifas, P.ENG Managing Director, Development and Compliance Services and Chief Building Official

Note: The opinions contained herein are offered by a person or persons qualified to provide expert opinion. Further detail with respect to qualifications can be obtained from Development Services

May 16, 2019
CS/

CC: Michael Tomazincic, Manager, Current Planning

Y:\Shared\DEVELOPMENT SERVICES\11 - Current Planning\DEVELOPMENT APPS\2019 Applications 9002 to\9006Z - 307
Fanshawe Pk Rd E (CS)\DraftPEC Report-Z-9006 (C.Smith).docx6 Exeter Rd) Z8969.docx

Appendix A

Bill No. (number to be inserted by Clerk's Office)
2019

By-law No. Z.-1-19_____

A by-law to amend By-law No. Z.-1 to rezone
an area of land located at 307 Fanshawe Park
Road East.

WHEREAS Royal Premier Homes has applied to rezone the lands located
at 307 Fanshawe Park Road East, as shown on the map attached to this by-law, as set
out below;

AND WHEREAS this rezoning conforms 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 307 Fanshawe Park Road East, as shown on the attached
map, from a Holding Residential R1/ Bonus (h-5*h-54*h-89*R1-8*B-15) Zone to a
Holding Residential R5 Special Provision (h-5*h-54*h-89* R5-7 (☆)) Zone.

2) Section Number 9.4 of the Residential R5 (R5-7) Zone is amended by
adding the following Special Provision:

- ___) R5-7 ()
 - a) Stacked Townhouse Use Only.
 - b) Regulation[s]
 - i.) Density 75 units per hectare
(maximum)
 - ii.) Front 4.5 metres
Yard Depth
(minimum)
 - iii.) West interior side yard 4.9 metres
for a lot depth
of 30 metres
 - iv.) Front Yard Setback 2.3 metres
to patio/porch
(minimum)
 - v.) Height 12 metres
For a Lot Depth
of 30 metres
(maximum)
 - vi.) Height 10 metres
For balance
of the lands.
(maximum)

3) 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. P.13*, either upon the date of the passage of this by-law or as otherwise provided by the said section.

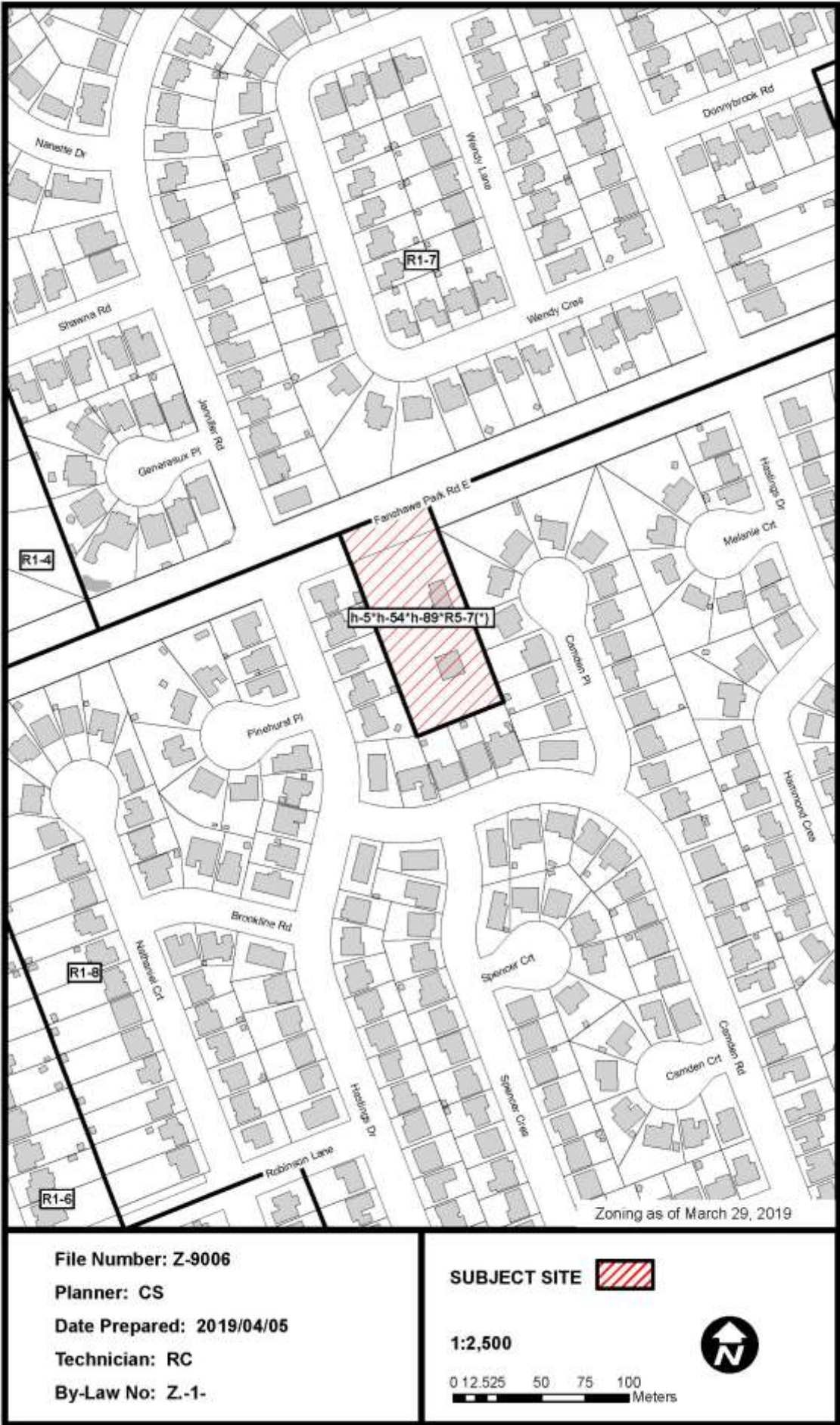
PASSED in Open Council on June 11, 2019.

Ed Holder
Mayor

Catharine Saunders
City Clerk

First Reading – June 11, 2019
Second Reading – June 11, 2019
Third Reading – June 11, 2019

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



Appendix B – Public Engagement

Community Engagement

Public liaison: On January 28, 2019, Notice of Application was sent to all property owners with 120 m of the property. Notice of Application was also published in the *Public Notices and Bidding Opportunities* section of *The Londoner* on January 31, 2019. A “Planning Application” sign was also posted on the site.

43 replies were received

Nature of Liaison: The purpose and effect of this zoning change is to permit two stacked townhouse buildings with 42 units (75 units per hectare. Possible change to Zoning By-law Z.-1 **FROM** a Holding Residential R1/ Bonus (h-5*h-54*h-89*R1-8*B-15) Zone **TO** a Residential R8 Special Provision (R8-4 (_)) Zone to permit townhouses and stacked townhouses with A 4.5 metre minimum front yard setback, a 2.3 metre front yard setback to porch/patios, and a maximum 75 units per hectare.

Departmental Comments

Urban Design

Urban Design staff commend the applicant for incorporating the following into the proposed design; locating a building along the Fanshawe Park Road frontage with units fronting the street, establishing a built edge and activating the street; massing and height that is compatible with the existing neighbourhood (composed primarily of 2 storey homes), with the taller building (3.5 storeys) along the Fanshawe Park Road frontage and the lower building (2.5 storeys) interior to the site; locating all parking in the rear of the site.

Through the staff recommendation, the site plan authority should be requested to ensure the following design principles are incorporated into the final site and building design through the site plan approvals process:

- Ensure the proposal is in keeping with the principles established through the re-zoning process, these include:
 - Building location and orientation;
 - Building massing and height;
 - General site layout (setbacks, parking location, vehicular access, pedestrian circulation, etc...)
- Ensure there is an adequately sized and located amenity area on site for future residents;
- Provide adequate landscaping along the east, west and south property lines in order to provide a buffer between existing adjacent single family homes and the proposed development.
- Explore opportunities to incorporate materials, colours and architectural styles that are found in the area into the final design of the buildings;

Responses to Public Liaison Letter and Publication in “The Londoner”

Old Stoneybrook Community Association	Bill and Linda Day 1277 Hastings Drive London ON N5X 2H8
Alex and Mirella Plommer Spencer Crescent	Brandon Lawrence 41 Meridene Crescent East
Brian Blazey 11 Melanie Court	Fred and Wendy Ruddle
Carl Hallberg and Phyllis Retty 1262 Hastings Drive London ON N5X 2H7	Cathy and Fred Cull 33 Camden Place London ON N5X 2K5
Gary and Joanne Schleen 11 Spencer Court	Gary Croxell 17 Camden Road
Gloria McGinn-McTeer 18-683 Windermere Road London ON N5X 3T9	Sandra and Greg Peloza 63 Robinson Lane
Heidi Cull-Capstick and Jason Capstick 28 Frobisher Crescent	John Howitt and Anne MacDougall 1281 Hastings Drive London ON N5X 2H8
June Smith 67 Millford Crescent	Katherine and Dale Laird 51 Camden Place N5X 2K5
Ken McGuire 63 Camden Place London ON N5X 2K5	Lindsey Bradshaw and Steve Cameron 33 Camden Place
Mary and Vladimir Stopar 30 Fawn Court London ON N5X 3X3	Michael Crawford 21 Camden Place London ON N5X 2K5
Mary Lacey 37 Camden Place	Phil and Deena Lincoln 7 Camden Road
Shannon and Mark McGugan 20 Cedarwood Crescent London ON N6H 5P4	Tom Collins 70 Milford Crescent N5X 1A8
Tracey Taylor	Wendy McDonald 55 Camden Place
Dave Crackel 171 Cambridge Street	Tony Mara
Piotr and Bozena Nowakowski 1273 Hastings Drive	Claudia Clausius
Catherine Traill	Brian Crombeen 87 Camden Road
David Jackson 60 Camden Road	Susan Campbell
Rick and Barb Giroux 1269 Hastings	Mike and Ashely Kirley
Shi Yinggru 76 Camden Road	Keith Stewart 75 Camden Road London ON N5X 2K2
Rasul Shafikov 1304 Hastings Drive	Barbara Allen 116 Robinson Lane
Jean Hammond 1260 Hastings Drive London ON N5X 2H7	Russell Sawatsky 1541 Hastings Drive

Old Stoneybrook Community Association
Helping Grow Forest City...



Response
Re-Zoning Application Z-9006
307 Fanshawe Park Road East

Submitted February 25, 2019 to the Planning Staff, City Councillors, and Planning and Environmental Committee, City of London, Ontario.

Dear Mr. Craig Smith,
We are submitting our response to the Application to Re-Zone (File number Z-9006) and ancillary documents authored by Zelinka-Priamo Ltd. posted on the City Website January 28, 2019.

We are eager to develop discussion leading up to the Public Participation Meeting. Given the unusually short timelines, (28 Jan. first notification, 7 Feb. Public Meeting, 1 March submission deadline), we are anxious to have our feedback considered by City Hall.

Respectfully submitted on behalf of
Old Stoneybrook Community Association

Old Stoneybrook Community Association
Helping Grow Forest City...

INTRODUCTION

We agree with the aspirations of the City of London to re-develop existing sites within the constraints of City boundaries. For reasons of City economics, environmental responsibility, and the need to build and sustain healthy and diverse neighbourhoods, infill development is sensible.

That said, we cannot support the presented plan for intensification as its density, design, and build are contrary to both the spirit and letter of the City's Official Plan (1989), the City's Bylaws (1989), and the intended London Plan (2016, as updated 2018).

Our objections can be defined in a few central themes:

1. The plan represents a massive increase in building scale and density, and is insensitive to the neighbourhood characteristics and scale. To use the City's own language: the proposal does not "fit" the "character" of the surrounding neighbourhood.
2. The plan's density exceeds constraints of the site itself, and would require many variances to multiple setbacks, parking, and landscaping Bylaws. This would represent a major insult to both the letter and spirit of the Official Plan and Bylaws.
3. The proposal will see the removal of all trees (excepting a hedge) that are not part-owned by neighbours. This violates Bylaws, the aspirational intent of both the old Official Plan as well as of the new London Plan. The tree removal also has major implications for buffering, as well as for the management of snow and waste water.

ZONING AND DENSITY

In 2011, 307 Fanshawe Park Rd. East was rezoned in the "City of London Zoning Bylaws" from R1 (8) to R1 (bonus h-5*, h-54*, R1(8)b. This bonusing was linked to a specific plan that, in the end, was not realized. The development was also linked to preservation of an existing yellow brick farm house. This house also no longer exists as it was demolished by Premier Homes in January of this year.

Our specific reservations fall into three broad categories:

- A. elements that affect the quality and character of the immediate neighborhood
- B. elements that affect the flow of traffic and pedestrians
- C. elements likely to affect residents of the proposed development.

Important: many of the issues that a City Planner might consider best dealt with at the stage of Site Planning, **actually** devolve from the Developer over-reaching with regard to density/rezoning. We request that these concerns be addressed before Site Planning.

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A. Concerns pertaining to Immediate Neighborhood.

Preamble

In the Official Plan, the neighborhood area is designated R1(8), and 307 Fanshawe Park Rd. East, in the absence of the farm house required in the former re-zoning, now reverts back to R1(8). The designation of Fanshawe under the *Official Plan* (1989) and formally recognized by the City in the 2011 re-zoning, is “arterial road”. In the 2018 *London Plan*, the area is officially designated a “neighborhood”, and one side faces an “urban thoroughfare” bordered on both sides by pedestrian and bike paths.

It is worth mentioning here that the “urban thoroughfare” side of this elongated property is small. In fact, 83% of the property perimeter backs onto R1 single family dwellings of 1 to 2 stories. As such, there is an obligation to meet the requirements of:

London Zoning Bylaws 1989 - Section 3.1.2 – Low Density Residential Objectives:

- “Enhance the character and amenities of residential areas by directing higher intensity uses to locations where existing land uses are not adversely affected.”
- “Development within areas designated Low Density Residential shall have a low rise low coverage form that minimizes the problems of shadowing, view obstruction, and **loss of privacy**” (*Official Plan* 3.2.2; emphasis added)
- “Residential Intensification projects shall use innovative and creative urban design techniques to ensure that character and compatibility with the surrounding neighbourhood are maintained as outlined in policy 3.2.3.3 and 3.2.3.4.” (*Official Plan* 3.2.3)
- “Zoning By-law provisions will ensure that infill housing projects recognize the scale of adjacent land uses and reflect the character of the area.” (*Official Plan* 3.2.3.2)
- “New development should provide for a diversity of styles, continuity and harmony in architectural style with adjacent uses. (*Official Plan* 3.2.3.8)
- “Development of the site or area for medium density residential uses shall take into account surrounding land uses in terms of height, scale and setbacks and shall not adversely impact the amenities and character of the surrounding area.” (*Official Plan*)
- According to the *Official Plan* (3.2.3.4), the onus is upon the applicant to “clearly” demonstrate “that the proposed project is sensitive to, compatible with, and a good fit within, the existing surrounding neighbourhood based on, but not limited to, a review of both the existing and proposed built form, massing and architectural treatments.” Removal or all trees and replacement with a parking lot for 63 cars is not, by any objective criteria, a good fit. Nor is a reduction in the offset from neighbours.
- If Council wishes to anticipate the aspirations of the *London Plan* (2018), it must consider Sections 940 and 953 that require that the subject lands can appropriately accommodate the proposed development, allowing for efficient intensification of the lands while also providing large landscaped open space, sufficient parking, and large building setbacks. Moreover, these sections stipulate that “as a municipality, we will design for and foster a well-designed built form throughout the city....” Well-built forms do not start with multiple variances from the Bylaws. Furthermore, the documents go on to state an aspiration to “development that is designed to be a good

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fit and compatible within its context.” Section 937 clearly states that “Intensification within existing neighbourhoods will be encouraged to help realize our vision for ageing in place, diversity of built form, affordability, vibrancy, and

effective use of land in neighbourhoods. However, such intensification must be undertaken well **in order to add value to neighbourhoods rather than undermine their character**, quality, and sustainability” (emphasis added).

In our opinion, R5 could be appropriate, but at a lower density in this application totaling 16-20 units to match the previous R1 bonus, 2011 plan (or a plan equivalent to R5-5).

Specific Concerns Relating to deviations from Bylaws and the *Official Plan*:

1. Although the Notice of Planning Application (28 January 2019) outlines a proposed change from R1/Bonus to R5-7, the Planning and Design Report (Zelinka and Priamo 21 Dec, 2018) proposes R6-5 (pg. 16), and R6-7 (page 35).

2. The London *Official Plan* (1989) 3.2.3.2 permits a density of up to 75 units/ha. This statement lists building types ranging from detached to low rise apartments. However, significantly, Section 3.2.3.8 of the same *Official Plan* states that “it is intended that an intensification project **should meet all Zoning By-law regulations**.” It is clear then that the Official Plan insists on observance of the zoning Bylaws. The Plan does not supersede the existing Bylaws. Thus, in Section 9.2 of the City of London Zoning Bylaws (1989), under PERMITTED USES in R-5, the Bylaws describe two possible configurations:

1. a) Cluster townhouse dwellings
2. b) Cluster stacked townhouse dwellings

The MAXIMUM assigned density for stacked townhouses is “60 units per hectare (24 units per acre) for inner city areas and locations near major activity centres.” This site is neither inner city nor a designated major activity centre. If these Bylaws are observed with regard to number and nature of neighbourhood, it is arguable that even 60 units/ha are illegitimate.

Section 3.2.3.8 of the *Official Plan* indicates that “there may be instances when **a minor** variance is warranted based on the configuration of the site or development constraints associated with it. Any required variance should be evaluated as part of the development” (emphasis added). The density proposed is such that it requires not a single minor variance, but multiple major variances.

3. The proposed setback of apartment Block A from the west side property is 4.9 m. The proposed height (only to mid roof) of the structure is 12.1 m. However, the Bylaw requires a setback of 0.5m per metre of height, which in this case would be 6 meters not 4.9 m. (Bylaw Section 9, Table 9.3).

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“when the end wall of a unit contains no windows to habitable rooms or 6.0 metres (19.7 feet) when the wall of a unit contains windows to habitable rooms”.

Since the elevation plan of townhouse Block A contains full windows on the 1st and 2nd floors and transom windows on the 3rd, setback should be 6 meters.

4. The hyper density of the proposed buildings necessitate an expansive parking lot (1.5 spaces per residential unit). Since the parking lots abut neighbours on *three sides* it is urgent to note that they do not conform to City Bylaws in several ways (Site Plan Control Bylaw CP 1455-541).

6.2g “Private Outdoor Space d) i) Common parking lots should not be closer than 3 m (9.8 feet) to a private outdoor space; ... (iii) Parking spaces should be oriented so that headlights and fumes are not directed towards the private

outdoor space by using a parallel parking arrangement or by screening with planting or fencing;"

6.2 a ii One (1) "visitor parking space shall be provided for every ten (10) dwelling units";

6.2 d "Where feasible, parking should not be permitted in a yard adjacent to a residential zone. Where such parking is permitted, adequate screening will be required (see Section 9 on landscaping)."

- a) The eastern parking lot does not meet the required 3 m setback (it is 2.4 m).
- b) City Bylaws require that parking spaces be oriented *away from* neighbours and be shielded by a privacy screen both to avoid lights and fumes. Both lights and/or fumes are directed into neighbours' yards in this current plan.
- c) Parking spaces are required to be broken by a landscaping feature every 15 spaces. This is entirely missing in the current plan.
- d) Parking spaces are presently apportioned at the minimum required 1.5 times number of residential units (i.e.: 42 units x 1.5 = 63 parking spaces).
- e) Accessible parking is inadequate at present. Only one of the two slots is the regulation twice the regular width. As well, accessible parking is required for 4% of the total which in this case would be 2.5 slots. (Bylaw Z-1-14, Sect. 4.19; Ontario Reg. 413/12, Sect. 80.36).
- f) The development cannot accommodate 63 parking spaces while complying with the Bylaw R5 Section 9 table 9.3 that mandates 35% of the development area to landscaping.
- g) There are no spaces for mandatory bicycle storage.

In view of the above, night time parking will be noisy and cast car headlights onto neighbours' back yards, all of which will be less buffered than would be the case had setback been respected and trees preserved. Fumes will float into adjacent backyards where children play. Moreover, the parking lot will be illuminated literally 24/7. This

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will be an annoyance to neighbours who border 83% of the perimeter and ALL of the parking lot. Assurances that lights will be downcast do not answer the light pollution problem since lamp poles cast a large circumference. This current parking plan clearly violates the *London Plan* 279: "Lighting of parking areas will be designed to avoid negative light impacts on adjacent properties."

5. Premier Homes' "Tree Report" dictates the destruction of all trees on the site (with the exception of the SW hedge and *some of the* shared boundary trees). This violates the aspirations of the *London Plan*.¹ We all recognize that London comprises discrete neighbourhoods each with its own individual character – Wortley Village, Old North, Byron, Sunningdale, Old South, and Old Stoneybrook, etc. A unique and historical feature that *distinguishes* Old Stoneybrook among London's northern neighbourhoods is the many mature trees bordering former farm fields. Moreover, trees planted during the suburb's development in the early 1970s are now grand and mature. Mature trees are thus a defining characteristic of Old Stoneybrook. As a distinctive feature of the neighbourhood, preservation and respect of neighbourhood characteristics (formally enshrined in the guiding principles of both the *Official Plan* and the *London Plan*) must be respected by planners and developers alike. Indeed, **Zelinka Priamo explicitly recognize this as a distinguishing feature** on p. 6 in the "Spatial Analysis and Neighbourhood Character" section of their Planning and Design Report: "Large mature trees are located on many of the properties in the area." The Zelinka Priamo plan recognizes the mature trees, but then proceeds to plan for their clearcutting.

Note: 307 Fanshawe is *in and of itself* designated a "Tree Protection Zone": Bylaw No.

C.P.-1515-228 Map D2. Why is the plan not sensitive to this Bylaw? Moreover, the *Official Plan* (1989) places great emphasis upon the preservation of existing trees (11.1.1 ii) and the quality of green space. The *Official Plan* 1989 section 11.1.1 x directs: “Landscaping should be used to conserve energy and water, enhance the appearance of building setback and yard areas, contribute to the blending of new and existing development and screen parking, loading, garbage and service facilities from adjacent properties and streets.”

- a. In the current plan, landscaping is below threshold – 32% instead of the 35% required in Bylaw Section 9 table 9.3. Worse yet, much of the proposed landscape encompasses property margins and offset, and is neither practically useful for future residents of the development, nor does it buffer the surrounding neighbours.
- b. Flooding over this alluvial clay-based property has always been a perennial problem. Water retention characteristics of the site will be drastically degraded with this plan.
- c. Since the eastern border of the parking lot does not provide the required setback, there is insufficient room to plant substantial trees. Indeed, installation of the parking lot might damage the root structure of neighbours’ trees. In this way, even

¹ See *London Plan* 272 – The impact of parking facilities on the public realm will be minimized by strategically locating and screening these parking areas. Moreover, the *London Plan* devotes an entire section specifically to the retention of trees.

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salvaged trees might die. Replacement trees situated elsewhere, if even possible, will take DECADES to grow to anything substantial. In the meantime, neighbours will be denied buffering from: 63 cars, 24/7 lighting, and the industrial-scale garbage and snow removal contractors for decades.²

- d. The current plan provides no space for snow cleared from the parking lot. This will inevitably result in the narrow bordering grounds being piled meters-high with snow. Inevitably again, this will result in even worse flooding during the spring thaw. Zelinka Priamo’s Planning and Design Report elevation drawings (p. 15) indicate a substantial grade at the rear of the property. Where will melt water go if not into the neighbours’ yards? No catchment located under the paved areas will redirect melt water produced by thaw along the perimeter. If the alternative is to load snow into trucks to cart away, neighbours will endure the noise of night now removal and cartage operations.
- e. According to a licensed arborist, any new “replacement” trees, in the absence of other mature trees on the lot, will be drowned in the flooding caused by melting snow.

6. It is not clear that Premier Homes’ plan includes a reservoir for storing precipitation run-off from the proposed large concrete and asphalt surface area, or to actively pump back up to the existing drainage connection. This violates the proposed sections of the *London Plan* (2018) below.³ To make matters worse, while the present site comprises a gentle front-to-back downward slope, the Zelinka Priamo elevation plan (their Figure 22) shows that front and middle of the site will be raised and levelled. The result will be a sharper downward slope pushed to the extreme back of the property and thereby steepened (see **Figure 1** below). This now steepened slope, where snow will be piled, means that spring runoff cannot be retained by water management or routed by the parking lot. Instead, the melt will pour downhill into the residential backyards. This exacerbates the potential to drown neighbours’ existing trees (according to a consulting arborist), and to flood basements bordering the 307 property.

² *London Plan*: Direction 4/9: “Strengthen our urban forest by monitoring its condition, planting more, protecting more, and better maintaining trees and woodlands.”
³ See *London Plan* 282: “Surface parking areas will be designed to incorporate landscape/tree islands for visual amenity and to help convey stormwater and reduce the heat island effect.” 283: “Large surface parking areas will be designed to incorporate low impact development measures to address stormwater management.”

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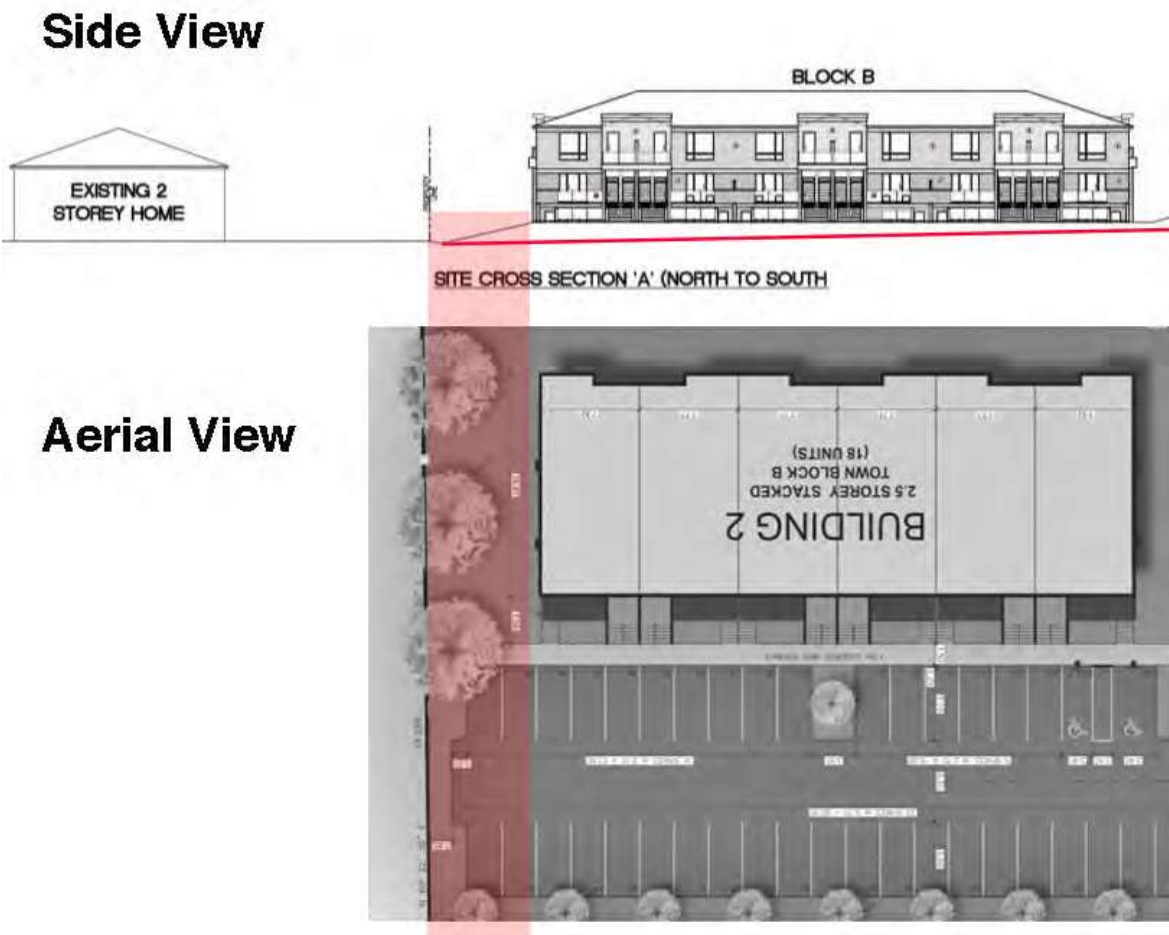


Figure 1. A current gradual front-to-back slope is pushed and steepened to the rear of the lot in the proposed development. The red shading indicates the area of a proposed slope that empties into rear-abutting yards. Red line denotes original grade of lot. In addition, note that the aerial view of this diagram illustrates the lack of space available for snow removal and storage: the entire perimeter of the lot is either border or walkway.

7. Privacy is a big concern. The surrounding residences are 1 - 2 stories. Although Zelinka Priamo’s conceptual plan discusses 3.5 stories, the roof height (strategically faded in their diagram) is 12.1 meters and towers over adjacent properties. Compare **Figure 2A** below (copied from Zelinka Priamo Figure 22) to **Figure 2B** (elevation copied from Zelinka Priamo Figure 16 scaled and pasted into Zelinka Priamo Figure 22).

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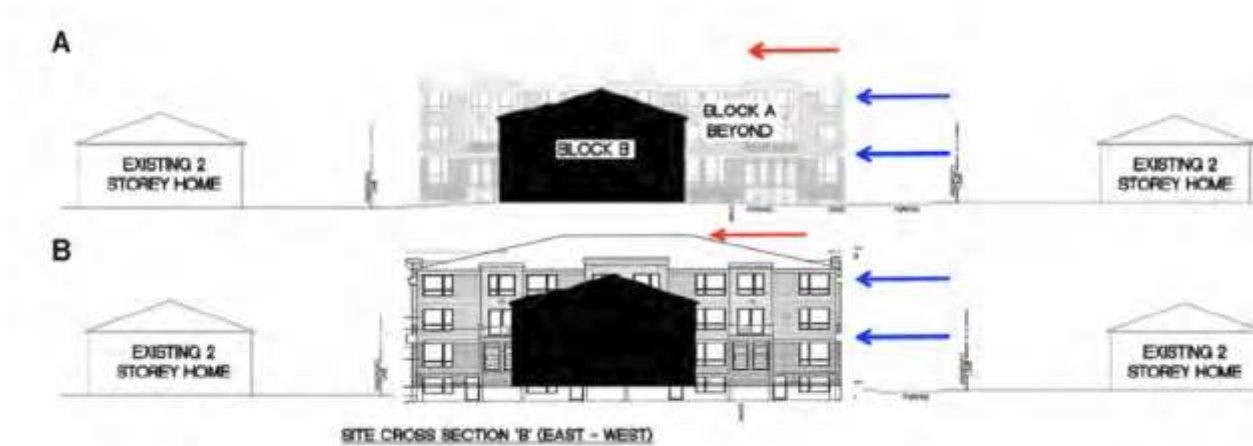


Figure 2. Comparison of Zelinka Priamo elevations and neighbours' roof lines. The comparison shown in their report Figure 22 is faded at the roof line. The red arrow indicates its location in their representation (above Figure A). Compare this with the solid roofline from Figure 16 scaled to match at comparable features (blue arrows), and indicating the degree to which the proposed structure will dominate adjacent housing (above Figure B). Note that Zelinka and Priamo's depiction of front and back elevations of Apartment Block A differs in their Figures 16 and 22, making comparisons difficult. In view of this, the elevation and height disparity have been **conservatively** represented in our lower Figure 1B.

A 6-foot high perimeter privacy fence would provide no privacy from 2nd and 3rd floor balconies in the development. This lack of privacy will be exacerbated by the removal of all screening trees and their replacement with a parking lot. The elevation drawings (Zelinka Priamo's Planning and Design Report, p. 15) indicate a substantial grade at the rear of the property, and a more gradual one from the front: the proposed apartment blocks will loom more than 3 or 4 stories in height over neighbours. We refer you to the guiding principles of the Official Plan:

Vision Statement (2.3.1.)

- vi) "An Official Plan should enhance the character of residential areas and direct redevelopment and intensification activities to locations where existing land uses are not adversely affected."
- vii) "Land use planning should promote attractive ... building design which is sensitive to the **scale and character** of surrounding uses."
- viii) "While it is recognized that there may be redevelopment, infill and intensification in some established residential neighbourhoods, higher intensity land uses will be directed to locations where the character of the residential area is enhanced and existing land uses are not adversely affected."

Moreover, according to the *Official Plan* (3.2.2.) "development within areas designated Low Density Residential shall have a low-rise, low coverage form that minimizes problems of shadowing, view obstruction **and loss of privacy**."

On page 8 of the "Design Goals and Objectives" section of the Zelinka Priamo Planning and Design Report, one of the 5 major goals listed is to "Ensure ... enhancement where

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possible, of privacy between the subject lands and abutting properties." By any objective criteria, this goal has not been realized since the design and layout of this high density intensification degrades privacy for abutting neighbours in the numerous and substantial ways enumerated above.

8. There is no indication that the plan includes centralized air conditioning: 42 window mounted air conditioners would be environmentally inefficient and add noise pollution to

the immediate neighbours. Is this building going to be LEED certifiable?⁴ A central air conditioning plant will further diminish the already-reduced landscaped area available, further eroding the 35% landscape requirement.

9. There seems no plan for garbage collection: no receptacle bins appear on the diagrams. The requirement for waste storage from such a concentrated density of 42 units will presumably reduce either parking spaces or landscaped space. As well, waste storage may further breach the already enumerated setback and Bylaw violations. In the current plan, waste bins will likely be close to neighbouring properties, bringing rotting garbage smells and pests. This will seriously degrade the enjoyment of outside spaces by both residents and neighbours alike. If waste collection is industrialized, the narrow lane access to industrial bins will mean routine reverse signal (beeping) at any odd hour, much to the detriment of peace enjoyed by residents and neighbours. Centralized garbage facilities will further erode the already-substandard landscaped area available, further failing to meet the 35% requirement.

B. Elements that affect the flow of traffic and pedestrians

1. According to the City of London Bylaws (1989), R5 buildings are required to have a 6 meters setback from a residential road **or 8 meters from a major artery** (i.e.: Fanshawe Park Rd. East). The setback proposed, anticipating widening of Fanshawe, is described by Zelinka Priamo in the Proposal Document as 4.5 meters. Not only is this far short of the required 8 meters; it is also misleading. Both the overhanging balconies as well as the below-grade window wells jut out 2.2 meters into the proposed setback. This thereby reduces the **actual setback** of the proposed structure to a mere **2.3 meters**. Where will the pedestrian and bike paths go? The Bylaws were established for efficiency and safety. How can these be achieved when the proposals are 5.7 meters short of the requirement? (Bylaw Section 9, table 9.3).
2. The front minimal setback means that exiting drivers will have an obstructed view of pedestrians and cyclists, especially near a bus stop. Who bears liability for accidents arising from this violation of the setback Bylaw?
3. The proposed “right turn in, right turn out” will frustrate residents and endanger other drivers, cyclists, and pedestrians alike:
 - a. If a bus is idling at the London Transit stop immediately west of the driveway, neither the resident driver, nor oncoming traffic will be able to gauge egress safely (Figure 3).

⁴ *London Plan* (2018): Section 6: “Reduce our human impact on the environment – reduce our carbon footprint as a city.” Section 8. “Promote green development standards such as LEED Neighbourhood Development and LEED Building Design and Construction standards.”

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- b. Residents travelling home westbound on Fanshawe will inevitably have to turn left/south at the lights onto Hastings to do a three point turn in order to turn right/east back onto Fanshawe into their own driveway (Figure 3). Alternatively, exiting residents wishing to travel west towards Richmond must first drive east along Fanshawe before making a U-turn in order to proceed west.⁵
- c. If the present “cut-out” in the Fanshawe lane divider remains, residents will attempt to make risky turns across two lanes of traffic to go either into or out of their driveway. Even worse, if the cutout is blocked, access for fire trucks from the Fanshawe Park Rd. East fire station might be delayed.



Figure 3. Map showing entrance and exit traffic challenges. Residents wishing to leave the complex and go westward must first turn east, pull a U-turn, and then go west (red line). Residents driving to the complex from the east, must first pass the complex, turn south onto Hastings, then pull a U-turn before proceeding east again (orange line). In both instances, visibility for integrating into traffic is challenged by bus stops (blue and green boxes). 307 Fanshawe is circumscribed in yellow.

C Elements likely to affect residents of the proposed development.

The useable green space of the property is miniscule, and very little of it is likely to be useable by residents. The plan articulates a 32% building coverage, but this does not

⁵ *London Plan 270*: “The location, configuration, and size of parking areas will be designed to support the planned vision of the place type and enhance the experience of pedestrians, transit-users, cyclists, and drivers.”

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include the parking lots. If one includes the narrow border of the eastern parking lot, the common total landscaped area is just under 32%. Current Bylaws require 35% (R5 Section 9 table 9.3).⁶ There is no play area in a development we have been told is intended to be family friendly.

1. We have been told that the proposed development is designed to appeal to people seeking housing on a budget (i.e.; young families). Given this, it is odd that the proposal does not define a play area or other green space. This contravenes the Official Plan (11.1.1 xvi). The proposed landscaped ground is limited to fragmentary and strip-like border spaces. This precludes room for a play area. This is an inevitable consequence of the high density infill and the required parking spaces.
2. There does not appear to be accommodation for bicycle storage. *London Plan 280*: “Secure, covered and non-covered bicycle parking should be incorporated into multiple- unit residential, commercial, retail, institutional, and recreational developments”.
3. Residents’ cars will be over crowded since back-to-back spacing in the proposal is 6.1 meters instead of the required 6.75 meters. City Bylaws (Site Plan Control Bylaw CP 1455-541:6.2 g): “Where the applicable zoning by-law regulations do not specify the size of parking spaces and aisles, the relevant standard minimum parking dimensions set out in Figure 6.1 and Table 6.1 shall be used and the spaces shall be clearly marked.” Moreover, in Figure 2.1 of the Bylaw, “Parking

separation,” each parking slot must be 5.5 meters long, and back to back separation should be 6.75 meters.

4. Residents inhabiting basement units at the front of apartment Block A (with 1 meter below grade patios immediately abutting pedestrian and bike traffic on Fanshawe Park Rd. East), will find their “patios” serving as refuse receptacles for the bus stop.

MASSING

⁶ This is also contrary to the *London Plan* 2018 Direction 7 Subsections 4 and 9 as well as Direction 8 that dictates the implementation of an ecosystem approach. In 160, we read that “Existing trees, both public and private, should be retained in accordance with an environmental impact study and/or a tree preservation plan, through the review of redevelopment and intensification project.” In 235, we note: “Landscaping should be used to define spaces, highlight prominent features and landmarks, add visual interest, define pedestrian areas, delineate public and private spaces, add comfort and improve health, offer visual screening, and improve the aesthetic quality of neighbourhoods.” In 940 it says that: “It is an important strategy of this Plan to support all of these forms of intensification, while ensuring that they are appropriately located and fit well within their neighbourhood.” In Section 953, we read: “The subject lands can appropriately accommodate the proposed development, allowing for efficient intensification of the lands while also providing large landscaped open space, sufficient parking, and large building setbacks.” In 237 we see that “Treescapes should be recognized as important features of a neighbourhood’s planned character.” Section 240 states: “Landscaping features that provide amenities for pets should be considered when designing streetscapes.” In 258 we read: “The layout and grading of a site should retain and incorporate desirable trees.” In 277 it states that “Surface parking lots should be designed to include a sustainable tree canopy with a target of 30% canopy coverage at 20 years of anticipated tree growth.” This **long list** of requirements – many repeating former points - speaks eloquently and consistently to a vision of London’s development entirely at odds with the present proposal.

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The *Official Plan* (for example 6.2.2) directs that “intensity (i.e. massing, height, scale) and design” must be “compatible with character and features of the surrounding area.” Quoting from Zelinka Priamo’s Planning and Design Report, the “2.5-storey and 3.5-storey heights of the buildings are slightly taller than, but similar to, the single-detached dwellings to the south, east, and west of the subject lands, and maintain the low rise character of the area. As the proposed 2.5 and 3.5-storey townhouse buildings will have a one half story below grade, it will appear to have a height of 2 and 3-storeys above ground, respectively, therefore remaining generally consistent and compatible with the abutting single detached dwellings. The greatest massing of the site, being Building 1, is located towards the street in a location that is away from the majority of abutting parcels, and abuts only one property, being 1261 Hastings Drive.” In reality, the structures rise to **twice the height** of neighbouring properties, either in Block A by design alone, or in the instance of Block B, by being built on top of the landfill. The lower surface grading present at the back is being raised, to judge from the elevation drawings, by nearly a full story height. Neither property could be stated to “be sensitive to, compatible with, and a good fit within the existing surrounding neighborhood” (*Official Plan* 3.7.3.1). Since both buildings sport either 2nd and/or 3rd story balconies, these structures cannot help but dominate the skyline. This will be particularly egregious once all the trees are removed.

ARCHITECTURAL DESIGN AND DETAIL

At the February 7 library meeting, Zelinka Priamo presented only conceptual ideas and designs. Most detailed questions went unanswered, or we were told these were Site Planning decisions. We strongly oppose important decisions being postponed to the Site Planning Committee since many such decisions **must** be made at the preliminary stages in order to effectively inform rezoning decisions. Furthermore, it is impossible at this time to gauge the design compatibility with the neighbouring area. Indeed, the

drawings are explicitly labeled as “conceptual” only. **We have no way of knowing what the actual plans or designs are.** Not only this, the concepts themselves are inconsistent in the documents. The 3D designs in Figures 12 - 15 differ from the elevation drawn in Figure 16, which in turn differs from the drawing in Figure 22 with respect to window and door design, roofline, dormers etc. The 3D colour representations are rudimentary and without meaningful specifics.

CONCLUSIONS

The Zelinka Priamo Planning and Design Report states:

“The proposed development has been **designed to be considerate and respectful** of the existing character of the neighbourhood and abutting dwellings. The *London Plan* permits stacked townhouses and apartment buildings of up to 6-storeys (with Type II Bonusing) on the subject lands; however, a more compatible and appropriate height of 2.5- and 3.5-storeys was ultimately selected for the development. The 2.5- and 3.5-storey height, along with **screening and buffering mechanisms**, work together to accommodate the development with **no undue, adverse impacts on the surrounding land uses.**”

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Given our detailed and carefully researched Response above, Zelinka Priamo’s statement is not supported by the facts of design and proposed implementation. The proposed density is only possible if multiple and major exemptions to Bylaws are permitted. The plan consistently fails to respect the Bylaws for setback, parking, tree preservation, and arguably, also density. The structure is in places **twice the height** of the R1 (8) neighbourhood within which it is embedded. All trees on the property that might have retained a modicum of buffering will be removed and replaced with a parking lot. Balconies on the apartment complexes will remove the last vestige of privacy and noise protection enjoyed by neighbours. The failure to observe Bylaws regarding setbacks for apartment block A, the eastern parking lot, and the raised infill upon which block B is to be built, negate whatever modest buffering the planners might have aspired to achieve.

If the density cannot be shoehorned into the existing lot size, then the plan is *demonstrably* impractical, inappropriate, and insensitive.

An infill development down the street, 567 Fanshawe Park Rd. East (**Figure 4** below) is also the product of intensification, but manages to fit into the neighbourhood and to complement surrounding area height (units are all single story).



Figure 4. Infill at 567 Fanshawe Park Rd. East: example of appropriately scaled and sensitive infill development.

It is worth mentioning that the comparative structures cited in the Zelinka Priamo document, the stacked townhouses bordering Fanshawe at 112 North Centre Road, have a substantial setback at both the front and the sides. They also highlight mature trees.

(Figure 5 below).

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Figure 5. Infill at 112 North Centre Road: example of setback and mature trees.

Official Plans and Bylaws are conceived, written, and implemented with careful thought, deliberation, and debate. They are written for a reason, and they help a city and its inhabitants to collaboratively build and sustain a livable and productive urban space.

Bylaws should not be circumvented solely to facilitate developers' plans and ambitions, especially when it is at the expense of established neighbourhoods and their residents.

Infill development and intensification are desirable and possible, but the concessions that would be required to wedge this proposed density into this specific site and neighbourhood should provoke City Planners and Councillors alike to register concern and resistance. Both the neighbours as well as the future residents of this site deserve better.

...By Cultivating Strong Roots

Appendix C – Policy Context

The following policy and regulatory documents were considered in their entirety as part of the evaluation of this requested land use change. The most relevant policies, by-laws, and legislation are identified as follows:

Provincial Policy Statement, 2014 (PPS)

Policy 1.1.3.1 Building Strong Health Communities, Managing and Directing Land Use to Achieve Efficient and Resilient Development and Land Use Patterns, Settlement Areas

Policy 1.1.3.2 Building Strong Health Communities, Managing and Directing Land Use to Achieve Efficient and Resilient Development and Land Use Patterns, Settlement Areas

Policy 1.1.3.3 Building Strong Health Communities, Managing and Directing Land Use to Achieve Efficient and Resilient Development and Land Use Patterns, Settlement Areas

Policy 1.1.3.4 Building Strong Health Communities, Managing and Directing Land Use to Achieve Efficient and Resilient Development and Land Use Patterns, Settlement Areas

Policy 1.4.3 Building Strong Health Communities, Housing

Policy 1.7.1 Building Strong Health Communities, Long Term Economic Prosperity

Policy 2.6.1 Wise Use and Management of Resources, Cultural Heritage and Archaeology

Policy 2.6.2 Wise Use and Management of Resources, Cultural Heritage and Archaeology

1989 Official Plan

Section 3.1.1 vi) Residential Land Use Designations, General Objectives For All Residential Designations

Section 3.2 Residential Land Use Designations, Low Density Residential, Preamble

Section 3.2.1 Residential Land Use Designations, Low Density Residential, Permitted Uses

Section 3.2.2 Residential Land Use Designations, Low Density Residential, Scale of Development

Section 3.2.3 Residential Land Use Designations, Low Density Residential, Residential Intensification

Section 3.2.3.2 Residential Land Use Designations, Low Density Residential, Residential Intensification, Density and Form

Section 3.2.3.4 Residential Land Use Designations, Low Density Residential, Residential Intensification, Compatibility of Proposed Residential Intensification Development

Section 3.7 Residential Land Use Designations, Planning Impact Analysis,

Section 3.7.2 Residential Land Use Designations, Planning Impact Analysis, Scope of Planning Impact Analysis

Section 3.7.3 Residential Land Use Designations, Planning Impact Analysis, Required Information

Section 19.4.3 Implementation, Zoning, Holding Zones

The London Plan

(Policies subject to Local Planning Appeals Tribunal, Appeal PL170100, indicated with asterisk.)

Policy 7_ Our Challenge, Planning of Change and Our Challenges Ahead, Managing the Cost of Growth

Policy 59_2., 4., and 8. Our Strategy, Key Directions, Direction #5 Build a Mixed-use Compact City

Policy 66_ Our City, Planning for Growth and Change

Policy 79_ Our City, City Structure Plan, The Growth Framework, Intensification

*Policy 83_ Our City, City Structure Plan, The Growth Framework, Intensification

Policy 84_ Our City, City Structure Plan, The Growth Framework, Intensification

*Policy 90_ Our City, City Structure Plan, The Growth Framework, Primary Transit Area

Policy 154_8. Our City, Urban Regeneration

Policy 256_ City Building Policies, City Design, How Are We Going to Achieve This, Site Layout

*Policy 259_ City Building Policies, City Design, How Are We Going to Achieve This, Site Layout

*Policy 389_ City Building Policies, Forest City, What Are We Trying to Achieve

Policy 393_ City Building Policies, Forest City, How Are We Going to Achieve This, Urban Forestry Strategy

Policy 394_ City Building Policies, Forest City, How Are We Going to Achieve This, Urban Forestry Strategy

Policy 398_ City Building Policies, Forest City, How Are We Going to Achieve This, Strategic Approach

*Policy 399_3. and 4. b. City Building Policies, Forest City, How Are We Going to Achieve This, Strategic Approach, Protect More

Policy 497_ City Building Policies, Homelessness Prevention and Housing, What Are We Trying to Achieve

Policy 554_2. and 3. City Building Policies, Cultural Heritage, What Are We Trying To Achieve

Policy 557_ City Building Policies, Cultural Heritage, How Are We Going to Achieve This, General Cultural Heritage Policies, The Register of Cultural heritage Resources

Policy 565_ City Building Policies, Cultural Heritage, How Are We Going to Achieve This, General Cultural Heritage Policies, Design

Policy 566_ City Building Policies, Cultural Heritage, How Are We Going to Achieve This, General Cultural Heritage Policies, Design

Policy 567_ City Building Policies, Cultural Heritage, How Are We Going to Achieve This, General Cultural Heritage Policies, Design

Policy 568_ City Building Policies, Cultural Heritage, How Are We Going to Achieve This, General Cultural Heritage Policies, Design

Policy 574_ City Building Policies, Cultural Heritage, How Are We Going to Achieve This, Identification of Cultural Heritage Resources, Individual Heritage Properties

Policy 579_ City Building Policies, Cultural Heritage, How Are We Going to Achieve This, Identification of Cultural Heritage Resources, Archaeological Resources

Policy 581_ City Building Policies, Cultural Heritage, How Are We Going to Achieve This, Identification of Cultural Heritage Resources, Archaeological Resources

Policy 586_ City Building Policies, Cultural Heritage, Specific Policies for the Protection, Conservation, and Stewardship of Cultural Heritage Resources, Individual Heritage Properties

Policy 608_ City Building Policies, Cultural Heritage, Archaeological Resources

Policy 609_ City Building Policies, Cultural Heritage, Archaeological Resources

Policy 616_ City Building Policies, Cultural Heritage, Archaeological Resources

Policy 617_ City Building Policies, Cultural Heritage, Archaeological Resources

*Table 10 Range of Permitted Uses in Neighbourhoods Place Type

*Table 11 Range of Permitted Heights in Neighbourhood Place Type

*Policy 919_ Place Type Policies, Urban Place Types, Neighbourhoods, Approach for Planning Neighbourhoods – Use, Intensity and Form

*Policy 937_ Place Type Policies, Urban Place Types, Neighbourhoods, Residential Intensification in Neighbourhoods

*Policy 939_6. Place Type Policies, Urban Place Types, Neighbourhoods, Forms of Residential Intensification

*Policy 952_ Place Type Policies, Urban Place Types, Neighbourhoods, Residential Intensification in Neighbourhoods, Site Plan Approval for Intensification Proposals, Public Site Plan Approval Process

*Policy 953_2 a.-f. and 3. Place Type Policies, Urban Place Types, Neighbourhoods, Residential Intensification in Neighbourhoods, Additional Urban Design Considerations for Residential Intensification

*Policy 1578_ Our Tools Planning and Development Applications, Evaluation Criteria for Planning and Development Applications

Policy 1657_ Our Tools, Holding Provision By-law

Policy 1682_ Our Tools, Planning and Development Controls, Site Plan Control, Public Site Plan Process

*Policy 1683_ Our Tools, Planning and Development Controls, Site Plan Control, Public Site Plan Process

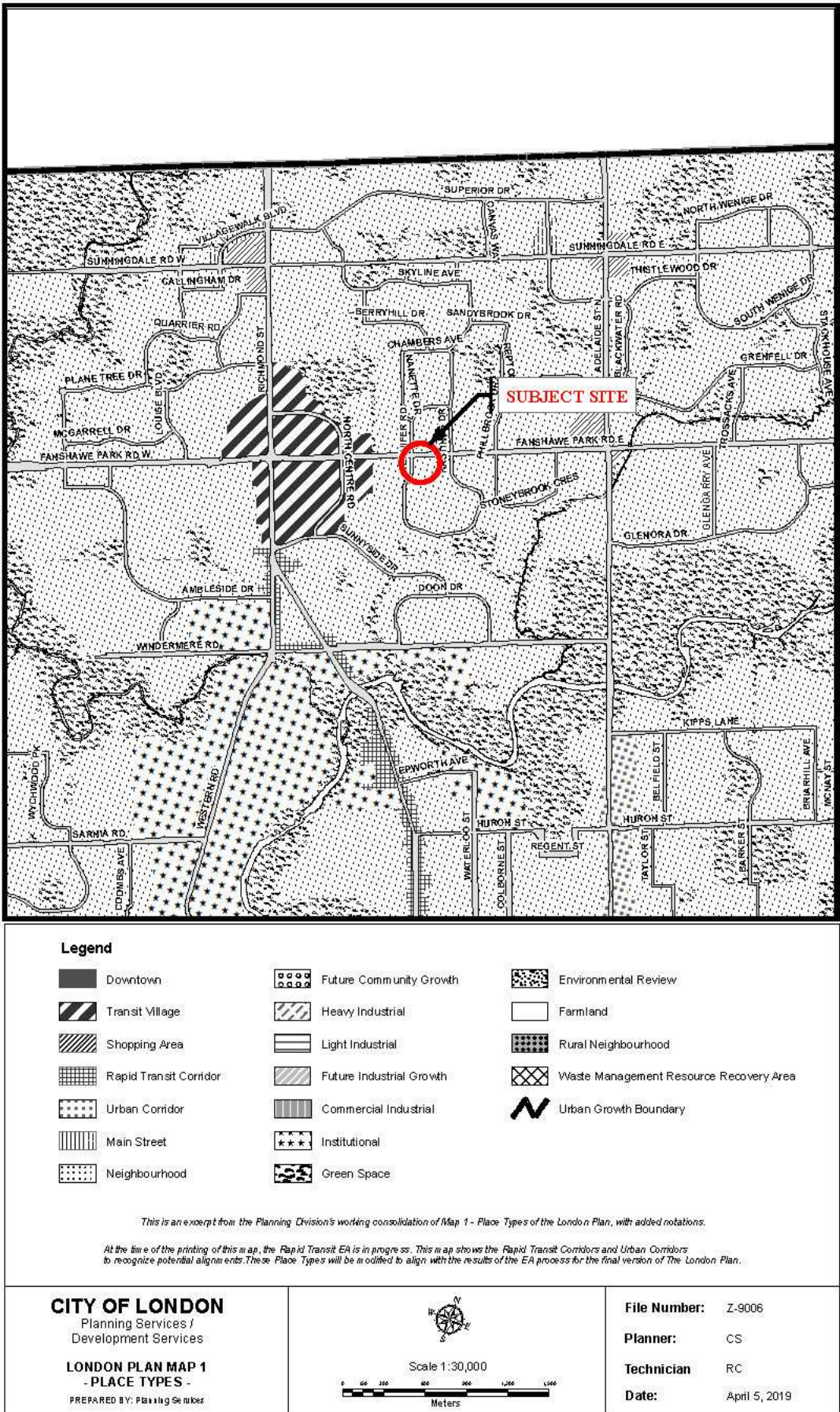
3.7 Planning Impact Analysis	
Criteria	Response
Compatibility of proposed uses with surrounding land uses, and the likely impact of the proposed development on present and future land uses in the area.	The proposed land use is a different housing type than the prevailing land use in the abutting neighbourhood, but is compatible. The recommended amendment would provide for a development form that is compatible with the surrounding land use.
The size and shape of the parcel of land on which a proposal is to be located, and the ability of the site to accommodate the intensity of the proposed use;	The intensity can be accommodated on the subject lands in a form that is compatible with the abutting neighbourhood.
The supply of vacant land in the area which is already designated and/or zoned for the proposed use; and	The residential land in the vicinity of the subject lands is largely developed. The designation and the zoning is generally indicative prevailing use of the residential land for single detached dwellings. There are no vacant lands designated and/or zoned for cluster townhouse dwellings in the vicinity of the subject lands.
The proximity of any proposal for medium or high density residential development to public open space and recreational facilities, community facilities, and transit services, and the adequacy of these facilities and services.	Although the proposed development is not considered to be medium density residential development or high density residential development as it is it meets the intensification/infill policies of the Official Plan there are parks, open spaces and community facilities located in close proximity of the site. The site is located on an Urban Thoroughfare and has access to various transit options.
The need for affordable housing in the area, and in the City as a whole, as determined by the policies of Chapter 12 - Housing.	As an alternative housing type, the proposed stacked townhouse dwellings may help satisfy a diverse range of housing needs within the community.
The height, location and spacing of any buildings in the proposed development, and any potential impacts on surrounding land uses;	The scale or height of the proposed stacked townhouse dwellings and their positioning on the site through the use of appropriate yard depths or setbacks, would preserve the low-rise, low-coverage character of the abutting residential neighbourhood, and impacts on adjacent properties such privacy and noise and light penetration would be mitigated through a combination of yard depth and appropriate space for landscape screening.

<p>The extent to which the proposed development provides for the retention of any desirable vegetation or natural features that contribute to the visual character of the surrounding area;</p>	<p>Through the submitted tree protection study it has been identified that the location of the buildings, parking and grading needs will remove the existing trees from the site. The boundary trees including the existing cedar hedges have been identified to be maintained if possible. The proposed yard setbacks provide opportunities for additional tree plantings.</p>
<p>The location of vehicular access points and their compliance with the City's road access policies and Site Plan Control By-law, and the likely impact of traffic generated by the proposal on City streets, on pedestrian and vehicular safety, and on surrounding properties</p>	<p>A Traffic Impact Study was submitted and accepted by the City. The City accepts the location of the access (restricted to rights in and rights out only) and that the amount of traffic will have a nominal impact on Fanshawe Park Road East and the abutting neighbourhood.</p>
<p>The exterior design in terms of the bulk, scale, and layout of buildings, and the integration of these uses with present and future land uses in the area;</p>	<p>The proposed development provides for setbacks that meet or exceed the required setbacks for the rear and side yards. The proposed front yard setback allows for a building along the Fanshawe Park Road frontage with units fronting the street which establishes a built edge and activates the street. The massing and height that is compatible with the existing neighbourhood (composed primarily of 2 storey homes), with the taller three (3) storey building along the Fanshawe Park Road frontage and the lower two (2) storey building in the interior of the site providing an appropriate transition into the neighbourhood. The massing (bulk), scale and layout of the proposed buildings will be reviewed and evaluated in greater detail through the Site Plan Approval process.</p>
<p>The potential impact of the development on surrounding natural features and heritage resources;</p>	<p>Natural heritage features and functions and cultural heritage resources, outside of potential archaeological resources, are not expected to be affected by the proposed development.</p>
<p>Constraints posed by the environment, including but not limited to locations where adverse effects from landfill sites, sewage treatment plants, methane gas, contaminated soils, noise, ground borne vibration and rail safety may limit development;</p>	<p>The stormwater and associated easement on 7 Camden Road, 1277 and 1281 Hastings Drive 17 and 19 Camden Crescent is intended to convey stormwater from the property. A detailed engineering analysis was completed by the applicant and accepted by the City that confirms that through onsite retention measures stormwater can be adequately contained and conveyed through the easement. Further detailed design will be completed through the Site Plan process.</p>

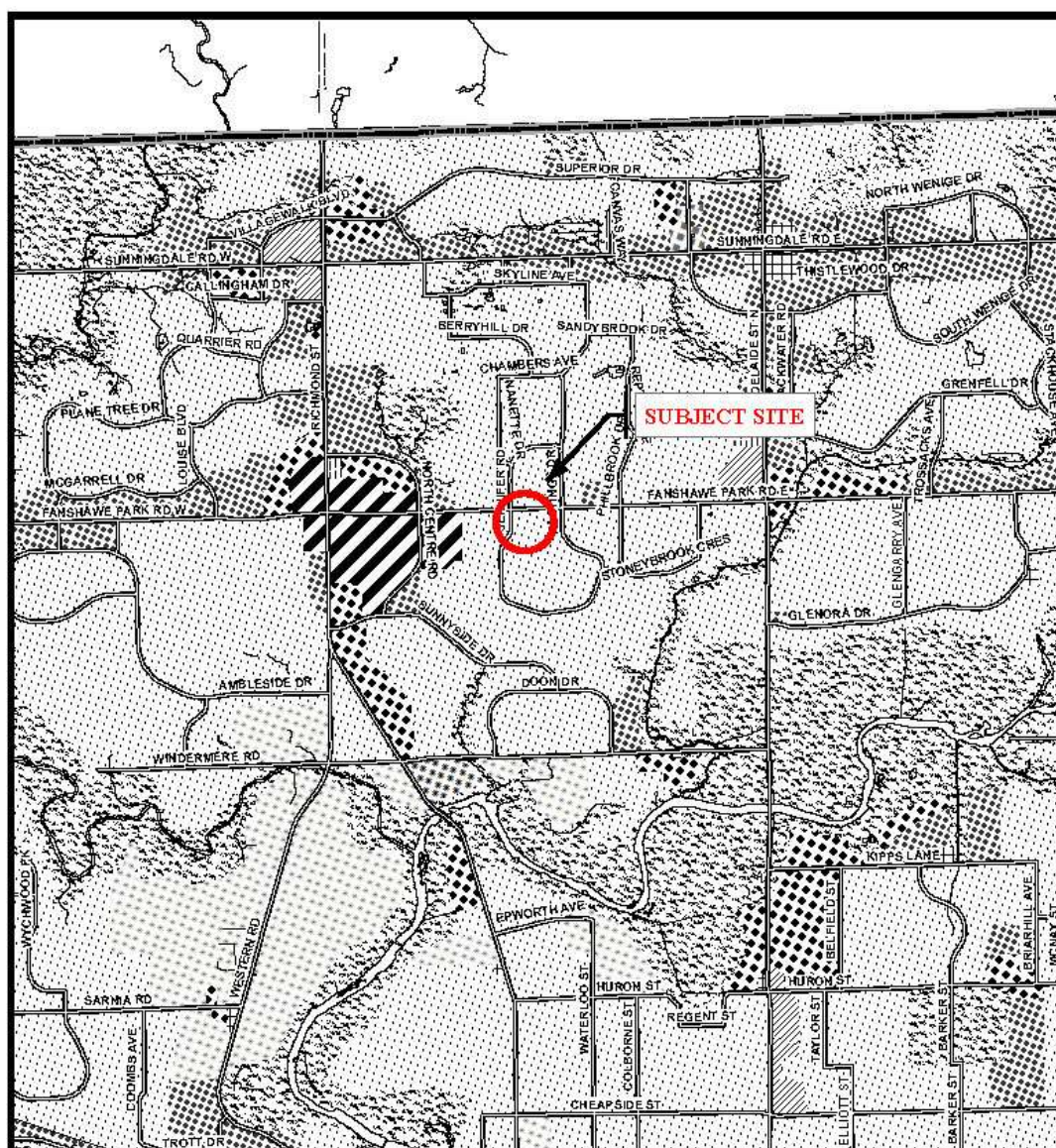
Compliance of the proposed development with the provisions of the City's Official Plan, Zoning By-law, Site Plan Control By-law, and Sign Control By-law; and	The proposed stacked townhouse conforms to the 1989 Official Plan and The London Plan. The proposed stacked townhouse dwellings would be a more compact form of development than the single-detached dwelling that had existed on the property. The proposed height of 12m along Fanshawe Park Road is appropriate to provide for a strong street orientation and built form. The stacked townhouse in the rear is proposed to be 9m in height. The proposed 9m height The height is less than heights permitted in the abutting neighbourhood (10.5m). All of the proposed setbacks (rear and side yards) meet or exceed the minimum requirements of the R5-7 Zone regulation. The revised site plan provides the required amount of parking and the parking area setback from the east property line is 6.8 meters
Measures planned by the applicant to mitigate any adverse impacts on surrounding land uses and streets which have been identified as part of the Planning Impact Analysis;	The development would maintain a 2 and 3 storey height that is compatible with the scale of the adjacent land uses, the recommended amendment includes among the special provisions a maximum height of 12 metres for a lot depth of 30m maximum and a maximum height of 10m for the balance of lands. The proposed maximum heights is in keeping with the 10.5 metre maximum height permitted in the abutting Residential R1 Zone that surround the subject lands, and represents the maximum height of 12 metres that is the standard condition permitted in the Residential R5 Zone variations
Impacts of the proposed change on the transportation system, including transit	The residential intensification of the subject lands would support public transit by increasing potential ridership along existing bus routes.

Appendix D – Relevant Background




























Additional Maps

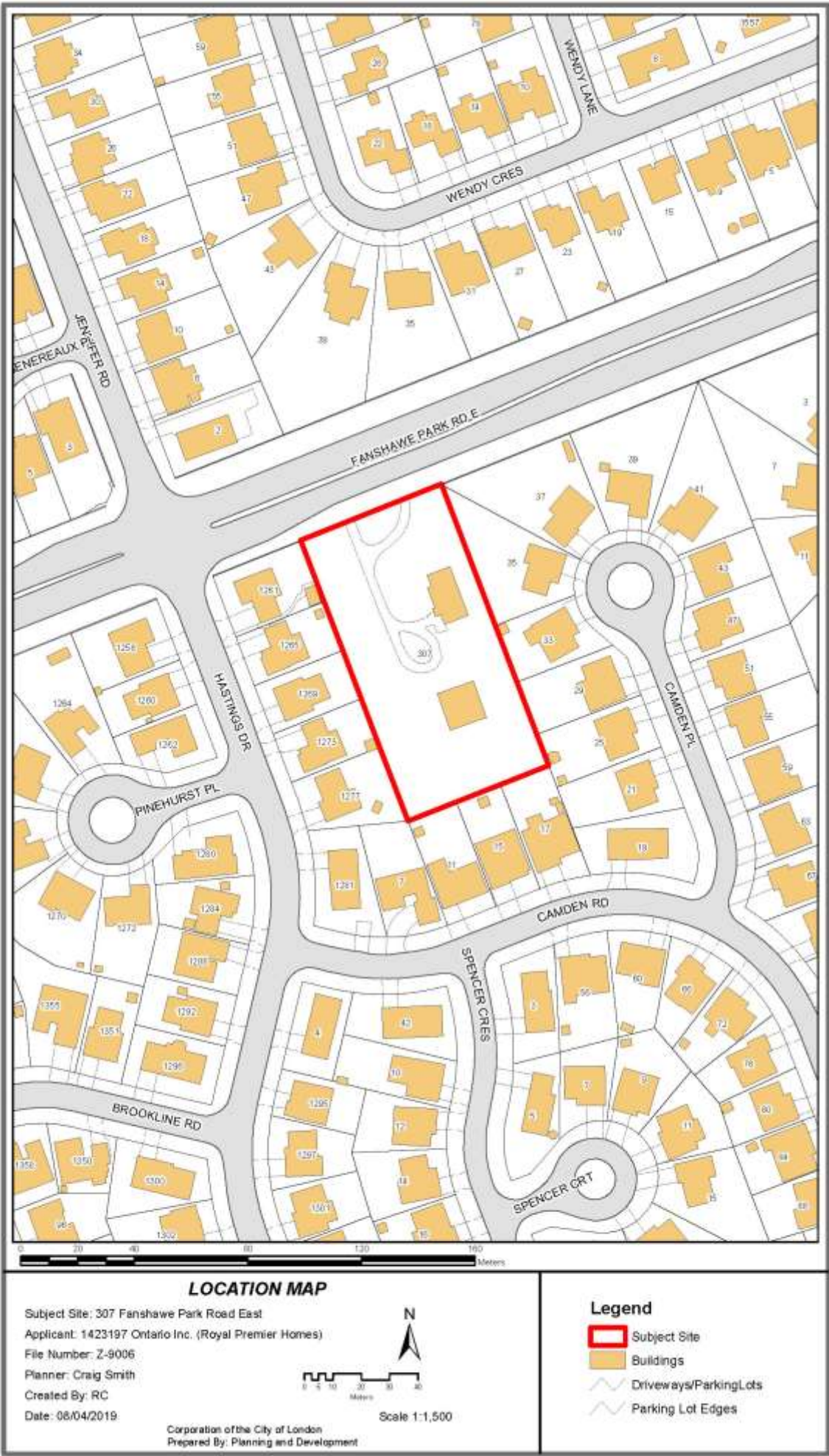


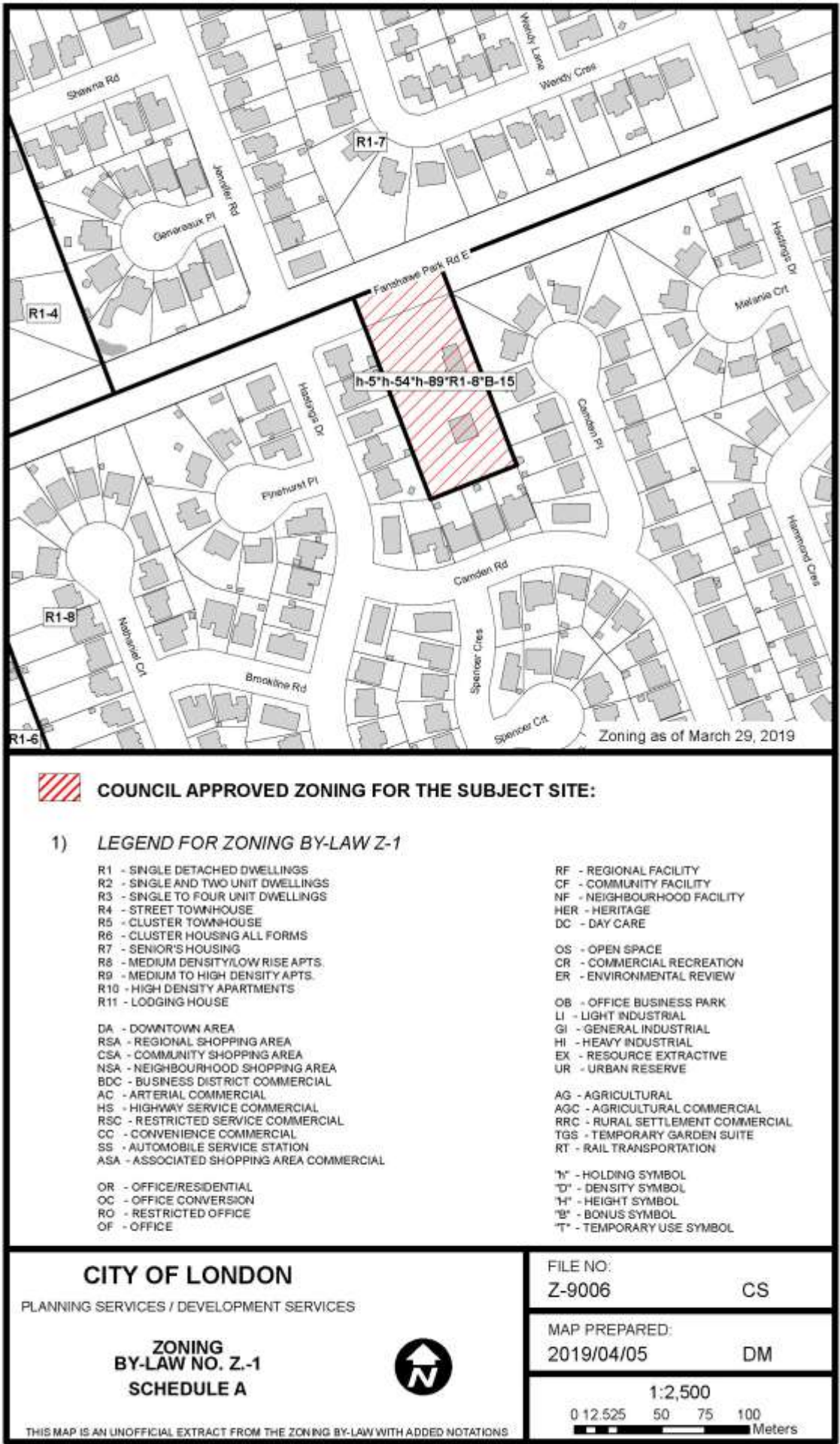
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Legend

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





From: Michael J Crawford

Sent: Thursday, May 16, 2019 10:05 PM

To: Lysynski, Heather <hlysynsk@London.ca>

Subject: [EXTERNAL] Re: last minute "amendments" to PEC rezoning process 307 Fanshawe Z-9006

Dear Ms. Lysynski,

Can I possibly have the following forwarded to PEC members and entered into the record for the 27 May meeting regarding Z-9006?

Many thanks,

Michael Crawford
21 Camden Place

Dear PEC Members,

I am a resident and one of the representatives of the Old Stoneybrook Community Association. We have recently been dealing with the application for re-zoning Z-9006 that has the potential to drastically affect both the community at large, as well as immediate neighbors.

I am writing to register my displeasure and concern regarding a Planning process that has been irregular. [REDACTED]

[REDACTED] For example, although the deadline for submission of community comments was March 1, and the proposal was to rezone from R1 to R5, on April 24 City Planning, in a notice to Community of an impending PEC meeting 27 May, indicated that the rezoning application was being "amended" to R8. Since this notice was sent by mail, few recognized the change until early May. According to the correspondence on file at City Planning, the impetus for the "amendment" from an R5 rezoning to an R8 rezoning came as a recommendation made by Craig Smith to Zelinka Priamo in early April.

The reasons explained to us for the "amendment" were that:

1. Following consultation with other city departments, and having received the input of community, an R5 designation would not have yielded the density desired by the developer.
2. There were no major changes to the proposed plan.
3. Other re-zoning applications have been "commonly" altered mid-stream in such a way: the site of 945 Bluegrass was cited by Mr Tomazincic as one such example.

In response to this I offer the following observations.

1. The zoning application should have been developed, consolidated and finalized following pre-consultation with City Planning, and thereby have afforded Community a fulsome opportunity to organize input in a timely manner. The fact that the proposal was believed to be heading to failure is not sufficient to amend the rezoning request in such a profound way mid-stream (and after opportunity for community input has formally closed).
2. The changes proposed are not trivial, and will have adverse effects upon adjacent lots:
3. A) Although the original density request was for 75 uph, the previous iteration of the application could, at maximum, have succeeded to at best achieve 60 uph (by Mr Tomazincic's own admission). This is actually debatable for reasons I will not elaborate here, but our contention was going to be that 40 uph was more faithful to bylaws and the City Plan. Therefore the implications of the "amended" zoning request and the possibility of hyper-intensification is huge. Where is due process and transparency?
4. B) The location of the parking lots and buildings have been altered. This has ramifications for the tree preservation plan, set back, and especially for grading, hydrology, storm surge, and water management generally. The site plan provides NO details regarding storm water management.
5. C) According to Mr. Tomazincic:

"The Planning Act, in subsection 34(12), requires two things of Council in advance of enacting a zoning by-law or any amendment thereto: 1) That a public meeting be held, with the ability of the public to make representations [34(12)(a)(ii)]; and, 2) That "sufficient information and material is made available to enable the public to understand generally the zoning proposal that is being considered by council" [34(12)(a)(i)] (emphasis added by Mr. Tomazincic)."

In the absence of an updated proposal, an elevation report, some semblance of a storm water management plan, and a revised tree plan, Community members are not situated to "understand generally" the zoning proposal. It is critical to emphasize here, that at every step in the process so far, Mr. Smith has reiterated that the proposal is just conceptual, and that issues will sort out at site planning. How can we engage with a plan that is merely conceptual? In practical terms, what does conceptual really mean?

[REDACTED] In addition, we have already engaged, received, and paid for professional technical help to form and deliver our points to PEC. Now that time and expense also appears to have been wasted.

I have asked for specific guidelines that City Planning uses to vet AND PROCESS applications, and received only the above quotation from the Provincial Planning Act. We received last week's advice from Mr. Smith and Tomanzincic: that we obtain legal and planning advice, and found it to be to be useless - PEC meets on May 27th. As they must know, this leaves no time to FIND a professional let alone address anything of substance. [REDACTED]
[REDACTED]

Mr Tomazincic's citation of the 945 Bluegrass re-zoning change, as a good example of how mid-stream rezoning "amendments" are common, is telling. In this instance no changes were made to the plan whatsoever as far as I can see, nevertheless, community was consulted a second time before PEC met (Consultation opportunity deadlines - first Feb 27, then April 23).

[REDACTED] I attach notes taken from a recent meeting with Messrs. Kotsifas and Yeoman that illustrate the detail of material covered, and the answers given by city staff.

13 May, 2019, 9:00 am , London City Hall, 11th floor, Victoria Rm,

Present: Claudia Clausius, Michael Crawford, Ron Mcdougall, Fred Cull, Councillor Anna Hopkins, George Kotsifas, Paul Yeoman
Regrets: Deb Beverley

Community Association Points:

1. The Ontario Planning Act requires that the process of a rezoning application ensures that all stakeholders are provided with an opportunity to acquire "a general understanding of what is proposed".
2. the initial application for R1 to R5 submitted by Zelinka Priamo on behalf of the builder internally lists references to R6 designations
3. in his communication to me in early May, City Planner Craig Smith referred to the application as a rezoning to R6 , not R5 as formally submitted, nor did he mention R8 was forthcoming as an amended proposal.
4. the amended designation was referred to only in passing in the Letter of Notice to neighbours (dated 24 April received early May) concerning the PEC meeting slated for 27 May.
5. the site plan in support of R8 was revised substantially
 - the buildings appear similar, but have been moved - along with the parking lots. In addition the servicing 2 lane entrance is now much closer to adjacent properties.
6. no revised tree plan or elevations were attached to the low resolution site plan.
7. all queries of substance have been met with a response to the effect "this plan is only conceptual, and details will be worked out at the post-rezoning site plan stage."
8. the right in, right out traffic entrance/exit is going to be managed, in part, by U-turns on Fanshawe at rush hour?

Our point is that it seems that neither the applicant, nor the City Planners have had a consistent understanding of precisely what zoning the application was requesting, and the amended R8 application was not accompanied by critical documentation (elevations, tree plan). These latter two are critical to any understanding of how storm water/snow melt will be handled, how land water retention absorption will alter, how the water table will be affected, how buffering and privacy will be maintained. A conceptual plan offers no possibility for analysis or commentary based upon a "reasonable understanding of what is proposed" for neighbors.

Significant Change of Land Use on Site:

2. The plan marks a fundamental change of land use that adversely impacts neighboring properties.
3. the buildings and parking lots are to be situated on a raised elevation of grading (a wedge that thickens southward from Fanshawe).
4. this change of grade, and the huge increase of impermeable surface, will alter water retention and buffering characteristics, as well as storm

surge/snow melt distribution - water will inevitably flow downhill into neighboring properties and potentially basements.

5. there is no storm water management plan included
6. estimates for water volumes appear to be calculated upon 100 year storm averages, but the City's own consultant report (Simonovic et al, 2011) indicates 100 year storms will occur every 30-35 years. As we now know, only 8 years later, there are jurisdictions in Canada that have recently seen 3 so-called 100 year events inside of one decade.
7. removal of all trees will exacerbate water retention/buffering issues
8. water discharge and pooling will adversely impact the trees left remaining in neighboring properties
9. the entrance/exit to parking will see high volumes of traffic routed less than 1 m away from the properties of two residents
10. the rezoning appears to have been amended to ensure a density of 75 units per hectare (R5 likely to achieve 60), and to circumvent set back issues associated with an R5 designation - if the density is so high that this adjustment is necessary, and in the absence of required supporting documents, why is the R8 even being considered, let alone recommended by City Planners?
11. any increase in units per hectare requires additional mandatory parking, further increasing the land use alteration to paved surface and exacerbating rain/snow melt/storm run-off

3. Process and Communication

4. why is an R8 amendment being contemplated, let alone recommended at this late stage of the game? Isn't this sort of negotiation/advisement supposed to occur during the pre-consultation phase and before an application is submitted by a developer?
5. how is such an amendment "minor"?
6. how does such a process benefit the developer, the City, or the residents? The last iteration of 307 Fanshawe in 2011 saw the developer lose money when the very same issues articulated by residents (and the City's own Engineer) before zoning approval caused the development to die at the site planning stage. Similarly, community faith in process and transparency was eroded. We fear that the current process risks repeating this previous experience.
7. we are concerned that Craig Smith accidentally sent a draft of a recommendation to PEC to accept R5. We appreciate this was a draft, but now it seems that on 24 April, he was thanked by Zelinka Priamo for

suggesting an amendment to R8. Where is the due process, fairness, and transparency that is required by the City Plan and by Ontario Law?

8. responses from City Planning to queries by community are not informative, not direct, or could be construed to be obfuscating in character. For example, Bluegrass Rd. is offered as a similar "minor" mid-stream amendment, but when we requested a similar second consultation process, our request is denied. Rather than address requests for an outline of the City Planning rezoning approval process, we instead received quotes from the Ontario Planning Act. Lindsay Bradshaw has three times asked the City to provide elevations to accompany the R8 "amendment"; to my knowledge she has not yet received these.

During our meeting, we requested the following:

1. **why the City has not extended a second consultation to us, as they did in the Bluegrass case?**
2. why wasn't the application process re-set by the change to R8?
3. why is the community not afforded the same access to information that the developer appears to have been enjoying?

In return, our understanding is that City Planning:

- 1) cannot/will not undertake a second community consultation,
- 2) cannot/will not reset the application clock
- 3) will provide access to the communications files on a special basis (same day, but no copies provided as for other groups in the past)
- 4) will look to improve the process for other applications going forward but not to ours (although it too is still in the future)
- 5) will support a meeting with City Planners, where many of the above lists points can be articulated and heard in a fair and equitable manner

Respectfully
Michael Crawford
Member at Large

Bill Day
1277 Hastings Drive
London, ON
N5X 2H8

Wednesday, February 27, 2019

Craig Smith
City Planner

Dear Craig

My sister and I own a property that backs directly on to 307 Fanshawe Park Road, a property for which a new development proposal is being considered. I would like to make you and the Planning Committee aware of some concerns we have.

First, we fully understand the desire and need to develop this property. It has sat vacant for many years in a valuable part of the city, a developer paid a lot of money for it, and something needs to be built.

However, it is my belief that the current plan is unacceptable for a number of reasons:

1. The type of building proposed does not fit with either the existing zoning designations which allow for 60 units per hectare (Official Plan 3.2.3.2 and Bylaw 9.2 R5) nor does it fit with the current single family residential neighbourhood that exists. While I understand that the city, and indeed most urban areas, are promoting intensification, that should not mean a dramatic change to the existing character of the neighbourhood.
2. The height of the proposed structures will seriously impact on the privacy of the surrounding homes, homes that have existed for 40 years. Backyards that have been private will now have tenants from these buildings looking down on them, changing the whole dynamic of backyard barbecues, private family gatherings, and the feeling of having your own private space. Structures that are the same height as existing houses would not cause this problem.
3. Privacy is also threatened by the proposed removal of trees. For example, there is a beautiful cedar hedge put in by a previous owner that has for years provided privacy for all, including 307 Fanshawe Park Road. The proposed plan calls for the removal of most of this hedge, which has grown now to a substantial height. Looking at the plan, I cannot see why this hedge should need to be removed as it is on the edge of the

property. Leaving it as it is would go a long way to easing concerns about privacy. There are a few other large mature trees that do not seem to be in the way of any construction that should be left as well, provided that they are healthy (See Bylaws regarding Tree Preservation).

4. Finally, our lot is one of the ones that will be most significantly impacted by issues involving groundwater drainage. The property slopes down in the south west corner of our property where it meets with the Lincoln property. A storm drain is located there so the water is channelled there. An change in drainage – due to a an increase in cement and pavement causing an increase in run off, due to less grassland and treed areas to absorb water, due to piles of snow in the winter that will melt – will all have a serious negative impact on both our property and the property owned by the Lincolns. (See Bylaws Section 9 Table 9.3 and the Official Plan 11.1.1.2x)

I am aware that the Old Stoneybrook Community Association has submitted a report, but as a homeowner who will be seriously affected by this development, it is important that I voice our concerns as well.

Thank you for taking time to consider these submissions.

Sincerely,
Bill Day
1277 Hastings Drive

May 17, 2019

Chair Anna Hopkins: Members of City of London Planning and Environment Committee
City of London
300 Dufferin Avenue,
London ON, N6A 4L9

Dear Chair Hopkins and Committee Members:

RE: Request for Delegation Status
731675 Ontario Limited (c/o York Developments)
3080 Bostwick Road: Site 5
OUR FILE: 1094'B'

Council adopted the site-specific Zoning By-law Amendment (Z.-1-182713) on November 20, 2018 pertaining to lands referred to as 'Site 5' of 3080 Bostwick Road. Generally, this amendment permits a three storey commercial/office building and a 17-storey apartment building on the subject lands. A site-specific Bonus Zone (B-57) was approved to implement the proposed development plan.

Through the detailed design process, it was determined that minor changes to the existing zoning permissions are required to fully implement the proposed development set out in the approved Bonus Zone. In light of the two-year moratorium on minor variances to amend site specific Zoning by-Law amendments, York Developments respectfully requests delegation status at the May 27, 2019 meeting of the Planning and Environment Committee. The intent of this delegation is to request that the Committee recommend Civic Administration accept a Minor Variance application to permit this revised proposal.

Please be advised that the Minor Variance application will be seeking relief from the following zoning regulations applied to Site 5:

1. Permit a 0.6 m minimum interior side yard setback for the office/commercial building (current permission: 3.0 m);
2. Permit a maximum 14.0 m building height for the commercial/office building to accommodate a parapet wall (current permission: 13.5 m);
3. Permit a reduction in the parking space requirement from 472 stalls to a maximum of 363 stalls; and
4. Permit a maximum residential density of 210 units/ha (current permission: 209 units/ha).

We thank you for your consideration of this request. Please contact the undersigned if you have any questions pertaining to this matter.

Yours truly,

MHBC

A handwritten signature in black ink, appearing to read "Scott Allen".

Scott Allen, MA, RPP
Partner

cc. *H. Lysynski; L. Pompili, City of London*
A. Soufan, York Developments