

**Response to the Brock Development Group (BDG) Planning
Justification Report for Zoning By-Law Amendments to 2624
Woodhull Road**

Description of 2624 Woodhull Road

- A small plot of land (approx. 2128 sq m, 20m wide x 100 m deep) originally governed by the Township of Delaware.
- The date of, and the reason for creation, of this tiny narrow lot is unknown. It does not exist on 19th century Delaware Township map.
- Annexed by the City of London in 1993.
- Zones include H4-AG2 and H2-OS4 as per the London Plan.
- Outside the London Urban Growth Boundary.
- Purchased by Owner of 2598 Woodhull Rd in 2000 for \$10K.
- Purchased by the Applicant/owner Aug 2023 for \$225,000.
- Mortgage charge on property Oct 2023 for \$350,000.
- A very confident purchase subsequent to the Application to PEC in April 2023.

**History of Applications for Consent, Minor Variance, and
Amendments to Zoning By-Law
(re 2598/ 2624 Woodhull Rd)**

Consent Application B.008/21

- 2021 -Application by **Brock Development Group (BDG)** to the London Consent Authority Committee of Adjustment to sever a portion of 2598 Woodhull Rd and amalgamate to 2624 Woodhull Rd.
- A minor variance application was also submitted to **justify the property be recognized as a Hobby Farm to allow building of a Farm dwelling**
- Farming practice would include a “Chicken Coop, tapping Maple trees, selling firewood, and fishing resources from Dingman Creek”
- Variances requested:
 - To permit a single detached dwelling not located in a farm cluster and not incidental or exclusively used in conjunction with a farm and situated on the same lot therewith.
 - To permit a front yard setback of 10m (building/garage), whereas 30m is the minimum required.

- To permit a north interior side yard of 3m, whereas 30m is the minimum required.
- To permit a south interior side yard of 3m, whereas 30m is the minimum setback

Outcome

The City of London Committee of Adjustments heard Presentation from BDG, the Planning Department and the Public. **The Planning Department was not supportive of the Application.**

On Dec 16, 2021 the Application for Consent and Minor Variances was refused!

- BDG Appealed to OLT

BDG Submission to OLT – “Reasons for Appeal “

The **BDG** appeal included the following statements:

- The proposal meets the purpose and intent of the City of London’s Official Plan. The subject lands are designated Agricultural and Open Space. The intent of the Open Space designation is to ensure that natural heritage features are protected over the long term.
- **The agricultural designation is intended to protect agricultural land and maintain the viability of farming within these areas.**

- **The property is intended to be used as a hobby farm.** A chicken house is proposed on the lands, the trees in the open space area are intended to be tapped for maple syrup, and dead trees will be removed and sold for firewood. The Dingman creek also offers fishing resources. **The proposed farm dwelling** will be fully located on the Agricultural lands. No development is proposed within the Open Space lands.
- The vacant parcel and severed lands are **too small to cultivate and are flanked by existing single detached dwellings, which limits large scale agricultural uses on the property.**
- The proposal meets the intent and purpose of the City of London Zoning By-law, as **the proposal offers the maximum agricultural potential than can be realized for this land and will increase the agricultural potential of the lands beyond its current condition as manicured lawn.**
- The proposed variances are minor in nature **given that agricultural uses are proposed in a manner that is compatible with the existing adjacent single detached dwellings.** The vacant parcel currently undersized and requires variances to accommodate any form of development due to the onerous agricultural setbacks that are not reflective of existing conditions.
- The proposal is appropriate for the development of the subject lands, as this parcel is an existing lot of record within the City. With over half of the property designated and zoned Open Space,

there is limited potential for agricultural uses on the property. The proposed variances will facilitate a smaller scale agricultural use on these lands that will be compatible with the adjacent residences.

Comments on the above statements:

- *It is very clear from the original application to the Committee of adjustments and the above subsequent appeal to the OLT, that BDG and the applicants fully recognize and support the fact, as quoted that “**The agricultural designation is intended to protect agricultural land and maintain the viability of farming within these areas.**”*
- *It is clear that BDG and the applicants also intended to capitalize on the AG designation by proposing a **Hobby farm dwelling** with a **Chicken Coop, firewood and Fish from Dingman Creek** as the only means to fulfill the **Agricultural potential of portion of 2598 and 2624 Woodhull Rd.***
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What is the definition of a Farm?

“I only have 1 acre. Can I still be a farmer?”

Alberta Guidelines for Obtaining Farm Status state the following: “it is impossible to categorize farming activity as hobby or not based solely on the number of acres used. Many fruit and vegetable producers can generate a good income from a small property - for greenhouse production, this could be less than 1 acre.”

For income tax purposes the Canada Revenue Agency (CRA) you are a farmer if you claim income from farming activity.

For the Farm Census completed by Statistics Canada, a census farm is defined as: an agricultural operation that produces at least one of the following products intended for sale: crops (hay, field crops, tree fruits or nuts, berries or grapes, vegetables, seed); livestock (cattle, pigs, sheep, horses, game animals, other livestock); poultry (hens, chickens, turkeys, chicks, game birds, other poultry); animal products (milk or cream, eggs, wool, furs, meat); or other agricultural products (Christmas trees, greenhouse or nursery products, mushrooms, sod, honey, maple syrup products).

***The prior owner of 2624 Woodhull Rd personally chose to not farm the property.*

OLT Decision

London City Council held a closed-door Vote and instructed the City Solicitors to enter into an agreement with BDG. The Minor Variance application was dropped at this time and only the Consent application was reviewed by the OLT.

- **BDG** proposed that conditions be met before the Consent is approved, to include an Ecologist assessment, a Geotechnical

assessment, an archeological assessment, and approval of Zoning -
By Law amendments

- Sept 2022, The OLT gave provisional granting of the Consent Application pending conditions

Residential Development on Prime Agricultural Land in the City of London: Policies per The London Plan and the Provincial Policy Statement.

PPS 1.1.3.8 c) A planning authority may identify a *settlement area* or allow the expansion of a *settlement area* boundary only at the time of a *comprehensive review* and only where it has been demonstrated that:

In prime agricultural areas:

1.the lands do not comprise *specialty crop areas*.

2.alternative locations have been evaluated, and

- there are no reasonable alternatives which avoid *prime agricultural areas*; and
- ii. there are no reasonable alternatives on lower priority agricultural lands in *prime agricultural areas*.

London Plan Policy 1213.3 states

To prevent estate lots, residential uses will be limited to existing lots of record and encouraged to locate in the urban portion of the city or within the Rural Neighbourhoods Place Type.

Comments to above: The London Plan and the Provincial Policy Statement are very clear that prior to residential use of an existing lot of record that is on Prime agricultural land, there should be no alternatives available on low priority or urban areas of the City. East of Westdel Bourne , along Pack Rd , and on Colonel Talbot Rd north of Lambeth, there is open opportunity to build in approved high density residential developments within the Urban growth Boundary.

TLP Policies 1190-92: Residential Uses on Existing lots of Record:

1190_ Residential dwellings may be permitted on existing lots of record subject to a zoning by-law amendment, provided it does not create conflicts with farming operations, and subject to an environmental impact study if adjacent to any natural heritage feature.

1191_ The Minimum Distance Separation (MDS I) setback will be applied at the time of a zoning by-law amendment and prior to the issuance of a building permit.

1192_ New residential units may be permitted only where an adequate supply of potable water is available or can be made available, and where the lot size and soil types are suitable to support an individual on-site waste disposal system. *(Note: This condition of the Provisional Consent granting has **not been** fulfilled. The submitted application does not include an approved Septic design, potable water supply, and storm water drainage design.)*

Conclusion:

- 1. 2624 and portion of 2598 Woodhull Rd are merely a continuation of the Prime Agricultural lands of the farm across the road. They have been such since the 1800's.*

Together they would readily be suitable for a productive Fruit Orchard, Apiary, Flower farm etc.

- 2. Building a residence on this small sliver of untouched Ag/OS zoned land would eliminate forever the agricultural potential and prohibit it from fulfilling its destiny to be productive, and contribute to good ecological practice and mitigation of climate change.*

- 3. This sets a Precedent to build an unnecessary high-density residence on a small pre-existing lot, designated Prime Agricultural Land outside the Urban Growth Boundary, and falsely declare, without basis, unsuitability for Farm practice. This is a deviation from the strategic growth plan and is unneeded new intensification in annexed farmland. It is contrary to the housing needs of Ontario, and merely serves to destroy precious farmland and potential greenspace.*

Response to the Present BDG Planning Justification Report for Zoning By-Law Amendments

Multiple references to the PPS and London Plan were made in support of the proposed development. However, there is clearly selectivity in only referencing policies that are pro-development. Some examples are below.

- “The proposed dwelling promotes residential intensification and makes use of an underutilized lot that has limited to no agricultural potential due to its size, slope constraints and proximity to existing residential dwellings (PPS Sections 1.4.1.a and 1.7.1.c) “

Comment:

1.4.1a states: to provide for an appropriate range and mix of housing options and densities required to meet projected requirements of current and future residents of the regional market area, planning authorities shall:

- a) maintain at all times the ability to accommodate residential growth for a minimum of 15 years through residential intensification and redevelopment and, if necessary, lands which are designated and available for residential development.

This reference does not seem relevant or applicable to the present application.

The underutilization of agricultural potential of the lot was by choice.

The application does not support the need to solve the housing crisis by building multi-unit or high density homes on non AG land that has the infrastructure and services to support it

1.7.1c states: Long-Term Economic Prosperity- c) optimizing the long-term availability and use of land, resources,

The best means of Optimizing this AG land is not to cover it with a home but to either farm it or restore it to its natural state to be enjoyed.

- “No municipal services are available in this area. The subject lands are large enough to accommodate on-site sewage and water services, consistent with existing dwellings in the area
- (PPS 1.6.6.4);”

Comment:

The proposed building envelope is almost 4000 sq feet. A typical septic bed for this size of home assuming 4 bathrooms plus would be 2 separated septic beds 20x20ft, separated by 16 ft, not encroaching on the road allowance, a 2000-gallon tank separated from the dwelling and beds. A drilled well must then be appropriately distanced. That the lands are large enough to accommodate is yet to be determined. There is no documentation this has been approved.

- “Given the existing residential dwellings in the surrounding area, the prime agricultural lands on the west side of Woodhull Road will not be hindered from future agricultural uses as a result of the proposed dwelling (PPS 2.3.1)”

Comment;

PPS 2.3.1 states: Prime agricultural areas shall be protected for long-term use for agriculture.

Prime agricultural areas are areas where prime agricultural lands predominate. Specialty crop areas shall be given the highest priority for protection, followed by

Canada Land Inventory Class 1, 2, and 3 lands, and any associated Class 4 through 7 lands within the *prime agricultural area*, in this order of priority.

*The lot is classified as a Prime Agricultural Area, so based on the above quoted reference. **It is be protected not developed.***

***Note: The surrounding homes are 50-70 yrs. plus old, built pre annexation in Delaware township under different zoning rules.*

Impact of Developing 2624 Woodhull Road on Adjacent Farm at 2649 Woodhull Road

Woodhull Road is a farming community outside the urban Growth Boundary. Active farms exist north, west, east and south of the 2624 Woodhull.

- 2649 Woodhull Road has been an active farm for at least 140 years, having had livestock in the past. It is classified as Prime agricultural land Class 1-4. It is comprised of two separate productive fields. Farming is dynamic and recent trends in sustainable nutrient farming recommend a live-stock -crop mix.

PPS 2.3.3.2 In *prime agricultural areas*, all types, sizes and intensities of *agricultural uses* and *normal farm practices* shall be promoted and protected in accordance with provincial standards

London Plan- ROLE WITHIN THE CITY STRUCTURE

1179_ The Farmland Place Type is the prime agricultural area of London and consists of prime agricultural land (*Canada Land Inventory Classes 1, 2, and 3 soils*) and associated Class 4 through 7 soils that will be protected and maintained for the long term as the base to support a healthy, productive, and innovative agricultural industry as a key component of the city's economic base and cultural heritage.

1180_ The Farmland Place Type will promote sustainable farm practices which encourage the conservation of surface and groundwater resources, aquatic habitat, woodlands, wetlands, wildlife habitat and other natural features, where such practices do not impose undue limitations on the farming community. This Place Type will also discourage the creation of non-farm residential lots in the agricultural area. Impacts from any new non-agricultural uses on surrounding agricultural operations and lands are to be mitigated to the extent feasible.

LP 1181-10. Minimize the potential for land use conflicts between residential uses and farm operations.

11. Mitigate impacts from any new or expanding non-agricultural uses on surrounding agricultural operations and lands by directing any proposed non-agricultural uses in the Farmland Place Type to lands that are classified as having a lower soil capability in the *Canada Land Inventory* and to areas where the potential for conflict between agriculture and the proposed non-agricultural uses will be minimized.

To categorically state that Agricultural lands on the west side of Woodhull Road will not be hindered from future agricultural uses as a result of the proposed dwelling is incorrect. Re-Zoning will only serve to hinder.

- *New and larger farm equipment has required the need for a separate gated entrance into the North Field that is directly across from 2624 Woodhull. This will interfere intermittently with access to the proposed dwelling across the road.*
- *The Zoning By-Law AG2 lot frontage depth (setback) of a minimum of 30m is to minimize exposure to dust, fumes, noise, odors, sprays, for the safe protection of the occupants, and reduce nuisance complaints. Directly across from this lot is the Farm Machinery entrance to the farm's North field.*

- *Thirty metres is the minimum lot depth needed to provide a suitable barrier distance in the Rural setting to protect occupants from hazards associated with Farm machinery (Combines, tractors, Grain carts, Transport trucks). Reduction of the standard minimum frontage depth might **increase the Risk of Future Liability**.*
- **Minimal Separation Distance:** *BDG calculated the MDS-1 from our farm based on hypothetical data of 12-17 horses in our shed supposedly sized at 362 sq m, to come up with an MDS-1 minimum of 123m. From satellite imagery, it was determined an actual distance to 2624 Woodhull Road of 230 m justifying MDS-1 condition fulfilled.*
- *The assumptions made by the BDG planner are hypothetical, discretionary and subjective.
Despite adjacent older homes that were built predating the Agricultural Code of Practice of 1976 and subsequent MDS guidelines, the placement of the proposed dwelling will add an additional MDS limitation along an East-West line.
This will have the adverse effect of “imposing operating constraints on a future Livestock facility to incorporate sustainable farming. This is the future of farming to mitigate Climate change.*

The Record of Pre-Application Consultation (May 31/2022)
comes with the following statement:

“MDS Calculations: Any proposed planning and development application within a Rural Neighborhoods Place Type shall meet the required Minimum Distance Separation (MDS I) policies. **Applications that would result in a development that imposes operating constraints on a livestock facility will be refused.”**

Response to London Planning and Development Department Report to PEC

Below are comments to statements in the Report

Report: “In this case, neither of the existing lots of record at 2598 nor 2624 Woodhull Road, nor the abutting property to the south, are considered viable for agricultural purposes due to onsite natural heritage features and the size of the lots.”

Comment: *The pervasive false justifying statement that the Lots are not viable for Agriculture seems to prevail throughout the entire Application. It is a complete reversal of the past Planning Department presentation to The Committee of Adjustments . The land is Prime Agricultural land and size does not dictate viability. If there is enough room to place a residence on the lot, there is enough room to be a farm.*

Report: “Although the property across the road has a functioning agricultural use, no conflicts with farming operations are anticipated because of the additional separation, of roughly 20 metres, that Woodhull Road provides.

Comment: *The City of London Zoning Bylaws presumably were developed by Planning experts who took multiple factors and evidence into their formulation. London AG2 Zoning Bylaws are very clearly defined and for good reasons. The minimum 30 metre front yard depth does **not** include the width of the road. The statement that a 14-metre setback is OK because the road width is approximately 20 metres, is entirely arbitrary and without documented proof of safety equivalency. The Zoning By-Law AG2 lot frontage depth (setback) of a minimum of 30m is to minimize exposure to*

dust, fumes, noise, odors, sprays, for the safe protection of the occupants, and reduce nuisance complaints. Directly across from this lot is the Farm Machinery entrance to the farm's North field.

Thirty metres is the minimum lot depth needed to provide a suitable barrier distance in the Rural setting to protect occupants from hazards associated with Farm machinery (Combines, tractors, Grain carts, Transport trucks).

Reduction of the standard minimum frontage depth might increase the Risk of Future Liability.

Report: “Farm parcels must also be established at a minimum size of 40 hectares as per the intent of The London Plan for existing farmland lots (TLP 1215_2). In this case, neither of the existing lots of record at 2598 nor 2624 Woodhull Road are 40-hectares and are considered viable for agricultural purposes due to onsite natural heritage features. The consent for lot adjustment will effectively increase the size of 2624 Woodhull Road while minimally reducing the size of 2598 Woodhull Road to permit a single detached dwelling on both properties.”

Comment: *The Report fails to include TLP 1215.3 which states that “It is the intent of this Plan, as set out in the Agricultural Land Consent policies of this chapter and the Minimum Distance Separation policies in the Our Tools part of this Plan, to Recognize that existing land holdings in the Farmland Place Type that do not meet the minimum 40 hectare farm parcel size and that are under separate ownership from abutting parcels of land at the date of adoption of this Plan, may be used for agricultural purposes, including one single detached dwelling, subject to Minimum Distance Separation (MDS I) setback(s). The on-site Heritage features will not interfere with agricultural purposes any more than it does with building a house.”*

Report: “The consent for lot adjustment will effectively increase the frontage of 2624 Woodhull Road, permitting a larger property width that can better

accommodate the development of the proposed single detached dwelling. Additionally, single detached dwellings are being added as an additional use on the subject lands which do not require as large of a lot frontage as the uses permitted within the Agricultural zone on the site. **For reference, the single detached dwellings zoned Residential R1 (R1-11) along Elviage drive, in close proximity to the subject lands, only require a lot frontage of 24.0 metres to support a single detached dwelling”**

“Single detached dwellings are being added as an additional use on the subject lands which do not require as large of a lot area as the uses permitted within the Agricultural zone on the site. **For reference, the single detached dwellings zoned Residential R1 (R1-11) along Elviage drive, in close proximity to the subject lands, only require a lot area of 1390 square metres (or 0.14 hectares) to support a single detached dwelling”**

TLP 1215: It is the intent of this Plan, as set out in the Agricultural Land Consent policies of this chapter and the Minimum Distance Separation policies in the Our Tools part of this Plan, to:

1. Encourage the retention or consolidation of farm parcels so that farms are of sufficient size to promote efficient operations and responsible environmental management, and to maintain long-term agricultural viability and flexibility.

Comment: One could equally suggest that enlarging 2624 Woodhull Road would be supported by the London Plan 1215. The original owners chose not to consolidate the lot so as to be able to profit from its sale, rather than following the intent of the PPS and the TLP for the good of the community.

Setting a Precedent

The OLT Decision document states the following:

“The consent criteria for agricultural land also requires compliance with the general consent criteria under 19.7.1 of the OP. The following planning evidence was presented by Ms. Doornbosch regarding the consent application’s compliance with these criteria. Below, OLT 19.7.1.k clearly identifies that the proposed Lot

would not create a precedent for future applications on adjacent or nearby lots. The supplied answer was “the consent will not set a precedent as the lot is already existing.”. The choice was made to make it larger and not farm it.

It will however continue to set precedent to sever, consolidate, rezone and build on existing neighboring lots as they come up for sale. Area dwellings on Elviage are referenced above by the Planning Department as Precedent. The Applicant and Planner on a similar lot (#2835 Elviage) with a very small AG2 zone, after initial rejection in 2014, were granted a minor Variance to build a farm dwelling residence with Chicken Coop(still present?) in 2019 This has served as a template and precedent for the present application.

This will only continue to snowball through our community. **Therefore, it is highly unlikely that the Applicant will abide by this criteria in the future as opportunities for development of existing AG lots arise in the neighbourhood on this annexed farmland road.**

k)	19.7.1 CONSENT CRITERIA	PLANNING EVIDENCE
	Where individual on-site wastewater treatment systems proposed, the Consent Authority shall also consider the following criteria: (a) the proposed development is consistent with the surrounding area in terms of pattern and size. (b) the proposed development does not represent an extension to an area for existing development on individual services; and (c) <u>the proposed development would not create a precedent for future similar applications on adjacent or nearby lots.</u>	The consent brings the existing lot of record to a size that is more consistent with surrounding lot sizes b) The severance allows for the development of an existing lot of record c) <u>the consent will not set a precedent as the lot is already existing.</u>

Response to Required Studies

Environmental Impact Study

This is a required study as a condition to approve the Consent to Sever and Amalgamate 2598 and 2624 Woodhull. Four site visits (Oct 2020-Aug 2022 within a 120 metre study circle

- *The Study was not independent as it was paid for by the applicant*
- *It Failed to identify the nesting Bald Eagles (Special Concern) within or immediately adjacent to the study area who frequently perch, on property trees, and feed on all the neighbouring properties.*
- *Failed to remark on the Spiny Soft shell Turtle (Endangered) in the Dingman Creek within the Study Area*
- *Recommended restoration and naturalization of the Buffer Zone using Native Plant species and installation of permanent boundary markers to prevent encroachment. Unfortunately, the City of London is unable to confirm and police the implementation of such measures.*

Geotechnical Study

This is a required study as a condition to approve the Consent to Sever and Amalgamate 2598 and 2624 Woodhull. It does not inspire confidence that it can be used to support the building of a residence.

- *The Study was not an independent study as it was paid for by the applicant.*

The following are the limitations of the Report

- *Contractors contemplating work on the site are responsible for conducting an independent investigation and interpretation of the bore hole results contained in the Report. The number of boreholes necessary to determine the localized underground conditions as they impact construction costs, techniques, sequencing, equipment and scheduling maybe greater than those carried out for the purpose of the Report.*
- *The information presented in this report is based on a limited investigation designed to provide information to support an assessment of the current*

geotechnical conditions within the subject property. The conclusions and recommendations presented in this report reflect site conditions existing at the time of the investigation. Consequently, during the future development of the property, conditions not observed during this investigation may become apparent.

- The comments given in this report are intended only for the guidance of design engineers. The number of test holes required to determine the localized underground conditions between test holes affecting construction costs, techniques, sequencing, equipment, scheduling, etc. would be much greater than has been carried out for design purposes.
- This report (“Report”) is based on site conditions known or inferred by the geotechnical investigation undertaken as of the date of the Report. Should changes occur which potentially impact the geotechnical condition of the site, or if construction is implemented **more than one year following the date of the Report, the recommendations of EXP may require re-evaluation. It would appear that the report has expired and invalidates the Application.**

Conclusions

The Provincial Policy Statement and the London Plan are in place to serve as guides for management of land and development in the City of London. The interpretation and implementation of the guides must be done with the understanding they are for the overall greater good of the Citizens of London and the surrounding area, not only for the present but for future generations. They are not meant to be selectively cherry-picked to justify exceptions of which we may regret or not live long enough to lament the decision, but rather to step back and use them to guide us all to the long-term plan. Farmland and natural areas are disappearing. It is vital for our survival of our future generations. Once it is gone it is gone forever.

Brock Development Group and applicant close the present Justification Report with the following statements:

“The proposed amendment supports Bill 23 and the Province’s mandate for “More Homes Built Faster”.

The proposed amendment represents good land use planning and is in the public interest.”

It is beyond disbelief that the authors would have us believe that building an apparent 4000 sq ft home on a tiny lot purchased for over \$ 200,000 and likely to be flipped tax free for 1.5 to 2 million dollars, has anything to do with Bill 23, and contributing to the affordable housing required of the more than 400,000 low income immigrants arriving annually.

It is destructive land use planning and the only public whose interest is served, is the Brock Development Group and the Builder/Owner.

We ask the Committee, in their capacity as public representatives, to pause, reflect and listen to the majority Voice of the Woodhull Road Public Community, guided by the Farmland Vision of the London Plan, stop this precedent setting development, and do truly what is in the best interests of the Citizens of Rural London, and future Generations.

Sincerely

Richard Inculet MD FRCSC FACS

Correction Addendum

Page 1: Last sentence should be corrected to

- “A very confident purchase, prior to the Application to PEC in November 2023”

Page 18: Paragraph 2, line 4,

- (# 2345 Elviage) should be corrected to (# 9345 Elviage)