

Report to Planning and Environment Committee

To: Chair and Members
Planning and Environment Committee

From: Scott Mathers, MPA, P.Eng.
Deputy City Manager, Housing and Community Growth

Subject: Mrs. Dorothy Pol and Mr. William Pol c/o Carlyle Peterson
Lawyers LLP
50 Rollingwood Circle
File Number: Z-25005, Ward 6
Public Participation Meeting

Date: March 18, 2025

Recommendation

That, on the recommendation of the Director, Planning and Development, the following actions be taken with respect to the application of Mrs. Dorothy Pol and Mr. William Pol (c/o Carlyle Peterson Lawyers LLP) relating to the property located at 50 Rollingwood Circle:

- (a) Consistent with Policy 43_ of the Official Plan, The London Plan, for the subject lands representing a portion of 50 Rollingwood Circle, **BE INTERPRETED** to be located within the Neighbourhoods Place Type;
- (b) the proposed by-law attached hereto as Appendix "A" **BE INTRODUCED** at the Municipal Council meeting April 1, 2025, to amend Zoning By-law No. Z.-1, in conformity with the Official Plan, The London Plan, to change the zoning of the subject property **FROM** an Open Space (OS1) Zone **TO** a Residential R1 (R1-10) Zone;

IT BEING NOTED, that the above noted amendment is being recommended for the following reasons:

- i) The recommended amendment is consistent with the Provincial Planning Statement, 2024 (PPS);
- ii) The recommended amendment conforms to The London Plan, including, but not limited to the Key Directions, City Design and Building policies, and the Neighbourhoods Place Type policies; and
- iii) The recommended amendment recognizes the continuous use of the land as an access to the garage at the neighbouring property.

Executive Summary

Summary of Request

The applicant has requested an amendment to the Zoning By-law Z.-1 to rezone a portion of the property from an Open Space (OS1) Zone to a Residential R1 (R1-10) Zone.

Purpose and the Effect of Recommended Action

Staff are recommending approval of the requested and Zoning By-law amendment to rezone a portion of the lands at 50 Rollingwood Circle to be merged with the abutting lands at 42 Rollingwood Circle. The purpose of the recommended action is to permit the existing access to the single detached dwelling and attached garage at 42 Rollingwood Circle.

Linkage to the Corporate Strategic Plan

This recommendation will contribute to the advancement of Municipal Council's 2023-2027 Strategic Plan in the following ways:

- **Strategic Plan Area of Focus: Wellbeing and Safety**, by promoting neighbourhood planning and design that creates safe, accessible, diverse, walkable, healthy, and connected communities.

Analysis

1.0 Background Information

1.1 Previous Reports Related to this Matter

None.

1.2 Planning History

The subject lands, comprised of a portion of 50 Rollingwood Circle, were declared surplus by the City of London on November 27, 2024. Council also approved a conditional sale for these lands to the applicant, and the applicant is currently working through the due diligence which includes this rezoning.

1.3 Property Description and Location

The subject lands are a triangular portion of Rollingwood Circle Park, located at the northeast corner fronting on Rollingwood Circle, in the Medway Planning District. Rollingwood Circle Park is a neighbourhood park surrounded by low-density residential development primarily in the form of single detached dwellings. The lands subject to the rezoning have a frontage of approximately 20.1 metres along Rollingwood Circle and abut 42 Rollingwood Circle to the east. The subject site currently contains a driveway providing access the existing single detached dwelling and attached garage at 42 Rollingwood Circle.

Site Statistics:

- Current Land Use: City-owned parkland containing a private driveway
- Frontage: 20.1 metres (65.94ft)
- Depth: 36.7 metres (120.4ft)
- Area: 0.034 hectares (0.085 Acres)
- Shape: Triangular
- Located within the Built Area Boundary: Yes
- Located within the Primary Transit Area: Yes

Surrounding Land Uses:

- North: Single detached dwellings
- East: Single detached dwellings
- South: Neighbourhood park and single detached dwellings
- West: Neighbourhood park

Existing Planning Information:

- The London Plan Place Type: Neighbourhoods Place Type fronting a Neighbourhood Street (Rollingwood Circle)
- Existing Specific policy: Near Campus Neighbourhood (TLP_962)
- Existing Zoning: Open Space (OS1) Zone

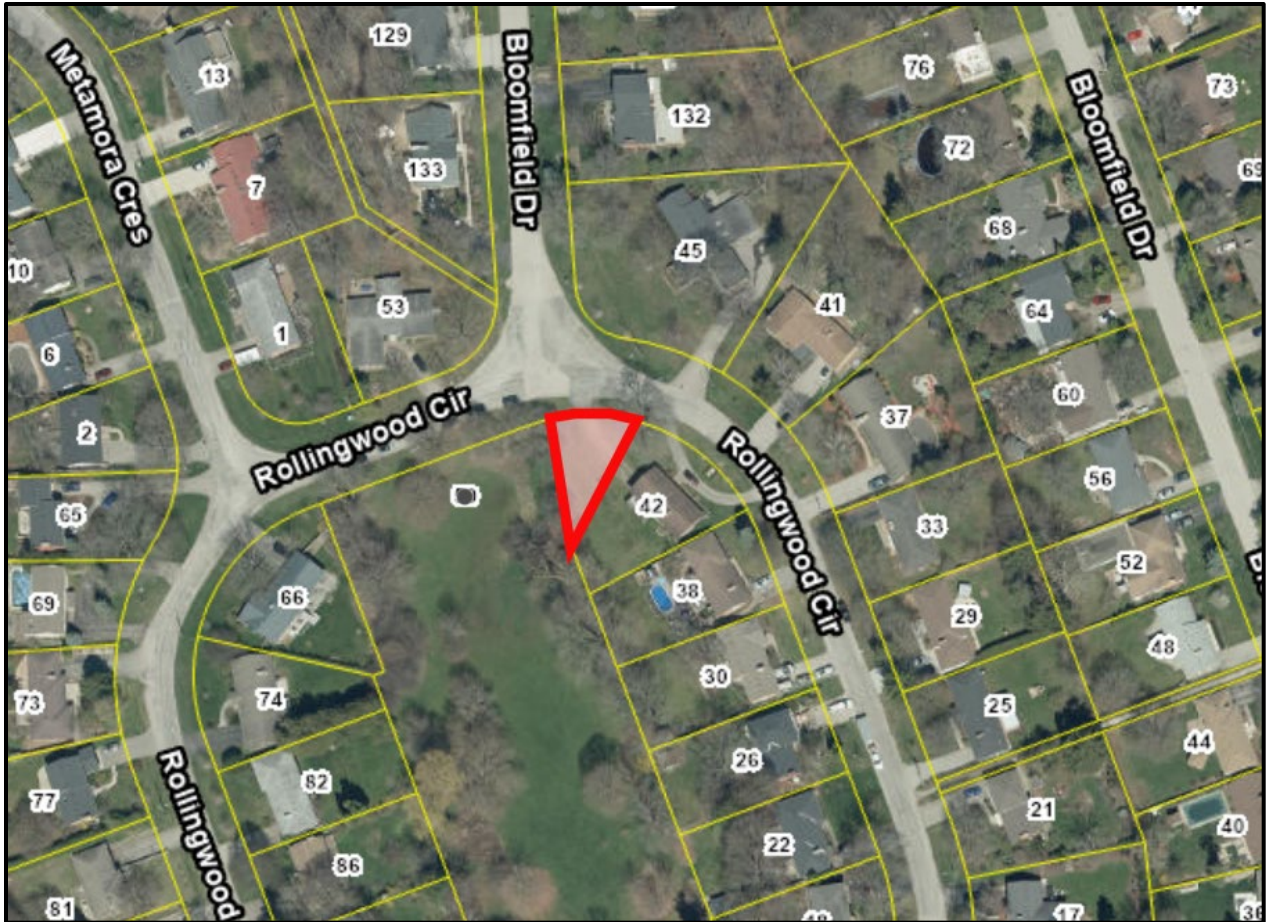


Figure 1- Aerial Photo of 50 Rollingwood Circle and surrounding lands.



Figure 2 - Streetview of 50 Rollingwood Circle (view looking south-west – dated January 27, 2025)

2.0 Discussion and Considerations

2.1 Proposal

The applicant is proposing to re-zone a portion of the lands at 50 Rollingwood Circle, to be merged with the abutting lands at 42 Rollingwood Circle, to permit the existing driveway access to the existing single detached dwelling and attached garage at 42 Rollingwood Circle. No new development is proposed.



Figure 3 - Conceptual Site Plan (Received December 2024)

2.2 Requested Amendment

The applicant has requested an amendment to the Zoning Bylaw Z.-1 to rezone the property from an Open Space (OS1) Zone to a Residential R1 (R1-10) Zone.

2.3 Internal and Agency Comments

The application and [associated materials](#) were circulated for internal comments and public agencies to review. Comments received were considered in the review of this application and are addressed in Section 4.0 of this report.

Detailed internal and agency comments are included in Appendix “B” of this report.

2.4 Public Engagement

On January 3, 2025, Notice of Application was sent to 102 property owners and residents in the surrounding area. Notice of Application was also published in the *Public Notices and Bidding Opportunities* section of *The Londoner* on February 27, 2025. A “Planning Application” sign was also placed on the site.

There were three (3) responses received during the public consultation period. Comments received were considered in the review of this application and are addressed in Section 4.0 of this report.

Concerns expressed by the public relate to:

- Impacts on natural habitat
- Possibility of future development in forms not compatible with the existing low-density development.

Detailed public comments are included in Appendix “C” of this report.

2.5 Policy Context

The Planning Act and the Provincial Planning Statement, 2024

The Provincial planning policy framework is established through the *Planning Act* (Section 3) and the *Provincial Planning Statement, 2024 (PPS)*. The *Planning Act*

requires that all municipal land use decisions affecting planning matters shall be consistent with the *PPS*.

The mechanism for implementing Provincial policies is through the Official Plan, The London Plan. Through the preparation, adoption and subsequent Ontario Land Tribunal (OLT) approval of The London Plan, the City of London has established the local policy framework for the implementation of the Provincial planning policy framework. As such, matters of provincial interest are reviewed and discussed in The London Plan analysis below.

As the application for a Zoning By-law amendment complies with The London Plan, it is staff's opinion that the application is consistent with the *Planning Act* and the *PPS*.

The London Plan, 2016

The London Plan (TLP) includes evaluation criteria for all planning and development applications with respect to use, intensity and form, as well as with consideration of the following (TLP 1577-1579):

1. Consistency with the Provincial Policy Statement and all applicable legislation.
2. Conformity with the Our City, Our Strategy, City Building, and Environmental policies.
3. Conformity with the Place Type policies.
4. Consideration of applicable guideline documents.
5. The availability of municipal services.
6. Potential impacts on adjacent and nearby properties in the area and the degree to which such impacts can be managed and mitigated.
7. The degree to which the proposal fits within its existing and planned context.

Staff are of the opinion that all the above criteria have been satisfied.

Policy 43_ of The London Plan includes policies that will allow for a reasonable amount of flexibility through interpretation, provided that such interpretation represents good planning and is consistent with the policies of this Plan and the Provincial Policy Statement. In this case, interpretation is needed where the lands to be rezoned and merged with 42 Rollingwood Circle are in the Green Space Place Type.

In accordance with Policy 43_, the boundaries between place types as shown on Map 1 – Place Types, of this Plan, are not intended to be rigid, except where they coincide with physical features (such as streets, railways, rivers or streams). The exact determination of boundaries that do not coincide with physical features will be interpreted by City Council. Council may permit minor departures from such boundaries, through interpretation, if it is of the opinion that the intent of the Plan is maintained and that the departure is advisable and reasonable. Where boundaries between place types do coincide with physical features, any departure from the boundary will require an amendment to the Plan” (The London Plan, 43_1). As there are no streets, railways, rivers, or streams delineating the Place Type boundary, it is recommended Council interpret the subject lands to be in the Neighbourhoods Place Type. On this basis, this report will only refer to the Neighbourhoods Place Type policies.

3.0 Financial Impact/Considerations

None

4.0 Key Issues and Considerations

4.1 Land Use

The subject lands are in Neighbourhoods Place Type in accordance with Map 1 – Place Types, with frontage on a Neighbourhood Street (Rollingwood Circle) in accordance with Map 3 – Street Classifications in The London Plan.

The requested amendment seeks to re-zone a portion of 50 Rollingwood Circle for the continued use as access to the existing garage at 42 Rollingwood Drive. The existing single detached dwelling at 42 Rollingwood Circle is a contemplated use as per Table 10 – Range of Permitted Uses in Neighbourhoods Place Type. On this basis, staff is satisfied the proposed use is in conformity with The London Plan.

4.2 Intensity and Form

It is noted that no changes to the intensity or form of the site are proposed. The existing single detached dwelling at 42 Rollingwood Circle is in conformity with Table 11 – Permitted Intensity in the Neighbourhoods Place Type. As such, staff is satisfied the existing intensity and form are in conformity with The London Plan.

4.3 Zoning

The subject lands are zoned Open Space (OS1) Zone, and currently contains mature vegetation and an existing driveway access to the attached garage at 42 Rollingwood Circle. The resident of 42 Rollingwood Circle has been using this driveway to access the garage since its construction in 1950. There is no proposed development, rather this application looks to recognize and formalize an existing condition. The existing mature vegetation would be maintained. As a result, the proposal would not have any negative impacts on the neighbourhood or Rollingwood Circle Park.

Conclusion

The applicant has requested an amendment to the Zoning By-law Z.-1 to rezone the property from an Open Space (OS1) Zone to a Residential R1 (R1-10) Zone. Staff are recommending approval of the requested Zoning Bylaw amendment.

The recommended action is consistent with the PPS 2024, conforms to The London Plan and will permit the continued use of a portion of the subject lands as an access to the garage of 42 Rollingwood Circle.

Prepared by: Anmona Nair
Planner, Planning Implementation

Reviewed by: Catherine Maton, MCIP, RPP
Manager, Planning Implementation

Recommended by: Heather McNeely, MCIP, RPP
Director, Planning and Development

Submitted by: Scott Mathers, MPA, P.Eng.
Deputy City Manager, Housing and Community Growth

Copy:
Britt O'Hagan, Manager, Current Development
Mike Corby, Manager, Site Plans
Brent Lambert, Manager, Development Engineering

Appendix A – Zoning By-law Amendment

Bill No. (number to be inserted by Clerk's Office)
2025

By-law No. Z.-1-

A by-law to amend By-law No. Z.-1 to rezone an area of land located at 50 Rollingwood Circle.

WHEREAS this amendment to the Zoning By-law Z.-1 conforms to the Official Plan;

NOW 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 50 Rollingwood Drive, as shown on the attached map **FROM** an Open Space (OS1) Zone **TO** a Residential R1 (R1-10) Zone.
2. This Amendment shall come into effect 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.

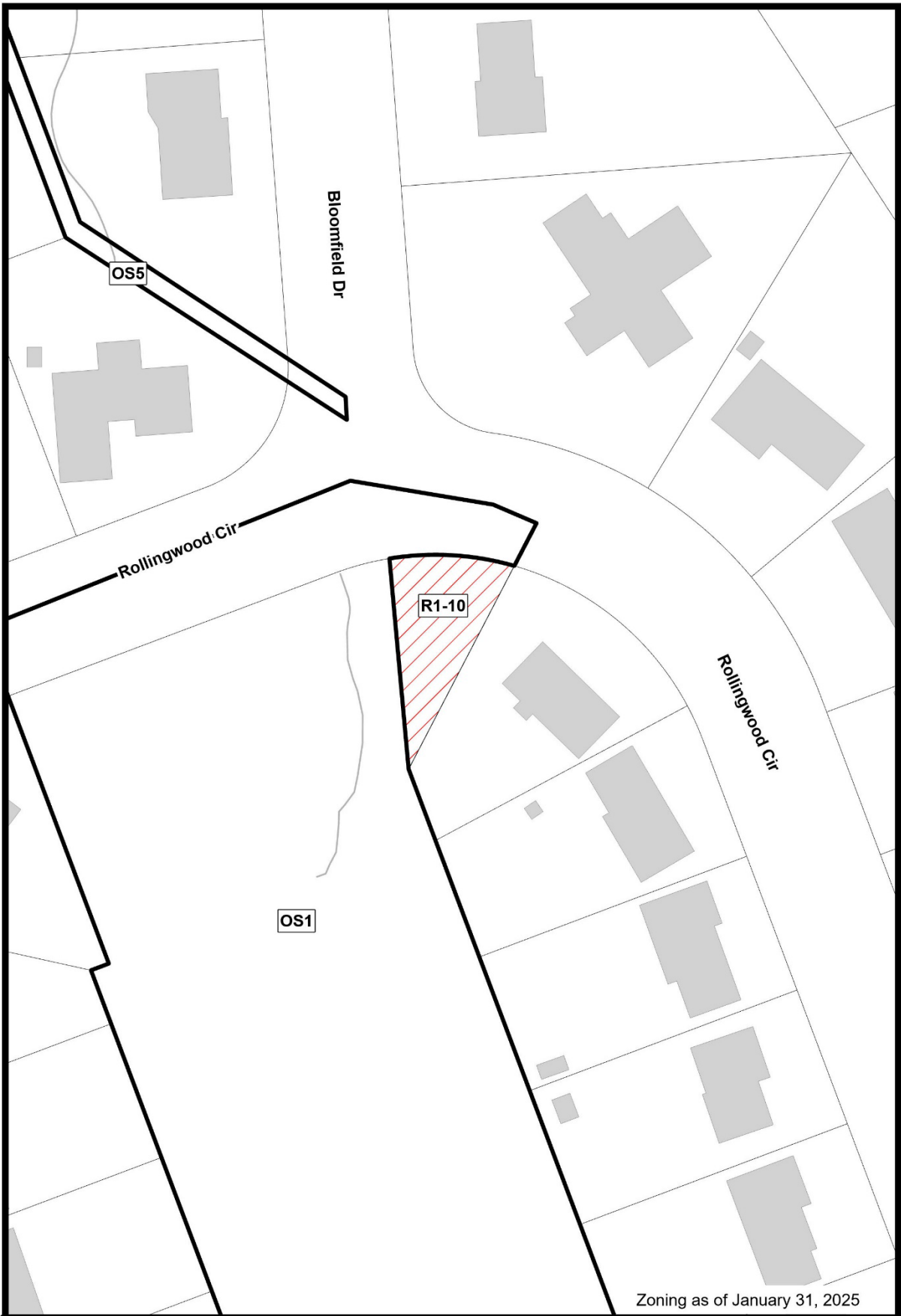
PASSED in Open Council on April 1, 2025 subject to the provisions of PART VI.1 of the *Municipal Act, 2001*.

Josh Morgan
Mayor

Michael Schulthess
City Clerk

First Reading – April 1, 2025
Second Reading – April 1, 2025
Third Reading – April 1, 2025

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



File Number: Z-25005
Planner: AN
Date Prepared: 2025/02/11
Technician: RC
By-Law No: Z.-1-

SUBJECT SITE 

1:750

0 25 50 Meters



Appendix B – Internal and Agency Comments

Site Plan – Received January 6, 2025

Site Plan Approval will not be required. No comments

Heritage – Received January 9, 2025

The property at 50 Rollingwood Circle is identified as having archaeological potential on the City's Archaeological Management Plan. The current application proposes to change the use of the property but does not appear to result in soil disturbance. As the proposal does not result in soil disturbance, an archaeological assessment is not required. However, the following clauses should be noted:

- Archaeological potential remains on the property at 50 Rollingwood Circle. Any future project that may require soil disturbance, may require archaeological assessment.
- It is an offence under Section 48 and 69 of the Ontario Heritage Act for any party other than a consultant archaeologist to make alterations to a known archaeological site or to remove any artifact or other physical evidence of past human use or activity from an archaeological site.
- Should previously undocumented (i.e., unknown, or deeply buried) archaeological resources be discovered, they may be a new archaeological site and therefore be subject to Section 48(1) of the Ontario Heritage Act. The proponent or person discovering the archaeological resources must cease alteration of the site immediately and engage a consultant archaeologist to carry out archaeological fieldwork, in compliance with Section 48(1) of the Ontario Heritage Act. Archaeological sites recommended for further archaeological fieldwork or protection remain subject to Section 48(1) of the Ontario Heritage Act and may not be altered, or have artifacts removed from them, except by a person holding an archaeological license.
- If human remains/or a grave site is discovered, the proponent or person discovering the human remains and/or grave site must cease alteration of the site immediately. The Funerals, Burials and Cremation Services Act requires that any person discovering human remains must immediately notify the police or coroner and the Registrar of Burial Sites, War Graves, Abandoned Cemeteries and Cemetery Closures, Ontario Ministry of Public and Business Service Delivery.

Urban Design – Received January 6, 2025

Urban Design has no comments or concerns regarding the above-noted Zoning By-law Amendment.

London Hydro – Received January 22, 2025

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.

UTRCA– Received January 13, 2025

The lands at 50 Rollingwood Circle, London are not affected by any regulations made pursuant to Section 28 of the Conservation Authorities Act. The UTRCA has no objections to this application and we have no Section 28 approval requirements.

Landscape Architecture – Received January 14, 2025

It is the property owner's responsibility to ensure that the new development does not result in adverse effects to neighboring properties. Staff recommends the property owner undertake a Tree Protection Plan (TPP) prior to any construction on the property and that any recommendations from the TPP are implemented prior to and during construction to protect trees. Should any tree fail within and outside of site and fall damaging property or injuring people this could become a civil matter between impacted property owners.

City Bylaws and Provincial Legislation pertaining to trees:

- The City of London Tree Protection Bylaw protects trees with a diameter of 50+ cm growing on private property. Permits would be required to remove on-site trees with diameters +50cm at breast height. <https://london.ca/by-laws/consolidated-tree-protection-law> contact Forestry Dispatcher at trees@london.ca with details of your request. Any person who contravenes any provision of this By-law is guilty of an offence and if convicted is liable to a minimum fine of \$500.00 and a maximum fine of \$100,000.00.
- The City of London Boulevard Tree Protection Bylaws protects all trees located on City of London Boulevards (including their root zones). To request the removal or to apply for consent to injure the roots of the City trees, contact Forestry Dispatcher at trees@london.ca with details of your request. Any person who contravenes any provision of this By-law is guilty of an offence and if convicted is liable to a minimum fine of \$500.00 and a maximum fine of \$100,000.00.
- Boundary trees are protected by the province's Forestry Act 1998, c. 18, Sched. I, s. 21, boundary trees can't be removed without written consent from co-owner because any tree whose trunk is growing on the boundary between adjoining lands is the common property of the owners of the adjoining lands. Injury or removal of a boundary tree without consent is guilty of an offence under this Act. The legal definition of a tree trunk is everything from the root-collar (at the base) to where the first branch appears.

Parks Planning – Received January 14, 2025

No comments

Ecology – Received January 14, 2025

There are currently no new ecological planning issues related to this property and/or associated study requirements.

Engineering – Received February 19, 2025

No Comments

Appendix C – Public Engagement

Public Comment #1 – Doug Mercer

Anmona Nair & Sam Trosow (our Ward Councillor)

Regarding the recent notification - Notice of Planning application & Public Meeting, Zoning By Law Amendment where it is proposed the city re-zone a portion of 50 Rollingwood circle (currently part of Open Space park like area) to Residential zoning so that 42 Rollingwood circle can continue to use this space for access to a garage.

First let me state that it makes sense to me that the owner of 42 Rollingwood circle would want this change, however they did purchase the property knowing that access to the garage is currently difficult (not impossible) and it has likely been this way since the house was built in the 1950's. There are a number of houses in the neighbourhood with tight laneways & turns into their garages and they seem to manage fine.

However, my main two concerns on this rezoning issue are as follows:

1) Since this piece of land is currently Open Space owned by the city to which all London homeowners pay city taxes. I assume the re-zoned section of property will be listed at fair market value and sold to the current owner at 42 Rollingwood Circle for only the use stated in the application.

2) I seem to recall that when that house last sold the new owner listed it for lease (there was a sign in the window), so that leads me to be concerned that this house is a rental. What protection is there that upon securing that additional piece of land the owners don't then apply to remove the house and build a larger structure (that currently could not be accommodated on the current lot size) with several apartments to house UWO students. We have enough issues with student rentals in our neighbourhood so some assurance that we are not opening the door to a new student rental problem would be great!

If we cannot be assured that allowing this rezoning application there is some form of zoning in place to stop the owner from building a large student rental structure then I think the land should stay zoned as Open Space for all the neighbourhood to enjoy for years to come.

Thank you
Doug Mercer

Public Comment #2 – Joanne and Jim Christian

Dear Ms. Nair,

We understand that the above amendment would allow the title and use of a portion of this City-owned Open Space OS-1 parcel of land to be transferred to the applicant(s).

Encroachment on this Open Space is a major concern for the following reasons:

1. Green space is disappearing at an alarming rate and small losses here and there inevitably add up. Surely, we have a responsibility to acknowledge that fact and to preserve what we are capable of preserving. Our personal inconvenience shouldn't override the serious consequences of not doing that.

a. Green spaces, however small, directly contribute to cleaning the air and reducing the impact of climate change, a very major concern for present and future populations.

b. Open green space is also known to be an important asset to public health and well-being. In fact, the presence of and access to green space is known to reduce several chronic diseases and associated symptoms.

Please see this Government of Canada fact sheet for further details on the above points.

2. This Open Space is also home to naturally occurring animals, insects, birds, reptiles and vegetation which we have a duty to protect. They are all part of the ecosystem of this area, the ecosystem they share with us.

We have been residents of this London neighbourhood for [redacted] and realize that changes to both personal and public property over the years are inevitable. Changes to City of London Open Spaces however, although they may be viewed as minor, are of major importance in the grand scheme of things. The environmental impact should remain the top priority.

The application describes the subject lands not being used for open space purposes due in part to the existing mature vegetation barrier and difference in elevation to the open space area. It is indeed being used, but by the existing wildlife, which probably isn't concerned about the elevation. That mature vegetation is quite likely very important to the birds in particular and if the ownership of the land changes, it could easily be cut down.

We assume that original construction of the garage at 42 Rollingwood Circle allowed access to that garage on the existing property and still would without encroaching on the Open Space.

We would encourage the City to deny the application and restore all the Open Space land currently being used by the owner to suitable green space use.

The following are additional items to consider if this amendment, as it stands, is going to be approved:

1. What is to prevent others whose property abuts this Open Space, or any other Open Space, from expecting the same consideration? Will this amendment, if it proceeds, not establish a precedent for future requests?
2. Why was a resident permitted to use this Open Space for their own purposes at all and free of charge at that? Should continuous unauthorized private use of public land be considered a logical reason to rezone that land to allow continued use?
3. If the title to this land will be transferred to the applicant(s), will the applicant pay fair market value and additional property tax?
4. Could a compromise for a smaller section be considered? The present tire tracks on the Site Concept photo indicate that the residents are not presently using the entire section requested to access the garage, and garage access is the issue indicated in the application. The property line doesn't have to be a straight line.

We understand the reason this application has been made however, use of the additional land isn't imperative for access to the garage by the occupants of this one single residence. What is imperative is preserving and maintaining London's green spaces for so many reasons for the greater good, for human enjoyment and for wildlife survival.

Please consider whether portions of green spaces should ever be deemed "surplus" as described in the application.

Sincerely,

Joanne and Jim Christian

Public Comment #3 – Paul Wiegert

Dear City of London Planners,

I'd like to provide feedback on Proposal ZP-25005 at 50 Rollingwood Circle. The proposal is to rezone a portion of the green space of the park and to attach it to the property at 42 Rollingwood Circle. The justification is that this has been used for driveway access to 42 Rollingwood for some years.

This proposal should not be accepted for a number of reasons.

First, the open space is already too small. It also get significantly encroached by other neighbours effectively occupying parts of it by moving their furniture, volleyball nets, etc into this space.

Second, though it has (illegally apparently) been a driveway, there is no need to reward this behaviour. Besides, driveway access is available through the 42 Rollingwood property, the driveway only needs to be diverted to run within their property limits.

Thirdly, the rezoning is clearly directed at increasing the footprint of the 42 Rollingwood property to allow for redevelopment. The statement that "no redevelopment is proposed at this time" may be true but is disingenuous.

As a resident of this neighbourhood I request that proposed re-zoning be denied.

Best regards,
Paul Wiegert

Public Comment #4 – Paul Wiegert

Good evening, Anmona. Thank you for sending those informative details.

As a further amplification of my earlier comment, I've included photos of the property taken the morning of Monday March 3. These are relevant because they show that the area which is being proposed for rezoning is not in fact used for access at all. The intact snowbank across the requested rezoning area (img_2201) shows that it is not used regularly for access. The photos also show that auto access is in fact maintained through an adjacent area in front of the house that is already part of the property (img_2203).

Best Regards
Paul Wiegert



Figure 1: img_2201(attachment in the e-mail)



Figure 2: *img_2203 (attachment in the e-mail)*
