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File No: OZ-8288  
 Planner: Nancy Pasato

<b>TO:</b>	<b>CHAIR AND MEMBERS PLANNING AND ENVIRONMENT COMMITTEE</b>
<b>FROM:</b>	<b>G. KOTSIFAS, P.ENG. MANAGING DIRECTOR, DEVELOPMENT &amp; COMPLIANCE SERVICES &amp; CHIEF BUILDING OFFICIAL</b>
<b>SUBJECT:</b>	<b>APPLICATION BY: SIFTON PROPERTIES LIMITED CITY-WIDE – CHANGES TO VACANT LAND CONDOMINIUM POLICIES PUBLIC PARTICIPATION MEETING ON APRIL 8, 2014</b>

<b>RECOMMENDATION</b>
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That, on the recommendation of the Senior Planner, Development Services, based on the application of Sifton Properties Limited, relating to policies and zoning on Vacant Land Condominiums:

- a) the proposed by-law attached hereto as Appendix "A" **BE INTRODUCED** at the Municipal Council meeting on April 15, 2014 to amend the Official Plan to change Policy 19.15.4. Vacant Land Condominiums by deleting and replacing subsection iii) and iv) with the following:
  - iii) Proposals for vacant land condominiums which will result in units above or below any other unit will not be supported;
  - iv) Only one dwelling will be permitted per unit;
  - v) At the time of registration, structures cannot cross unit boundaries;
  - vi) The registration of a proposed development as more than one vacant land condominium corporation may be permitted if the proposal is supportive of comprehensive development and planning goals. The minimum number of units to be included in each condominium corporation shall be more than adequate to allow for the reasonable, independent operation of the condominium corporation.;
  
- b) the proposed by-law attached hereto as Appendix "B" **BE INTRODUCED** at the Municipal Council meeting on April 15, 2014 to amend Zoning By-law No. Z.-1, in conformity with the Official Plan as amended in part (a) above, to:
  - i) Section 2 Definitions to By-law No. Z.-1 is amended by deleting and replacing "UNIT IN A VACANT LAND CONDOMINIUM" with the following: "UNIT IN A VACANT LAND CONDOMINIUM" means a parcel of land within a vacant land condominium for the purpose of constructing one dwelling.";
  - ii) Section 9.3 R5 Zone Regulations is amended by adding the following sub-bullet:
    - "3) For the purposes of the R5 Zone variations, only one townhouse dwelling is permitted to be constructed on a unit in a Vacant Land Condominium.

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No townhouse dwellings are permitted to be constructed within a proposed Vacant Land Condominium until after registration of the plan of condominium has occurred.”;

iii) Section 10.3 R6 Zone Regulations is amended by deleting sub bullet 2) and replacing it with the following:

“2) Only one dwelling is permitted to be constructed on a unit in a Vacant Land Condominium.

No dwellings are permitted to be constructed within a proposed Vacant Land Condominium until after registration of the plan of condominium has occurred, except for a single detached dwelling.

No attached dwellings are permitted to be constructed within a proposed Vacant Land Condominium until after registration of the plan of condominium has occurred.”; and

c) subject to the approval of parts a) and b), above, the Civic Administration **BE DIRECTED** to report back at a future meeting of the Planning and Environment Committee with respect to proposed policy guideline amendments that would permit a ‘two-step building permit process’ to implement the proposed changes to Vacant Land Condominiums.

**PREVIOUS REPORTS PERTINENT TO THIS MATTER**

99 CON cn – information report on the new Condominium Act (2001) and proposed changes and guidelines – Planning Committee meeting on September 9, 2002; endorsed by Council for circulation on September 16, 2002.

OZ-6421 – recommendation for new policies related to all types of condominiums - Planning Committee meeting on March 10, 2003; passed by Council on March 17, 2003.

Z-7724 – recommendation for changes to the zoning by-law to define a unit in a Vacant land Condominium – Planning Committee meeting on March 1, 2010; passed by Council on March 8, 2010.

**PURPOSE AND EFFECT OF RECOMMENDED ACTION**

The purpose and effect of this change is to allow for multiple attached dwellings, such as semi-detached or townhouses, to be built within a Vacant Land Condominium.

**RATIONALE**

1. The proposed amendments will more closely reflect the wording, prohibitions and requirements as set out within the Condominium Act.
2. The proposed changes will help to facilitate multiple attached dwellings within Vacant Land Condominiums.

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3. The process for a two-step building permit will help ensure that the City and the consumer are protected should there be any issues with the siting of foundations along existing unit boundaries. The onus will be on the applicant to ensure the foundations are placed correctly.
4. The proposed changes represent good planning and provide greater flexibility for builders, and the consumer.

**BACKGROUND**

<b>Date Application Accepted:</b> November 13, 2013.	<b>Agent:</b> Maureen Zunti, Sifton Properties Limited
<b>REQUESTED ACTION:</b> Change to the Official Plan and Zoning By-law Z.-1 to remove restrictions that only permit single detached dwellings within vacant land condominiums.	

**PLANNING HISTORY & BACKGROUND**

The Condominium Act, 1998 received Royal Assent on December 18, 1998 and was proclaimed into force on May 5, 2001. On September 9, 2002, the General Manager of Planning and Development tabled a report at Planning Committee that contained proposals for the implementation of the legislation at the City level. One of the issues raised during the review of the new Condominium Act related to Vacant Land Condominiums and structures proposed to cross unit boundaries. Staff at that time recommended that any other forms of housing other than single detached dwellings be prohibited within a Vacant Land Condominium. The intent of this was to avoid the potential problems for the consumer created by the construction of attached dwellings after the property boundaries are created. The authority of the Act ends at registration and does not control what the municipality may allow to be constructed in the future. Ultimately this amendment was passed and it was also reflected in the zoning by-law.

**SIGNIFICANT DEPARTMENT/AGENCY COMMENTS**

**City Solicitor's Office**

*The proposed amendment would delete the following provision from the OP:*

*(iii) Proposals for vacant land condominiums which will result in structures that cross unit boundaries, either horizontally or vertically, will not be supported".*

*This provision of the City's Official Plan is not supported by the language in the Condominium Act, 1998, or the regulations passed thereunder.*

*Section 56(1) of Ontario Regulation 48/01 provides that,*

*56. (1) In addition to the requirements of subsection 5 (1), a declaration for a vacant land condominium corporation shall not be received for registration unless,*  
*(a) despite clause 155 (1) (a) of the Act, none of the units are part of a building or structure and none of the units include part of a building or structure, except if a building or structure*

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is located entirely within the boundaries of the unit; (emphasis added)

Further, Section 155 (1) (a) of the Act states,

155. (1) Subject to the regulations made under this Act, a declarant may register a declaration and description that create a corporation in which, at the time of the registration,

(a) one or more units are not part of a building or structure and do not include any part of a building or structure; and

(b) none of the units are located above or below any other unit. (emphasis added)

The effect of these provisions is that, so long as, at the time of registration, no units of the vacant land condominium are part of a building or structure, the declaration and description of a vacant land condominium can be received for registration.

A careful reading of Condominiums in Ontario by H. Herskowitz and M. F. Freedman would appear to support this position. The authors provide the following commentary on Section 155 of the Act (starting at page 532),

This subsection permits vacant land condominiums by allowing the creation of units that are not part of a building or structure ... at the time when the declaration and description creating the condominium are registered.

... [T]he regulation (Regulation 48/01) prohibits the declaration from referencing the boundaries of a unit in relation to any building or structure ...in effect, the vacant land declaration will reference the unit boundaries to the "lot lines" of the vacant land units ... ignoring any building or structures that may have been wholly or partially erected on them at the time of registration. (emphasis added) ... Moreover, subsection 56(1) of O.Reg. 48/01 ;pertains to the status of the vacant land condominium at the time of registration, and does not relate to (or govern) any period thereafter.

They go on to state that,

... there is nothing to expressly preclude a block of townhouse dwellings being erected across multiple units in a vacant land condominium, provided that the boundaries of each townhouse dwelling are respectively situate wholly within each of the vacant condominium units.

It would appear that the key date is the date of registration of the condominium. If at the date of registration there are no buildings or structures erected on any unit within the vacant land condominium, the declaration and description creating the vacant land condominium can be registered. I note that in the Planning Rational document prepared by the applicant it describes the planning process, including:

From a development perspective, a two-step building permit would be required. Initially, a foundation only permit would be issued. It will be the responsibility of the developer's surveyor to locate the unit boundaries and ensure and certify that the foundation and party wall dividing individual dwelling units (townhouses, semis) is located precisely on the boundary between the adjacent condominium units. Such certification could be provide once the foundation for the building/structure has been poured. Upon receipt of the required certification, a full permit could be issued to complete construction. Failure to properly locate the foundation (and party wall) on the unit boundary would result in the foundation being removed and the developer being compelled to start over again. I note that the applicant's material contains a document identified as an Undertaking for a Two-Stage Building Permit. A similar document could be obtained from the developer part of the condominium approval process.

**Development & Compliance Services (Building)**

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*Background information*

- *We do not issue foundation permits for any type of building other than an ICI or an apartment building.*
- *There is no such thing as a “Foundation permit” and no reference to such a permit is made in the Building Code Act .*
- *What we may be issuing in this case is a building permit that restricts construction to the foundation elements only.*
- *Typically, any type of ‘restrictive’ permit such as the one contemplated is issued as a conditional permit as per 8(3) of the Building Code Act which states:*

*...Conditional permit*

*(3) Even though all requirements have not been met to obtain a permit under subsection (2), the chief building official may issue a conditional permit for any stage of construction if,*

- (a) compliance with by-laws passed under sections 34 and 38 of the Planning Act and with such other applicable law as may be set out in the building code has been achieved in respect of the proposed building or construction;*
- (b) the chief building official is of the opinion that unreasonable delays in the construction would occur if a conditional permit is not granted; and*
- (c) the applicant and such other person as the chief building official determines agree in writing with the municipality, upper-tier municipality, board of health, planning board, conservation authority or the Crown in right of Ontario to,*
  - (i) assume all risk in commencing the construction,*
  - (ii) obtain all necessary approvals in the time set out in the agreement or, if none, as soon as practicable,*
  - (iii) file plans and specifications of the complete building in the time set out in the agreement,*
  - (iv) at the applicant's own expense, remove the building and restore the site in the manner specified in the agreement if approvals are not obtained or plans filed in the time set out in the agreement, and*
  - (v) comply with such other conditions as the chief building official considers necessary, including the provision of security for compliance with subclause (iv). 1992, c. 23, s. 8 (3); 1997, c. 30, Sched. B, s. 7 (2); 1999, c. 12, Sched. M, s. 5 (1); 2002, c. 17, Sched. F, Table.*

*Contemplated “two stage” permit*

- *What may work here is a proposed conditional building permit wherein the conditions could relate to no above grade work until such time that:*
  - *confirmation from a registered OLS that the foundation as a whole has been placed in the correct location and that all foundation walls conform to the physical unit boundary locations as required by the Condo Act.*
  - *confirmation that title to the whole block is registered in the name of a single builder. (This was referenced/suggested in Lerner’s email reply to Nancy’s email – but the builder, when applying for the ‘foundation’ permit would presumably be acting on behalf of the units’ owners and would need to produce written authorization from each owner to apply for the permit regardless. So in essence we would already have received this confirmation.*

*The conditions above however, are not related to “applicable law” as the Condo Act itself does not constitute applicable law as defined in the BCA. So the question becomes, how is the confirmation of the foundation wall locations (that are boundaries between each individual units) any different than confirming the location of any foundation wall to which a conventional permit was issued? If the foundation walls were found to be incorrectly placed the only remedy available to us in this case and the only thing preventing above grade construction is solely the mere fact that a conditional permit agreement was entered into.*

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*Should a builder enter into the aforementioned conditional building permit, said builder would need to comply with the two conditions above prior to being given permission to proceed above the foundation wall level. This, of course, implies that the entire above-grade construction would be carried out under the same builder.*

*To issue the conditional (foundation only) permit, we will be asking for complete sets of drawings including both foundation and above grade construction.*

*Another question that arose was : What would be the acceptable construction deviations before a foundation wall is deemed to be in the “incorrect location” (would mostly apply to the interior foundation walls between units)? Who sets these tolerances? The Condo Act?*

**Ministry of Municipal Affairs and Housing**

*Nothing prevents the City from going above and beyond what the Act allows and prohibiting single detached dwellings only. The City needs to understand how the revision to the policy will be in the public good? How does this help a member of the public? What are the repercussions for this type of amendment?*

**Registry Office**

*The Ministry does not police what happens to a Condominium once it is registered. The City should confirm with its own lawyers whether or not the proposed land development zoning by-law violates the “Condominium Act” [particularly O.Reg 48/01, Condominium Act, 1998, S.56(1)(a)].*

**Tarion**

*No issue with insurance of new units provided the builder is a registered member of Tarion.*

<b>PUBLIC LIAISON:</b>	<p>On November 22, 2013 the Notice of Application was sent to a standard circulation list.</p> <p>Notice of the application was also published in “The Londoner” on November 28, 2013.</p> <p>A revised Notice of Application and Notice of Public Meeting was circulated on March 12, 2014.</p>	None.
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**Nature of Liaison:** The purpose of the Official Plan & Zoning By-Law amendment is to remove the requirement for a Vacant Land Condominium to develop with only single detached cluster housing units (units that do not cross property boundaries). The removal of this requirement would allow cluster townhouses units and semi-detached housing units as a permitted form of housing within a Vacant Land Condominium. Possible amendment to Policy 19.5.4. of the Official Plan to remove criteria iii) which states "Proposals for vacant land condominiums which will result in structures that cross unit boundaries, either horizontally or vertically, will not be supported:" Possible amendment to Section 10.3 of the Z.-1 Zoning By-law to remove sub item 2) which states "Only one single detached dwelling is permitted to be constructed on a unit in a Vacant Land Condominium."

REVISED LIAISON: The purpose of the Official Plan & Zoning By-Law amendment is to remove the requirement for a Vacant Land Condominium to develop with only single detached cluster housing units (units that do not cross property boundaries). The removal of this requirement would allow cluster townhouses units and semi-detached housing units as a permitted form of housing within a Vacant Land Condominium. Possible amendment to Policy 19.5.4. of the Official Plan to remove criteria iii) which states "Proposals for vacant land condominiums which will result in structures that cross unit boundaries, either horizontally or vertically, will not be supported:" REVISED - Possible amendment to Section 2 by changing the definition for ""UNIT IN A VACANT LAND CONDOMINIUM", Section 9.3 (R5 Zone) and 10.3 (R6 Zone) of the Z.-1 Zoning By-law to permit multiple attached forms of housing as a permitted use in the Vacant Land Condominium.

**Responses:** None.

### ANALYSIS

**What is the nature of the request?**

Sifton Properties Limited has requested an amendment to both the Official Plan and the zoning by-law. The proposed OPA and ZBA would permit construction (post condominium plan registration) of multiple attached dwellings, such as townhouse and semi-detached dwellings in addition to single detached dwellings on vacant land condominium plans.

The applicant has indicated that by allowing this change, it provides greater opportunity for home builders and consumers overall:

- more choice, and therefore "opportunity", for smaller builders to participate in larger projects;
- if all town home condominium projects must proceed as standard condominium (where the structures have to be built before the condominium can register) only large builders will be able to participate in anything other than very small projects. Having a registered vacant land condominium plan in place allows a developer to sell the units for each proposed block of town homes to individual builders. While it is unlikely that the developer would sell each proposed block of town home units to different builders the ability to allow several smaller builders to buy units on the site and complete the townhomes thereon opens up the market to these smaller builders.
- because the individual town homes constructed on the vacant land condominium Units can be conveyed to home buyers as soon as the home is completed (the same as in a subdivision) the investment of the builders is significantly less because the builder does not have to "carry" a large number of completed units waiting for registration to occur as takes place in a standard condominium. This enables a broader range and greater number of builders to participate in the market.
- greater participation by the industry enhances competition and thereby better serves the consumer.

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- townhouse forms of development are typically more energy and materials efficient than single detached dwellings. As a result, this form of vacant land condominium has the potential to be more environmentally neutral than other vacant land condominiums.

**What does the Condominium Act say?**

The actual wording of the Condominium Act as it pertains to Vacant Land Condominiums is such that any form of attached dwellings are not permitted on site until after registration of the Plan of Condominium, and that no units are permitted above or below any other unit within a Vacant Land Condominium at any time.

*155(1) Subject to the Regulations made under this Act, a declarant may register a declaration and description that create a corporation in which, at the time of registration,*

*(a) one or more units are not part of a building or structure and do not include any part of a building or structure; and*

*(b) none of the units are located above or below any other unit.*

A survey of several other municipalities including Guelph, Kitchener, Waterloo, Mississauga and Hamilton revealed that no other municipality has the same type of prohibition in place within their Official Plan and/or Zoning By-law. Several of these municipalities have indicated they have never dealt with a vacant land condominium that includes multiple attached dwellings. The Applicant has also provided examples of other municipalities in Ontario that have allowed Vacant Land Condominiums with multiple attached dwellings (such as Township of Lincoln). Some municipalities do employ a ‘two-stage’ building permit (Town of Wellesley, City of Guelph), whereby the surveyor provides confirmation to the Building Division of the unit boundaries once the foundation has been completed, prior to erecting the walls. Further research has concluded that almost no other municipalities have additional policy within their Official Plans, and rely solely on the Condominium Act and its regulations. In our discussions with other municipalities, they have not encountered any issues with townhouse vacant land condominiums.

**What are the possible issues?**

At the City level, there is concern about the impacts on the consumer and the municipality of potential construction errors. Because the Condominium Act does not allow a unit to contain part of a building or structure at registration, the foundations for attached dwellings in a vacant land condominium would be constructed along ownership boundaries that already exist. If an error in locating the foundation occurs, the only remedy other than demolition and reconstruction is to amend the condominium description. The Condominium Act would require the Board of Directors to hold a meeting of the owners, obtain the consent of the owners of a minimum of 80% of the units, and give notice to the mortgagees. If this process fails, the corporation may make an application to the Superior Court of Justice for an order to amend the description. Because dwelling construction will occur after the plan is serviced and registered, 50% of the units may be sold and the turnover meeting to a Board of Directors composed of individual unit owners may have occurred. They, not the developer, would likely bear the costs.

In a freehold street townhouse example, typically the townhouse units are built first, and then the Applicant will apply for some form of severance or Part Lot Control after to create the individual lots. This ensures that the foundations and common walls are established and then the lot lines can follow this. That way if there is an error in the place of the foundations or common walls, this can be reflected in the final lotting.

The issue with Vacant Land Condominiums is multiple attached dwellings cannot be constructed until after registration, so the lots have been created, and cannot be changed. This



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leaves more room for possible errors when it comes to constructing the foundations and common walls. If there is a mistake in the placement of the foundation or common wall, the only logical way to rectify this would be to tear up the foundation and start again.

While the applicant's legal interpretation is that the City has misunderstood the regulations within the Condominium Act, it should be noted that the Ministry of Municipal Affairs and Housing (MMAH) has agreed with the City's position that nothing prevents the City from adopting more stringent policies to protect future consumers.

The authority of the Condominium Act ends at registration and does not control what the municipality may allow to be constructed in the future. At this time, the Registry Office nor the Ministry of Consumer Services does not retroactively follow up on Condominiums for compliance with the Condominium Act. It should also be noted that there is currently a review of the Condominium Act which may change or further clarify the requirements for Condominiums. However, it is unknown what the possible changes could be, or if Vacant Land Condominiums will be affected.

**Proposed Two-Step Building Permit**

In order to ensure that foundations and party walls are built correctly along unit boundaries, and that the applicant accepts any responsibility for foundations placed in incorrect locations, the city is proposing a two-step building permit process. Under the authority of the Building Code, the Chief Building Official can issue a conditional permit, which can be restricted to foundation only. Once registration of a vacant land plan of condominium occurs, the applicant may apply for a conditional permit for foundation construction. Once the foundations have been constructed, an Ontario Land Surveyor (OLS) will be required to provide a letter of certification to the City that the foundations have been placed in the appropriate location and follow the unit boundaries. Once this has been submitted, the City may then issue the second stage of the permit, for the rest of the dwelling.

A few points to consider:

- All multiple attached dwellings units within a "block" shall be built under one permit, at the same time. The City wants to avoid individual permits coming in for individual dwellings. The block of dwellings that are reliant on each for common walls should all logically be built at the same time. This also means that if the lots have been sold individually, the unit owner will need to grant permission for one builder to act on behalf of all dwelling units in the block, or the units will need to be owned by one builder.
- The builder must be Tarion registered (Tarion administers and enforces the Ontario New Home Warranties Plan Act and Regulations and ensures the coverage and the requirements for builder and vendor registration and enrolment of homes).
- If there is an issue with the placement of foundations, and they are incorrectly placed, the Applicant will be required to tear up the foundations and place them again.
- A \$10,000 security will be taken per unit at the conditional permit stage to cover off on any foundation mistakes. This ensures the City will have the ability to remove the foundations and fix any placement issues.
- The City will rely on the OLS to determine what would be the acceptable construction deviations before a foundation wall is deemed to be in the "incorrect location" (would mostly apply to the interior foundation walls between units).
- A two stage building permit will not be required for single detached dwellings constructed within a vacant land condominium.
- No permits for multiple attached dwellings can be issued prior to registration of the plan of Vacant Land Condominium.

The process would then be as follows:

- The applicant prepares and submits a Draft Plan of Condominium and accompanying Application Form to the City. The plan will illustrate the configuration of the proposed Units much the same as a subdivision plan illustrates lot sizes and dimensions. The submission works its way through the planning process until Draft Plan approval and

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conditions are in place.

- The Applicant will then ensure the OLS surveyor will then proceed to monument the corners of the Units and prepare the final "Description Plans". The solicitor will be preparing the Declaration. Once all DP conditions have been satisfied, the Plans and Declaration are submitted to the Land Registry Office for their review and comments and approval for registration. The final mylars and prints are then prepared and signed by the owners and submitted to the City for final planning approval. The City will then forward the plans to the Registry Office for registration.
- The significant difference in the submissions of a vacant land condominium in the form of townhouses is that the Unit boundaries will be predicated by the proposed locations of the individual townhouses. It will therefore be necessary for the surveyor to have the Site Plan showing setbacks and sideyard requirements as well as the architectural drawings of the townhouses for the purposes of calculating and determining the exact positions of the proposed Unit boundaries.
- Once the Condo Plan has been registered, the two stage building permit will be issued. The OLS will be responsible for the construction layout to ensure that the Unit boundaries run through the centreline of the structural walls separating the townhouse dwellings and for ensuring the foundations are placed in the appropriate location.

**Proposed Amendments**

In order to facilitate development the following changes are proposed to the Official Plan and Zoning By-law.

Section 19.15.4. Vacant Land Condominiums of the Official Plan for the City of London is amended by deleting and amending the following:

19.15.4.

Vacant Land  
Condominium Policies

The following policies shall apply to consideration of an application for a vacant land condominium:

i) The same considerations and requirements for the evaluation of draft plans of subdivision shall apply to draft plans of vacant land condominiums;

ii) The applicant may be required to provide site development concepts and meet design requirements consistent with the Site Plan Control By-law and Policies as part of the consideration of a draft plan of vacant land condominium;

iii) Proposals for vacant land condominiums which will result in ~~structures that cross unit boundaries, either horizontally or vertically,~~ units above or below any other unit will not be supported;

iv) No dwelling will be permitted to cross a Vacant land Condominium Unit boundary;

v) At the time of registration, structures cannot cross unit boundaries;

~~iv~~ vi) The registration of a proposed development as more than one vacant land condominium corporation may be permitted if the proposal is supportive of comprehensive development and planning goals. The minimum number of units to be included in

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each condominium corporation shall be more than adequate to allow for the reasonable, independent operation of the condominium corporation.

This proposed change more closely mirrors the language of the Condominium Act. It prohibits units above or below other units, restricts development to one dwelling per unit, and ensures no structures cross unit boundaries prior to final registration of the plan.

An amendment will also be required for Section 2 Definitions of Zoning By-law No. Z.-1 by altering the definition of “unit in a vacant land condominium” and removing the requirement for a single detached dwelling:

“UNIT IN A VACANT LAND CONDOMINIUM” means a parcel of land within a vacant land condominium for the purpose of constructing ~~a single detached~~ one dwelling.

Additional amendments will be required for the R5 and R6 Zone variations. These zones are specifically for cluster housing and are used for condominiums.

Section 9.3 R5 Zone Regulations is amended by adding the following:

- 3) For the purposes of the R5 Zone variations, no dwelling shall be permitted to cross a Vacant Land Condominium Unit boundary.

No townhouse dwellings are permitted to be constructed within a proposed Vacant Land Condominium until after registration of the plan of condominium has occurred.

Section 10.3 R6 Zone Regulations is amended by modifying the following:

- 2) ~~Only one single detached dwelling is permitted to be constructed on a unit in a Vacant Land Condominium.~~ No dwelling shall be permitted to cross a Vacant Land Condominium Unit boundary.

No dwellings are permitted to be constructed within a proposed Vacant Land Condominium until after registration of the plan of condominium has occurred, except for a single detached dwelling.

No attached dwellings are permitted to be constructed within a proposed Vacant Land Condominium until after registration of the plan of condominium has occurred.

In the proposed Official Plan and zoning by-law amendments, nothing prevents a secondary dwelling from locating within a Unit on a Vacant Land Condominium as per section 16 of the Planning Act.

In order to document this new two-step building permit process, it will be necessary to amend the Condominium Guidelines to include the new process. As well, there will be additional training required for staff that deal with the permits related to vacant land condominiums.

**Is the proposed change consistent with the Provincial Policy Statement?**

The proposed Official Plan and zoning by-law amendment is consistent with the Provincial Policy Statement as it provides additional options and greater flexibility for builders of multi-family dwellings, thereby meeting provincial goals of compact form, efficient use of land and infrastructure, provision of housing choice, etc.

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<b>CONCLUSION</b>
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Overall, the proposed Official Plan and zoning by-law amendments will more closely mirror the prohibitions and requirements as set out in the Condominium Act for Vacant Land Condominiums, and will help to facilitate multiple attached dwellings within Vacant Land Condominiums. The process for a two-step building permit will help ensure that the City and the consumer are protected should there be any issues with the siting of foundations along existing unit boundaries. The onus will be on the applicant to ensure the foundations are placed correctly. The proposed changes represent good planning and provide greater flexibility for builders, and the consumer.

<b>RECOMMENDED BY:</b>	<b>REVIEWED BY:</b>
<b>NANCY PASATO, MCIP, RPP SENIOR PLANNER DEVELOPMENT PLANNING</b>	<b>BRUCE HENRY MANAGER DEVELOPMENT PLANNING</b>
<b>CONCURRED BY:</b>	<b>SUBMITTED BY:</b>
<b>TERRY GRAWAY, MCIP, RPP MANAGER DEVELOPMENT SERVICES &amp; PLANNING LIAISON</b>	<b>GEORGE KOTSIFAS, P.ENG MANAGING DIRECTOR, DEVELOPMENT &amp; COMPLIANCE SERVICES AND CHIEF BUILDING OFFICIAL</b>

April 1, 2014  
 NP/  
 "Attach"

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**Responses to Public Liaison Letter and Publication in “Living in the City”**

**Telephone**

None.

**Written**

None.

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**Bibliography of Information and Materials – OZ-8288**

*Request for Approval:*

City of London Official Plan & Zoning By-law Amendment Application Forms, completed by Maureen Zunti on behalf of Sifton Properties Limited – November 7, 2013

*Reference Documents:*

City of London. Official Plan, June 19, 1989, as amended.

City of London. Zoning By-law No. Z.-1, May 21, 1991, as amended.

Ontario. Ministry of Municipal Affairs and Housing. Provincial Policy Statement, March 01, 2005.

Condominium Submission, Review and Approval Guidelines, City of London, March 2003.

Information Report to Planning Committee on the new Condominium Act, September 9, 2002.

Report to Planning Committee on Proposed Changes to Section 10 of Zoning By-law Z.-1, March 1, 2010.

Demystifying Vacant Land Condominium Development, powerpoint presentation, Ministry of Municipal Affairs and Housing, September 17, 2005.

Bulletin No. 2001-1 on the new Condominium Act, Ministry of Consumer and Business Services, May 4, 2001.

Condominiums in Ontario – A Practical Analysis of the New Legislation, Harry Herskowitz & Mark F. Freedman, 2001.

City of London Planning File: OZ-8288 – amendments to Vacant Land Condominiums

OPA/ZBA Planning Rationale Report, Townhouse Vacant Land Condominiums, Sifton Properties Limited, November, 2013.

Correspondence: (all located in City of London File No. OZ-8288 unless otherwise stated)

Record of Pre-Application Consultation, October 16, 2013.

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**File No: OZ-8288  
Planner: Nancy Pasato**

**Appendix "A"**

Bill No. (number to be inserted by Clerk's Office)  
2014

By-law No. C.P.-1284-\_\_\_\_\_

A by-law to amend the Official Plan for the City of London, 1989 relating to Policy 19.15.4. Vacant Land Condominiums.

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 April 15, 2014.

Joe Fontana  
Mayor

Catharine Saunders  
City Clerk

First Reading – April 15, 2014  
Second Reading – April 15, 2014  
Third Reading – April 15, 2014

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**File No: OZ-8288  
Planner: Nancy Pasato**

**AMENDMENT NO.**

**to the**

**OFFICIAL PLAN FOR THE CITY OF LONDON**

**A. PURPOSE OF THIS AMENDMENT**

The purpose of this Amendment is:

1. To amend a policy in Section 19.15.4. of the Official Plan for the City of London to better reflect the provisions of the Condominium Act.

**B. LOCATION OF THIS AMENDMENT**

1. This Amendment applies to all lands in the City of London.

**C. BASIS OF THE AMENDMENT**

The proposed Official Plan amendment will more closely mirror the prohibitions and requirements as set out in the Condominium Act for Vacant Land Condominiums, such as prohibiting any units above or below another unit, ensuring only one dwelling per unit, and not permitting construction of multiple attached dwellings to occur prior to registration of the Plan of Condominium. These changes will help to facilitate multiple attached dwellings within Vacant Land Condominiums. The proposed change represents good planning and provides greater flexibility for builders, and the consumer.

**D. THE AMENDMENT**

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

1. Section 19.15.4. Vacant Land Condominiums of the Official Plan for the City of London is amended by deleting sub bullets iii) and iv) and replacing them with the following:

iii) Proposals for vacant land condominiums which will result in units above or below any other unit will not be supported;

iv) Only one dwelling will be permitted per unit;

v) At the time of registration, structures cannot cross unit boundaries;

vi) The registration of a proposed development as more than one vacant land condominium corporation may be permitted if the proposal is supportive of comprehensive development and planning goals. The minimum number of units to be included in each condominium corporation shall be more than adequate to allow for the reasonable, independent operation of the condominium corporation.



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**File No: OZ-8288  
Planner: Nancy Pasato**

Bill No. (number to be inserted by Clerk's Office)  
2014

By-law No. Z.-1-\_\_\_\_\_

A by-law to amend By-law No. Z.-1 to apply to all lands within the City of London for the purpose of regulating vacant land condominiums.

WHEREAS Sifton Properties Limited has applied to amend the provisions related to Vacant Land Condominiums which may be applied to all lands within the City of London.;

AND WHEREAS upon approval of Official Plan Amendment Number \_\_\_\_ this rezoning will conform to the Official Plan;

THEREFORE the Municipal Council of The Corporation of the City of London enacts as follows:

1. Section 2 Definitions to By-law No. Z.-1 is amended by deleting and replacing "UNIT IN A VACANT LAND CONDOMINIUM" with the following:

"UNIT IN A VACANT LAND CONDOMINIUM" means a parcel of land within a vacant land condominium for the purpose of constructing one dwelling."

2. Section 9.3 R5 Zone Regulations is amended by adding the following sub-bullet:

"3) For the purposes of the R5 Zone variations, only one townhouse dwelling is permitted to be constructed on a unit in a Vacant Land Condominium.

No townhouse dwellings are permitted to be constructed within a proposed Vacant Land Condominium until after registration of the plan of condominium has occurred."

3. Section 10.3 R6 Zone Regulations is amended by deleting sub bullet 2) and replacing it with the following:

"2) Only one dwelling is permitted to be constructed on a unit in a Vacant Land Condominium.

No dwellings are permitted to be constructed within a proposed Vacant Land Condominium until after registration of the plan of condominium has occurred, except for a single detached dwelling.

No attached dwellings are permitted to be constructed within a proposed Vacant Land Condominium until after registration of the plan of condominium has occurred. "

This By-law shall come into force and be deemed to come into force in accordance with subsection 34(21) 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 subsection.

PASSED in Open Council on April 15, 2014

Joe Fontana  
Mayor

Agenda Item #    Page #

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**File No: OZ-8288**  
**Planner: Nancy Pasato**

Catharine Saunders  
City Clerk

First Reading - April 15, 2014  
Second Reading – April 15, 2014  
Third Reading - April 15, 2014