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File: Z-8316  
Lou Pompili

<b>TO:</b>	<b>CHAIR AND MEMBERS CIVIC WORKS COMMITTEE MONDAY AUGUST 25, 2014</b>
<b>FROM:</b>	<b>JOHN BRAAM, P. ENG. MANAGING DIRECTOR, ENVIRONMENTAL AND ENGINEERING SERVICES AND CITY ENGINEER</b>
<b>SUBJECT:</b>	<b>CITY INITIATED STREET BY-LAW REFINEMENT REPORT RESIDENTIAL DRIVEWAY WIDTHS</b>

<b>RECOMMENDATION</b>
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That, on the recommendation of the Managing Director, Environmental and Engineering Services and City Engineer, the following actions be taken;

the proposed by-law attached hereto as Appendix "A" **BE INTRODUCED** at the Municipal Council meeting on September 2, 2014 to amend Streets By-law No. S.-1, in conformity with the Zoning By-law No. Z.-1 and the Official Plan, to:

- a) Amend Streets By-law No. S.-1, in conformity with Zoning By-law No. Z-1 and the Official Plan, to delete Section A.5 Entrance size – multiple entrances, part (a) of Schedule “A” Private Entrance Regulations and replace it with new text which regulate driveway and parking area widths for single, semi-detached, duplex or converted two unit dwellings.

<b>PURPOSE AND EFFECT OF RECOMMENDED ACTION</b>
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The implementation of the proposed Street By-law Amendments, reflect the recent changes to the City’s Zoning By-law which have come into full force and effect to create improved flexibility for both driveway installations and enforcement within new development areas and established residential neighbourhoods.

<b>BACKGROUND</b>
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On May 6, 2014 Municipal Council, resolved:

That, on the recommendation of the Manager, Development Services and Planning Liaison, the Civic Administration **BE DIRECTED** to report back at a public participation meeting of the Planning and Environment Committee on proposed amendments to the Zoning By-law to introduce new regulations relating to driveway and parking area widths for single, semi-detached, duplex or converted two unit dwellings, for street orientated townhouse dwellings in a cluster form and street townhouses; it being noted that the subject report and draft amendments will be circulated to The Urban League of London, the London Home Builders Association, the London Development Institute and others for input and comment.

On June 24, 2014 Municipal Council, resolved:

That on the recommendation of the Manager, Zoning and Public Property Compliance, the application to amend the Zoning By-law related to driveway and parking area widths for single, semi-detached, duplex or converted two unit dwellings and for street orientated

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townhouse dwellings in a cluster form and street townhouses BE APPROVED;

The Amendments to the Zoning By-law related to driveway and parking area widths are now in full force and effect.

<b>PUBLIC LIAISON:</b>	On May 16, 2013 and March 20, 2014, Notice was placed in the Londoner	
<b>NATURE OF LIAISON:</b>		
<p>“Possible Amendment to “Section 4.19 – Parking” of the General Provisions of the Z.-1 Zoning By-law to add wording under 4.19 to address access and driveways to parking areas and spaces. This amendment may include new regulation for driveway widths for single, semi-detached, duplex or converted two unit dwellings and possible new definitions and other special considerations, including possible consequential amendments to the Streets By-law No S-1. Possible amendments to Z.-1 Zoning By-law “Section 2 – Definitions” and “Section 4 – General Provisions” may also be necessary.”</p> <p>“Possible Amendment to “Schedule A.5 Entrance Size- multiple entrances” of the Private Entrance Regulations of the S-1 Streets By-law to address access and driveways to parking areas and spaces. This amendment may include new regulation for driveway widths for single, semi-detached, duplex or converted two units dwelling”.</p>		
<b>RESPONSES:</b> None to date		

<b>ANALYSIS</b>
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This review is intended to focus primarily on driveway widths for single, semi-detached, duplex or converted two-unit dwellings. Driveway widths are controlled within specific regulations contained in both the Zoning By-law and the Streets By-law. The City’s current regulations for low density residential driveway widths cap the width of the driveway at 6 metres (19.68 feet), measured at the property line (street line). The driveway width between the property line and the curb line (public / boulevard portion of driveway) is controlled through the Streets By-law. The Streets By-law provisions also cap driveway width at 6 metres.

The driveway width and location on private property, beyond the property line is controlled through the Zoning By-law. On the private portion of residential properties, driveways are permitted to flare to that portion of the property that leads to a legal parking area, as contained in the Zoning By-law.

**What Issues have been identified?**

Recently staff and the Development Industry have been asked to address multiple By-law contraventions in relation to driveway widths. In addition to this, many new homes are being constructed with extra wide garages and/or 3 car garages which results in the construction of significant flaring of the driveway at the property line to accommodate the extra garage.

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Forced Cut-back of a driveway at street line

Wide Driveway not in compliance to By-laws

Typical scenarios for driveway widths include the following:

**ISSUE # 1 - FOR NEW RESIDENTIAL SUBDIVISION**

The first scenario under review includes new residential development within a new subdivision, typically prior to Subdivision Assumption. At the time of building permit, lot grading plans/plot plans submitted for approvals as part of the permit depict driveways that meet all driveway width and locational requirements. Driveway locations always depict a 6 metre or less width at the streetline with flaring driveway from that point to the parking area where there are 3 car garages or parking in the sideyard. The illustrations below depict actual submissions reflecting this scenario. Driveways however are often installed post occupancy. In some instances, driveways are installed by the homeowner and not the builder that received the permit for the dwelling.



**In Un-assumed Subdivisions**, oversized driveways are often flagged as a property / by-law deficiency and corrective measures are requested through Development Services staff to the Developer at the time of assumption. The specific provision within the Subdivision Agreement is generally as follows:

*The Owner shall make all payments, carry out and perform all the works and satisfy all the provisions hereinafter set out in these General Provisions.*

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- (a) *The Owner hereby agrees that notwithstanding any of the provisions herein, the Owner is subject to all by laws of the City. The Owner further agrees that in the event of a conflict between the provisions of this Agreement and the provisions of any by law of the City, the provisions of the by law prevail.*

The responsibility for ensuring compliance to municipal by-laws remains with the Subdivider, prior to assumption and actions required to achieve compliance is under their direct control. The provision noted above is a standard and typical provision within a Subdivision Agreement that is enforced throughout the development stages but more specifically at the time of assumption. During our initial consultation with the development industry, staff were requested to provide confirmation as to whether this clause is entirely appropriate and legally enforceable as a deficiency with respect to driveway widths should the driveway and parking area not satisfy current by-law regulations within the public portions of the right-of-way. In consultation with both Development Services and Legal staff, it was confirmed that the responsibility for ensuring compliance to municipal by-laws remains with the Subdivider prior to assumption and actions required to achieve compliance is under their direct control. Therefore, prior to assumption, the Subdivider is responsible for ensuring that all municipal by-laws are adhered to.

When driveway width deficiencies are flagged and corrective measures requested, the request forces the Subdivider to seek corrective measures from the home builder. Often, as indicated above, the homebuilder may have made private arrangements to allow the home owner to install the driveway, and in these instances, the request for corrective measures is passed on to the homeowner. Regardless of who installed the driveway, enhancements need to be made to improve builder and homeowner information packages relating specifically to driveways, among other issues. These scenarios cause significant anxiety for both builder and homeowner, in terms of their investment. Opportunities to examine greater regulatory flexibility are warranted.

There are currently several new subdivisions that have or are going through the assumption process where outstanding issues related specifically to oversized driveways have been flagged as a property / by-law deficiency and corrective measures requested through Development Services staff to the Subdivider. In the case of these current examples, securities have been posted to allow for the assumption process to proceed, notwithstanding the driveway deficiency. The proposed amendments contained in this report should assist with achieving compliance for some of these instances. However, these amendments will not address all instances where oversized driveways have been installed. Driveway cut-backs may be minimized through these amendments but not entirely avoided.

Notwithstanding greater regulatory flexibility proposed in this report, various other options are also available to improve the current situation:

- Develop provision(s) within the Subdivision Agreement Packages that ensures that Developers / Owners shall inform all purchasers of residential lots by way of Purchase and Sale and/or Lease Agreements that installation of a driveway shall meet current Municipal By-law regulation and that it is dependent upon and the responsibility of subsequent owners to ensure that the driveway satisfy Municipal By-law regulations.

The Developer shall be responsible for providing an information package containing all current Municipal By-law regulations relating to driveway widths, location, coverage, treatment and installation in all Purchase and Sale and/or Lease Agreements and may further consider holding a security deposit from the lot purchaser that ensures that driveways installed prior to assumption meet current Municipal By-law regulation. The responsibility for ensuring compliance to Municipal By-laws remains with the Developer, prior to assumption and the release of securities, or action to achieve compliance is under their control.

- Explore opportunities with London Home Builders Association to enhance information packages relating to driveway widths, location, coverage, treatment and installation

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- Add a Schedule outlining parking regulations in the Subdivision Agreements
- Improve Implementation strategies for Parking Plan submissions approved as Subdivision Agreements / Packages for small lots Subdivision
- Explore the option of requiring a separate permit for driveway installations, as part of new home construction.

**In recently assumed subdivisions**, the responsibility for ensuring compliance to Municipal By-laws shifts to the Municipality and actions required to achieve compliance becomes the Municipality's responsibility. For post assumption residential development, a home builder, as part of their building permit package is required to post a \$2,000 refundable security for ensuring compliance towards drainage and driveway matters. If an oversized driveway is identified during an inspection requesting the release of the security, the funds are withheld pending compliance. These scenarios cause significant anxiety for both builder and homeowner, in terms of their investment.

Also, in other post assumption instances, driveway widths issues are raised by way of neighbourhood complaint. Most neighbourhood complaints relate to front yard parking, loss of on-street parking opportunities, tandem or angled parking on driveways. Pro-active enforcement related to driveway widths is rarely initiated. Opportunities to examine greater regulatory flexibility are warranted.

Notwithstanding the regulatory flexibility proposed in this report, an alternative measure to a forced cut-back of the driveway at the property boundary to achieve compliance may include consideration of some relief to Zoning By-law regulations for driveway widths through a Minor Variance. In some circumstances this may be an appropriate alternative to consider, provided that specific criteria are met that satisfies both Planning and Engineering staff and others, including adjacent property owners, regarding the driveway installation. Minor Variances requests for wider driveway widths have typically not been supported by staff. As a note, driveways are not under the jurisdiction of the Building Code. Consideration of these requests should address potential impacts from a wider driveway on the subject site, adjacent properties and overall streetscape and maintain and provide the following features:

- preserve landscaped areas in front yards;
- provide on-street parking opportunities, particularly where there is a parking plan in place;
- provide boulevard tree planting opportunities;
- minimize any impacts to utility plant installation's;
- maintain a pedestrian friendly environment at the street line;
- requests for relief shall not exceed maximum parking area coverage of by-law;
- requests for relief shall provide landscape open area that is not less than the by-law minimums.

**WHAT ZONING BY-LAW CHANGES ARE NOW IN EFFECT TO ADDRESS ISSUE # 1**

**Amendment to Section 4.19 6) (h) Parking: Access and Driveways to Parking Area and Spaces**

A driveway is defined as a vehicle access between a street and parking area. For these listed residential uses driveways shall be no less than 2.7 metres in width and consist of treated surfaces that lead to all or a portion of the parking area from a street. The maximum width at the property line is currently 6 metres.

The amendments adopted to assist with 'Issue #1' include some minor amendments to section 4.19 6) (h) of Zoning By-law No. Z-1, to introduce flexibility within the By-law to address demands for wider driveways at the property line, while preserving landscaped areas in the front

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yards, on-street parking opportunities, boulevard tree planting, utility plant installations and an overall positive pedestrian environment.

The width of the driveway should be as narrow as possible at the streetline. In no case should it be wider than the width required for access to a garage or other required parking spaces provided on the property. The amendments being recommended include deleting the current regulations that cap the driveway width at 6 meters measures at the streetline and replacing it with the following regulations:

- For lots with a width of up to 12 metres: 50% of the required lot frontage to a maximum of 6.0 metres in total width, whichever is less;
- For lots with a width greater than 12 metres: 50% of the required lot frontage to a maximum of 8.0 metres in total width, whichever is less.

The first regulation noted above maintains the status quo for lots with a lot frontage of 12 metres or less. The second regulation provides the opportunity to allow a wider drive on a wider lot, thereby minimizing the types of flaring at the streetline that compliance with the current regulations provide.



Through these revised regulations, no significant changes for lots less than 12 metres in width or to the Small Lot Subdivision regulations of the By-law are being proposed. The regulations for small residential lots provide the regulatory flexibility that strikes a fair balance between the on-site parking needs of residents while preserving the neighbourhoods ability to provide opportunities for landscaping, tree planting and a positive pedestrian friendly environment. Parking Plan submissions for subdivisions that are considered Small Lot Subdivisions will still be required and form part of the Subdivision Agreement package for these developments. The proposed changes should have no impact on this review and implementation process.

Allowing some flexibility for driveway widths on larger residential lots with new homes that are being constructed with extra wide and/or 3 car garages should assist in reducing the number of By-law contraventions while also minimizing the need for significant flaring of the driveway at the property line as depicted in the illustrations above. These proposed regulations for larger residential lots provide the regulatory flexibility sought by the development industry and preserves overall community development objectives that should contributing to a pedestrian friendly environment, enhanced landscaping and on-street parking opportunities.

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**ISSUE #2-WITHIN EXISTING (MOSTLY INNER-CITY) RESIDENTIAL SUBDIVISIONS**

Municipal Enforcement staff has experienced challenges in resolving complaints for oversized driveways in some areas of the City where lots and the existing forms of development are already established. In many of these instances, driveways have been expanded into the front yard of properties to allow for additional parking opportunities or improved access to existing parking spaces.

Municipal Council in the past has established provision on small lots (12 metre or less in width) with regulatory flexibility to increase driveway width to meet the needs of residents who desire to park two vehicles in their driveway in front of a single car garage. These provisions did not restrict the width of the driveway on the private portions of the lot to match the width of the garage, thereby allowing two cars to be parked side by side in front of a single car garage. These provisions were put in place to minimize the need for variances where driveways are slightly widened beyond the width of the garage

Parking in the front yard is not permitted except where the driveway leads to a parking area in a garage, sideyard or rear yard. A front yard is that portion of the property extending across the full width of a lot between the front lot line and the nearest main wall of any building or structure on the lot. Notwithstanding the current regulations in the Zoning By-law permits a driveway leading to a legal parking area. The language in the By-law refers to '*driveways leading to all or portion of a parking area*'...This reference to '*portion of a driveway leading to a parking area*' lacks clarity regarding intent or meaning. Through this review and refinement we have an opportunity to both assist our enforcement staff with this challenge, while also providing opportunity and flexibility to homeowners related to driveways and parking areas. Historically, we have counted the space in front of a garage one of the required two spaces for a single detached dwelling.

This review and refinement exercise is intended to strike a balance between the flexibility needs of property owners, both those on larger residential lots with multiple garages and those with narrow lots. It is also assisting enforcement staff with clarity regarding interpretation matters on what is acceptable for portions of a driveway encroaching into a front yard. It should be noted that a private driveways are permitted to lead to a parking area, including a sideyard or rear yard that can accommodate parking as required in the zoning by-law.

**WHAT ZONING BY-LAW CHANGES ARE NOW IN EFFECT TO ADDRESS ISSUE # 2**

**Proposed Amendment to Section 4.19 6) (a) & (h) Parking: Access and Driveways to Parking Area and Spaces**

Notwithstanding the clear provision that parking in the front yard is not permitted, there remains a need to both address demands to minor encroachments into the front yard for portions of driveways, access areas and walkways and also establish clear measurable limits to that encroachment. To address this need, the following amendments are being considered to better define and control what is considered a "driveway leading to all or a portion of a parking area":

For the purposes of Section 4.19 (6) of the By-law a driveway shall also include any walkway or access area that is connected to and parallel to a driveway. The need for this inclusion relates to the conversion of walkways and access areas between the front porch and/or interior side and a driveway to a parking area in front of the house. This form of parking encroachment into the front yard is occurring throughout the City and has proven problematic for enforcement staff and residents concerned about front yard parking. The following new text will be added to Section 4.19 (6) (a) to assist in this regard:

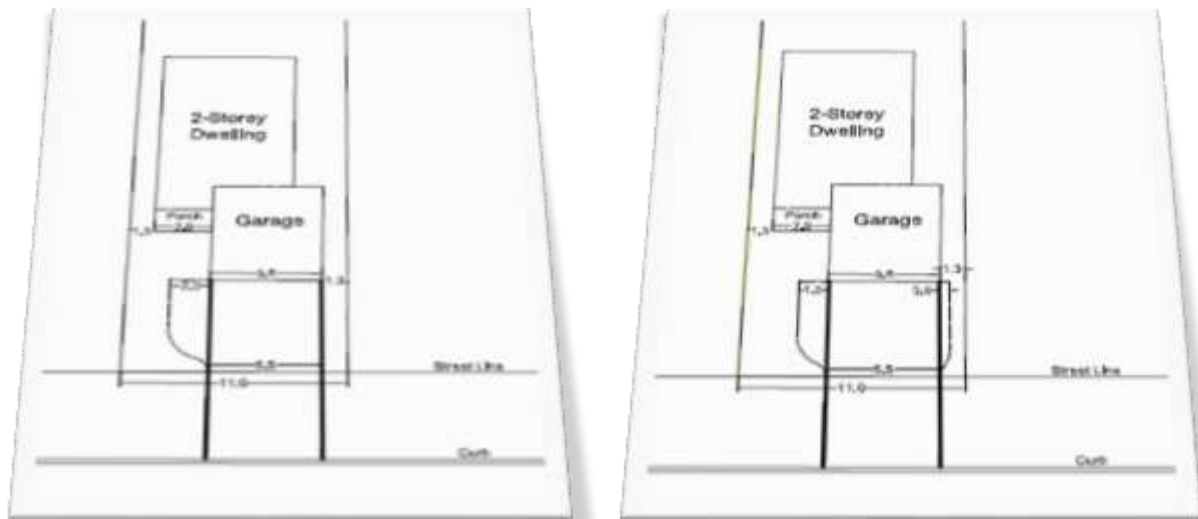
- A driveway may include a walkway connected to and parallel to a driveway leading to all or a portion a parking area/garage as part of the driveway widths for the purposes of is By-law

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The proposed amendments to address minor encroachments into the front yard for portions of driveways, access areas and walkways and also establish clear measurable limits to control what is considered a “driveway leading to all or a portion of a parking area”, the following new text will be added to Section 4.19 (6) (a) to assist in this regard:

- Notwithstanding Section 4.19 (4), a portion of a walkway connected to and parallel to a driveway may project no greater than 2.0 metres in the required front yard, including the area in front of the front wall of a single detached, semi-detached, duplex or converted two unit dwelling. That part of the required front yard not used for a driveway, walkway, or where permitted by this By-law, a parking space, shall be used exclusively as a landscaped open space.



**What Street By-law changes are being proposed to address the Issues noted above?**

**Proposed amendements to Street By-law Section A.5 Entrance size - multiple entrances**

The current provision within the Streets By-law provides for a minimum driveway width of 2.7 metres and maximum driveway width of 6 metres or 40% of the street line of the lot whichever is less. For the most part, this is consistent with the current regulation contained in the Zoning By-law for driveway width at the property line. As a result, changes to the Streets By-law are required to reflect the changes being proposed in the Zoning By-law for single detached, semi-detached, duplex or converted two unit dwellings.

The proposed amendment being considered shall include maintaining the minimum 2.7 m. driveway width but add the following new provisions:

- For lots with a width of up to 12 metres: 50% of the required lot frontage to a maximum of 6.0 metres in total width, whichever is less
- For lots with a width greater than 12 metres: 50% of the required lot frontage to a maximum of 8.0 metres in total width, whichever is less
- The combined total of the all private entrances for for single, semi-detached, duplex and converted two unit dwellings to permit the passage of vehicles between the street line and curb line should be as narrow as possible. In no case should it be wider than the



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width required for access to a garage or other required parking spaces of the adjacent residential lot.

- Unless otherwise permitted in this By-law, the width of the private entrance shall project no greater 2 metres in the front yard of a single-detached, duplex or converted two- unit dwelling.
- Curb cuts / driveway access points at the curb shall be spaced to preserve the maximum number of on-street parking spaces.
- Driveway widths shall be spaced to preserve opportunities for street tree plantings

<b>CONCLUSION</b>
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This review and refinement exercise is intended to strike a balance between the flexibility needs of property owners, both those on larger residential lots with multiple garages and those with narrow lots, while also assisting enforcement staff with guidance regarding interpretation matters on what is acceptable for portions of a driveway encroaching into a front yard. The implementation of the proposed Street By-law Amendments will create improved flexibility for both driveway installations and enforcement within new development areas and established residential neighbourhoods for single, semi-detached, duplex or converted two unit dwellings and for street orientated townhouse dwellings in a cluster and street townhouses form and reflect proposed changes to the Zoning By-law.

<b>PREPARED BY:</b>	<b>REVIEWED &amp; CONCURRED BY:</b>
<b>LOU POMPILII, MPA, RPP MANAGER ZONING AND PUBLIC PROPERTY COMPLIANCE</b>	<b>EDWARD SOLDI, P. ENG DIRECTOR - ROADS AND TRANSPORTATION</b>
<b>RECOMMENDED BY:</b>	
<b>JOHN BRAAM, P. ENG. MANAGING DIRECTOR, ENVIRONMENTAL AND ENGINEERING SERVICES AND CITY ENGINEER,</b>	

August 19, 2014  
lp/Attach.

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**“SCHEDULE - A”  
DRAFT**

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

By-law No. 3.-1-14\_\_\_\_\_

A by-law to amend By-law No. S.-1 to  
Apply to all lands within the City of London  
for the purpose of regulating driveway with  
and access for residential properties in the  
City

WHEREAS The Corporation of the City of London has applied to regulate residential driveway width and access for residential properties in the City of London as set out below

AND WHEREAS this amendment conforms to the Zoning By-law No. Z.-1 and the Official Plan;

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

- 1) Section A.5 Entrance Size – Multiple entrances (a) of Schedule “A” Private Entrance Regulations of By-law No. S.-1 is amended by deleting part (a) in its entirety and replacing with the following text

Unless otherwise approved by the City Engineer in writing, each private entrance shall be perpendicular to the street and:

- a) For single, semi-detached, duplex, or converted two unit dwelling, private entrances to permit the passage of vehicles shall not be less than 2.7 metres (8.8 feet) in width;

The combined total of all private entrances to permit the passage of vehicles may exceed 2.7 metres (8.8 feet) in accordance with the following;

- i. For lots with a width of up to 12 metres: 50% of the required lot frontage to a maximum of 6.0 metres in total width, whichever is less
- ii. For lots with a width greater than 12 metres: 50% of the required lot frontage to a maximum of 8.0 metres in total width, whichever is less

The width of a private entrance to permit the passage of vehicles shall be measured parallel to the said street, at any point between the street line and the roadway excluding the radii at the curb which are not to exceed 1.8 metres (6.0 feet);

It shall be further provided that no lot shall have more than two private entrances to permit the passage of vehicles for the first 30 metres (98.7 feet) of street line. Where more than one driveway to a parking area for a single detached, semi-detached, duplex or converted two-unit dwelling is provided, the combined total of all driveways shall not exceed the provisions included above related to maximum driveway width and lot frontages.

The combined total of all private entrances for single, semi-detached, duplex and converted two unit dwellings to permit the passage of vehicles between the street line and curb line should be as narrow as possible. In no case should it be wider than the width required for access to a garage or other required parking spaces of the adjacent residential lot, subject to the regulation provided in this By-law.

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Unless otherwise permitted in this By-law, the width of the private entrance shall project no greater 2 metres in the front yard of a single-detached, duplex or converted two- unit dwelling.

Driveway shall be no closer than 1.5 metres to any street light.

Curb cuts / driveway access points at the curb shall be spaced to preserve the maximum number of on-street parking spaces.

Driveway widths shall be spaced to preserve opportunities for street tree plantings.

The inclusion in this By-law of imperial measures along with metric measures is for the purpose of convenience only and the metric measure governs in case of any discrepancy between the two measures.

This By-law shall come into full force and effect and be deemed to come into force in accordance with Section 34 of the *Planning Act, R.S.O. 1990, c. P13*, either upon the date of this passing or as otherwise provided by the said section.

PASSED in Open Council September 2, 2014

Joni Beachler  
Mayor

Catherine Saunders  
City Clerk

First Reading – September 2, 2014  
Second Reading – September 2, 2014  
Third Reading – September 2, 2014