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39CD-14501/Z-8167
C. Smith

FROM:	**G. KOTSIFAS, P.ENG.** **MANAGING DIRECTOR, DEVELOPMENT & COMPLIANCE SERVICES** **& CHIEF BUILDING OFFICIAL**
SUBJECT:	**APPLICATION BY: TRIDON GROUP LTD.** **161 WINDERMERE ROAD** **PUBLIC PARTICIPATION** **MEETING ON NOVEMBER 18, 2014**

RECOMMENDATION

That, on the recommendation of the Senior Planner, Development Services, the following actions be taken with respect to the application of Tridon Group Ltd. relating to the property located at 161 Windermere Road:

a) the proposed by-law attached as Appendix "A", **BE INTRODUCED** at the Municipal Council meeting on November 25, 2014 to amend Zoning By-law No. Z.-1, in conformity with the Official Plan, to change the zoning of the subject lands **FROM** a Residential R1 (R1-9) Zone which permits single detached dwellings on lots with a minimum lot frontage of 18 m and a minimum lot area of 690 m^2 **TO** an Open Space (OS5) Zone which permits conservation lands and passive recreational uses, and a Holding Residential R6 Special Provision(h*h-5*h-35*h-41*R6-1 (_)) Zone which permits cluster housing in the form of single detached dwellings with a maximum five (5) units with holding provisions to ensure that a development agreement is entered into with the City, a public site plan meeting be held when the site plan is brought forward, that the building as identified by the City as historically significant actively pursues designation under the Ontario Heritage Act, and measures are implemented to ensure the natural feature is not negatively impacted;

b) Planning and Environment Committee **REPORT TO** the Approval Authority the issues, if any, raised at the public meeting with respect to the application for draft plan of vacant land condominium relating to the property located at 161 Windermere Road;

c) the Approval Authority **BE REQUESTED** to utilize (if possible) one agreement (in place of a separate development agreement and condominium agreement) to address the development of this site;

d) Subject to Policy 19.1.1. of the Official Plan, the lands located south of the proposed ESA boundary, **BE INTERPRETED** to be located within the "Open Space" designation; and

e) the request to amend Zoning By-law No. Z.-1 **FROM** a Residential R1 (R1-9) Zone and an Open Space (OS5) Zone **TO** a Residential R6 (R6-4) Zone which permits cluster housing in the form of single detached dwellings, semi-detached dwellings and duplexes at a maximum density of 30 units per hectare (12 units per acre) and an Open Space Special Provision (OS5 ( )) Zone to permit passive recreational structures (such as a gazebo, benches, chairs, fire/bbq pit, etc.) within these lands **BE REFUSED** for the following reasons:
   - This permits and intensity and form of development that is not in keeping with the abutting existing residential uses;
   - Activities requested in the Open Space Special Provision zone will not protect the Medway Valley Heritage Forest Environmentally Significant Area.

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PREVIOUS REPORTS PERTINENT TO THIS MATTER

None.

PURPOSE AND EFFECT OF RECOMMENDED ACTION

The purpose and effect of this application is to register a draft plan of vacant land condominium at 161 Windermere Road, consisting of five (5) residential units, and a common element for the driveway and related services. In order to permit this form of development, a zoning by-law amendment and draft plan of vacant land condominium is required.

RATIONALE

1. The requested zone to permit cluster single detached housing will allow for a development which is of comparable size and scale to existing dwellings in this area.

2. The proposed Vacant Land Condominium represents an infill development opportunity that utilizes an efficient use of land and encourages compact urban form, consistent with the residential intensification policies of the Official Plan.

3. The submitted draft plan of vacant land condominium is in conformity with Official Plan policies, the City's Condominium Submission Review and Approval Guidelines and the regulations of the recommended R6-1 Zone.

4. Mitigation measures to address land use conflicts between this development and the adjacent existing development will be addressed through conditions of Draft Approval, Site Plan Approval and the R6-1 Zone.

5. Will result in the designation of all lands on the property outside of the accepted development limit as Open Space and will enhance and protect the Medway Valley Heritage Forest Environmentally Significant Area.

BACKGROUND

Date Application Accepted: Zoning By-law Amendment application accepted April 4, 2013 and Vacant Land Condominium application accepted February 7, 2014.	**Agent**: Tridon Management Group Ltd.
REQUESTED ACTION: Zoning By-law Amendment and Draft Plan of Vacant Land Condominium to permit the development of a five unit vacant land condominium.	

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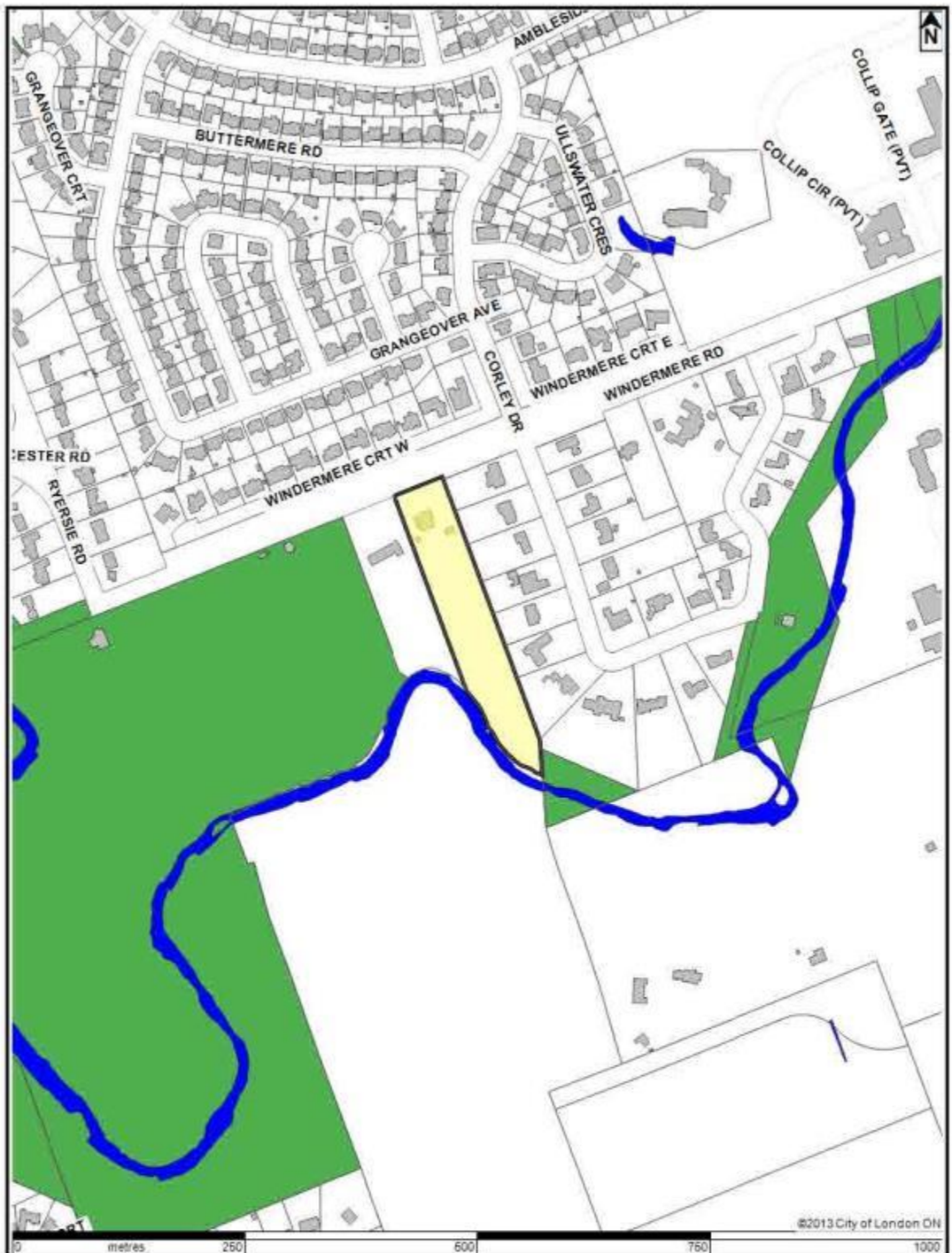

LOCATION MAP

Subject Site: **161 Windermere Road**
Applicant: **De Jong Suzanne**
File Number: **Z-8167**
Planner: **Allister MacLean**
Created By: **Allister MacLean**
Date: **2013-04-09**
Scale: **1:5000**

Corporation of the City of London
Prepared By: Planning and Development

N

LEGEND

- Subject Site
- Parks
- Assessment Parcels
- Buildings
- 123 Address Numbers

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SITE CHARACTERISTICS:

- **Current Land Use** – single detached dwelling, garage and accessory buildings
- **Frontage** – approx. 55m
- **Depth** – various from approx. 225m (west) and 345m (east)
- **Area** -1.71 ha
- **Shape** – irregular

SURROUNDING LAND USES:

- **North –** single detached dwellings
- **South –** Medway Valley Environmentally Significant Area and UWO
- **East –** single detached dwellings
- **West -** single detached dwellings and Elsie Perrin Williams Estate

OFFICIAL PLAN DESIGNATION: (refer to map)

- Low Density Residential
- Open Space- Schedule "A"
- ESA- Schedule "B-1"

EXISTING ZONING: (refer to map)

- Residential R1 (R1-9)

PLANNING HISTORY

The property at 161 Windermere Road contains a single detached home that was constructed circa 1890.

SIGNIFICANT DEPARTMENT/AGENCY COMMENTS

Environmental & Engineering Services (EESD)

- The applicant is advised that currently there is no municipal sanitary sewer outlet to service the subject lands. The designated municipal sanitary sewer outlet is to the 200mm diameter sanitary sewer on Windermere Court West.

Additional items to be addressed at the site plan approval stage include but are not limited to:

- In accordance with the Council's approval, the Permanent Private Systems (PPS) for all medium/high density residential, institutional, commercial and industrial development sites are mandatory as detailed in the City Design Specifications and Requirements, which may include but not be limited to quantity/quality control, erosion, stream morphology, etc. The owner is required to provide PPS for' the proposed storm/drainage and SWM servicing works which are required to be certified by a professional Engineer, all to the specification of the City Engineer. An Environmental Compliance Approval (ECA) will be required to support the proposed PPS.
- The owner and its Engineer shall prepare a servicing report for minor, major flows, SWM measure and identify outlet system in accordance with City of London standards and MOE standards/guidelines.
- Prior to the final approval of this plan, the owner agrees to have its geotechnical engineer identify all required erosion set back maintenance, erosion, structural, geotechnical and lot line setbacks, and ensure that all matters of slope stability are adequately engineered for the subject site, all to the satisfaction of the City Engineer and the Upper Thames River Conservation Authority.

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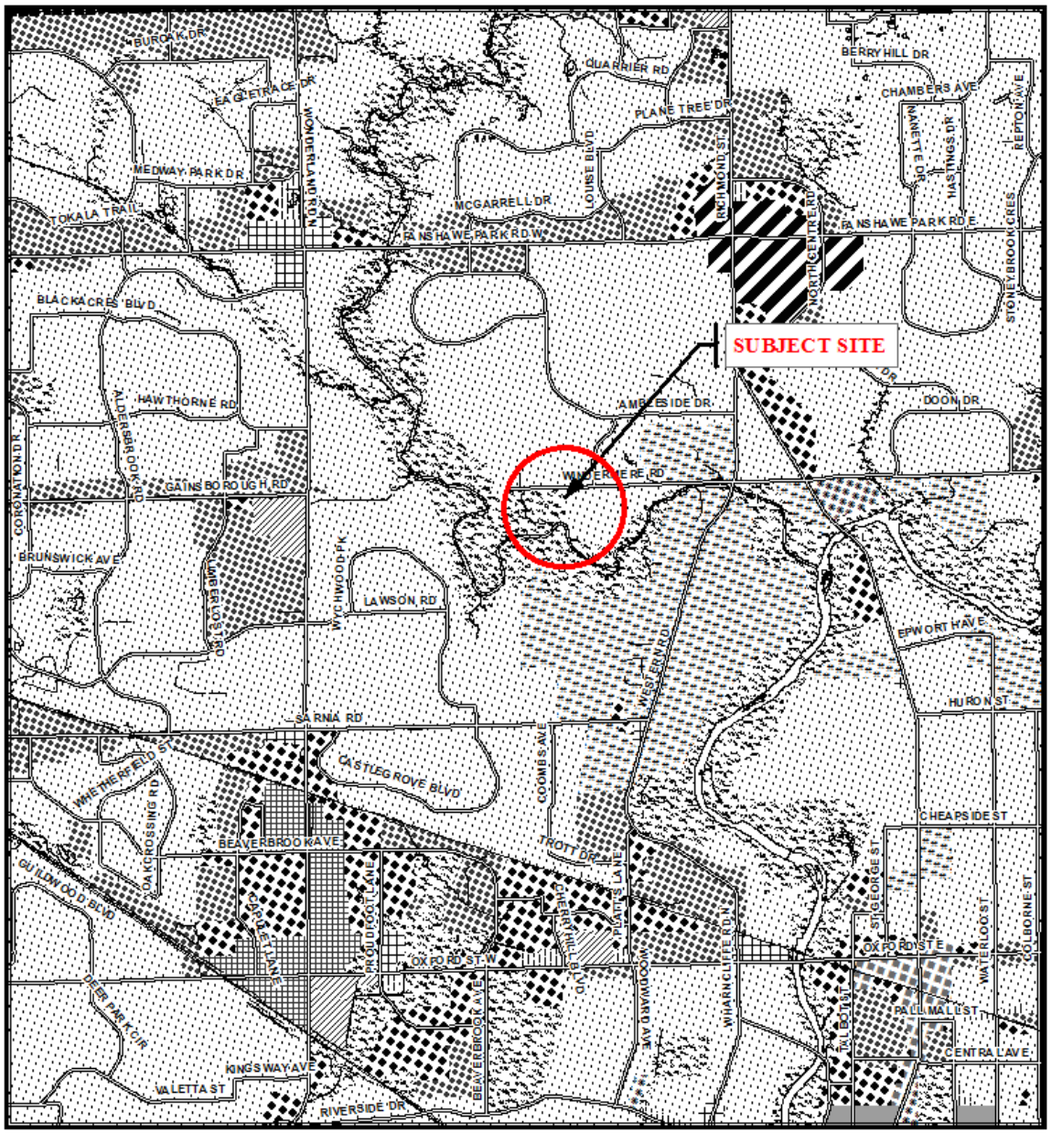

Legend

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

CITY OF LONDON
Department of Planning and Development

OFFICIAL PLAN SCHEDULE A
- LANDUSE -

PREPARED BY: Graphics and Information Services

Scale 1:30,000

Meters

FILE NUMBER:	39CD-14501 / Z-8167
PLANNER:	CS
TECHNICIAN:	JTS
DATE:	September 17, 2014

PROJECT LOCATION: e:\planning\projects\p_officialplan\workconsol00\excerpts\mxd_templates\scheduleA_NEW_b&w_8x14.mxd

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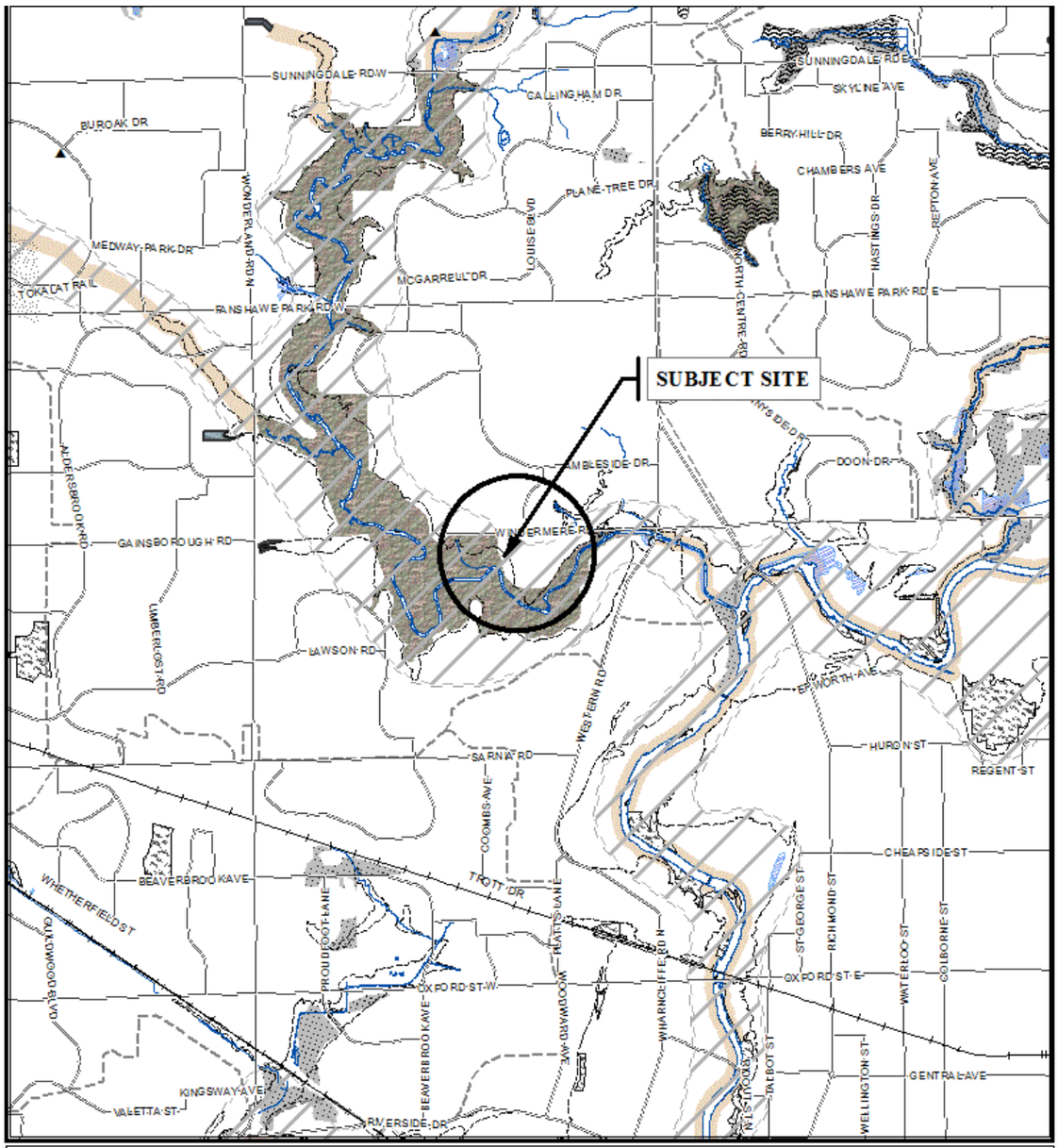

NATURAL HERITAGE SYSTEM

- ESAs
- Potential ESAs
- Significant Woodlands
- Woodlands
- Unevaluated Vegetation Patches
- Significant River, Stream, and Ravine Corridors
- Unevaluated Stream and Ravine Corridors
- Provincially Significant Wetlands
- Locally Significant Wetlands
- Unevaluated Wetlands
- Potential Naturalization Areas
- Potential Upland Corridors
- Ground Water Recharge Areas

NATURAL HAZARDS

- Maximum Hazard Line

NOTE 1: Hazard Lines shown on this map are approximate. The precise delineation of hazard line mapping available from the Conservation Authority having jurisdiction.

NOTE 2: Flood Fringe mapping for certain areas of the city is available from the Upper Thames River Conservation Authority.

Base Map Features

- Railways
- Water Courses/Ponds
- Streets (refer to Schedule "C")
- Conservation Authority Boundary
- Subwatershed Boundary
- Big Picture Meta-Cores and Meta-Corridors

CITY OF LONDON
Department of Planning and Development

OFFICIAL PLAN SCHEDULE B1
- NATURAL HERITAGE FEATURES -

PREPARED BY: Graphics and Information Services

Scale 1:30,000

Meters

FILE NUMBER:	Z-8372
PLANNER:	BT
TECHNICIAN:	MB
DATE:	2014/09/08

PROJECT LOCATION: e:\planning\projects\p_officialplan\workconsol00\excerpts\mxds_templates\schedule_b\scheduleB1_b&w_8x14_with_SWAP.mxd

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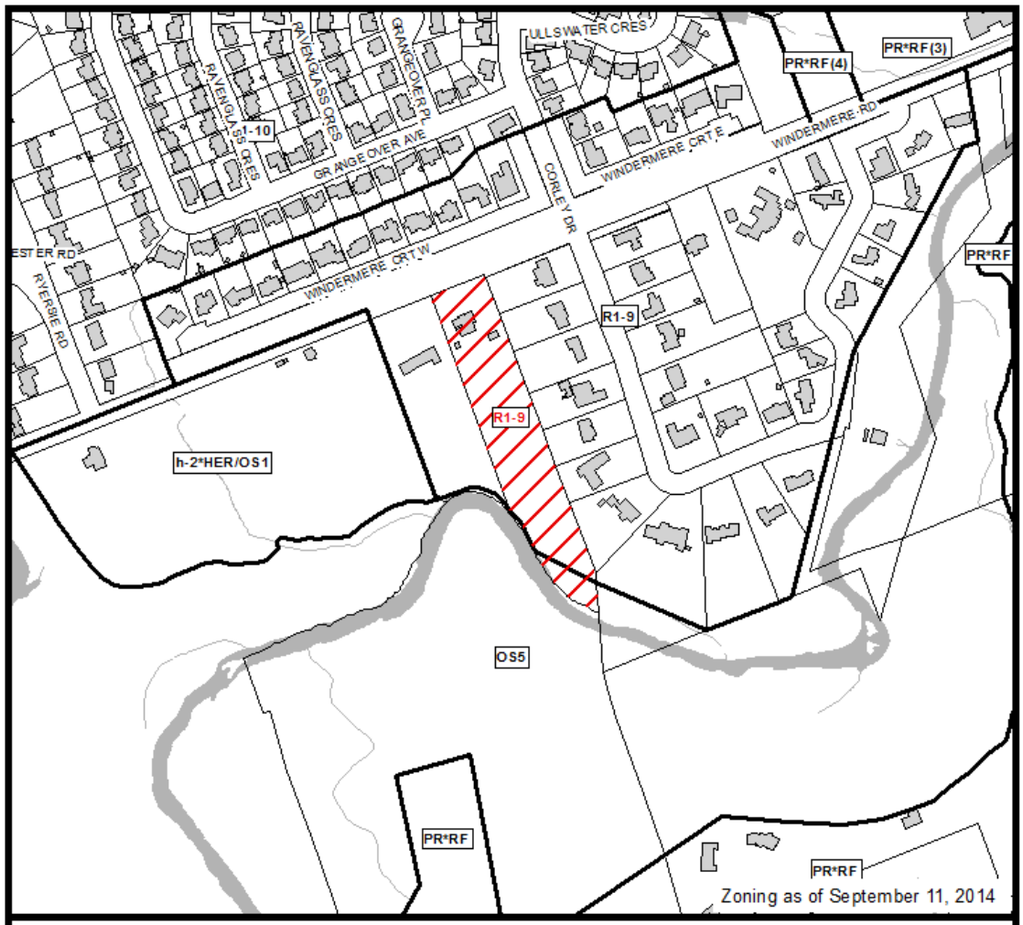

COUNCIL APPROVED ZONING FOR THE SUBJECT SITE:

1) *LEGEND FOR ZONING BY-LAW Z-1*

R1 - SINGLE DETACHED DWELLINGS
R2 - SINGLE AND TWO UNIT DWELLINGS
R3 - SINGLE TO FOUR UNIT DWELLINGS
R4 - STREET TOWNHOUSE
R5 - CLUSTER TOWNHOUSE
R6 - CLUSTER HOUSING ALL FORMS
R7 - SENIOR'S HOUSING
R8 - MEDIUM DENSITY/LOW RISE APTS.
R9 - MEDIUM TO HIGH DENSITY APTS.
R10 - HIGH DENSITY APARTMENTS
R11 - LODGING HOUSE

DA - DOWNTOWN AREA
RSA - REGIONAL SHOPPING AREA
CSA - COMMUNITY SHOPPING AREA
NSA - NEIGHBOURHOOD SHOPPING AREA
BDC - BUSINESS DISTRICT COMMERCIAL
AC - ARTERIAL COMMERCIAL
HS - HIGHWAY SERVICE COMMERCIAL
RSC - RESTRICTED SERVICE COMMERCIAL
CC - CONVENIENCE COMMERCIAL
SS - AUTOMOBILE SERVICE STATION
ASA - ASSOCIATED SHOPPING AREA COMMERCIAL

OR - OFFICE/RESIDENTIAL
OC - OFFICE CONVERSION
RO - RESTRICTED OFFICE
OF - OFFICE

RF - REGIONAL FACILITY
CF - COMMUNITY FACILITY
NF - NEIGHBOURHOOD FACILITY
HER - HERITAGE
DC - DAY CARE

OS - OPEN SPACE
CR - COMMERCIAL RECREATION
ER - ENVIRONMENTAL REVIEW

OB - OFFICE BUSINESS PARK
LI - LIGHT INDUSTRIAL
GI - GENERAL INDUSTRIAL
HI - HEAVY INDUSTRIAL
EX - RESOURCE EXTRACTIVE
UR - URBAN RESERVE

AG - AGRICULTURAL
AGC - AGRICULTURAL COMMERCIAL
RRC - RURAL SETTLEMENT COMMERCIAL
TGS - TEMPORARY GARDEN SUITE
RT - RAIL TRANSPORTATION

"h" - HOLDING SYMBOL
"D" - DENSITY SYMBOL
"H" - HEIGHT SYMBOL
"B" - BONUS SYMBOL
"T" - TEMPORARY USE SYMBOL

CITY OF LONDON
PLANNING, ENVIRONMENTAL AND ENGINEERING SERVICES

ZONING BY-LAW NO. Z.-1
SCHEDULE A

THIS MAP IS AN UNOFFICIAL EXTRACT FROM THE ZONING BY-LAW WITH ADDED NOTATIONS

FILE NO:
39CD-14501 / Z-8167 CS

MAP PREPARED:
September 17, 2014 JTS

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0 25 50 100 150 200
Meters

- The Owner agrees to promote the implementation of SWM Best Management Practices (BMP's) within this development application and all to the satisfaction of the City Engineer. The acceptance of these measures by the City will be subject to the presence of adequate geotechnical conditions within this plan and all to the satisfaction of the City Engineer.
- The Owner is required to provide a lot grading and drainage plan that includes, but it is not limited to, minor, major storm/drainage flows that are mostly contained within the subject site boundaries and safely conveys all minor and major flows up to the 250 year storm event that is stamped by a Professional Engineer, all to the satisfaction of the City Engineer.
- The Owner and their Consulting Professional Engineer shall ensure the storm drainage conveyance through the subject lands for any external drainage, are preserved, all to the satisfaction of the City Engineer.

The above comments, among other engineering and transportation issues, will be addressed in greater detail during the site plan approval process.

Environmental & Engineering Services Department- Stormwater Management Unit

The supplied SWM servicing report/design by Eng-Plus based on the current lot configuration shown in the Vacant Land Condo application demonstrates that a SWM servicing solution can be implemented. Minor changes to the SWM report are required before final acceptance.

Environment and Parks Planning- (E&PP)

The Environmental Impact Study by AECOM dated January 24, 2014 addresses the majority of E&PP's previous concerns. The outstanding issues primarily relate to the technical reports in the appendices and the requirement for an EIS for the SWM outlet which must be scoped, submitted and then accepted by staff.

ESA Boundary Delineation

E&PP generally agrees with the proposed limit for the ESA boundary AECOM has identified as it includes the 5 seeps shown on Figure 3, and an "area of between 55m - 70m above the top of slope is provided for wildlife movement", and as noted on page 39 of the EIS "provides for 75 to 100 meters of vegetated area between the ESA/development limit and the Medway Creek."

However, as the Slope Stability Assessment, Hydrogeological and Stormwater Management technical reports included in the appendices of the EIS are have yet to be accepted by City staff and the UTRCA, E&PP are concerned with the level of certainty regarding the location and number of seeps. Should any additional seeps be identified through the process they would also have to be protected inside the boundary of the ESA to be consistent with AECOM's recommendation on page 31.

The presence of the 5 seeps is confirmed Significant Wildlife Habitat (SWH) as it meets the criteria for SWH in Ecoregion 7E. SWH is recognized in 15.4.7 of the Official Plan and the Provincial Policy Statement identifies that Development and Site Alteration shall not be permitted in SWH.

Staff Note: The seeps are located outside of the development limit as identified in the AECOM's EIS and as accepted by E&PP and UTRCA. A holding provision (h-35) has been included in the proposed zoning requiring that further studies be completed and accepted by the City at the time of Site Plan Approvals. Through the Site Plan Approval process the recommendation of AECOM's EIS will be implemented to protect the Natural Heritage System. (Addressed in further detail in the body of the report.)

Buffer

The EIS on page 31 identifies that the ESA Boundary "*delineation included the seepages plus a 5m buffer*". E&PP can support AECOM's buffer recommendation based on the description of

how the boundary was arrived at and the supporting text on page 39, provided a fence with no gates is placed at the ESA limit as per AECOM's recommendations (on page 37 and 40). E&PP also agree with AECOM's comments regarding the importance of naturalization of the ESA lands (on page 39) *"to provide enhancement of the buffer capacity of the lands within the ESA and to provide additional cover for wildlife"*. The ESA area between the fence and the Medway Creek on the subject lands will require a native species restoration plan to be completed by an ecologist.

Tree Preservation Plan

The trees at the rear of proposed units 2, 3, 4 and 5 are to be retained through a tree preservation plan. The grading plan and tree preservation plan must be reviewed together to prevent grade changes that would impact the trees on the adjacent properties, and the trees in the ESA. Where Lots or Blocks abut an open space area (ESA), all grading of the developing Lots or Blocks at the interface with the open space areas are to match grades to maintain existing slopes, topography and vegetation.

Species at Risk (SAR)

Contractor SAR education packages with protocols must be developed and provided to raise awareness of the potential for the SAR (AECOM has identified potential SAR on pages 23-26 of the EIS) to occur when working adjacent to the Medway VHF ESA.

Staff note: A condition of the Site Plan approval and Vacant Land Condominium will require the education package to be provided to all property owners.

The SWM Features and Outlet

A second EIS must be scoped with staff and UTRCA once the precise locations of all the SWM features and the outlet are known. The EIS must then demonstrate how the proposed SWM system and outlet will have no negative impacts on the natural features or on their ecological functions in accordance with the Provincial Policy Statement.

Page 36 of the EIS identifies that "If Stormwater flows are not maintained at pre-development rates, increased erosion of the bluff and the active gully area may result. In order to prevent such impacts, maintaining stormwater flows to pre-development rates is critical. Additionally, it may be necessary to dissipate flows at the point of release to the ESA." This wording is not sufficient to demonstrate no negative impact for a SWM system and outlet and clearly more work needs to be done to ensure protection of the significant bluff features, the seeps (SWH) and the aquatic habitat in the Medway Creek.

Staff Note: Holding provision (h-35) has been included in the proposed zoning requiring that further studies be completed and accepted by the City at the time of Site Plan Approvals. Through the Site Plan process the SWM location and features will be fully contained on the site with no net change to the existing stomwater flows. (Addressed in further detail in the body of the report.)

Parkland Dedication

The ESA lands shall be dedicated to the City in fulfilment of the required parkland dedication for 5 units at the rate of 1 Ha / 300 units x 27, as per the City's dedication by-law. This works out to 0.45 Ha and the remaining lands shall be purchased at the by-law rate of $13,590 / Ha.

E&PP recommends the implementation of the Environmental Management Recommendations listed in the EIS, pending some minor modification to meet City of London Standards.

Upper Thames River Conservation Authority

August 23, 2013:
The Upper Thames River Conservation Authority (UTRCA) reviewed the Response to UTRCA Technical Review letter, dated July 23, 2013 – Slope Stability Assessment 161 Windermere Road, London, Ontario prepared by exp, dated August 14, 2013. The UTRCA is satisfied with

the information that has been provided regarding the toe erosion component and is prepared to sign-off on the geotechnical study. UTRCA request that the applicant submit a consolidated final copy of the geotechnical report.

In UTRCA's May 10, 2013 correspondence, the UTRCA noted a number of concerns pertaining to the Environmental Impact Study (EIS) that was circulated with the application. A key issue was that the wetland that is located on the property was not considered. UTRCA also identified a number of other concerns that need to be addressed in the EIS.

The Conservation Authority also provided comments regarding the servicing for the proposed development.

October 15, 2014:
The Upper Thames River Conservation Authority (UTRCA) has had an opportunity to review the additional technical information that was provided by the applicant on October 3, 2014 that was intended to address UTRCA's outstanding concerns regarding this proposed development. The UTRCA is satisfied that there is enough information to confirm that there is a development envelope and we therefore have no objection to the approval of the zoning by-law amendment at this time. However, we remain concerned with the integration of the technical findings to ensure that the seeps are protected and to address this concern, UTRCA are recommending a draft condition for the plan of condominium.

With regard to the integration of the technical reports, UTRCA is of the opinion that there continues to be inconsistencies between the various technical reports. For example, the applicant's ecological consultant, the City's ecologist and the UTRCA's ecologist have agreed that the seeps located on the site need to be protected. The function and protection of these seeps relies on the infiltration of shallow surface water and/or groundwater. The stormwater management strategy for this proposed five unit (including the existing house) development over controls the proposed 250-year flow to the 2-year pre-development flow from site area A2 and does not provide for the necessary infiltration for the existing seep areas. The proposed SWM system including a pond and underground storage unit also does not provide the necessary infiltration.

RECOMMENDED DRAFT CONDITIONS

While we continue to have concerns regarding the seeps and the protection of their source, the UTRCA is of the opinion that there is a development envelope on the property and UTRCA has no objection to the Zoning By-Law Amendment. We recommend the following draft conditions for the plan of condominium:

That the proponent prepares a report which integrates stormwater management, hydrogeology, and ecology to demonstrate to the satisfaction of the UTRCA that the seeps will be protected.

Staff Note: A holding provision h-35 has been included in the proposed zoning requiring these studies to be completed. This condition will be satisfied during the Site Plan Approval process and not as a condition of plan of condominium. (Addressed in further detail in the body of the report.)

That the proponent obtain written approval from the Authority prior to undertaking any site alteration or development within this area including filling, grading, construction, alteration to a watercourse and/or interference with a wetland.

Staff Note: City of London building permit will not be issued until applicant obtains UTRCA Section 28 permit.

Ministry of Natural Resources
The Ministry of Natural Resources (MNR) understands that Tridon Properties Ltd. is proposing a 5-lot residential development at 161 Windermere Road along Medway Creek in the City of London.

On March 21, 2014, the City of London provided MNR with Tridon Properties Ltd.'s document, titled, 161 Windermere Road Vacant Land Condominium Environmental Impact Study (EIS), which was prepared by AECOM and dated January 24, 2014. MNR has reviewed the

information provided within this EIS with specific focus on species at risk (SAR) and the requirements of the Endangered Species Act, 2007. We provide the following comments.

Provincial Policy Statement (PPS) and Natural Heritage Reference Manual (NHRM)

Section 1.4 references the PPS (1997) and the NHRM (1999). Please note there is a new PPS (2014) as well as an updated NHRM (2010), which should be considered when reviewing this application.

MNR Screening of 161 Windermere Road in the City of London

Section 1.5 states, "The Ministry of Natural Resources (MNR) data sources were consulted for Species at Risk (SAR) information, but no formal consultation with MNR was undertaken". For future applications, please see the attached Technical Memo, which outlines the process for engaging the MNR Aylmer District Office. We recommend that the Aylmer District office is contacted directly as the District has additional information that is not available through the Natural Heritage Information Centre (NHIC). Also when we are asked to provide natural heritage information for a project, we screen the project property and provide a list of natural heritage features and areas, including a list of SAR known to occur either on the property and/or in the general area. When providing this information we also take into consideration the current vegetation/habitat on site. This allows us to provide more detailed responses to the request when compared to the 1 x 1 km grid data available through NHIC.

As part of our review of this EIS, MNR has completed a screening for this project and the following SAR are known to occur in the general area of the property:

- Queensnake (endangered with regulated habitat protection) – There is a confirmed occurrence from a 2013 observation located in close proximity to the site.
- False Rue Anemone (threatened with general habitat protection) – There is potential for this species to occur in the wooded area and/or floodplain on the property.
- Chimney Swift (threatened with general habitat protection) – There is potential for this species to occur if chimneys are present on the property.
- Silver Shiner (threatened with general habitat protection) – There is potential for this species to occur in this section of the watershed.
- Green Dragon (special concern) – There is potential for this species to occur in the wooded area and/or floodplain on the property.

MNR is also able to provide guidance on scoping survey work, including providing survey protocols for SAR species, where available. These protocols are not available to the public without prior consultation with MNR.

Queensnake (END)

Section 3.4.3 of the EIS states, "During the November 6th 2013 field investigations, a survey for Queensnake (Regina septemvittata) hibernaculum was conducted along the riparian zone of Medway Creek. Along Medway Creek within the study area, the slope is very steep where the toe is within 0.5 metre of the water. No rock piles, or small mammal burrows were located within the limits of the study area. The steep slope was also not conducive to rock piling. Based on this survey, it is our opinion that Queensnake habitat is not present within the subject property or immediately adjacent lands."

According to the information provided, Queensnake surveys occurred only for one field day on November 6, 2013. MNR has a survey protocol that is available upon request for Queensnake. This protocol should have been consulted for this project given the proximity of a confirmed Queensnake occurrence in the general area of the project. MNR's survey protocol for Queensnake states that at least five surveys spread out over at least eight weeks should be carried out between May 15 and September 15 when Queensnakes are present in their summer foraging habitat along the shoreline. Therefore, the surveys completed for the species for this project do not follow MNR's Queensnake survey protocol based on the information provided and MNR does not consider the Queensnake surveys conducted for this project to be adequate to support the conclusion made in Section 3.4.3.

In addition to hibernacula, which is the habitat feature discussed in Section 3.4.3 of the EIS, the habitat regulation for Queensnake also applies to the following areas:

- any part of a watercourse, waterbody or marsh up to the high water mark that is continuous and within 250 metres of the area being used by a Queensnake; and
- the area up to 30 metres inland from the high water mark adjacent to the occupied watercourse, waterbody or marsh.

There is a confirmed Queensnake occurrence approximately 550 m downstream to the east of the proposed subject property. There is also potential for the species' range to extend within close proximity to the subject property and it is not clear in the EIS report that the above features as described in the habitat regulation have been considered. In addition, as per the above comments, surveys for Queensnake were also not conducted in accordance with MNR protocols. Therefore, MNR requires that the following information is provided or clarified before we are able to determine whether the proposed activities impact Queensnake and/or its habitat.

- Section 5.1 states that "the extent of the land to be developed is still to be determined". MNR is concerned that if the full extent of the project footprint is yet to be determined, then the full extent of impacts may not have been fully assessed for this project. Once further details are determined, it is recommended that MNR is engaged regarding considerations for the Endangered Species Act, 2007.
- Section 5.2 states, "The [Stormwater Management Plan] SWP provides on-site storage for excessive storm flows up to a 250 year storm event. This is provided for in rear yard storage ditches. Rock check-dams are provided for to slow flows and backup water for storage and slow release. The flows are then released to s downstream storage area at the end of lot 5. From this point the flow will be released via a 150mm diameter pipe at approximately a 0.3% grade to a rip-rap outlet area prior to flowing overland towards the top-of-slope and ultimately Medway Creek." MNR is concerned that the release of flows into Medway Creek could have an impact on SAR and their habitat, especially Queensnake and Silver Shiner. MNR requests further information on how this potential impact has been assessed.
- Disturbance and damage of vegetation along edge of natural heritage features is discussed as a potential short-term impact in Section 6.2 where it states, "Given that the development limit is well away from any natural vegetation of the ESA, damage of natural communities during construction is not anticipated." MNR is concerned that, given the proximity of a confirmed Queensnake occurrence, and the limited survey work that was undertaken for the species on-site, that Queensnake and/or its habitat could be impacted by Stormwater Management activities. MNR requests clarification on whether the proposed activities will occur within "the area up to 30 metres inland from the high water mark adjacent to" Medway Creek, i.e. please clarify whether the Stormwater Management components of this project have been considered as part of the "development limit".

MNR requires further information, in consideration of the above comments, before we are able to confirm that this project will not impact Queensnake and/or its habitat.

<u>Chimney Swift</u>

The information provided on the existing house on the property is also limited. MNR requests further information on the heritage building on the property and whether it was included as one of the survey locations (e.g. for Chimney Swift).

<u>Silver Shiner</u>

Regarding Silver Shiner, Appendix M of the EIS states, "Suitable habitat is present within Medway Creek. The 2012 Medway Creek Watershed Report Card confirms this species to be found within Medway Creek… Species is present within Medway Creek according to Watershed Report Card however not observed during AECOM or Leonard and Associates field investigations."

<u>Fencing</u>

Human Intrusion is discussed as an Indirect Impact in Section 6.3.2 of the EIS where it states, "Other measures may include the installation of fencing along the ESA boundary, planting of undesirable plants, and signage." MNR recommends that fencing be included in the development proposal and therefore be reworded to be a stronger/more enforceable recommendation in Section 7.3. For example, we recommend removing "should be considered"

in Recommendation 10 and replacing it with, “Fencing of the ESA-development limit will be put in place to prevent encroachment into the ESA by neighbouring units”.

Please note that the list of features provided in Section 7.2 of the EIS should include “habitat of endangered species and threatened species protected under the Endangered Species Act, 2007”.

Based on the information provided within the EIS, MNR is currently unable to determine whether the activities as proposed would likely contravene the Endangered Species Act, 2007. Once additional information is provided, MNR will be in a better position to determine whether the proposal is likely to contravene the Endangered Species Act, 2007.

Email October 3, 2014

The Ministry of Natural Resources and Forestry (MNRF) has reviewed section 3.10 Red Blackhorse, section 4 Ministry of Natural Resources Comments and Attachment “B” Draft Plan Conditions – Environmental Management Recommendations of AECOM’s Environmental Impact Study (EIS) addendum (dated August 7, 2014) for Tridon’s 161 Windermere Road development in the City of London.

MNRF provides the following comments:

- It is unclear whether species at risk (SAR) field work was included in the summer inventory that was conducted for one day on July 31, 2014. Can it be clarified if Queensnake habitat was re-assessed in regards to the habitat features listed under the Endangered Species Act, 2007 (ESA) habitat regulation, beyond over-wintering sites?
- If the proponent is willing to avoid vegetation removal during the breeding bird window (proposed to end on August 28th), MNRF recommends the proponent consider extending that no-vegetation removal window to October 15th to avoid potential impacts to snakes during a sensitive time before over-wintering.
- It is still unclear (as commented on May 14, 2014) where the Stormwater Management (SWM) facility is proposed to be located and whether it is considered to be part of the “development limit”. The EIS addendum refers other documents that have not been provided for MNRF review.

MNRF requires clarification on the above-mentioned items to assist in determining whether the activities as proposed would likely contravene the ESA.

Staff Note: The applicant has provided in the EIS and an addendum dated October 9, 2014 to the EIS that MNR’s requirements will be met. Through the site plan process, including the required public meeting all recommendation of the accepted EIS will be implemented. MNR has not responded to the applicants October 9th EIS addendum to date. (*Addressed in further detail in the body of the report.)*

London Advisory Committee on Heritage
“The LACH indicated, that in its opinion, this property is worthy of designation and referred it to its Stewardship Sub-Committee for consideration.”

Canada Post
This subdivision will receive mail service to centralized mail facilities provided through our Community Mailbox program.

Environmental and Ecological Planning Advisory Committee
On April 15, 2014 Council resolved: That the Environmental and Ecological Planning Advisory Committee (EEPAC) asked that the attached comments, prepared by the EEPAC Working Group, with respect to the application by the Tridon Group Ltd., relating to the property located at 161 Windermere Road, be forwarded to the Civic Administration for review and consideration. The EEPAC reviewed and received a communication dated March 18, 2014, from C. Creighton, Land Use Planner, Upper Thames River Conservation Authority, with respect to this matter.

EEPAC’s communication is attached as Schedule “B”.

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Staff Note: EEPAC has included twenty one recommendations in its attached comments. The applicant had submitted further EIS addendums to the City and UTRCA. Through this process the development limit as identified in AECOM's EIS and as accepted, EEPAC concerns have been resolved. Through the Site Plan Approval process the recommendation of AECOM's EIS will be implemented to protect the Natural Heritage System. (Addressed in further detail in the body of the report.)

PUBLIC LIAISON:	On April 12, 2013, 101 notice of the Zoning By-law Amendment were sent to residents within 120 metres of the subject site. Living in the City Notice was published on August 23, 2013. On February 12, 2014 notice of Vacant Land Plan of Condominium were sent to residents within 120 metres of the subject site. Public notice was advertised in the February 20, 2014 Londoner.	42 written and 1 phone response in opposition.
Nature of Liaison: *Same as requested action.		
Responses: Major concerns include: - Premature, pending completion of Environment Impact Study, - Too many units on a private lot without street frontage, - Development is too close to the Medway Valley Steep slopes, - Premature, pending the completion of the City-initiated Medway Valley Conservation Plan, - Does not conform to the Dillon Consulting *Natural Heritage Inventory and Evaluation/ Medway Valley Heritage Forest South ESA* study, - Historic property not protected through a heritage designation, - Stormwater management, - Privacy, - Vacant land parcels are too small and not in keeping with the character of the abutting neighborhood, - Does not meet the intent of the City's environmental policies. See attached Schedule "C" for complete comments, from William Pol, Planning Consultant representing abutting land owners, Lisa Bildy, Bill Davis, Old Masonville Ratepayers Association, Sandy Levin, Orchard Park/Sherwood Forest Ratepayers and Western University.		

ANALYSIS

Subject site
The subject site is located at 161 Windermere Road, on the south side of Windermere Road and west of Corley Drive. The site slopes significantly southerly from Windermere Road to the water's edge of the Medway creek. The existing home was constructed circa 1890 and is listed as priority 2 in the *City of London Inventory of Heritage Resources 2006.*

What is the nature of the application?
The applicant, Tridon Group Ltd, orginally applied for a vacant land condominium and a zoning by-law amendment to permit six (6) units on this site. The applicant subsequently amended the application reducing the number of proposed units to five (5). The existing home at 161 Windermere Road will be retained and included as a unit in the proposed Plan of Vacant Land Condominium.

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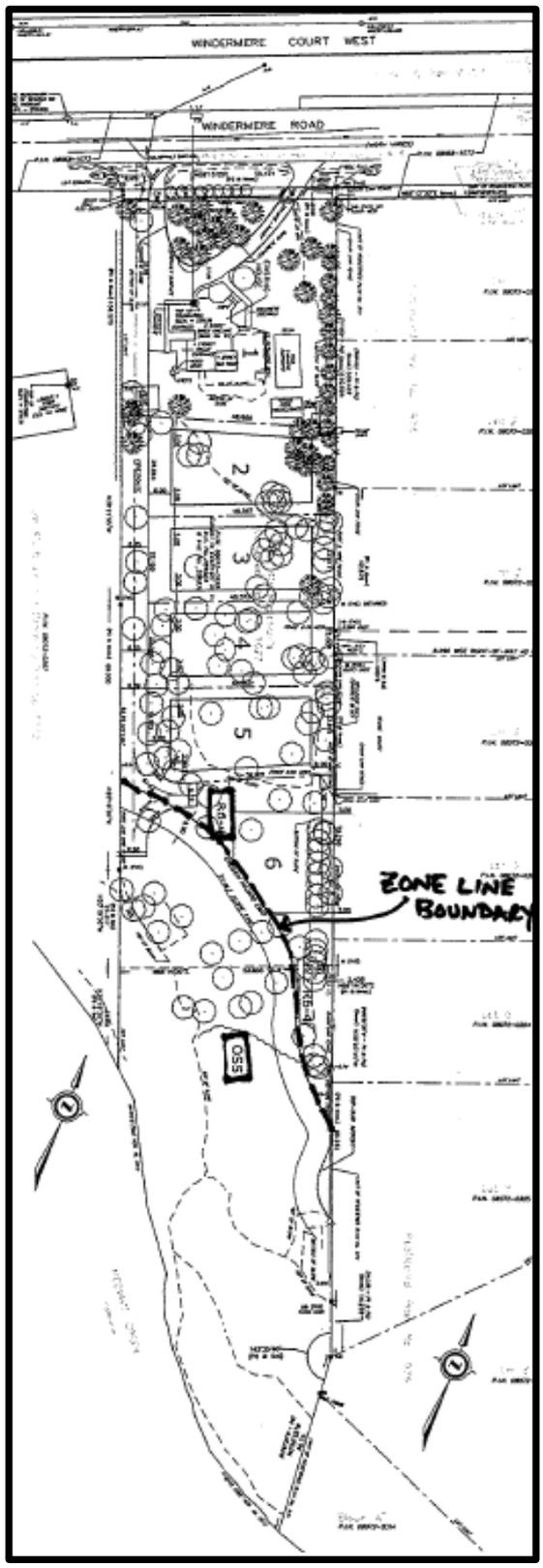
Original Submitted Proposed Site Plan March 2013



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Is the proposed application appropriate?

Provincial Policy Statement (PPS 2014)

The PPS promotes and directs efficient land use and development patterns. The proposed development is consistent with Section 1.0 Building Strong Communities and Section 3.0 Protecting Public Health and Safety as it:

- provides for intensification
- provides for redevelopment
- efficiently utilizes existing infrastructure
- efficiently uses land and resources in the City of London
- Promotes a healthy community

This application has been reviewed for consistency with the entire 2014 Provincial Policy Statement. It is staff's position that the plan of condominium will provide for a healthy, livable and safe community. The proposed residential development will assist in providing housing on full municipal services without the need for costly expansions. Development of the lands by way of a vacant land plan of condominium minimizes the amount of land needed for road purposes and promotes a compact form of development. Through the implementation of the recommendations of the accepted Environmental Impact Study the Medway Valley Heritage Forest Environmentally Significant Area will be protected including species at risk habitat. Based on the review of the Provincial Policy Statement, approval of the proposed plan with associated conditions would be consistent with the 2014 Provincial Policy Statement.

Official Plan Policies

The proposed amendment will allow a development that is consistent with Official Plan Policies:

Section 2.4 City Structure Policies

- The proposed development promotes a compact urban form and efficient use of serviced land. The proposed development maximizes the use of existing services and minimizes the need for and cost of new infrastructure.
- The proposed amendment will allow a development that provides for residential development that infills and intensifies the lands at an appropriate scale.

Medway Valley Heritage Forest

Section 15.4.1.1 Identification of Environmentally Significant Areas, defines the Medway Valley Heritage Forest, as being located in the Masonville, Medway and Sunningdale areas, is an abrupt spillway through which the Medway Creek flows contains some rare plant and animal species, and is an important asset for research and educational purposes. A portion of the property at 161 Windermere Road is located on the Medway Valley Heritage Forest. The current southerly property line is the water's edge of the Medway Creek. Included in the property is a significant slope that rises from the water's edge to the top of south end of the currently maintained and landscaped rear yard of the existing home.

Open Space

Section 19.1.1 Boundaries between Land Use Designations states:

> *The delineation of the flood plain fill and erosion lines and environmental features as shown on Schedule "B" - Flood Plain and Environmental Features, is not intended to be precise delineation of the flood plain and fill regulated areas shall be as shown on the flood plain and fill line mapping available through the appropriate Conservation Authority. The 100 Year Erosion Line is more accurately shown on mapping available through the City of London Planning and Development Department. The precise delineation of other environmental features shall be determined through area studies or environmental impact studies undertaken in conformity with the policies of this Plan.*

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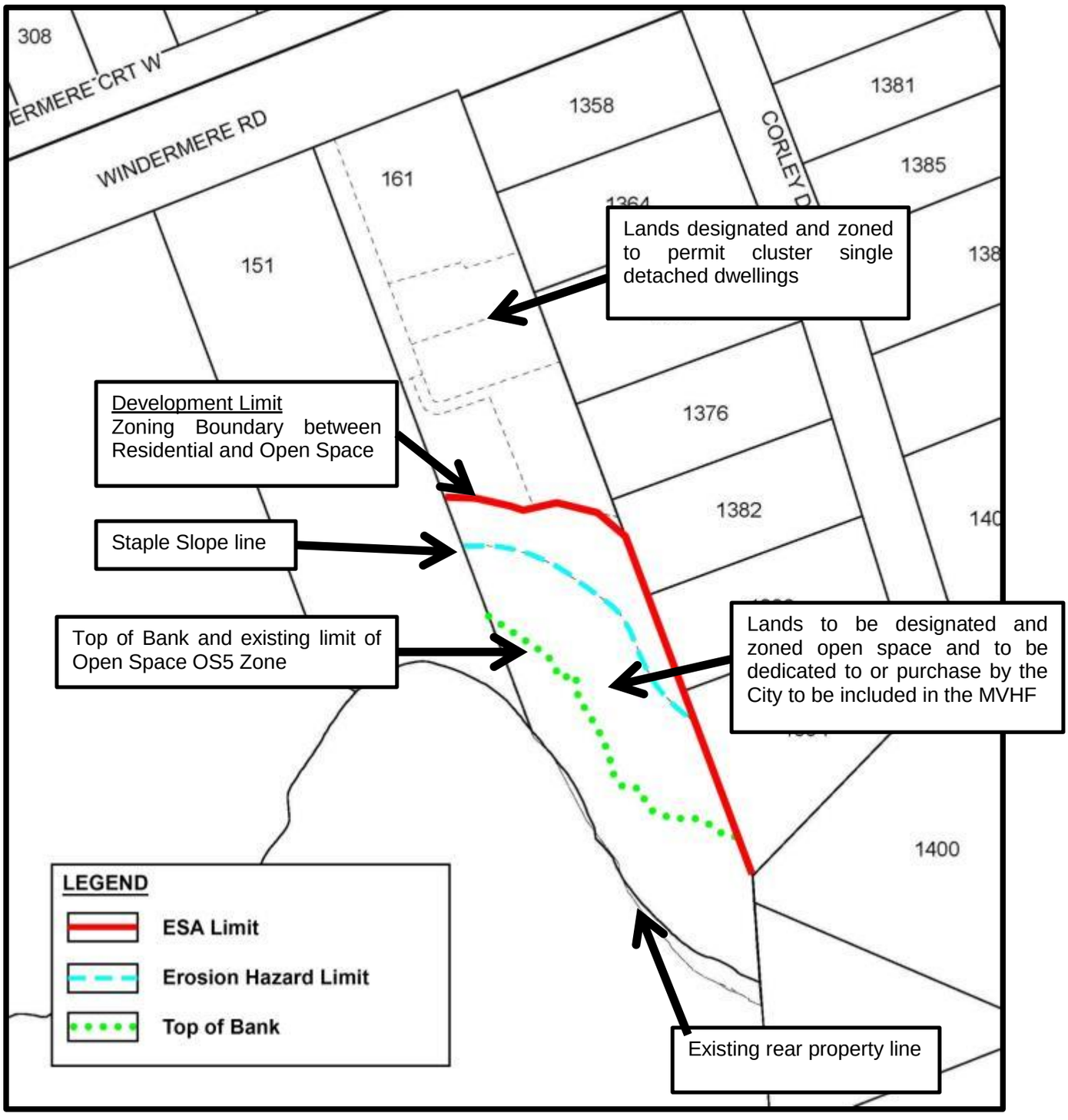
Delineation of the Development Limit



The applicant has submitted an Environmental Impact Study dated January 2014 and an August 2014 revision by AECOM. City staff are satisfied that the Environmental Significant Area limit line (as shown on the above plan) is the delineation of the development limit, and captures the City's interests with respect to the Medway Valley Heritage Forest Corridor. For the purpose of the proposed amendment the interpretation of the extent of the Open Space designation is appropriate to be interpreted as the Environmental Significant Area line as established in the Environmental Impact Study by AECOM dated January 24, 2014.

The proposed development limit is consistent with the Official Plan Section 15.3.6. Ecological Buffers as it:

- serves to protect the ecological function and integrity of the Medway Valley Heritage Forest, based upon the recommendations of the accepted Environmental Impact Study.
- the limit of the Environmental Significant Area will protect natural heritage area from the impacts of the proposed development and will assist in minimizing the impact of development on the Natural Heritage System, by:
    - orientation of the development away from natural heritage areas through the site plan process;
    - the acceptance of lands immediately adjacent to natural heritage areas as part of the required parkland dedication for the proposed development; and
    - preventing public access from the development by requiring barrier fencing with no access points.

The applicant submitted a revised geotechnical report dated July 23, 2013 – Slope Stability Assessment 161 Windermere Road, London, Ontario prepared by exp. UTRCA and City staff have reviewed the study and accepted the reports recommendation for the location of the top of slope (as shown on the above plan). The staple slope is contained within the Environmental Significant Area boundary as established through the revised Environmental Impact Study. The proposed development is located wholly outside of the delineated top of staple slope.

A Holding provision is required to be attached to the implementing Zoning amendment to ensure that:

- the development will not have a negative impact on the Natural Heritage System (the Medway Valley Heritage Forest Environmental Significant Area); an agreement shall be entered into specifying any necessary preventative measures, based on study(ies) to the satisfaction of the City of London conducted by qualified professional(s) demonstrating that development in the form proposed will not adversely affect the area or feature;

The Open Space (OS5) zone will be applied to these lands that have been interpreted to be located within the Open Space designation (Significant Natural Corridor) as established through the accepted Environmental Impact Study by AECOM dated January 24, 2014. The intent of the zone will allow for the development of these lands in accordance with the Medway Valley Heritage Forest Environmental Significant Area. Further discussion will need to occur through the Public Site Plan process to address and implement the appropriate transition between the proposed development and the Medway Valley Heritage Forest corridor.

<u>Residential</u>
The subject lands are designated Low Density Residential. This designation permits single detached dwellings, semi-detached dwellings and other forms of low density residential uses at a maximum density of 30 units per hectare. The Low Density designation also permits infill development on vacant or underutilized sites. The applicant's proposal to develop this parcel with five (5) residential dwellings will result in an overall density of eight (8) units per hectare which is well within the density limits in the Low Density Residential designation.

The proposed Vacant Land Condominium (VLC) represents an infill development opportunity that utilizes an efficient use of land and encourages compact urban form, consistent with the residential intensification policies of the Official Plan.

Residential Intensification may be permitted in the Low Density Residential designation through

an amendment to the Zoning By-law, subject to a review of density, form, and compatibility with existing neighbourhood. These criteria will be addressed in greater detail in the below "Zoning By-law" section of the report.

Near Campus Neighbourhood
The subject property is in the area identified in Official Plan Policy 3.5.19, Near-Campus Neighbourhoods. The intent of the Near-Campus Neighbourhood polices is to encourage appropriate forms of intensification in the areas surrounding Western University and Fanshawe College.

The proposed application to amend Zoning By-law Z.-1 to allow for five (5) single detached dwelling units in a plan of Vacant Land Condominium is consistent the Near Campus-Neighbourhood policy, Section 3.5.19.10, for planning applications in Low Density Residential designation as:

- The proposed amendment conforms to the Residential Intensification policies of the Official Plan;
- The proposed amendment will permit the infill and intensification of a lot that is appropriate in size and in its location to warrant the proposed site-specific amendment;
- The proposed amendment will permit infill and intensification in a form that is appropriate in size and scale and does not represent an over-intensification of the site;
- the proposed development provides for an adequate amenity areas;
- Mitigation measures will be incorporated and will be implemented through the site plan approval process to ensure that the amenity of surrounding residential land uses will not be negatively impacted;
- The proposed amendment requires that the owner actively pursue heritage designation of the existing dwelling; and
- The proposed amendment is a positive and appropriate form of development and does not set a negative precedent for similar development proposals at similar locations within the near-campus.

Zoning By-law

The proposal is to change from a Residential R1 (R1-9) Zone to a Residential R6 Special Provision (R6-1 (_) Zone to permit five (5) cluster single detached dwellings. A Planning Impact Analysis is used to evaluate applications for an Official Plan amendment and/or Zone change to determine the appropriateness of a proposed change in land use and to identify ways of reducing any adverse impacts on surrounding uses.

Compatibility
The applicant is proposing to construct four (4) new single detached dwellings and retain the existing building on vacant land condominium units (lots) which range in area from approximately 950 m^2 – 2,300 m^2. The properties to the east of this property are large 3000m^2 estate lots. The properties to the north Windermere are approximately 1000m^2.

The existing lots to the north of the property are of a comparable size to the proposed lots. The proposed development will maintain the existing home at 161 Windermere Road so existing streetscape will be maintained at this location. Several residents did raise some concerns regarding the ultimate design and scale of these units. The scale of units will be dictated by the Zoning By-law regulations (which are generally consistent with cluster housing) and will result in units which are comparable and similar in size as to existing development in the area. Since this development does not have a significant impact on the existing streetscape (i.e. public realm), the issue of building design is at the discretion of the developer/home owner. Based on the size of the proposed lots it is anticipated that the design of these homes will not have a negative impact on the character of this neighbourhood.

Ability of Site to Accommodate Development
The development portion of the subject land is approximately 0.8 hectares in size. The draft plan of Vacant Land Condominium illustrates how these lands are to develop for single detached dwellings. As mentioned previously, the size of lots is comparable with the existing development located north of this site.

A special provision has been included to this zone change to permit a maximum of five (5) single detached cluster dwellings only. This includes the existing single detached dwelling. Several residents did raise concerns regarding impacts of this development on drainage in the area. The applicant must ensure that the proposed grading and drainage of this development does not adversely impact adjacent properties. All grading and drainage issues will be addressed by the applicants consulting engineer to the satisfaction of the City through the Site Plan Approval process.

Vacant Land in the Area

This parcel is within an area of the City which is almost entirely built out. There are no vacant parcels of land within the immediate vicinity of the subject lands which are designated or zoned for residential development.

Building Size and Siting

The proposed development will include four new single detached dwellings and the existing dwelling in a cluster housing form. Area residents had questions about what type of fencing and landscaping is proposed for the development. The applicant submitted a tree retention report. The City of London Parks Planning staff reviewed the plan and indicated that additional material will be required for it to be accepted by the City. Generally, the intent of a tree preservation plan is to retain perimeter trees and protect the trees on the abutting properties while identifying which trees will be required to be removed. The applicant will be required to submit a complete and acceptable tree preservation plan as well as a landscape plan as part of their Site Plan application submission. The issues of appropriate landscaping, tree retention, fencing etc. will be addressed in greater detail as part of the landscape plan submission.

The ultimate size of structures within this development will be regulated by the R6-1 Zoning regulations. The vacant land condominium units will be sold to individual property owners and the size of the dwelling unit will be determined at a future date. The maximum lot coverage within this entire block is 25% and a maximum building height is 10.5 metres. The existing regulations for the R1-9 zone permits building on lots with a minimum lot area of 690m^2 with a maximum building coverage of 35% and a maximum height of 12 metres. The proposed zoning regulations are more restrictive than those which currently apply in the area under the R1-9 Zone and as such are considered to be appropriate and consistent with surrounding development.

Site Access

This development is to be accessed from Windermere Road. The preferred location for the access will be on the west side of the lot. The addition of four new homes will not impact greatly on the traffic capacity of Windermere Road at this location, and issues such as sight lines and final alignment of the access will also be addressed through the site plan application.

Natural Features

As discussed above an Open Space (OS5) zone will be applied to the lands that have been interpreted to be located within the Open Space designation (Significant Natural Corridor) as established through the accepted Environmental Impact Study by AECOM dated January 24, 2014. The intent of the zone will allow for the development of these lands while protecting the Medway Valley Heritage Forest Environmental Significant Area. A holding provision has been included in the zoning amendment to ensure that a development agreement is entered into to implement the recommended preventative measures as identified in the accepted Environmental Impact Study which includes but is not limited to:

- The City of London's Official Plan Schedules B-1 and A, and associated zoning designations, should be revised to reflect the identification and delineation of the boundary of the Medway Valley Heritage Forest Environmentally Significant Area as documented in this report and delineated on Figure 3.
- The ESA boundary, as delineated on Figure 3 of this report, should be considered as the development limit for the proposed development plan for 161 Windermere Road, or any other future plans proposed for the subject property. Any plans for the subject

property, including contract drawings, should clearly indicate the ESA boundary and identify it as a development limit.

- The use of and access to lands identified as ESA within the subject property are subject to City of London Official Plan policies including policies 15.3.2 and 15.4.1.4.
- Neither clearing of natural vegetation nor planting of non-native plants shall be permitted within the lands identified as ESA.
- No structures or facilities not already permitted by the City of London's Official Plan policies shall be permitted within the lands identified as ESA.
- The areas of land recommended for inclusion in the Medway Valley Heritage Forest ESA shall be allowed to naturalize and shall be planted with appropriate native trees and shrubs. Any plantings considered for these lands should be consistent with the City of London's 'Guide to Plant Selection for Natural Heritage Areas and Buffets" (1994). A native species restoration plan shall be completed by an ecologist.
- Grading of Units 4 & 5 must meet existing grades at the ESA-development limit boundary.
- In order to reduce the potential for lighting impacts, contractors and builders for Units 4 & 5 should be required to install shielding for outside lights.
- Fencing of the ESA-development limit without gates is required to prevent encroachment into the ESA by neighbouring units, to City Standard, SP0-4.8 or approved equal.
- Condominium corporation by-laws should include the following prohibitions for lands within the ESA: clearing of vegetation, building of structures, access by pets, feeding of wildlife, creation of fire pits or similar structures, and excessive trampling by creation of trails. Passive-trails will not be permitted.
- Silt fencing is required along the Medway Valley Heritage Forest ESA boundary prior to and during construction of Units 2-5. Robust silt fencing shall be installed according to Ontario Provincial Standard Specifications (OPSD 219.130) and City Standard (to protect seepage areas and ESA).
- Additional silt fence shall be maintained on-site, prior to the commencement of grading operations and throughout the duration of the construction, in the case of an emergency or repair.
- Silt fencing positioning shall be incorporated into initial detailed design drawings and contract specifications.
- All excavated materials requiring stockpiling shall be kept away a minimum distance of 30 metres from the ESA boundary, and the dripline of trees. Excavated materials and fill shall not be stored onsite for prolonged periods due to the grades and sensitivity of the aquatic habitat in the Medway Creek.
- All surfaces susceptible to erosion should be re-vegetated through the placement of seed, mulch or sod immediately upon completion of construction activities.
- Prior to heavy machinery working adjacent to the ESA, a fence barrier for tree protection (OPSD 220.10) shall be installed outside the drip-line of the trees in accordance with the required Tree Preservation Reports to protect any vegetation trees to be retained in the vicinity from exposure to damage by machinery.
- Construction vehicle access should be limited to designated access routes and shall be kept away from the ESA. Construction vehicles should be refueled and maintained in areas away from the ESA (no closer than 30 meters from the marked ESA boundary).
- All construction crew staff shall be informed of the requirements to protect the ESA, the Species at Risk education packages and protocols and shall be required to follow the above-noted requirements.

The applicant requested a special provision to the Open Space (OS5) Zone to allow for recreational uses such as fire pits and gazebo to be permitted for use by the condominium owners in the designated Environmental Significant Area. Through park land dedication the City will acquire 0.45ha of the lands to be designated and zoned Open Space and is prepared to purchase all of the additional lands designated and zoned Open Space. As per the recommendation of the accepted Environmental Impact Study no recreational uses are permitted in the Environmental Significant Area. Fencing with no access points to the Environmental Significant Area will be required through the Site Plan Approval process and will

be a condition of the Vacant Land Condominium ensuring these lands are not used for any form of residential use. The proposed special provision is not appropriate and is not recommended.

Based on all of the above criteria, the applicant's proposal to amend the zoning by-law to allow for cluster single detached dwellings in this area is appropriate.

Vacant Land Condominium Application
The effect of the registration of the draft plan of vacant land condominium would be to create five (5) vacant land condominium units, on which individual homes may be constructed either before or after registration of the condominium corporation. The registration of the condominium allows the future occupants to purchase their unit, which will include the land surrounding each dwelling unit. The private driveway (as shown on the draft plan) will be located in a common element and managed by the condominium corporation. Issues dealing with garbage removal and driveway maintenance (i.e. snowploughing) will be addressed by the condominium corporation.

In order to ensure that this vacant land condominium development functions properly, the following issues will be addressed through conditions of draft approval:

- completion of site works in the common elements and the posting of security in addition to that held under the Development Agreement (if applicable), in the event these works are not completed prior to registration of the plan of condominium;
- installation of fire route signs prior to registration;
- confirmation of addressing information;
- payment of outstanding taxes or local improvement charges, if any;
- provision of servicing easements for utility providers (such as London Hydro, Union Gas, Bell, etc.);
- ensuring that any homes already constructed at the time of registration are located within the unit boundaries to be registered;
- ensuring that the Condominium Declaration to be registered on title adequately addresses the distribution of responsibilities between the unit owners and the condominium corporation for the maintenance of services, the internal driveway, fencing, and any other structures in the common elements; and
- appropriate fencing to mitigate any privacy issues and to prohibit any access from the residential use into the Environmentally Significant Area.

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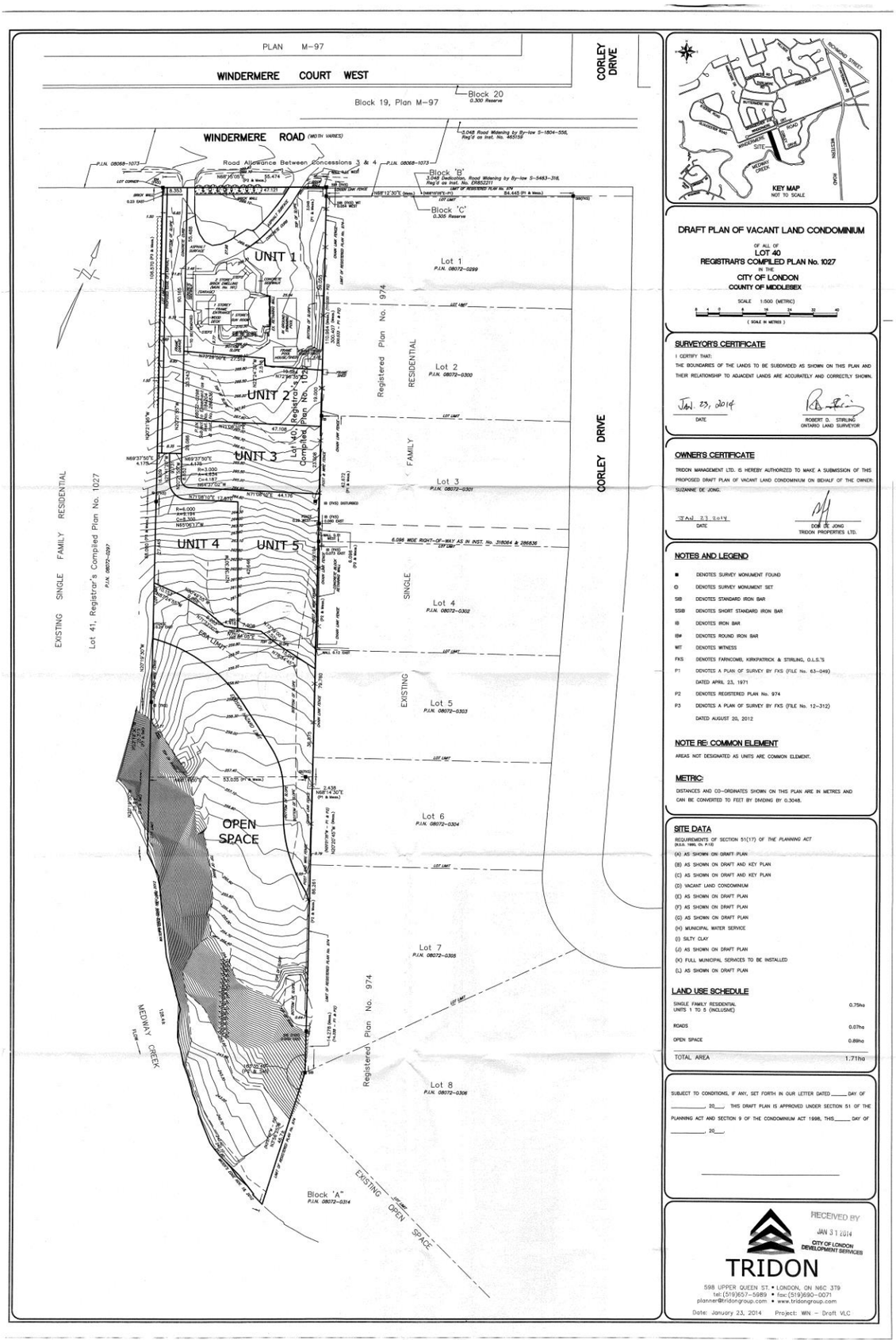
Revised Condominium Plan – Submitted January 2014



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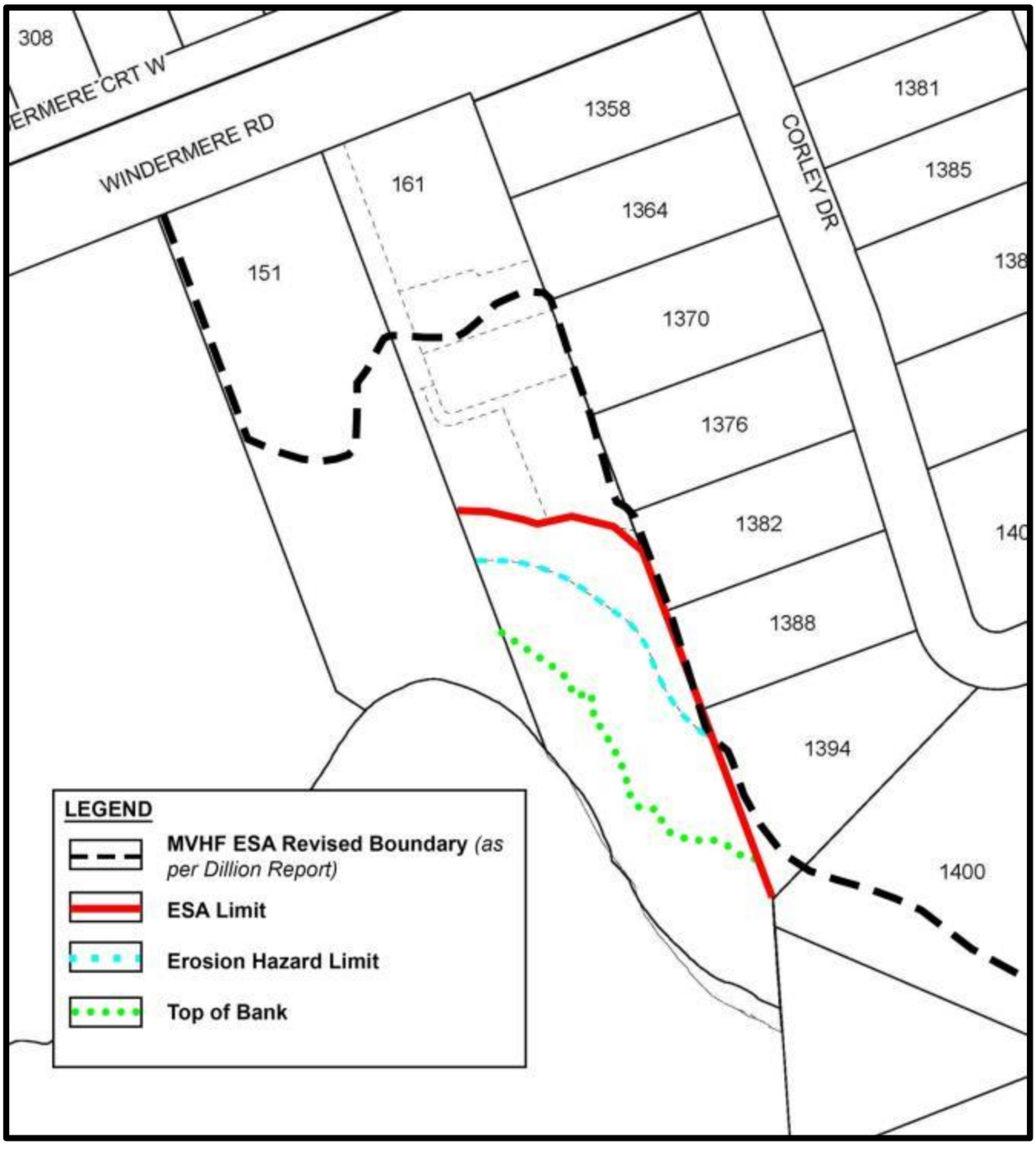
Further Issues Identified by the Public

Does not conform to the Dillon Consulting *Natural Heritage Inventory and Evaluation/ Medway Valley Heritage Forest South ESA* study

The City is in the process of completing the Master Plan Review of the Medway Valley Heritage Forest ESA. In January 2014, the City completed the first phase of the Master Plan Review. As part of the review Dillon Consultant, retained by the City of London, completed the *Natural Heritage Inventory and Evaluation/ Medway Valley Heritage Forest South ESA* study. The second phase of the Master Plan Review is scheduled to be completed in 2015.

Through the circulation process the public has noted that the proposed development is premature, pending the completion of the City initiated Medway Valley Conservation Plan and that it does not conform to the *Natural Heritage Inventory and Evaluation/ Medway Valley Heritage Forest South ESA* study. Specifically noted is the ESA boundary location on this property as noted in the Dillon Consultant ESA study.



The Official Plan and Zoning By-law amendments for the proposed ESA boundary as identified in the *Natural Heritage Inventory and Evaluation/ Medway Valley Heritage Forest South ESA* study have not been reviewed or adopted by Council to date. Pending the completion of the Official Plan and Zoning By-law amendments all current applications are evaluated individually in conformity with the existing Official Plan policies. The ESA boundary as delineated in the accepted Environmental Impact Study by AECOM dated January 24, 2014 meets the intent of the Official Plan policies and is appropriate to determine the development limit on this property.

Storm servicing
Issues were identified regarding the proposed SWM system on the Environmental Significant Area. Through the submitted SWM report the City's Stormwater Division is satisfied that the SWM system will not result in a net change in the existing condition. Holding provisions have been included to the proposed zone to ensure that SWM will be addressed through the Site Plan process.

Hydrogeological condition
Concerns have been raised regarding the submitted hydrogeological report and the protection of the existing five seeps located in the Environmental Significant Area. The City's Stormwater Division has reviewed the hydrogeological report and is satisfied that the ESA limit as delineated in the accepted Environmental Impact Study by AECOM dated January 24, 2014 will not impact the existing conditions. Holding provisions have been included to the proposed zone to ensure that further reports will be submitted and any mitigation measure implemented. This will be further addressed through the Site Plan process.

Tree retention
Several residents were concerned about the loss of old trees on this site. As mentioned previously, a tree retention study is required to be submitted for this application. Trees that are flagged for retention primarily are located along the perimeter of the property, which will help address some of the area residents' concerns. Conditions will be added to the draft approval to ensure tree retention is provided.

MNR Species at Risk
In AECOM's August 7, 2014 Addendum to the Environmental Impact Study report dated January 24, 2014 it states:

We note that each of the species showing know occurrences for the area were assessed in our Species at Risk Habitat Assessment, with the exception of the Green Dragon. None of the species were recorded during our surveys or those conducted by David Martin in 2012.

4.3 Queensnake (END)

While we do recognize that our surveys of the Queensnake did not follow MNR's protocols, we do not believe that further surveys are required for several reasons:

- *The proposed development is well beyond the top-of-bank of the Medway Creek valley (50- 75m) and well beyond any natural vegetation communities (75-100m) associated with the creek's riparian zone. Therefore, there will be no direct impacts to Queensnake habitat.*
- *The stormwater management facility and associated outlet is not proposed to discharge directly to Medway Creek. No structures are proposed for the valley slopes, riparian zone or even table lands within 75m of the top-of-slope of the valley. We do not anticipate any indirect impacts to the Queensnake or its habitat in the Medway Valley corridor.*

Through parkland dedication the lands identified as Environmentally Significant will become City owned. Through the site plan approval process the recommendation of the accepted

Environmental Impact Study by AECOM dated January 24, 2014 will be implemented which includes fencing and restriction of access to the corridor which will result in a net benefit to the system.

Further comments regarding privacy, the size of the proposed parcels to accommodate the use, stable slope and impacts on the Medway Valley Heritage Forest have been addressed earlier in this report. Through the inclusion of holding provisions and through the Site Plan Approval process that requires a public participation meeting agreements will be entered into with the City that will ensure the development as proposed does not negatively impact existing uses.

Red-line Revision
The revised plan, submitted in January 2014, shows a shared “twinned” access driveway with the existing single detached dwelling and a proposed laneway for the rear units, shows the second access on the east side of the property as remaining open and does not provide for a turning circle at the end of the proposed laneway. The plan will be redlined to require one access point, the closing of the east driveway and a turning circle to be added at the southerly end of the rear access laneway. This will all be addressed through the Site Plan Approval process and the plan will be red-lined to match the approved Site Plan.

Holding Provisions
The following recommended Holding provisions have been included to further address the concerns raised through the circulation process. The h, h-5, h-35, and h-41 Holding provisions are required to ensure that a development agreement be entered into following a public participation meeting and that the development will not negatively impact the Medway Valley Heritage Forrest, a Significant Natural Corridor feature and will be consistent with the existing form of single detached residential development in the area.

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

h-5: To ensure that development takes a form compatible with adjacent land uses, agreements shall be entered into following public site plan review specifying the issues allowed for under Section 41 of the Planning Act, R.S.O. 1990, c. P.13, prior to the removal of the "h-5" symbol

h-35: To ensure that development will not have a negative impact on an environmentally sensitive area, or natural feature, an agreement shall be entered into specifying any necessary preventative measures, based on study(ies) to the satisfaction of the City of London conducted by qualified professional(s) demonstrating that development in the form proposed will not adversely affect the area or feature, prior to the removal of the "h-35" symbol

h-41 To ensure that buildings and structures that have been identified by the City as historically significant and that are being actively pursue for a designation under the Ontario Heritage Act are not negatively impacted by development or redevelopment of the site or buildings, and to ensure that the development or redevelopment is in a form compatible with the heritage buildings, the following conditions must be satisfied prior to the removal of the holding provision:

a) The site and/or building and/or portions thereof must be designated under the Ontario Heritage Act by the City of London; and

b) The affected lands will be subject to Site Plan Control under Section 41 of the Planning Act, R.S.O. 1990 c. P.13, and a development agreement must be entered into by the owner of the subject lands and the City of London.

The City of London Advisory Committee on Heritage has requested that 161 Windermere be consider for designation under the *Ontario Heritage Act.* The holding provision will not be deleted until Council considers the LACH recommendation and make a decision regarding the designation.

CONCLUSION

Based on all of the above analysis, the proposed Vacant Land Condominium represents an infill opportunity that is an efficient use of land and encourages compact urban form. The Provincial Policy Statement and the City's Official Plan encourage this form of redevelopment. The applicant's proposal to amend the zoning by-law to allow for cluster single detached dwellings in this area is appropriate and allows for a development which is of comparable size and scale as existing dwellings in this area. Mitigation measures to address the impact on the Medway Valley Corridor and land use conflicts between this development and the adjacent existing homes development will be addressed through conditions of Draft Approval and Site Plan Approval. Overall, this application represents good planning and is appropriate.

RECOMMENDED BY:	**REVIEWED BY:**
C. SMITH **SENIOR PLANNER, DEVELOPMENT SERVICES**	**ALLISTER MACLEAN** **MANAGER, DEVELOPMENT PLANNING**
CONCURRED BY:	**SUBMITTED BY:**
TERRY GRAWEY **MANAGER, DEVELOPMENT SERVICES & PLANNING LIAISON**	**G. KOTSIFAS, P.ENG** **MANAGING DIRECTOR, DEVELOPMENT & COMPLIANCE SERVICES & CHIEF BUILDING OFFICIAL**

CS/
"Attach"
Y:\Shared\DEVELOPMENT SERVICES\4 - Subdivisions\2013\Z-8167 - 161 Windermere Road\PECreport-Windermere161.docx

39CD-14501/Z-8167
C. Smith

Bibliography of Information and Materials
Z-8167/39CD-14501

Request for Approval:

City of London Zoning By-law Application Form, completed by Tridon Group Ltd, April 3, 2013

City of London Application for Vacant Land Plan of Condominium, completed by Tridon Group Ltd, February 7, 2014

Reference Documents:

Ontario. Ministry of Municipal Affairs and Housing. *Planning Act, R.S.O. 1990, CHAPTER P.13,* as amended.

Ontario. Ministry of Municipal Affairs and Housing. *Provincial Policy Statement*, March 1, 2005.

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

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

Stormwater Management Plan December – 2013 Eng Plus

Revised Stormwater Management Plan-August – 2014 Eng Plus

Slope Stability Assessment- January 2012 exp Services Inc.

Hydrogeological Assessment- July, 2013, Revised: September 11, 2013, Revised: January 17, 2014 exp Services Inc.

Environmental Impact Study- March 2013 Leonard + Associates in Landscape Architecture

Environmental Impact Study- January 2014, Revised: August 2014 AECOM

Water Balance Assessment Letter- October 1, 2014 exp Services Inc.

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

McDougal L.., City of London Parks Planning and Design. Memos to C. Smith March 14, 2014 and August 18, 2014.

Departments and Agencies -

Creighton C., UTRCA. Letter to C. Smith. November 12, 2012, January 7, 2013.

EEPAC, TAC, LACH

Heather Riddell, Ministry of Natural Resources (MNR). e-mail March 14, 2014

And all other materials that are contained in the City of London planning application files Z-8167/39CD14501.

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C. Smith

Responses to Public Liaison Letter and Publication in "Living in the City"

Written

Lisa and Alec Bildy
1370 Corley Drive

Patrick and Shannon Ambrogio
1358 Corley Drive

Aziz and Irene Gadalla
1364 Corley Drive

Stephen, Chryssoulis
1377 Corley Drive

Shih-Fen and Ming-Lin Chen
1382 Corley Drive

Lidia Favaro
1385 Corley Drive

Terry Brahm
1405 Corley Drive

Derek and Kathleen Naylor
1435 Corley Drive

Lieth and Jim Passmore
1448 Corley Drive

Michael Mears
1471 Corley Drive

Brian and Heather Semkowski
215 Windermere Road

Janine and Brian Orchard
292 Windermere Road

Heather Davis
1500 Ryersie Road

Dr. Rick and Mary-Jane Mann
36 Green Acres Drive

Sal Pacifico
1649 Gloucester Road

Elgin Austen
22 Stoneridge Lane

Mark Howard
281 Hungerford Street

Laura Friederichsen
113 McTaggart Court

Judy Howard
1510 Freemont Ave

Dean Simms
349 Grandview Avenue

Ed Howard
1648 Trossacks Ave

Slavko Prenjaca
651 Whitehaven Crescent

Mary Howard
82 Ridout Street

Senad Kosaric
71 Sherwood Avenue

Catherine Kavanagh
764 Oxford Street West

Greg Thorn
105 Bloomfield Drive

John Dubois M.D.
1454 Corley Drive

Ruth Drake
1545 Gloucester Road

Mary Wilk
1577 Gloucester Road

Jim and Louise Belton
1641 Gloucester Road

Don McLeod
147 Briscoe Street

Beverly Bell
1592 Gloucester Road

Michael and Linda Grace
151 Windermere Road

Old Masonville Ratepayers Association
c/o Bill Davis

39CD-14501/Z-8167
C. Smith

Orchard Park/Sherwood Forest Ratepayers
c/o Sandy Levin

Vera Lyons
300 Windermere Court West

Ruth Drake
1545 Gloucester Road

Lauren and Joel McLean
274 Windermere Court East

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1389 Corley Drive

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Robert Sterling

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1540 Gloucester Road

William Pol
Land Use Planning Consultant
94 Rollingwood Circle

Western
c/o Gitta Kulcycki, Vice President, Resource and Operations

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APPENDIX "A"

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 rezone an area of land located at 161Windermere Road.

WHEREAS Tridon Group Inc has applied to rezone an area of land located at 161 Windermere Road, as shown on the map attached to this by-law, as set out below;

AND WHEREAS this rezoning conforms to the Official Plan;

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

Schedule "A" to By-law No. Z.-1 is amended by changing the zoning applicable to lands located at 161 Windermere Road , as shown on the attached map, from a Residential R1 (R1-9) Zone to an Open Space (OS5) Zone and a Holding Residential R6 Special Provision(h*h-5*h-35*h-41*R6-1 (_)) Zone.

1) Section Number 10.4 of the Residential R6 (R6-1) Zone is amended by adding the following Special Provision:

) R6-1 (_)

a) Regulations

i) Number of Cluster Single Detached Dwellings (Maximum) 5 units

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

This By-law shall come into force and be deemed to come into force in accordance with section 34 of the *Planning Act, R.S.O. 1990, c. P.13*, either upon the date of the passage of this by-law or as otherwise provided by the said section.

PASSED in Open Council on November 25, 2014.

J. Baechler
Mayor

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C. Smith

Catharine Saunders
City Clerk

First Reading - November 25, 2014
Second Reading – November 25, 2014
Third Reading - November 25, 2014

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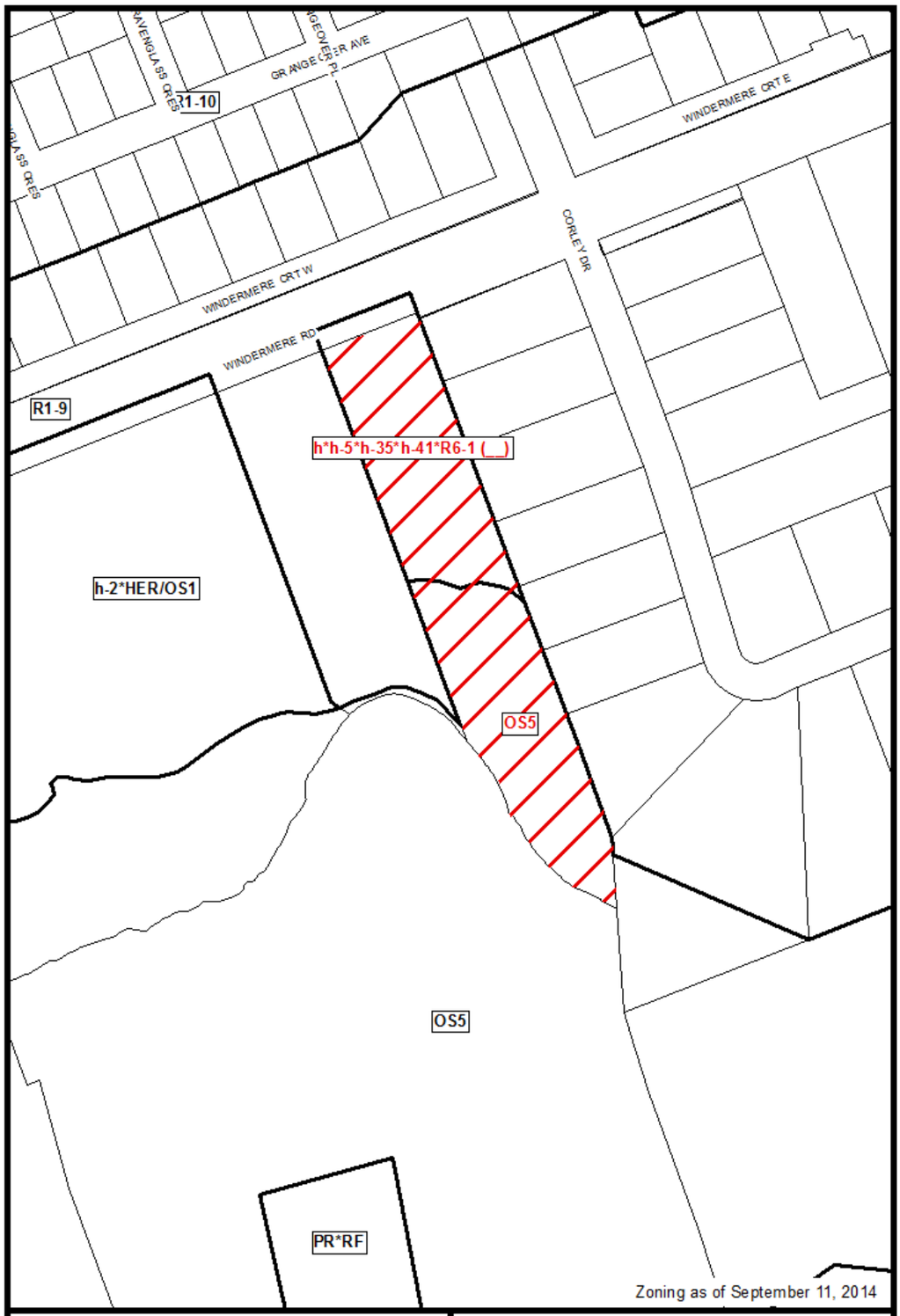
39CD-14501/Z-8167
C. Smith

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



File Number: 39CD-14501 / Z-8167
Planner: CS
Date Prepared: September 18, 2014
Technician: JTS
By-Law No: Z.-1-

SUBJECT SITE

1:2,500

0 12.525 50 75 100 Meters

Schedule "B"

161 WINDERMERE ROAD

161 Windermere Road, EIS

EIS Dated January 24, 2014

Reviewers: N. Bergman, D. Ellis, S. Levin, Dr. C. Smart
March, 2014

EEPAC doesn't not support the development as proposed as the stormwater system's impact on the ESA will likely be negative. EEPAC believes that the EIS is incomplete and further information is required as to the hydrogeological conditions.

In no case should storm water outlet to the ESA, but rather to Windermere Road. This could be accomplished if the applicant were to delete units 4 and 5 from the proposed development.

PREAMBLE

There are a number of errors in the EIS.

- The bluff is on the left bank as the stream flow (see p. 12)
- Figure 1 does not show the section of the Medway Creek surveyed unless the entire area shown on the Figure was surveyed. This should be clarified.
- It is incorrect to say that the till is unconsolidated (see p. 13). The glacial till below is greatly compacted.
- The gully on site was not reviewed for activity. This is significant because no matter how the site is graded, water will also connect to the existing gully.
- The maps in the Appendices are generally too small to be read without aid. This is unacceptable.

THEME #1 – Stormwater, Slope Stability and Storm Water Management

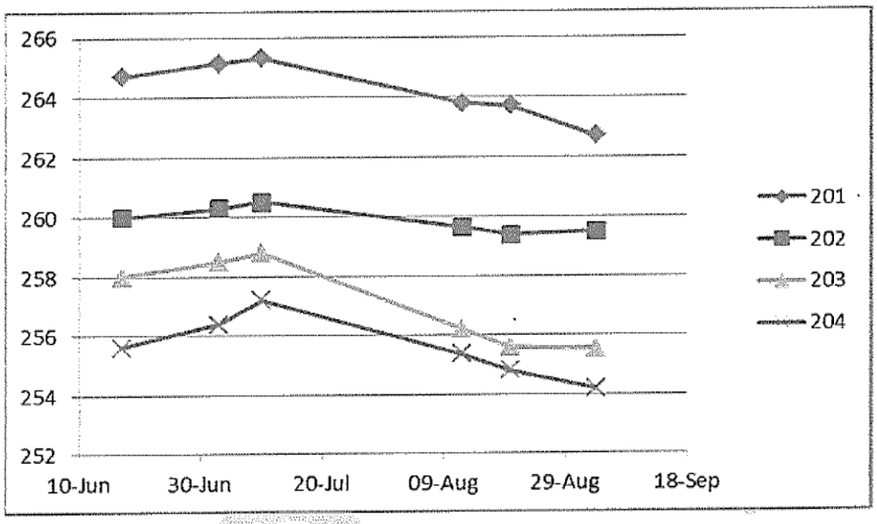
Hydrogeology

The hydrogeological report details a rather limited set of observations on a few shallow boreholes clustered in one part of the property. Deeper boreholes installed for geotechnical testing indicate the presence of a deeper aquifer than is not reported or analysed.

EXP finds numerous seepages on the subject site, and reports significant changes in water level in the monitoring wells, both indications of a permeable medium. Their finding from well tests and bulk samples is taken to show that the material has low permeability, contrary to the above observations. This is an overt contradiction. The site conceptualization is a problem: the silt is indeed low permeability. But it is riven through by permeable sand layers that allow a significant groundwater flow. Such

hydrogeological conditions are not uncommon, but they prevent application of analyses that assume a homogeneous medium such as inferring groundwater flow paths (Figure 2) and permeabilities from Hvorslev analysis (p. 11, Appendix C). Bulk sampling and analysis also fails to capture the critical details in the site stratigraphy (Appendix B)

Water levels are reported on the observation wells (Table 2 p.6), but not analysed. Well elevations were only estimated from topographic maps, leaving some uncertainty in the data. Well coordinates were not provided.



The above plot was not provided, although a monthly rainfall plot was provided for some reason. No interpretation or explanation is provided for the trends observed. But the responsiveness confirms that groundwater flow is active at the site. Unfortunately, the finite depths to water are not consistent with the presence of seeps on the site (in which case dtw should ->0m). This is problem also requiring explanation.

The wells are limited to one sector of the slope. As such they do not provide the critical up slope conditions (north) that would indicate if there was a substantial aquifer. So we are left hanging as to whether the seeps are local rain water infiltrating and being quickly discharged OR if there an aquifer that will keep delivering water onto the site from upstream. This distinction is important given the proposed excavation, construction and runoff control proposed for the subject lands.

The absence of downslope wells means that the geotechnical condition of the slope foot is not described. Not only is this needed to comprehend the hydrogeology, but this is also the surface proposed to receive storm water runoff. The composition and moisture status of the lower slope should have been determine, reported and incorporated into the design. (Particularly as this is proposed as the receiving area for storm water discharge.)

161 WINDERMERE ROAD

It is not clear why the hydrogeological assessment did not incorporate the data from the deeper geotechnical boreholes drilled for slope stability assessment (and vice versa).

Slope stability analysis

The geomorphic assessment seems to draw on broad regional generalities rather than addressing the real risk of stream erosion of the slopes or erosion of the slope face by surface runoff. The proposed development occupies a perilous site atop an actively eroding river bluff. The current configuration can be expected to evolve in response to ongoing stream erosion, resulting in a less stable condition than that analysed in the report.

The stability assessment does not consider the presence or absence of fractures in the overconsolidated till or the silts. Fractures will eliminate the cohesive strength from the assessment.

The stability assessment does not consider water pressure that will considerably reduce the effective normal stress. The "perched aquifer" was described as ranging "between 6.1 and 15.2 m below the ground surface." Which depth refers to which borehole, and when were these observations obtained? What is the actual hydraulic head? What is the borehole datum? A rough analysis of the sketches provided suggests that the groundwater is not perched, but is consistent with regional discharge at Medway Creek. Groundwater discharge from the vulnerable bluffs below the proposed site raises many questions about the likely magnitude and seasonality of discharge, the vulnerability to stream erosion and the stability of the site. LIDAR analysis of the Medway Valley suggests that deep seated failures may have occurred in the recent, pre-settlement past.
The slope stability analysis seems much less rigorous and thorough than might be expected for a potentially dangerous location.

Recommendation #1 - A much more thorough geotechnical report is recommended, considering the hydrogeology and geomorphology of the property.

Storm Water Management

The storm water report proved difficult to read as the proposed installations were presented at an illegible scale. It is understood that some 100 m^3 of runoff storage is required for the site, assuming a maximal permitted discharge of 30L/s. The storage was to be gained from a two segment swale and an on-slope SWP. Discharge was mediated by a 150mm orifice under 0.4 m head.
It was not possible to assess the dimensions of the proposed structures given the information provided, however, it is a very large holding area. It is not properly illustrated on the last page of the EIS (is it between units 4 and 5 or at the property line?). We very much doubt this storage can be built (either above or below ground)

without encroaching into the ESA in some way. It is EEPAC member's opinion from experience that this much water will not discharge slowly and will result in new gullies and erosion. Erosion lines are not static. It is noted that both structures are close or beyond the maximal dimensions in their respective locations along the property boundary and on the slope below the development and immediately adjacent to the erosion limits and reserve boundary. Failure or sub-par performance of either structure is anticipated and would result in erosion and potentially catastrophic scour.

The natural slopes of the property indicate that the west side of the property (Including proposed driveways with high runoff coefficient) would feed into a gully unless they are actively captured. The critical runoff conditions are likely to occur in winter when the runoff coefficient of even permeable land surfaces would approach unity. The low permeability reported under the hydrogeology report suggests that the grass runoff coefficient is too low for such materials on such a steep slope. The high permeability (C=0.5) assumed in the rational equation is considered overly optimistic and incorrect. Thus maximal discharges would likely exceed those estimated in the design.

As proposed, stormwater from the site will most likely impact the ESA. The natural runoff determined for the site would naturally be distributed across the slope, rather than focused at the SWP outlet. The SWP discharge is more focused and much more likely to be erosive, and may require abundant rip-rap control through the ESA. Of greater concern is the lack of topographic constrain on the SWP discharge. The site mapping indicates that discharge is very likely to avulse to the west and descend down the steep slope to Medway Creek. Erosion would be a certain outcome of such an avulsion, sustaining this flow route and compromising the ESA and slope stability and ultimately threatening the SWP and buildings. Considerable effort should be placed on routing any storm water runoff from the lands to existing storm water facilities.

The proposed system has no quality control. It will be difficult to maintain as it is a heavily treed site, resulting in organic matter accumulating in the facility. This will reduce the effectiveness of the system, and overtime, malfunctioning. There is no discussion of how this private system will be properly maintained. Due to its isolated location, it is unlikely damage to the ESA will be noted until it is too late to correct.

The EIS and related appendices are not clear as to the location, depth and outlet point for the proposed pipe outlet of the stormwater system. Given the height of the property above the Creek, it will either take a lot of excavating to get a pipe down to the Creek, or the pipe will outlet in the ESA above the Creek, and then created a new channel down the slope. This is unacceptable. A system may work if the water is channeled to a less steep section, but this would require an outlet outside the subject site.

Recommendation 2: EEPAC recommends that units 4 and 5 be deleted from the proposed development so that the outlet for the storm water can be to Windermere Road.

161 WINDERMERE ROAD

THEME #2 - PRESENCE OF WETLAND

We, like the UTRCA, believe this EIS is incomplete until the question of the wetland on the subject site is resolved. When this site was study, the previous winter was abnormally dry with little snow on the site. Given the extreme conditions of this winter, many more seeps will be evident on the property this spring.

> ***Recommendation 3:*** The EIS be considered incomplete until the wetland and other questions raised by the UTRCA are clarified through an on-site visit with the UTRCA, the proponent or designate, and a representative from EEAPC (N. Bergman or Dr. Smart).

THEME # 3 - Boundary Delineation and Buffering

It is unclear why the site plan with ESA limit shown in Appendix N of the EIS does not follow the top of slope.

Our interpretation is that Guideline 7 of the Boundary Delineation Guidelines applies in this case and the CUW1 on the site is to be included within the ESA boundary. While it can be debated if Guideline 4 applies to this site, Guideline 7 applies and has the same impact of including the adjacent FOM7 and the CUW1 on the subject site. The existence of the FOM7 community as part of the ESA seems to have been ignored by AECOM.

We also note that in the Dillon study of 2013, p. 66, the property has an area that contains habitat for a Species at Risk listed as Endangered. We are unclear if this is the Queensnake referenced in the AECOM report. If it is the Queensnake, it, and its habitat are protected under the Species At Risk Act. If it is this reptile, there are habitat protection requirements under the Act:

"The habitat regulation for Queensnake protects: the area within 50 metres of all natural or man-made Queensnake hibernacula; any part of a watercourse, waterbody or marsh up to the high water mark that is continuous and within 250 metres of the area being used by a Queensnake; the area up to 30 metres inland from the high water mark adjacent to the occupied watercourse, waterbody or marsh; where two known populations occur within one kilometre of each other, the intervening aquatic area and five metres inland from the high water mark is protected to allow for movement and to maintain connectivity between populations; these aquatic features and riparian areas are protected until five consecutive years of documented non-use. The regulation applies in the Regional Municipality of Waterloo, the Municipality of Chatham-Kent, the cities of Brantford, London and Windsor, the counties of Brant, Bruce, Essex, Huron, Lambton, Middlesex and Oxford, Haldimand County and Norfolk County." (MNR, January, 2014)

161 WINDERMERE ROAD

Recommendation 4: an independent study with a consultant agreed to by the city and the proponent should be done and completed to determine the presence of the Species at Risk or its habitat.

Recommendation 5: the ESA boundary be drawn as shown in the Dillon study conducted for the city and reported in December 2013.

Recommendation 6: As a minimum, the ESA limit should be the top of slope.

Even if the boundary is determined to follow AECOM's interpretation, we believe that additional buffering is required. We disagree with the EIS (p. 31) that there is no required buffer beyond the ESA boundary. Page 122 of the City's Environmental Management Guidelines note a minimum 10 m buffer beyond the drip line of trees for woodland features. Secondly, there is no buffer discussed or recommended for the FOM7 community on the adjacent property. There seems to be no disagreement that this community is part of the ESA. Therefore, a buffer between this community and the development on the subject site must be determined.

According to p. 93 and 94 of Beacon (referenced in the sources to the EIS on page 42), in most cases it is expected that the final buffer width will fall within the "medium risk" zone (as identified in **Table 7** of Beacon) and thereby represent a reasonable balance between achieving natural heritage protection and efficient land use planning objectives. Furthermore, using an additive approach which is based on the current science and is also responsive to site-specific conditions (i.e., BASE derived from the "high risk" end of a risk-based assessment of the science + ADDITIONAL buffer from site specific considerations with consideration for the related science) will help ensure that the final recommended buffer is defensible, appropriate for the given site, and supportive of good land use planning.

In the case of this site (Upland Woodlands and Forests), the medium risk zone (for screening human disturbance) starts at 5 m and goes to 20 m. As section 3.5.2 of Beacon points out p.61-62,(this is included as Appendix 1 to this submission), slope also influences the effectiveness of the buffer.

"As stated by Adamus (2007), vegetated buffers tend to be more effective (at least with respect to water quality) on relatively flat or mildly sloping terrain because this allows more time for surface water to move down through the roots and effectively be filtered. However, other factors, such as soil type and the structure of surface vegetation, are also recognized as important influences.

Although slope has long been recognized as a factor in determination of appropriate buffer widths, relatively few studies specifically examine the influence of slope in relation to buffer effectiveness. Slope has primarily been evaluated in terms of how it alters storm water, sediment and nutrient attenuation. However, results are unclear because it is difficult to separate the influence of slope from other related factors such as the buffer's vegetative structure and the soil type."

161 WINDERMERE ROAD

Recommendation 7: The buffer required for the CUW1 and FOM7 communities should be at least 10 m and more likely 20 m to deal with proposed stormwater impacts and human intrusions.

Recommendation 8: The proposed vegetative plantings require more vegetative structure than usually contemplated in such cases due to the nearby slope.

Recommendation 9: In addition to requiring as a condition of approval, plantings with native, non-invasive species to a density to keep out new invasives such as buckthorn and Norway Maple "volunteers," every effort be made to remove the invasive, non-native species (Siberian Elm, European Buckthorn, Tartarian honeysuckle) on the subject site.

Recommendation 10: as per p. 10 of the Slope Assessment by EXP, vegetation on the slope should be maintained. A program of planting including native deciduous trees and deep rooted vegetation be required. This program should be monitored by the city at the developer's expense, for two years from date of planting.

Recommendation 11: The ESA lands on the subject site be re-designated and rezoned to Open Space and OS5 respectively as part of the recommendation to Planning and Environment Committee.

Recommendation 12: The lands designated ESA or undevelopable be held in the ownership of the Condominium Corporation and be managed by the UTRCA under contract with the condominium corporation. As owners of the property, the Condominium Corporation is more likely to provide stewardship and be more interested in ensuring effective oversight of the ESA over time.

Recommendation 13: as per page 40 of the EIS, the Condominium Corporation be required to include in its by-laws prohibitions for lands within the ESA including the clearing of vegetation without approval, building of structures including fire pits, decks and patios, dogs and cats off leash, feeding of wildlife, and excluding access to the ESA.

161 WINDERMERE ROAD

THEME #4 – Construction Impacts and site alteration

There is nothing in the EIS to address the water flows from the servicing trench as noted in EXP's Hydrogeological report (page 12 and 13). Specifically, EXP recommends sediment control measures at the discharge point of the dewatering system. It also recommends excavated natural soils be reused as service trench backfill where suitable soil conditions are encountered.

Recommendation 14: sediment control measures at the discharge point of the dewatering system be required and the outlet be to Windermere Road

Recommendation 15: excavated natural soils be reused as service trench backfill where suitable soil conditions are encountered.

Given the location of the construction dust suppressants are advisable however, no chemical suppression should be permitted as it can have a deleterious impact on the ESA

Recommendation 16: Chemical dust suppressants not be used during construction to mitigate dust generation.

Damage to tree rooting zones noted on page 35 of the EIS can be avoided by putting a minimum 10 m buffer from the drip line of trees at the edge of the final location of the ESA if buffers are not included.

We disagree with the recommended approach in #16 on page 40 of the EIS. To have areas susceptible to erosion replanted with the wrong plant species will have a negative impact on the ESA.

Recommendation 17: A tree preservation report be a requirement for any development on the site

Recommendation 18: all surfaces susceptible to erosion must be re-vegetated with native, non-invasive woodland species immediately upon completion of construction activities.

Figure 4 and Appendix N differ in showing the proposed works.

Recommendation 19: This discrepancy be clarified prior to acceptance of the EIS.

161 WINDERMERE ROAD

THEME #5 - INDIRECT IMPACTS FROM DEVELOPMENT

It is unclear from the provided drawings where waste collection is to take place, whether at the door of each unit or in a central location. Given the location adjacent to the ESA, special conditions should be required to reduce the likelihood of harm to the ESA from human activities.

Recommendation 20: full cut off lighting be required for all outside lighting
Recommendation 21: a condition of draft approval be the inclusion of a central waste collection point including for yard waste, to reduce the likelihood of residents dumping yard waste in the ESA.
Recommendation 22: the boundary between the buffer/ESA be fenced and signed with the following: "Sensitive plants grow by the inch and die by the foot. Please do not enter this environmentally significant area here. Use the designated entrance at the Elsie Perrin Williams Estate."

THEME #6 – Other relevant points

A. It is unclear in various places as to the "study area." While the subject site is clearly marked, references to "the study area" are not shown on any of the maps. The "site limits" are marked on Figure 1 (which is titled "Study Area"). We assume the subject site is actually the study area. There may be other areas where data was collected, such as the aquatic survey somewhere in the Creek, but we doubt if permission was given for investigations on all of the other properties shown on Figure 1. For example, the FOM7 cited in the report, was "... viewed from the edge of the property line to the west." (EIS, page 15).

B. The consultants do not mention the beaver burrow at the base of the slope observed recently and regularly by N. Bergman during his thesis field work.

C. The EIS (p. 18) understates the number of bird species in the adjacent ESA. The EIS reports 14 (without indicating its definition of "adjacent") while the work by Dillon indicates 55 (p. 19):

"During the survey, 55 species were observed during the breeding season using a variety of habitats including meadow, wetland, forest and thickets. The majority of species observed exhibited evidence that confirms active breeding within the study area (e.g. food carrying, recently fledged young, entering/leaving nest). Ten of the species observed during the breeding season, including two Species at Risk, were observed as visitors to the MVHF South ESA (i.e. no evidence of active breeding within the ESA). Species at Risk observed include Barn Swallow and Chimney Swift (Chaetura pelagica), both are listed as Threatened under the ESA, 2007 and were observed foraging over the ESA. An additional 25 species were observed during the migration periods (early spring, fall), including three Species at Risk. These species did not exhibit breeding

behaviour and were observed passing through the ESA. As such, they were classified as migrants."

D. Dillon and AECOM differ as to the presence of Wood Thrush and Eastern Wood-Pewee. On p. 25 of the EIS, AECOM reports that Leonard and Associates (actually Martin and Wladarski on May 26 and June 5, see p. 16 of EIS) did not record either. Dillon recorded both including a breeding Pewee. While it is unclear where in the Medway south of Fanshawe these birds were noted by Dillon, both exist in the ESA. This raises the ongoing problem of EIS studies that fail to take into account the entire ESA and suggest that the smaller subject site is an "eco-site" independent of the larger area which can then be sliced and diced and removed from the larger area.

Appendix 1

Beacon page 61, 62
3.5.2 The Influence of Slope
As stated by Adamus (2007), vegetated buffers tend to be more effective (at least with respect to water quality) on relatively flat or mildly sloping terrain because this allows more time for surface water to move down through the roots and effectively be filtered. However, other factors, such as soil type and the structure of surface vegetation, are also recognized as important influences. Although slope has long been recognized as a factor in determination of appropriate buffer widths, relatively few studies specifically examine the influence of slope in relation to buffer effectiveness. Slope has primarily been evaluated in terms of how it alters storm water, sediment and nutrient attenuation. However, results are unclear because it is difficult to separate the influence of slope from other related factors such as the buffer's vegetative structure and the soil type. Some examples of findings and recommendations from the literature are cited below:

· Leavitt (1998) points out that steep slopes beside water features require much greater buffers because of the increased risk of landslide and cites Portland, Oregon's floodplain models that recommend 5 m buffers for streams with 20 – 40 ha drainage areas, but increase that to a 15 m buffer if the slope exceeds 25%, and 15 m buffers for streams with more than 40 ha drainage areas, increasing to a 60 m buffer if the slope exceeds 25%.

· Woodard and Rock (1995) found that buffers on slopes of up to 12% were still able to effectively attenuate sediments and phosphorus from residential storm water as long as they were vegetated with established ground covers and shrubs as well as a layer of forest litter, although in their earlier research (1991) they document these steeper slopes as needing wider buffers (i.e., closer to 23 m as opposed to 15 m) to achieve the same level of effectiveness.

- Schueler (1987) asserts that vegetative filter strips cannot function as intended with respect to sediment and nutrient attenuation if they are on slopes of more than 15% and function best on slopes of 5%.
- Wenger (1999) acknowledges slope is a key factor in the ability of a given buffer to attenuate nutrients and sediments, and suggests that 2 feet (0.61 m) be added for every 1% increase in slope to the "base" buffer width.
- Norman (1998) in his review concludes that filter strip performance is best at 5% or less, and hardly effective at attenuating runoff on slopes of more than 15%.
- Philips (1989) also emphasizes the importance of slope and points out that on slopes greater than 5% sheet flow starts to become channelized.
- In their review of riparian buffers, Castelle and Johnson (2000) cite research that recommends an additional 0.6 m for each 1% slope to a maximum of 50 m for 70% slopes (Haussman and Pruett 1978) and 6 m of each 5% slope increase (Clark 1977) beside watercourses. In an earlier review of wetland buffers, Castelle *et al.* (1992) conclude that buffers with dense vegetative cover on slopes less than 15% are most effective for water quality functions.
- Hook (2003) in his comparison of sediment attenuation for grassed buffer types between 1 and 6 m at 0 to 20% slope found that as long as buffers were at least 6 m wide there was no appreciable different in sediment attenuation irrespective of slope. Buffers of 1 or 2 m did have somewhat lower attenuation as slope increased (from 96% to 91%).
- Rules of thumb for adjusting buffer widths in relation to slope from a range of technical and policy sources in North America are synthesized by Adamus (2007), and summarized below, although none have been derived from empirical studies:
  - Increases in 0.3 m to 0.9 m (1 to 3 ft) for every degree increase in slope;
  - Increase in 3 m (10 ft) for every degree increase in slope;
  - Increases in 0.6 to 1.5 m (2 to 5 ft) for every percent increase in slope; and
  - 50% increase in the recommended buffer for slopes greater than 30%.

Generally, although buffer effectiveness in attenuating sediments, nutrients and other substances is considered reduced on steeper slopes, it is also recognized that this loss in effectiveness can be compensated for to some extent by increasing buffer width, and possibly by introducing more vegetative structure to the buffer (e.g., fallen logs) that slows the flows of water. For example, Broderson (1973, as cited in Sheldon *et al.* 2005), found that adequately sized buffers (in this case, 61 m) were able to effectively control sediment in entering Washington wetlands even on steep slopes.

39CD-14501/Z-8167
C. Smith

"Schedule C"

Pol Associates Inc
Land Use Planning Consultants
94 Rollingwood Circle
London ON N6G 1P7

March 14, 2014

Mr. Craig Smith Senior, Planner
Development Approval Services
300 Dufferin Avenue
P.O. Box 5035
London, ON
N6A 4L9

Dear Mr. Smith,

RE: Notice of Application Response for 161 Windermere Road
File 39CD-14501 Draft Vacant Land Condominium and common elements to permit five land lots with common elements being roads, private sewage services, storm water management ponds and privately owned Environmentally Significant Area; and

File Z-8167 Zoning By-law Amendment Residential R6 (R6-4) Zone for single detached, semi-detached and duplex dwellings to a maximum of 30 units per hectare and Open Space Special Provision (OS5( )) Zone for private open space.

I have been retained by abutting neighbours and residents on Corley Drive to provide independent land use advice and respond to the Notice of Application February 12, 2014 for the approval of Draft Plan of Vacant Land Condominium at 161 Windermere Road. The neighbourhood issue is ***protecting the natural heritage ESA and prohibiting inappropriate residential infill.*** The principle is not to lose precious environmental lands for a small backyard infill project with severe limitations. Based on the information, policies and analysis of the applications, no new development is appropriate at 161 Windermere Road. Both applications should be refused in their entirety.

1. **Natural Heritage Features**

The Medway Creek Subwatershed Update, being conducted by the City of London, establishes the limit of the Medway Heritage Forest ESA to the edge of the open area behind the dwelling at 161 Windermere, approximately 35 m from the rear wall of the existing dwelling. The following policies and guidelines prohibit new vacant lots, storm water services, roads, recreation areas or any form of development in this area:

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i. Provincial Policy Statement 2005 policy 2.1.1 and 2.1.2 prohibit development or site alteration in significant valley lands south and east of the Canadian Shield. The Medway Valley Heritage Forest Natural Heritage Inventory and Evaluation December 2013, identifies this site except for the existing dwelling as significant and no new development is permitted.

ii. PPS 2005, Policy 2.1.6 prohibits development on adjacent lands to the natural heritage features and areas unless it has been demonstrated there are no negative impacts on the ecological function. The construction of the roads, buildings, private services and ongoing landscaping and maintenance of the lots are likely to have a negative impact. The applicant has not demonstrated no negative impact to the satisfaction of the City of London or the UTRCA.

iii. Section 15.3.2 of the Official Plan prohibits development in natural heritage areas. The development of 4 new dwellings within the ESA boundaries recommended in the Inventory and Evaluation Study is contrary to the policy. (See the attached overlay of the vacant lot condominium on the ESA boundary shown in the Medway Valley Heritage Natural Heritage Study 2013)

iv. The EIS report January 2014 is deficient by not recognizing negative impact caused by the removal of the vegetative understorey on the woodlands to the rear of the existing dwelling in the fall of 2012. The EIS has not been accepted by the UTRCA nor the Environmental and Ecological Planning Advisory Committee and approval of the development is accordingly premature.

v. Buffering for the ESA is to be provided beyond the boundary of the ESA in the area of proposed development. The EIS report suggest buffering within the ESA contrary to the City Guidelines.

2. Land Use – Residential R6-4 and Open Space OS5

The land uses are considered in terms of use, intensity and form of development. The following paragraphs address the Official Plan policies, zoning by-law regulations and the land use character of the proposed development.

Official Plan

i. The Official Plan Policy 3.0 Residential, applies to a small northerly portion of the site where residential development is appropriate. An objective of this Policy is to have new residential land uses integrated with established patterns of development where soils topographic constraints and environmental constraints

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are addressed (Policy 3.1.1(v)). The layout and lot relationship of the vacant land condominium and common elements does not integrate this site as it encroaches into the Environmentally Significant Area, is subject to natural hazards and is isolated from the surrounding neighbourhood, contrary to the intent of the policy.

ii. Policy 3.2.3.10 discourages rear lot development ("flag shaped" lots) proposed in this vacant land condominium unless all policies related to infill development Policy 3.2.3 are addressed and specific rear lot policies are addressed. The concept presented by the developer in January 2014 is contrary to these urban design policies.

iii. Policy 3.7.2 (j) sets out the Planning Impact Analysis of the proposed zone change. The applicant has not demonstrated that the potential impact on the Medway Valley Heritage Forest ESA nor the surrounding residential uses are acceptable.

Zoning Regulations

i. The requested zoning amendment is from R1-9 to R6-4. The permitted uses under the R6-4 permit semi-detached dwellings and duplexes and are not in keeping with the single detached residential character of the area.

ii. The applicable side yard regulations allow a minimum 3.0 m to the property line being less than half the permitted rear yard setback in the abutting zone and many times less than the existing rear yard setbacks. This is completely inconsistent with the abutting zone rear yard regulations and would substantially reduce the privacy and enjoyment of the rear yards of adjacent properties.

iii. The requested density of 30 dwelling units per hectare is ten (10) times the existing neighbourhood density, and completely disregards the nature and character of the neighbourhood.

iv. The requested zoning increases the maximum building coverage; increases maximum paved area; and reduces minimum landscaped open space by 10% in comparison to surrounding zones.

v. The Open Space Special Provision (OS 5( )) zone requests private development and use of ESA land intended to be protected and enhanced. Development and site alteration is permitted only if it has been demonstrated there will be no negative impacts. The applicant's proposal for private recreation structures, a gazebo, benches, chairs, fire pit \ barbeque pit etc., will have a negative impact and are not appropriate for development of these lands.

vi. The UTRCA and City normally requires the dedication of lands subject to an ESA and steep slopes subject to erosion. The proposal must also provide emergency and maintenance access across the site to ensure the protection of the ESA. These requirements have not been provided. Private ownership will lead to

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destruction of the area as occurred in the fall of 2012 through the removal of the site's vegetation understorey.

Land Use Character

i. The proposed vacant land condominium property ownership is not in character with the neighbourhood. Surrounding lots have direct independent access to public streets. There is a pride of ownership of the residential buildings, landscaping and driveway access, shared with the neighbourhood. The location and orientation of the buildings, landscaping and driveways, on a private road, on flag shaped lots behind homes to the north, west and east creates a development form which is isolated and hidden and which encroaches on the privacy of neighbour's, conflicting with the character of the area.

ii. The proposed form of housing allows a higher intensity of buildings and driveways and a much smaller landscaped open space totally out of character with the established neighbourhood.

iii. To the west of Corley Drive, the road immediately becomes a dead end, providing access to a unique mix of significant lots and homes: Elsie Perrin Williams Estate in the ESA; a pre-annexation suburban lot subdivision; and one large lot single detached dwelling to the west. Infill development to the rear of the existing dwellings is not in keeping with the landscaped, uniquely design of homes in the area.

iv. Homes to the north on Windermere Court West were constructed in an era when Windermere Road was considered for connection westerly to Gainsborough Road which was long ago soundly rejected by the community and the City. The creation of a private court was a compromise to the developer who initially proposed private access. This is not a precedent for infill development. Even as such, each and every one of these substantial homes presents a wide, unobstructed lot frontage directly onto Windermere Road, not in a "flag shaped lot" format.

v. All forms of recent residential development have been restricted from encroaching into the ESA or the ESA buffer area to protect this important natural feature. It is not appropriate to allow the encroachment of this vacant lot condominium.

3. Natural Hazard – Steep Slopes and Erosion

i. The proposed development is subject to erosion hazards created by the Medway Creek in the Valley. PPS2005 Policy 3.1.1 directs development to areas outside of hazardous lands subject to erosion hazards being the 100 year erosion rate. The submission by the applicant suggest development outside this limit. This

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conclusion is premature because the outcome of the Medway Creek Subwatershed Update has not yet been adopted by Council.

ii. The PPS2014 Policy 3.1.3 directs that consideration be given to the potential impacts of climate change that may increase the risk associated with natural hazards. The applicant has not considered the changes in frequency and intensity of storms nor associated storm surges. These changes will increase the risk of flooding and will exacerbate the risk and severity of bank erosion along Medway Creek. Recent flooding disasters in downtown Toronto and Calgary are ample evidence of this new reality. The development proposal is not consistent with the existing PPS2005 nor the adopted PPS2014.

iii. Official Plan Policy 15.2.1 v) requires Council to minimize the risk to public safety and to property due to erosion and slope instability. Furthermore, under Policy 15.7.1 in keeping with the hazard avoidance approach, development and site alteration is not permitted in areas that are subject to riverine erosion hazards. No provision has been made for emergency vehicle access to the top of slope. The proposed development is contrary to the Official Plan.

4. **Municipal Servicing**

i. Storm Water Management services are shown on individual lots and in the ESA. Policy 17.6.1 discourages multiple SWM ponds as shown on individual lots. Policy 15.3.3 discourages SWM facilities in the ESA. The proposed service location and ownership by individual lots is contrary to Policy.

ii. Official Plan Policy 17.2.1 promotes the use of gravity sewers and discourages the flow of sewage across sewer shed boundaries. The introduction of a private pumping station for this project is contrary to the policy.

5. **Heritage Property**

i. The existing residential building is listed as a Priority 2 on the City of London Heritage Inventory. The dwelling has been under risk of demolition by previous owners and the current owner has resisted designation of the property. This is contrary to the PPS 2005 Policy 2.6 where significant built heritage resources shall be conserved.

ii. Policy 13.2.2 of the Plan sets out the requirement for Council to designate the dwelling. The site has architectural features worthy of designation under the Ontario Heritage Act. It is premature to proceed with the applications until the building is protected.

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6. Conclusion

The requested zoning by-law amendment and vacant lot condominium \ common element applications must be refused based on the following conclusions:

1. The applications are not consistent with the Provincial Policy Statement nor the Official Plan for the protection of the Medway Heritage Forest ESA.

2. The applications do not conform to the intent and purpose of the Official Plan policies, zoning by-law regulations nor residential character of the area and are not appropriate for the development of the lot.

3. The applications do not give consideration to increasing intensity and frequency of storms contrary to the PPS and Official Plan for the protection against natural hazards.

4. The proposed municipal servicing requires private pumping stations and storm water management on individual private vacant lots, contrary to the Official Plan policies.

5. The vacant lot condominium application with private roads; private sewage pumping station; private storm water management and private open space lands, in and abutting the Medway Valley Heritage Forest ESA is contrary to the Plan Policies, Zoning Regulations and is not appropriate for the development of the lands.

6. The application does not recognize a significant architectural heritage resource of the existing dwelling.

The neighbourhood planning issue to ***protect the natural heritage ESA and prohibit inappropriate residential infill*** is only achieved through the refusal of these amendment applications in their entirety. No new development is appropriate for 161 Windermere Road. Both applications should be refused.

39CD-14501/Z-8167
C. Smith

Pol Associates Inc
Land Use Planning Consultants
94 Rollingwood Circle
London ON N6G 1P7

We will be making a presentation at the public meeting on these matters. Contact me should you have any questions. Please provide me with any further notice of the applications.

Regards,

William Pol, MCIP, RPP
Principal Planner

Attachment: Overlay mapping of the Vacant Lot Condominium

cc. Councillor Matt Brown
Alan Patton
Alec and Lisa Bildy

39CD-14501/Z-8167
C. Smith

March 6, 2014

Mr. Craig Smith
City of London, Planning Department
300 Dufferin Avenue
P.O. Box 5035
London, ON
N6A 4L9

Dear Mr. Smith:

Re: 161 Windermere - Application for Approval of Draft Plan of Vacant Land Condominium - File 39CD-14501

We are residents of Corley Drive, backing on to the above-noted property. Kindly accept our comments, in opposition to the draft plan, as follows:

1. While the developer is now proposing to build four additional houses, permitting a change to an R6-4 Zone would allow for cluster housing in far greater density than that. There is no guarantee that he (or a subsequent owner – the property has already been flipped once between developers) would not later change his plans, particularly if the economics of his current plan do not make sense.

2. The area to the south and west of Windermere is unique in the City of London, with its large estate lots (many are ½ to an acre or more in size) and low-density housing in a natural setting. It is not in keeping with the character of this neighbourhood to infill with high-density housing, nor is it appropriate land use planning to permit 'flag lots' (homes situated in behind the house which fronts onto a municipal roadway). We are concerned that a negative precedent may be set by permitting this development to proceed in such a neighbourhood.

3. The developer has consistently tried to pitch this project as being in keeping with the provincial policy on "infill" development. This is simply wrong in law. Forgive the length of this letter, but it is important that we elaborate on the applicable regulations concerning this point in some detail.

We have reviewed the Provincial Policy Statement, issued under Section 3 of the Planning Act, which came into effect on March 1, 2005. "Residential intensification" is defined as follows:

Residential intensification: means intensification of a property, site or area which results in a net increase in residential units or accommodation and includes:

a) redevelopment, including the redevelopment of *brownfield sites*;
b) the development of vacant or underutilized lots within previously developed areas;
c) infill development;
d) the conversion or expansion of existing industrial, commercial and institutional buildings for residential use; and
e) the conversion or expansion of existing residential buildings to create new residential units or accommodation, including accessory apartments.

The policy does, indeed, state that planning authorities should promote intensification; note, however, that this objective is expressly made subject to the policies of Section 2:

1.1.3.3 Planning authorities shall identify and promote opportunities for intensification and redevelopment where this can be accommodated taking into account existing building stock or areas, including brownfield sites, and the availability of suitable existing or planned infrastructure and public service facilities required to accommodate projected needs. **Intensification and redevelopment shall be directed in accordance with the policies of Section 2: Wise Use and Management of Resources** and Section 3: Protecting Public Health and Safety. (Emphasis added.)

Section 2 makes it very clear that development **"shall not"** be permitted where there are significant natural features, as defined in the provision. The relevant portions of Section 2 are as follows:

2.0 Wise Use and Management of Resources

Ontario's long-term prosperity, environmental health, and social well-being depend on protecting natural heritage, water, agricultural, mineral and cultural heritage and archaeological resources for their economic, environmental and social benefits.

Accordingly:

2.1 Natural Heritage

2.1.1 Natural features and areas shall be protected for the long term.

2.1.2 The diversity and connectivity of natural features in an area, and the long-term ecological function and biodiversity of natural heritage systems, should be maintained, restored or, where possible, improved, recognizing linkages between and among natural heritage features and areas, surface water features and ground water features.

2.1.3 Development and site alteration **shall not** be permitted in:

significant habitat of endangered species and threatened species;

2.1.4 Development and site alteration **shall not** be permitted in:

significant woodlands south and east of the Canadian Shield ;
significant valleylands south and east of the Canadian Shield;
significant wildlife habitat; and
significant areas of natural and scientific interest

unless it has been demonstrated that there will be no negative impacts on the natural features or their ecological functions. (Emphasis added.)

There are a couple of key points which arise from the above provision:

1. Section 2.1.3 establishes an absolute prohibition on development on the habitat of endangered or threatened species. The City's own environmental consultants in their newly released report have identified a number of endangered and threatened species which are found in the Medway Creek ESA region, including 161 Windermere. The threatened Queensnake, for example, was found living only a few metres from 161 Windermere in the last year. The City is required under the Provincial Policy Statement to reject the proposed development for this reason alone.

2. Section 2.1.4 is also applicable here, as the development also falls within most or even all of the categories listed ("significant wildlife habitat", etc.). Under the language of Section 2.1.4, the onus is on the developer to prove that there will be "**no negative impacts**" from this development on the natural features or their ecological functions. In this case, the City's own environmental consultants – after an extensive and comprehensive review over many months – have just declared these lands to be Environmentally Significant. The developer has completely failed to rebut the onus placed on him, and the City should reject the proposed development under this heading as well.

Note that the lands themselves do not have to be declared as Environmentally Significant for Section 2 to apply (though, as noted, the City's own environmental consultants have just declared them as such). Under Section 2.1.6, the fact that the ESA, including the Medway Creek, is ***adjacent*** to this property is enough to trigger the application of Section 2:

2.1.6 Development and site alteration **shall not** be permitted on **adjacent lands** to the natural heritage features and areas identified in policies 2.1.3, 2.1.4 and 2.1.5 unless the ecological function of the adjacent lands has been evaluated and it has been demonstrated that there will be **no negative impacts** on the natural features or on their ecological functions. (Emphasis added.)

Furthermore, the presence of the Medway Creek on the southern flank of this property, with its environmental significance, as well as the seepage zones on the property identified by the City's environmental consultants, makes the following provisions applicable as well:

2.2 Water

2.2.1 Planning authorities shall protect, improve or restore the quality and quantity of water by:

using the watershed as the ecologically meaningful scale for planning;
minimizing potential negative impacts, including cross-jurisdictional and cross-watershed impacts;
identifying surface water features, ground water features, hydrologic functions and natural heritage features and areas which are necessary for the ecological and hydrological integrity of the watershed;
implementing necessary restrictions on development and site alteration to:
1. protect all municipal drinking water supplies and designated vulnerable areas; and
2. **protect, improve or restore vulnerable surface and ground water, sensitive surface water features and sensitive ground water features, and their hydrologic functions**;
maintaining linkages and related functions among surface water features, ground water features, hydrologic functions and natural heritage features and areas;
promoting efficient and sustainable use of water resources, including practices for water conservation and sustaining water quality; and
ensuring stormwater management practices minimize stormwater volumes and contaminant loads, and maintain or increase the extent of vegetative and pervious surfaces.

2.2.2 Development and site alteration **shall be restricted in or near sensitive surface water features and sensitive ground water features** such that these features and their related hydrologic functions will be protected, improved or restored.

Mitigative measures and/or alternative development approaches may be required in order to protect, improve or restore sensitive surface water features, sensitive ground water features, and their hydrologic functions. (Emphasis added.)

Section 2 makes it clear that the Province requires that intensification policies take a back seat to environmental concerns. This only makes sense. The purpose of intensification policies is to prevent urban sprawl onto valuable farmland and natural areas. It would be self-defeating to promote intensification in a case where the effect of it would be to develop the very natural areas which are supposed to be protected.

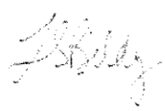
The City is, we suggest, required to apply these above provisions to its consideration of this development application. Given the recent assessment of the Medway Valley Heritage Forest, which confirmed the environmental significance of the lands and waterways adjacent to 161 Windermere, as well as of the subject property itself, the City should not permit development and site alteration.

We would also suggest that the Ministry of Natural Resources should be involved in the assessment of this application, given that it has jurisdiction over species-at-risk.

Please note that a copy of this letter is also being forwarded to the Manager of Subdivisions and Special Projects, as well as the City Clerk, with the request that we be notified of any public meetings and/or decisions in respect of this proposed plan.

Thank you for your consideration of our comments. We would be pleased to discuss this with you at your convenience if that would be in any way helpful.

Yours very truly,



Lisa D.S. Bildy, B.A., LL.B.
Alec S. Bildy, LL.B., LL.M
1370 Corley Drive
London, Ontario

on behalf of:

Patrick & Shannon Ambrogio
1358 Corley Drive

Aziz & Irene Gadalla
1364 Corley Drive

Stephen, Alexander & Natalia Chryssoulis
1377 Corley Drive

Shih-Fen & Ming-Lin Chen
1382 Corley Drive

Lidia Favaro
1385 Corley Drive

Terry Brahm
1405 Corley Drive

Derek & Kathleen Naylor
1435 Corley Drive

Leith & Jim Passmore
1448 Corley Drive

Michael Mears
1471 Corley Drive

Brian & Heather Semkowski
215 Windermere Road

Janine & Brian Orchard
292 Windermere Court West

Heather Davis
1500 Ryersie Rd

Dr. Rick & Mary-Jane Mann
36 Green Acres Drive

Sal Pacifico
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Catherine Kavanagh
764 Oxford St. West.

cc:
Cathy Saunders
City Clerk
csaunder@london.ca

Manager of Subdivisions & Special Projects
Planning Division, City of London

Matt Brown
Councillor, Ward 7
mbrown@london.ca

39CD-14501/Z-8167
C. Smith

March 3, 2014

Mr. Craig Smith
Planner – City of London
City of London

By e-mail

Re: 161 Windermere Road

At its meeting of January 29, 2014, the Orchard Park Sherwood Forest Ratepayers passed a motion requesting the City immediately initiate the Official Plan and Zoning By-Law amendments required to create the new boundaries of the Medway Valley Heritage Forest ESA south of Fanshawe Park Road. We believe the December 2013 Natural Heritage Inventory and Evaluation, Medway Valley Heritage Forest South ESA work completed by the consultants, is sufficient support for Official Plan and Zoning By-law amendments for 161 Windermere Road.

Sincerely,

Sandy Levin
President
Orchard Park/Sherwood Forest Ratepayers
59 Longbow Road
London, ON, N6G 1Y5
[redacted]

39CD-14501/Z-8167
C. Smith

Mr. Craig Smith
City of London, Planning Department
300 Dufferin Avenue
P.O. Box 5035
London, ON N6A 4L9
(via email)

March 10, 2014

Re: reference file number 39CD-14501

Dear Mr. Smith:

I am writing to document the Old Masonville Ratepayers Association (OMRA) support for the position of the Corley Drive residents opposing the proposed development at 161 Windermere. The rationale for not approving this development is well articulated in the letter of March 6 from Lisa Bildy (copy attached).

Please add our Associations name to the mailing for future communication around this issue.

Regards
Bill Davis
President OMRA
519 858 1854 (H)
wdavis000@sympatico.ca

Agenda Item # Page #

39CD-14501/Z-8167
C. Smith

Western

Vice-President (Resources & Operations)

March 10, 2014

Councillor J.L. Baechler, Chair
Planning & Environment Committee for the
City of London
P.O. Box 5035
London, ON N6A 4L9

RE: Notice of Application for Approval of Draft Plan of Vacant Land Condominium

Dear Committee Members,

Thank you for your letter of February 12, 2014 requesting comments on the Notice of Application for Approval of Draft Plan of Vacant Land Condominium at 161 Windermere Road, London Ontario. Our position remains unchanged as related to this property.

On behalf of Western University, I wish to register Western's objection to the application by Tridon Group Ltd. for approval of a draft plan of a Vacant Land condominium, which would increase the residential density of the property.

Western believes that the neighbourhoods that surround the University should be a healthy mix of housing types that provide good quality housing for students, while retaining the residential nature of our neighbourhoods. As you may be aware, the University has supported the City's initiative known as the "Near Campus Neighbourhood Report," which includes the City's proposal to limit multi-plexes to three bedrooms (or less) per unit in the areas near the University.

While the Windermere Road property may be appropriate for some limited infill, the proposed draft plan could result in the introduction of the type of rental housing which is not in character with this neighbourhood. If this proposal is permitted, other properties in this neighbourhood would be at risk of similar changes.

Another concern is that the City's plan related to Bill 140, is not in place and without that, any property could potentially be changed to a duplex which would lead to more intensification than the city intends.

The right mix of housing fosters strong, healthy neighbours. We are of the view that this application requested for 161 Windermere is not in the best interest of the neighbourhood or the City of London as a whole.

Yours truly,

Gitta Kulczycki
Vice President, Resources & Operations