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G. Barrett

TO:	CHAIR AND MEMBERS PLANNING & ENVIRONMENT COMMITTEE
FROM:	JOHN M. FLEMING MANAGING DIRECTOR, PLANNING AND CITY PLANNER
SUBJECT:	INFORMATION REPORT NORTH LONDON HOUSING CONCERNS MEETING ON MONDAY, FEBRUARY 2, 2015

RECOMMENDATION

That, on the recommendation of the Director, Planning and City Planner, the attached report **BE RECEIVED**, and Staff **BE DIRECTED** to prepare a Terms of Reference for a review of the Great Near Campus Neighbourhood Strategy, focusing on the identification of next steps and actions to implement the Strategy and the successes and challenges in the Near Campus Neighbourhoods area.

BACKGROUND

At the June 10, 2014 meeting of Municipal Council resolved:

That the following actions be taken with respect to the 1st and 2nd Reports of the Town and Gown Committee, from its meetings held on May 8, 2014:

*“e) the Civic Administration **BE REQUESTED** to report to the appropriate Standing Committee with respect to the correlation between Lodging Houses and R-1 Zoning prior to the conclusion of the current term of Council; it being noted that a home, rented to more than three unrelated people, none of whom is the owner, and whose only common bond is the need for shared temporary rental accommodation is considering a Class 2 Lodging House and therefore not a permitted use in an R-1 Zone single detached dwelling;...”*

The following report is presented in three parts:

1. A brief history/overview of planning initiatives related to housing in near-campus neighbourhoods
2. Comments regarding “unrelated people”
3. Next steps

HISTORY OF NEAR-CAMPUS NEIGHBOURHOOD PLANNING IN LONDON

The following information has previously been provided to Council, and is summarized below for information.

There is a long history of planning initiatives for the planning of Near-Campus Neighbourhoods in London. Early planning initiatives primarily focused on providing guidance for intensification pressures within specific areas near the University of Western Ontario. It began in 1985, when Council approved the *St. George/Grosvenor Neighbourhood Study* and subsequently amended the Official Plan to implement the Study’s recommendations. This initiative was closely followed by the *Task Force on Student Housing* in 1988. Since that time there have been several more policy amendments applied on an incremental basis in response to the land use conflicts as they emerged in specific neighbourhoods.

The following initiatives were undertaken by London City Council to allow for positive forms of intensification, in appropriate locations and in appropriate built form which contribute to healthy and sustainable communities.

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St. George/Grosvenor Neighbourhood Study & Official Plan Amendment (1985)

Special policies in the City's Official Plan were adopted for this residential neighbourhood which evolved from the 1985 St. George/Grosvenor Area Study. The policies were later updated in 2004 as described below.

Task Force on Student Housing (1988)

The Task Force issued a report and 18 recommendations to address issues of student housing and impacts on low density residential neighbourhoods. Recommendations included improved municipal by-law enforcement; promotional activities to educate students on parking, noise, and property standards by-laws; undertake regular surveys on adequacy and availability of student housing; and establish a Student Housing Advisory Committee. One of the most successful outcomes of this task force was the establishment of a cost shared Housing Mediation Service office for Western and Fanshawe which remains in place today.

Residential Intensification in the Essex Street Area Planning Study (1995)

This study of intensification activity, mostly in the form of dwelling conversions and development of fourplexes and low rise apartments, near the intersection of Essex Street, Wharncliffe Road North, and Western Road, resulted in special zoning to allow for intensification and infill of an appropriate scale and intensity. Floor area ratios and parking requirements were established. The underlying purpose of the study was to identify areas where redevelopment should be encouraged and where conservation of the existing housing stock should be maintained. Given its proximity to the University of Western Ontario, this is a neighbourhood which experiences great demand for low rent, short term housing accommodation.

Intensification and Bill 120 – Impact on the North London and Broughdale Communities - Planning Study and Official Plan Amendment (1995)

A special policy in the Official Plan was adopted based on a comprehensive planning study of the impacts of residential intensification in the Broughdale Neighbourhood of Old North London. In addition to the special policy, zone regulations specific to this area were introduced to control the scale and bulk of intensification and infill projects including: maximum floor area ratios and maximum dwelling size regulations; minimum yard setbacks to preserve private amenity space; and, new parking requirements.

Intensification and Bill 120 – Impact on the North London and Broughdale Communities - Expanded Area (1996)

The special policies and zone regulations established in 1995 were later expanded to a wider area of the community experiencing similar issues and impacts including The Parkway, Sherwood Ave, and Victoria Street.

Richmond Street/University Gates Corridor Review - Report and Official Plan Amendment (2001)

As a result of several applications for multi-unit residential development, a report was prepared recommending that a special Official Plan policy be adopted for the Richmond Street frontage across from the University Gates between Broughdale Ave and Epworth Ave to permit residential redevelopment up to a fourplex with a specific floor area ratio (FAR), maximum building size, parking regulations, and a requirement for public site plan review of any future redevelopment proposals.

North London Residential Study and Amendments to the Official Plan and Zoning By-law (2004)

This study included a review of the existing Official Plan policies and zoning regulations in the Broughdale neighbourhood in order to determine if the same planning tools should be extended to other North London neighbourhoods. The study considered by-law enforcement and health and safety issues; as well as residential intensification, lodging house regulations, floor area ratios, parking, and number of bedrooms in dwelling units. Council approved the extension of special zone regulations to a much wider area of North London. Along Richmond Street the zoning was also amended by allowing dwelling conversions up to four units and removing triplexes and fourplexes as permitted uses.

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5 Bedroom Limit - By-law No. Z.-1-041300 (2004)

This was a City-wide amendment to the Zoning By-law to change the definition of “Dwelling Unit” to introduce a limit on the number of bedrooms to five (5) maximum. While there were appeals, the Ontario Municipal Board decision upheld the by-law.

Central Avenue/West Woodfield Area Zoning Review (2006)

This study took in part of the Woodfield Neighbourhood in the City’s core area experiencing similar kinds of problems to North London. The Official Plan and Zoning By-law were reviewed and amendments were made to reflect Council’s intent to protect the residential amenity of this historic neighbourhood and ensure that its scale, intensity, and character are preserved. To implement the policy, area-specific zoning amendments were adopted which did not change the permitted uses, but which did apply through special zone provisions a number of new regulations including floor area ratios, maximum floor areas, minimum rear yard depth, minimum number of parking spaces, and yards where parking may be permitted.

Beaufort Street, Irwin Street, Gunn Street, and Saunby Street Neighbourhood Planning Options (2011)

As a result of several recent intensification projects in the interior of the BIGS Neighbourhood (Beaufort, Irwin, Gunn and Saunby Streets), whereby single detached dwellings were being demolished and replaced by duplex dwellings, Council directed Planning Staff to, among other matters, retain a Planning Consultant to prepare a planning study for the BIGS area to consolidate the recommendations of the Essex Street Study prepared in March 1995, where appropriate, include a master plan and policies to direct future development within the context of the Great Near-Campus Neighbourhoods Strategy.

This Study was presented to Council in November, 2012, and was referred back to Staff for further study and consultation. A revised Neighbourhood Plan is proposed to be circulated for public review and comment early in 2015.

Great Near Campus Neighbourhoods Study (2012)

This study was a comprehensive review of issues associated with intensification in neighbourhoods adjacent to Western University and Fanshawe College. The study resulted in both an Official Plan Amendment and a series of Zoning By-law Amendments. Official Plan Amendment No. 535 (Council approved June 26-27, 2012) provides policies that apply to all Near-Campus Neighbourhoods in the City, which are shown on Appendix “A”, and generally described as the residential areas surrounding Western University or Fanshawe College. The policies outline a vision and provide land use planning goals for the Near- Campus Neighbourhoods as well as policies to encourage appropriate intensification and direct preferred intensification to appropriate locations.

In addition, By-law No. Z.-1-122125, a by-law to change various sections of the City’s Zoning By-law to implement OPA No. 535, has also been approved. The zoning changes approved include:

- Limiting the number of bedrooms to three bedrooms/unit for apartment buildings, converted dwellings, duplex dwellings, triplex dwellings, fourplex dwellings, semi-detached dwellings and all forms of townhouse dwellings;
- Removing the exceptions for minimum interior side yard setbacks in order to strengthen the criteria for the establishment of mutual driveways;
- Strengthening regulations for parking areas by revising the calculation of parking areas, providing an increase in parking area coverage regulations and establishing setback requirements for parking areas to the rear and side lot lines; and,
- Establishing minimum landscaped open space regulations.

Secondary Dwelling Units (2013)

In response to amendments made to the *Planning Act* under the *Strong Communities through Affordable Housing Act, 2011* (Bill 140), a draft Official Plan Amendment and Zoning By-law Amendment to establish new policies and regulations to provide for “as of right” secondary dwelling units in all single-detached, semi-detached and rowhouse

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dwelling units was presented at a Public Participation Meeting on November 26, 2013. At the Municipal Council meeting of December 3, 2013, the matter was referred back to Staff for clarification and additional consultation with the Housing Advisory Committee and the Town and Gown Committee.

The proposed amendments would allow secondary dwelling units in all single detached, semi-detached and rowhouse dwellings, or the creation of an accessory dwelling unit, but not both, without the need for a zoning by-law amendment in all areas of the City, except the area defined as the Near Campus Neighbourhood Area, attached as Appendix "A".

Residential Rental Units Licensing By-law

The City of London implemented a Residential Rental Units Licensing By-law on March 1, 2010. This By-law requires that any rental property of 4 units or less be licensed by the City. The process works through a "self-certification" process, whereby the property owner fills out a checklist that certifies information required for the issuance of the license. A fire inspection is also required as part of the initial license application. Licenses are required to be renewed annually. All licensed properties are subject to random exterior property standards inspections.

There are currently 3,600 active licenses. There is a mapping feature on the Citymap webpage that identifies all licensed properties and properties with pending license applications.

Other Initiatives

In addition to these planning initiatives, the Great Near Campus Neighbourhood Strategy included other initiatives that have been undertaken. These include the construction of new, on-campus student housing at both Western University and Fanshawe College. As well, the City has undertaken more proactive by-law enforcement in the Near Campus Neighbourhoods.

The City also works closely with the Housing Mediation Service. With offices at both Western and Fanshawe, this Service provides support services for students, and provides representation on student matters on various City committees and working groups.

"UNRELATED PEOPLE"

The submission made by the London Neighbourhood Community Association at the May 8, 2014 Town and Gown Committee meeting is reflected in the resolution of Council:

- e) the Civic Administration **BE REQUESTED** to report to the appropriate Standing Committee with respect to the correlation between Lodging Houses and R-1 Zoning prior to the conclusion of the current term of Council; it being noted that a home, rented to more than three unrelated people, none of whom is the owner, and whose only common bond is the need for shared temporary rental accommodation is considering a Class 2 Lodging House and therefore not a permitted use in an R-1 Zone single detached dwelling;

Neither the definition of Lodging House, Single detached dwelling, or Dwelling unit make any reference to relationship of the persons who may occupy the units, in other words, the definitions do not speak to "unrelated people" as referenced in the resolution.

Also, the "it being noted clause of the Municipal Council referral is incorrect. The definition of Lodging House, Class 2 is provided below. There is no reference to relationship or ownership in the definition.

The definitions from the Z.-1 Zoning By-law are provided below:

DWELLING means a building containing one or more dwelling units.

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DWELLING UNIT means a single room or a series of rooms of complementary use which is located in a building, in which food preparation, eating, living, sleeping and sanitary facilities are provided for the exclusive use of the occupants thereof, which has a private entrance directly from outside the building or from a common hallway inside the building, in which all occupants have access to all of the habitable areas and facilities of the unit, and which is occupied and used or capable of being occupied and used as a single and independent housekeeping establishment. A dwelling unit shall contain no more than five bedrooms.

SINGLE DETACHED DWELLING means a single dwelling which is freestanding, separate and detached from other main buildings or main structures, including a split level dwelling, but does not include a mobile home.

LODGING HOUSE, CLASS 1 means a residential building which is used to provide lodging units for hire or gain directly or indirectly to three or fewer persons with or without meals. A lodging house, class 1, shall not include a nursing home, hotel, motel, hostel, group home, bed and breakfast establishment, emergency care establishment, or a residence of an educational institution. (Z.-1-93172)

LODGING HOUSE, CLASS 2 means a residential building which is used to provide lodging units for hire or gain directly or indirectly to more than three persons, with or without meals. A lodging house, class 2, shall not include a nursing home, hotel, motel, hostel, group home, bed and breakfast establishment, emergency care establishment, or a residence of an educational institution. (Z.-1-93172)

LODGING UNIT means a room with sleeping facilities, either alone or in conjunction with another room or rooms. (deleted and replaced by Z.-1-93172)

The reason why none of these zoning definitions make any reference to the relationship of the persons occupying any of these types of dwelling units is because of a specific provision of the *Planning Act*. Section 35 of the Act states:

No distinction on the basis of relationship

35. (1) Repealed: 1996, c. 4, s. 21 (1).

No distinction on the basis of relationship

(2) The authority to pass a by-law under section 34, subsection 38 (1) or section 41 does not include the authority to pass a by-law that has the effect of distinguishing between persons who are related and persons who are unrelated in respect of the occupancy or use of a building or structure or a part of a building or structure, including the occupancy or use as a single housekeeping unit. 1994, c. 2, s. 43.

Provision of no effect

(3) A provision in a by-law passed under section 34, subsection 38 (1) or section 41 or in an order made under subsection 47 (1) is of no effect to the extent that it contravenes the restrictions described in subsection (2). 1994, c. 2, s. 43; 1996, c. 4, s. 21 (2).

What these Sections mean is that a Municipal Council cannot pass a zoning by-law (section 34) or an interim control by-law (section 38) that would limit the use of a building or structure based upon the relationship of the persons who may occupy the building or structure. This prohibition is reflected in the City's definitions in the zoning by-law as described above.

In expressing the neighbourhood concerns regarding rental housing, reference is often made to the "Oshawa Decision" and interpretations of "dwelling unit" and "lodging house". This matter will be reported out separately in a report from the City Solicitor.

The City of Oshawa has, like London, adopted a rental licensing by-law. Among the provisions of their licensing by-law is a limitation of a maximum of four bedrooms in a rental unit, and the use of "merit criteria" to be used for both the issuance of a license and the renewal of a license. There is no separate process related to rooming houses, as all rental accommodation is required to be licensed.

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NEXT STEPS

There may be opportunities to clarify or simplify the current definitions of dwelling units and lodging houses and lodging units. For example, some municipalities define lodging units to provide for sleeping accommodation with shared washroom or cooking facilities, but not both, are shared, whereas London’s definition provides for sleeping facilities, either alone, or with other rooms. Other definitions for lodging houses include terms such as “does not appear to function as a dwelling unit”.

A further review of definitions of “single detached dwelling”, “dwelling unit”, “lodging house” or “lodging unit” could clarify the distinction between these types of accommodation; however, Planning Staff believe that any new definition could not clarify or distinguish these types of accommodation based on the relationship of the persons who would occupy the units based upon the prohibitions of Section 35 of the *Planning Act* identified above..

Given that residents continue to identify issues in the Great Near Campus Neighbourhood, it is recommended that Staff undertake a review of these concerns and the potential for further initiatives or actions to further the Great Near Campus Neighbourhood Strategy.

CONCLUSION

The City has undertaken a significant number of studies regarding housing issues in the North London area, and other neighbourhoods adjacent to both Western University and Fanshawe College. These studies have, over time, resulted in major policy and regulatory responses to address concerns arising from intensification. The City has also invested significant Staff time and resources to address near campus neighbourhood issues.

It is recommended that a Terms of Reference be prepared to undertake a study review the progress that occurred to date as a result of these initiatives, and to consider what other options or tools the City might consider to address these neighbourhood concerns.

Prior to providing direction regarding any further initiatives, it is recommended that Council seek Legal advice regarding potential issues associated with any direction to further amend the City’s zoning by-law as it relates to definitions of dwelling units and lodging houses.

PREPARED AND SUBMITTED BY:
GREGG BARRETT, AICP MANAGER, LONG RANGE PLANNING AND RESEARCH
RECOMMENDED BY:
JOHN M. FLEMING, MCIP, RPP MANAGING DIRECTOR, PLANNING AND CITY PLANNER

January 26, 2015
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G. Barrett

Appendix "A"

