

39CD-14501
 SP15-009524
 C. Smith

TO:	CHAIR AND MEMBERS PLANNING AND ENVIRONMENT COMMITTEE
FROM:	G. KOTSIFAS, P.ENG. MANAGING DIRECTOR, DEVELOPMENT & COMPLIANCE SERVICES AND CHIEF BUILDING OFFICIAL
SUBJECT:	NOTICE OF APPEAL TO THE ONTARIO MUNICIPAL BOARD PL150688/PL150398 161 WINDERMERE ROAD MEETING ON JANUARY 18, 2016

RECOMMENDATION

That, on the recommendation of the Senior Planner, Development Planning, in response to letters of appeal by Suzanne deJong and Tridon Properties Ltd. dated May 7, 2015 relating to Site Plan application SP15-009524 for the property located at 161 Windermere Road, the Ontario Municipal Board **BE ADVISED** that Municipal Council recommends that regard be had to the following comments and conditions for Site Plan Approval attached as Appendix 1.

PREVIOUS REPORTS PERTINENT TO THIS MATTER

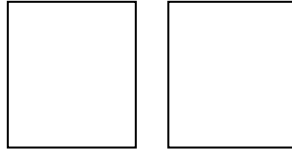
September 21, 2015- Report to PEC relating to the appeal to the requested Vacant Land Condominium and Site Plan Approval

March 2, 2015 - Report to PEC relating to the appeal to the requested Zoning By-law amendment

November 18, 2014 – Original report to PEC on Zoning By-law amendment and vacant land condominium applications.

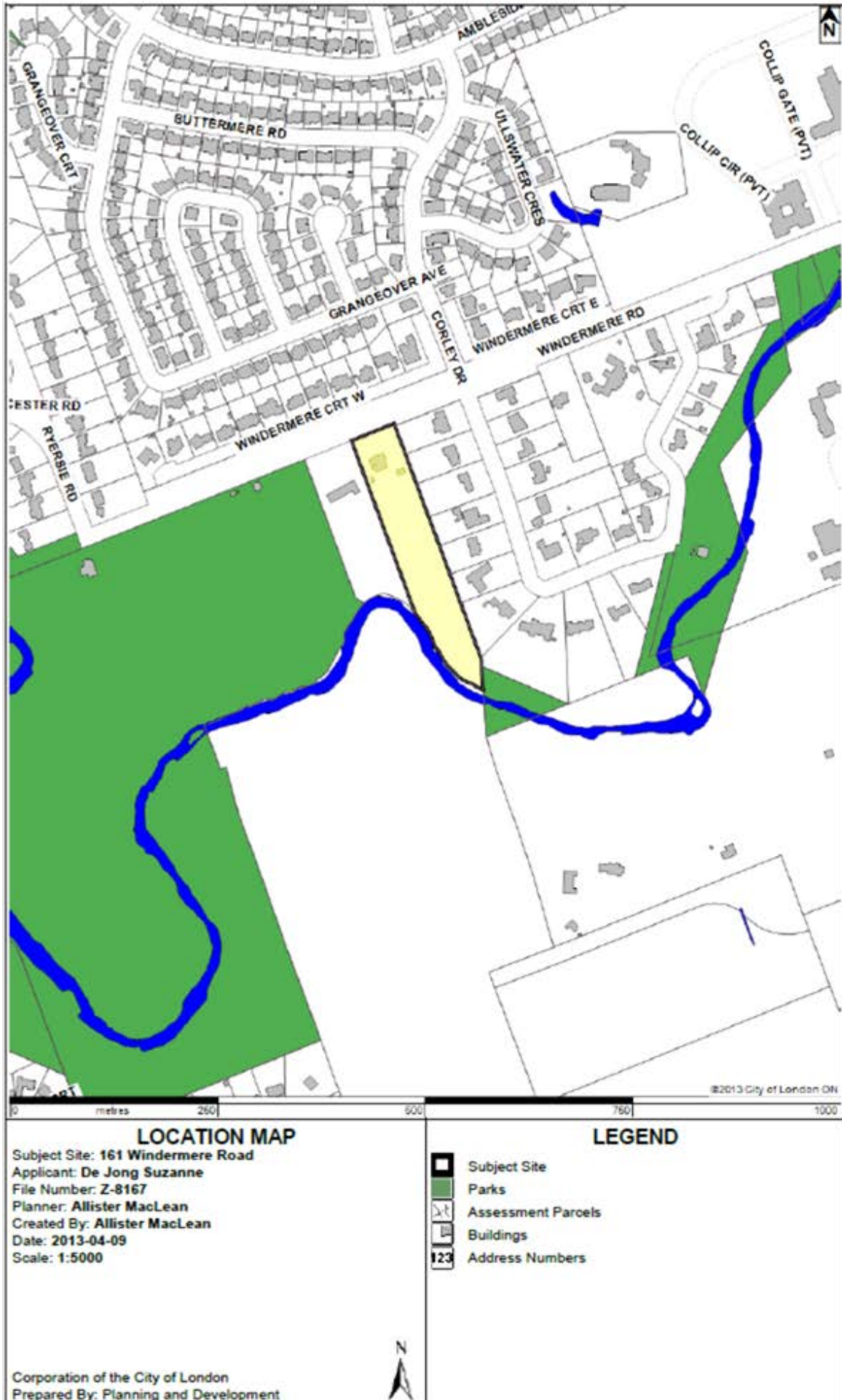
PURPOSE AND EFFECT OF RECOMMENDED ACTION

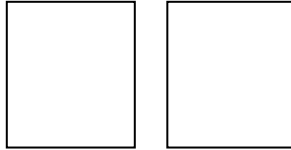
The purpose and effect of the recommended action is to provide the Ontario Municipal Board with Municipal Council's position relating to the appeal of the Site Plan application and Vacant Land Condominium application in the appeal hearing scheduled to proceed on February 22, 2016.



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Location Map





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BACKGROUND

The Zoning By-law Amendment and Vacant Land Condominium applications were presented at a public participation meeting on November 18, 2014 before the Planning and Environment Committee. At that time, numerous stakeholders including area residents, the Upper Thames Conservation Authority and community groups were in attendance. As a result of issues raised at the public participation meeting, the application was recommended for referral back to staff for additional information and further report to the Planning and Environment Committee.

In December 2014, on the basis of Council's non-decision within 120 days of receipt of the complete application, the applicant appealed the proposed Zoning By-law amendment application (Z-8167) to the Ontario Municipal Board.

On April 14, 2015 Municipal Council resolved:

a) *That, on the recommendation of the Senior Planner, Development Services, the following actions be taken with respect to the application of Susan Dejong c/o Tridon Group Ltd., relating to the property located at 161 Windermere Road:*

b) *the Municipal Council BE ADVISED that this Zoning By-law amendment application (Z-8167) has been appealed to the Ontario Municipal Board by Fred Tranquilli of Lerner's LLP, on behalf of the applicant on the basis of non-decision by the Municipal Council within 120 days of receipt of a complete application;*

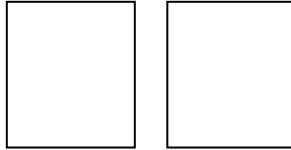
it being noted that Municipal Council would have preferred to have been provided the opportunity to determine the zoning of the subject property in accordance with the recommendations of the Civic Administration;

c) *the Ontario Municipal Board BE ADVISED that the Municipal Council recommends that the Zoning By-law No. Z.-1 BE AMENDED, (in conformity with the Official Plan), 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 m² 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 located at 161 Windermere Road and identified by the City as historically significant be actively pursued for designation under the Ontario Heritage Act and measures are implemented to ensure that the natural feature is not negatively impacted;*

d) *the Ontario Municipal Board BE ADVISED that the Municipal Council recommends that the request to amend Zoning By-law No. Z.-1, to change the zoning of the subject property 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 dwelling 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 an intensity and form of development that is not in keeping with the abutting existing residential area; and,*
- *activities requested in the Open Space Special Provision zone will not protect the Medway Valley Heritage Forest Environmentally Significant Area;*

e) *the City Solicitor BE DIRECTED to provide legal and planning or expert witness representation at the Ontario Municipal Board hearing in support of the Council's position; and,*



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it being noted that the Municipal Council strongly supports the adherence to the conditions of the holding provisions;

On February 7, 2014 Tridon Properties Ltd. submitted their application for Vacant Land Condominium. On May 7, 2015, Tridon filed with the Ontario Municipal Board an appeal of its Vacant Land Condominium application, on the basis of the Approval Authority's failure to make a decision on the application within the prescribed time frame (180 days).

On March 20, 2015 the City of London accepted and application by Tridon Properties Inc. for site plan approval. On August 5, 2015, Tridon filed an appeal of site plan with the Ontario Municipal Board given that no decision had been rendered by the Approval Authority within the prescribed 30 day time frame.

On September 28, 2015 Municipal Council resolved:

That, on the recommendation of the Manager, Development Planning, in response to letters of appeal by Suzanne deJong and Tridon Properties Ltd., to the Ontario Municipal Board dated May 7, 2015, relating to the Vacant Land Condominium application being PL150398 and dated August 5, 2015, relating to Site Plan being PL150688, for the property located at 161 Windermere Road:

- a) *the City Solicitor **BE DIRECTED** to provide legal representation at the Ontario Municipal Board Hearing and to take such steps as are necessary to support Municipal Council's position relating to the appeal to the Vacant Land Condominium application being Ontario Municipal Board File Number PL150398; and,*
- b) *the City Solicitor **BE DIRECTED** to provide legal representation at the Ontario Municipal Board Hearing and to take such steps as are necessary to support Municipal Council's position relating to the appeal of the Site Plan application, being Ontario Municipal Board File Number PL150688. (2015-L01)*

Current Report & Recommended Action:

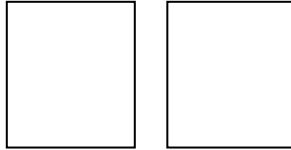
Decisions on the Zoning, Vacant Land Condominium and Site Plan applications are now in the hands of the Ontario Municipal Board. The Board will hold a consolidated hearing for all three appeals, scheduled for one (1) week starting February 22, 2016.

Council previously endorsed a position on the zoning (including holding provisions) that should be applied to the site. Staff is now seeking confirmation of a Council position on specific conditions and requirements that should be addressed with the Site Plan and Vacant Land Condominium applications.

Staff have reviewed the Site Plan and Vacant Land Condominium submissions from the applicant and identified several requirements that should be addressed through an approved Site Plan and Development Agreement. The most recent site plan and comments on the latest submission are attached in Appendix 1. It should also be noted that the Vacant Land Condominium approval is contingent on the approval of the Site Plan.

CONCLUSION

As noted above and as attached (Appendix 1) staff have reviewed the site plan application and vacant land condominium application. In the attached appendix staff note numerous outstanding issues that require resolution prior to the finalization of site plan approval and entering into a development agreement. These outstanding issues will form part of staff's evidence in support of Municipal Council's position at the appeals hearing before the Ontario Municipal Board.

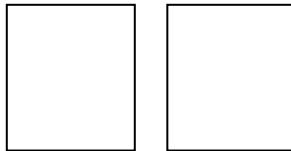


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RECOMMENDED BY:	REVIEWED BY:
C. SMITH SENIOR PLANNER, DEVELOPMENT SERVICES	ALLISTER MACLEAN MANAGER, DEVELOPMENT PLANNING
CONCURRED BY:	SUBMITTED BY:
TERRY GRAWAY MANAGER, DEVELOPMENT SERVICES & PLANNING LIAISON	G. KOTSIFAS, P.ENG MANAGING DIRECTOR,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

JCS/
 "Attach"


Y:\Shared\DEVELOPMENT SERVICES\3 - Condominiums\2014\39CD-14501 - 161 Windermere Road\OMB report to
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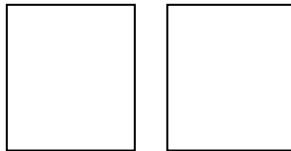


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Appendix 1

Comments and Conditions for Site Plan Approval

 Conditions for Site Plan Approval		<input type="button" value="Reset form."/>	File reference number SP15-009524
Date	Subject		
2015-11-25	5 Unit Vacant Land Condominium		
Site address			
161 Windermere Road			
Applicant		Agent/Owner	
Suzanne deJong		Tridon Properties Ltd. (c/o Paul Hinde)	
Type of application	Location		
Site Plan	South side of Windermere Road, west of Western Road		
File manager		Site development officer	
Eric Conway		Eric Conway	
File handler		Landscape planner	
Eric Conway		Allister MacLean	
Recommended submission stream (subject to change)			
<input checked="" type="checkbox"/> Standard <input type="checkbox"/> Basic <input type="checkbox"/> Administrative			
Zoning considerations			
Proposed Zone: h*h-5*h-35*h-41*R6-1(x)			
Holding provisions requiring: a public meeting, enter into a development agreement, and pursue designation under the Ontario Heritage Act. Special provision recommended limiting the development to five units. Holding provision removal requires a separate application. Current zone does not permit the intensity proposed.			
Part 1: Summary of comments			
Outline the contents of the package and summarize the principles and recommended conditions for approval of the plan for the Applicant.			
General Site Planning Comments:			
1. Provide a central mailbox location near Windermere Road along the private driveway for communal mail delivery. 2. Provide estimates for site surface works from the Professional Engineer (including items like the driveways, signage, fencing, earth works, tree protection, erosion control measures etc.) to determine security value required. 3. The recommendations of the approved Environmental Impact Study (AECOM January 24, 2014) and associated addendum (August 7, 2014) shall be implemented as part of this site plan. Revise all the plans to incorporate each applicable recommendation from the EIS. Provide a written assessment from the author of the EIS assessing the current site, grading and servicing plans and advising how each recommendation has been incorporated. See the section below on 'environmental comments' for more direction. 4. Comments previously provided by the UTRCA remain outstanding. Do not resubmit any more drawings in advance of a board decision or settlement on the zoning appeal or in protest of the comments provided by the UTRCA in their letter dated October 2, 2015. If you would like to proceed with any further reviews of this site plan, you are required to provide a written response from a qualified professional to the SP Approval Authority and appropriate staff members at the UTRCA in response to their latest letter with any resubmission in advance of a final decision on the zoning appeal. 5. Provide a draft reference plan for the 0.692m road widening dedication along Windermere Road. Dedication of up to 10.75 m from centreline of land is required prior to site plan approval. A continued boulevard use agreement will be drafted for the existing wall and any other features on the lands in conjunction with the development agreement following a final decision on the proposed development zone.			
Comments from Engineering Review:			
1. An oil-grit separator is required to provide stormwater quality in accordance with MOECC Level 1 treatment requirements or any filtration device approved by the manufacture of the Atlantis Tank. 2. You may process the ECA Application once the oil grit separator or approved filtration device is provided. It is noted that the UTRCA has not signed off on the proposed site plan and any recommendations and/or requirements requested by them will require an amendment to the ECA Application.			



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Environmental Comments:

The comments below relate to the implementation of the recommendations of the Environmental Impact Study Addendum by AECOM dated August 7, 2014 which was accepted by Environmental & Parks Planning. A copy of the Addendum will be provided with these comments.

Tree Preservation Report

1. The Tree Preservation Report must meet the requirements of AECOM's EIS addendum of August 7, 2014:

Recommendation 17 - 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 trees to be retained in the vicinity of exposure to damage by machinery.

2. Provide a written assessment from the EIS author that the tree preservation plan complies with the EIS.

Site Plan / Servicing and Grading Plans

1. The following Recommendations in the accepted EIS Addendum by AECOM require review and revisions to the drawings.

Recommendation 4 – No clearing of natural vegetation, or planting of non-native plants shall be permitted within the lands identified as ESA.

Add this note to all plans and clearly identify the ESA lands on all plans.

2. Recommendation 6 – 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 Buffers" (1994). A native species restoration plan should be completed by an ecologist.

The applicant's ecological consultant is to provide a restoration plan for review by city staff.

3. Recommendation 8 – Stormwater management facilities should allow for dissipation of surface water flows at the ESA boundary in order to reduce potential erosion within the ESA. Post development stormwater flows should match pre-development flows.

Ensure the SWM facilities meet this test.

4. Recommendation 10 – Fencing of the ESA-development limit without gates is required to prevent encroachment into the ESA by neighbouring units, to City of London Standard, SP0-4.8, or approved equal.

Add the words "without gates" to all drawings in regard to fencing notes.

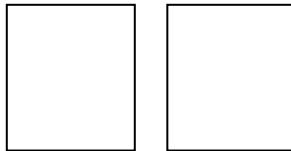
5. Recommendation 12 - Silt fencing is required along the Medway Valley Heritage Forest ESA boundary prior to and during construction of Units 2-5. Heavy-duty silt fencing shall be installed according to Ontario Provincial Standard Specifications (OPSD 219.130) and City Standard (to protect seepage areas and ESA lands).

Revise Silt Fence spec. and notes to Heavy-duty silt fencing on all drawings and details.

6. Recommendation 13 - 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.

Add this note to all plans.

7. Recommendation 15 - All excavated materials requiring stockpiling shall be kept away a minimum distance of 30 metres from the ESA boundary and the drip-line of trees. Excavated materials and fill shall not be stored on-site for prolonged periods due to the grades and sensitivity of aquatic habitat in Medway Creek.



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Add all of the information in this note to all plans, including text about drip-line of trees and limited duration of storage of fill.

8. Recommendation 18 - Construction vehicle access shall be limited to designated access routes and should 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).

Add this note to all plans.

9. Recommendation 19 – 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’s ecological consultant is to provide these packages and protocols for review.

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. Provide a reference plan for the dedication of the ESA.

Part 2: Conditions for Site Plan approvals

The conditions for site plan approval will be included in the form of a detailed list in which each requirement establishes a clear target to be satisfied. Based on the listed conditions, the Applicant should fully understand the detailed materials required for submission during the Final Approval stage.

No conditions of approval are provided in advance of a board decisions or settlement regarding the zoning amendment currently under appeal.

Attachments

- Greenline mark-up drawings
- Building Code compliance checklist
- Draft Development Agreement
- Comments on site servicing drawings

Completed by (City of London)

Eric Conway

Questions regarding the information on this form should be directed to the Development Approvals Business Unit's File Manager, Eric Conway at 519-930-3500.

