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Deeming By-Law
776-802 Killarney Road

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| TO: | CHAIR & MEMBERS PLANNING AND ENVIRONMENT COMMITTEE |
| FROM: | G. KOTSIFAS, P.ENG. MANAGING DIRECTOR, DEVELOPMENT & COMPLIANCE SERVICES & CHIEF BUILDING OFFICIAL |
| SUBJECT: | APPLICATION FOR DEEMING BY-LAW APPLICANT: AUBURN DEVELOPMENTS INC./THAMES VALLEY DISTRICT SCHOOL BOARD LOCATION: 776-802 KILLARNEY ROAD MEETING ON MAY 9, 2016 |

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| RECOMMENDATION |
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That, on the recommendation of the Senior Planner, Development Services, the following actions be taken with respect to the application of the Auburn Developments Inc./Thames Valley District School Board relating to the property located at 776-802 Killarney Road:

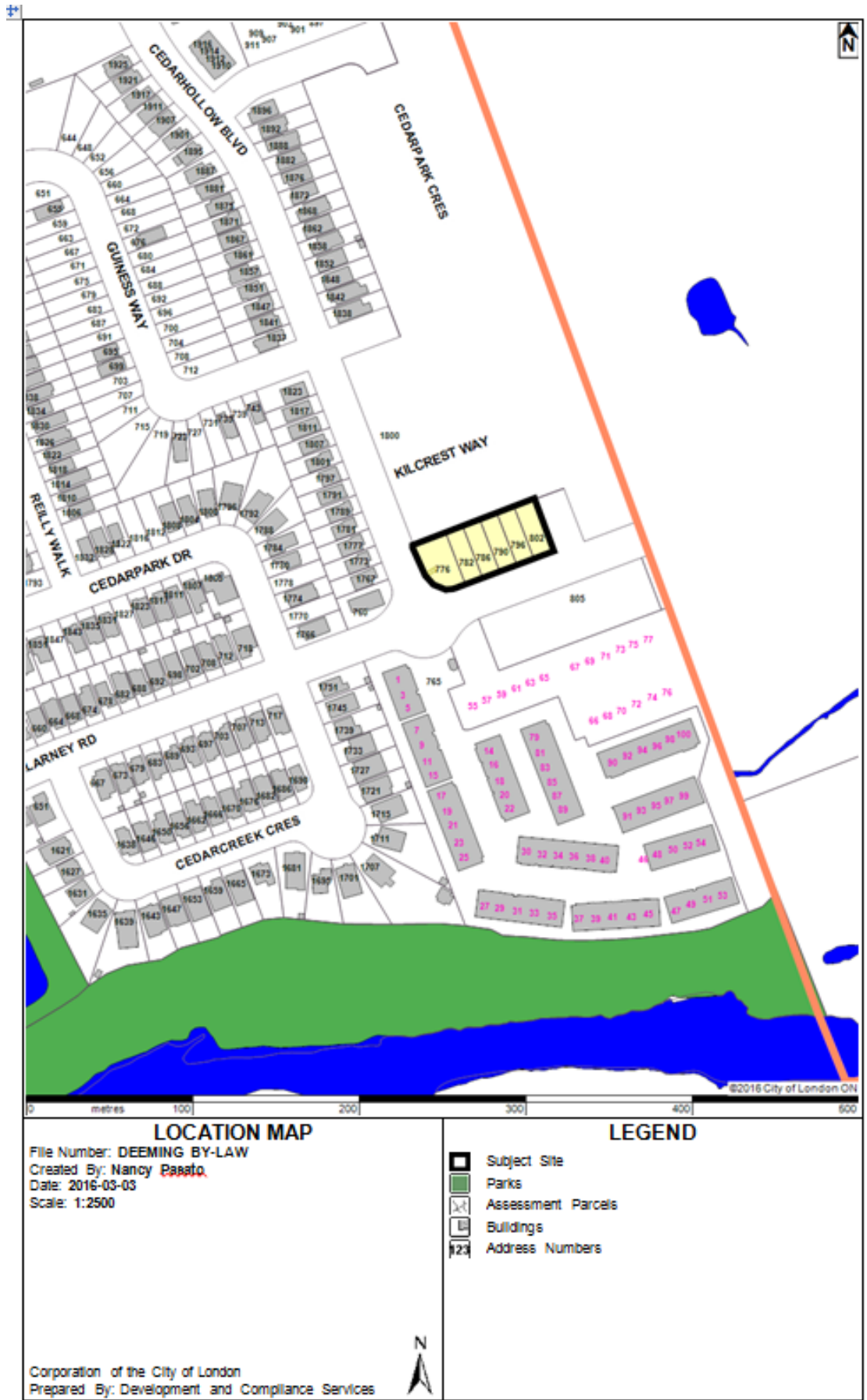
- (a) the attached proposed by-law (Appendix "A") **BE INTRODUCED** at the Municipal Council meeting on May 17, 2016 to deem Lots 45 to 50 inclusive, on Registered Plan 33M-580, City of London, County of Middlesex not to be in a registered plan of subdivision for the purposes of subsection 50(3) of the *Planning Act*,
- (b) the City Clerk **BE DIRECTED** to provide notice of the by-law passing and undertake registration of the Deeming By-law, in accordance with the provisions in subsections 50(28) and 50(29) of the *Planning Act*; and
- (c) the applicant **BE REQUIRED** to pay for any costs incurred to register the deeming by-law at the land registry office.

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| PURPOSE AND EFFECT OF RECOMMENDED ACTION |
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The purpose of the recommended action is to consolidate several contiguous lots into one parcel by deeming the subject lands not to be in a registered plan of subdivision. Removal of the internal lot boundaries will allow for these lots to be added to the adjacent property at 1800 Cedarhollow Boulevard for the potential development of an elementary school site and associated family centre.

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Location Map



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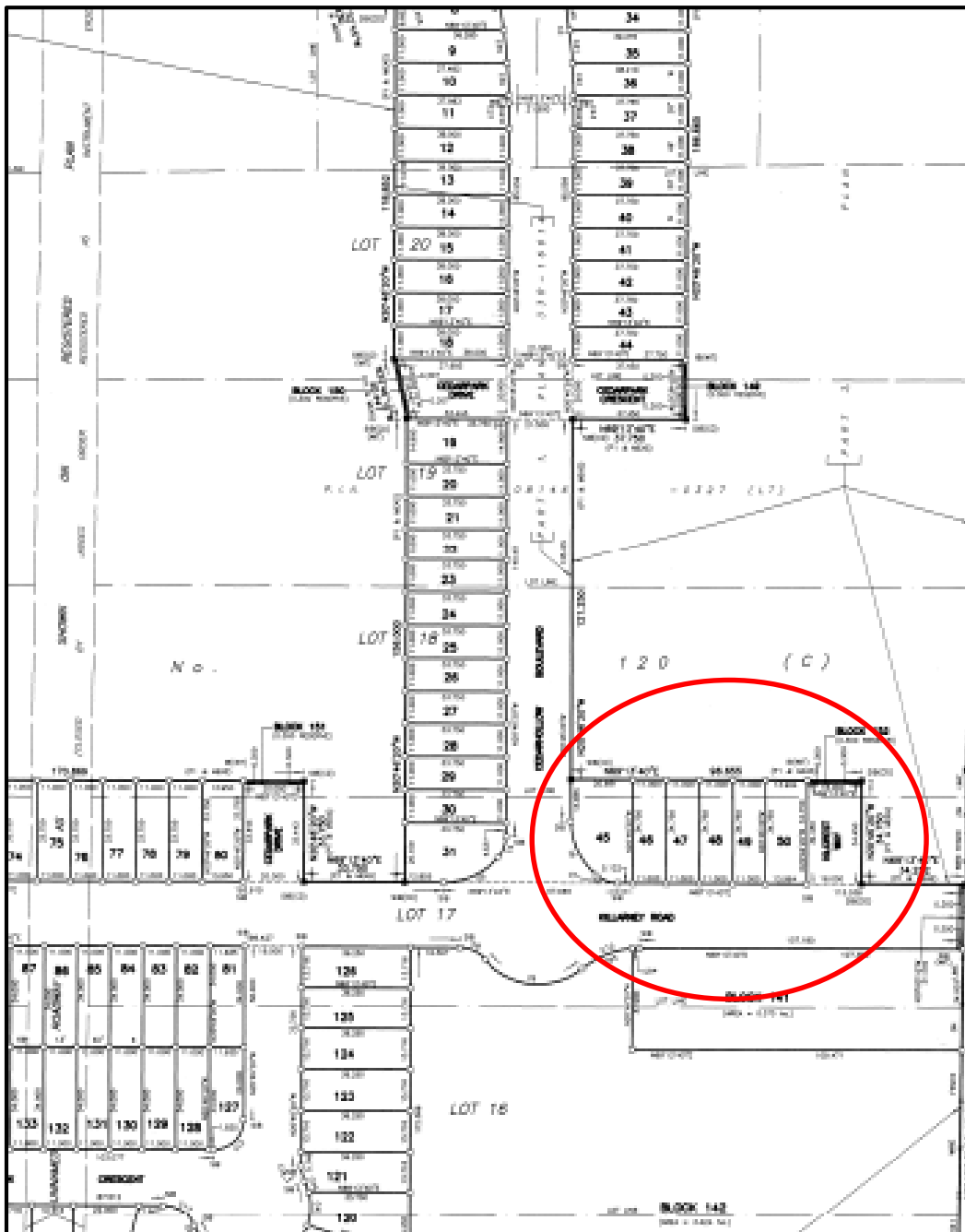
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BACKGROUND

The subject properties are located on Killarney Road, just east of the roundabout at Cedarhollow Boulevard. These six (6) properties are legally described as Lots 45 to 50 inclusive, on registered plan 33M-580. These six properties are designated "Low Density Residential" on Schedule A of the Official Plan. The plan of subdivision was registered on August 30, 2007.

Excerpt from Registered Plan of Subdivision 33M-580



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An application by the Thames Valley District School Board (TVDSB) for a zoning by-law amendment for the lands at 1800 Cedarhollow Boulevard and 776-802 Killarney Road was received in February, 2016. The purpose and effect of the application was to permit the development of a public elementary school, with an associated family centre, on a portion of the subject site.

After circulation and a neighbourhood open house, a recommendation for approval and a public meeting was held at the Planning and Environment Committee on April 11th, 2016. Subsequently, Council supported the below noted recommendation on April 19th, 2016:

“That, on the recommendation of the Senior Planner, Development Services, the following actions be taken with respect to the application of the Thames Valley District School Board relating to the property located on a portion of 1800 Cedarhollow Boulevard and 776-802 Killarney Road:

- a) *the proposed by-law attached hereto as Appendix "A" BE INTRODUCED at the Municipal Council meeting on April 19, 2016 to amend Zoning By-law No. Z.-1, in conformity with the Official Plan, to change the zoning of the subject property FROM a Holding Residential R1 (h*R1-3) Zone, a Holding Residential R1 (h*R1-4) Zone, and a Residential R1 Special Provision (R1-3(7)) Zone TO a Neighbourhood Facility Special Provision/Holding Residential R1 (NF()/h*R1-3) Zone to permit single detached dwellings with a minimum lot area of 300m2 and a minimum lot frontage of 10 m (R1-3 Zone) and to permit Places of Worship, Elementary Schools and Day Care Centres (NF Zone) with a special provision for a front yard and exterior side yard setback of 3m (minimum); a Neighbourhood Facility Special Provision /Holding Residential R1 (NF()/h*R1-4) Zone to permit, single detached dwellings with a minimum lot area of 360m2 and a minimum lot frontage of 12 m (R1-4 Zone) and to permit the NF uses listed above with a special provision for a front yard and exterior side yard setback of 3m (minimum); and a Residential R1 Special Provision/Neighbourhood Facility Special Provision (R1-3(7)/NF()) Zone to permit single detached dwellings with a minimum lot area of 300m2 and a minimum lot frontage of 11 m (R1-3(7) Zone) and to permit the NF uses listed above with a special provision for a front yard and exterior side yard setback of 3m (minimum); and*
- b) *the Site Plan Approval Authority BE REQUESTED to consider the following design issues through the site plan process:*
 - i. *Ensure that the proposed building is located along Cedarhollow Boulevard at the south west corner of the site in order to define the street edge as well as the intersection by using built form,*
 - ii. *Ensure that proposed building is oriented to the street with the principle building entrance located along the Cedarhollow Boulevard frontage,*
 - iii. *Ensure the south and west building facades include a high level of fenestration and articulation in order to animate the street edges,*
 - iv. *Ensure proposed fencing for all play areas located adjacent to the street include high quality materials (such as brick piers and rod iron fencing),*

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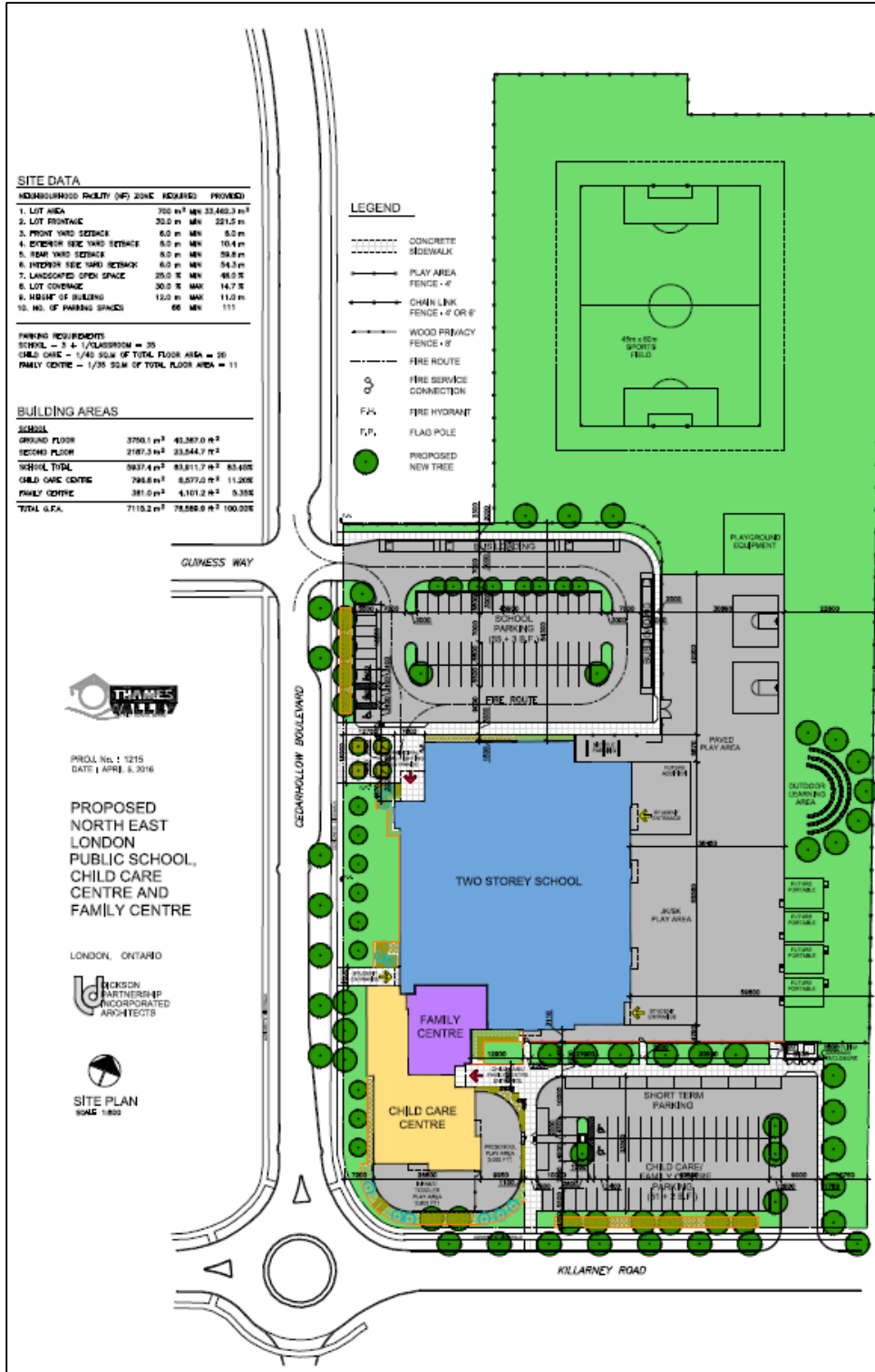
- v. *Include landscaping along any street frontage where parking is adjacent to the street in order to screen the parking areas and define the street edge,*
- vi. *Consideration should be given to extend the Thames Valley pathway to the school site and through the site towards Fanshawe Park Road,*
- vii. *Consideration of parking lot and driveway placement to ensure safe routes to school,*
- viii. *All bus loading and unloading to occur on site and not within the City's street laybys,*
- ix. *Decommissioning of the existing municipal infrastructure for single family detached lots within the existing street,*
- x. *Appropriate fencing, lighting and traffic calming measures be considered to minimize site impacts on adjacent properties.*
- xi. *The conditional offer was accepted by the TVDSB on May 6th, 2014. At the time, the "hard date" by which the property would have to be rezoned (or the condition would fail and the offer lapse) was September 3^d, 2014. The City of London subsequently negotiated an extension to the September 3^d 2014 deadline date to December 2nd, 2014. This extension was negotiated to provide staff with an opportunity to consult with the public and private sector stakeholders in the preparation of a preferred land use concept. The preferred land use concept would serve to inform and support a recommended zoning by-law amendment for the property.*

This zoning by-law amendment will allow the lands to be developed for the proposed elementary school/family centre use.

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Preferred Development Concept



By-laws can be enacted pursuant to Section 50(4) of the Planning Act for the purpose of deeming any plan of subdivision or part thereof, which has been registered for eight (8) years or more, not to be a registered plan of subdivision. The effect of a deeming by-law would be to merge two or more lots or blocks within a registered plan of subdivision into one legally conveyable lot. Deeming by-laws are often used to merge lots from old plans of subdivision which no longer meet current development or zoning standards.

Plan 33M-580 was registered in August, 2007. The individual lots must be deregistered and

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consolidated with the adjacent block in order to implement the preferred development concept. Approval of a deeming by-law will provide for redevelopment of the lands, in conformity with the Council-approved zoning.

No notice or hearing is required prior to the passing of a “deeming” by-law under subsection 50(4) of the Planning Act. Notice of the passing of the by-law must be given within 30 days to the assessed owner of any land to which the by-law applies, and the owner can make representations to Council concerning the by-law within 20 days of issuance of the notice.

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| CONCLUSION |
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The application by the Thames Valley District School Board for the properties at 776-802 Killarney Road for approval of a by-law to deem the land not to be part of a registered plan of subdivision under the *Planning Act* is appropriate and will allow the lands to be added to the parcel at 1800 Cedarhollow Boulevard for an elementary school development. Passing of the by-law is recommended as it will allow for the development of the lands as identified through the public engagement process and is in conformity with the Zoning By-law as approved by Council on April 19, 2016.

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| RECOMMENDED BY: | REVIEWED BY: |
| | |
| NANCY PASATO, MCIP, RPP 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 |

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APPENDIX “A”

Bill No.
2016

By-law No.

A by-law to deem a portion of Registered Plan 33M-580 not to be a registered plan of subdivision for the purposes of subsection 50(3) of the *Planning Act, R.S.O. 1990, c. P13*.

WHEREAS subsection 50(4) of the *Planning Act* provides that the council of a local municipality may by by-law designate any plan of subdivision or part thereof that has been registered for eight years or more, and deem it not to be a registered plan of subdivision for the purposes of subsection 50(3) of the *Planning Act*.

AND WHEREAS Lots 45 to 50 inclusive are currently separate lots within the registered plan.

AND WHEREAS Registered Plan No. 33M-580 has been registered for more than eight years.

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

1. That the following lots on Registered Plan 33M-580 shall be deemed not to be a registered plan of subdivision for the purposes of Section 50(3) of the *Planning Act*: Lots 45 to 50 inclusive on 33M-580, City of London, County of Middlesex being all of PINs 08146-0593 to 08146-0598 inclusive.
2. This by-law comes into force on the day it is enacted by the Council of the Corporation of the City of London, subject to the provisions of subsection 50(27) of the *Planning Act*.

PASSED in Open Council on May 17, 2016.

Matt Brown
Mayor

Catharine Saunders
City Clerk

First Reading – May 17, 2016
Second Reading – May 17, 2016
Third Reading – May 17, 2016