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File number: 39CD-10513/OZ-7843
Nancy Pasato

TO:	CHAIR AND MEMBERS BUILT AND NATURAL ENVIRONMENT COMMITTEE
FROM:	DAVID AILLES MANAGING DIRECTOR OF DEVELOPMENT APPROVALS BUSINESS UNIT D.N. STANLAKE DIRECTOR OF DEVELOPMENT PLANNING
SUBJECT:	APPLICATION BY: SIFTON PROPERTIES LIMITED PORTION OF 2178 & 2270 Highbury Avenue North PUBLIC PARTICIPATION MEETING ON MONDAY, SEPTEMBER 26, 2011 AT 9:15 PM

RECOMMENDATION

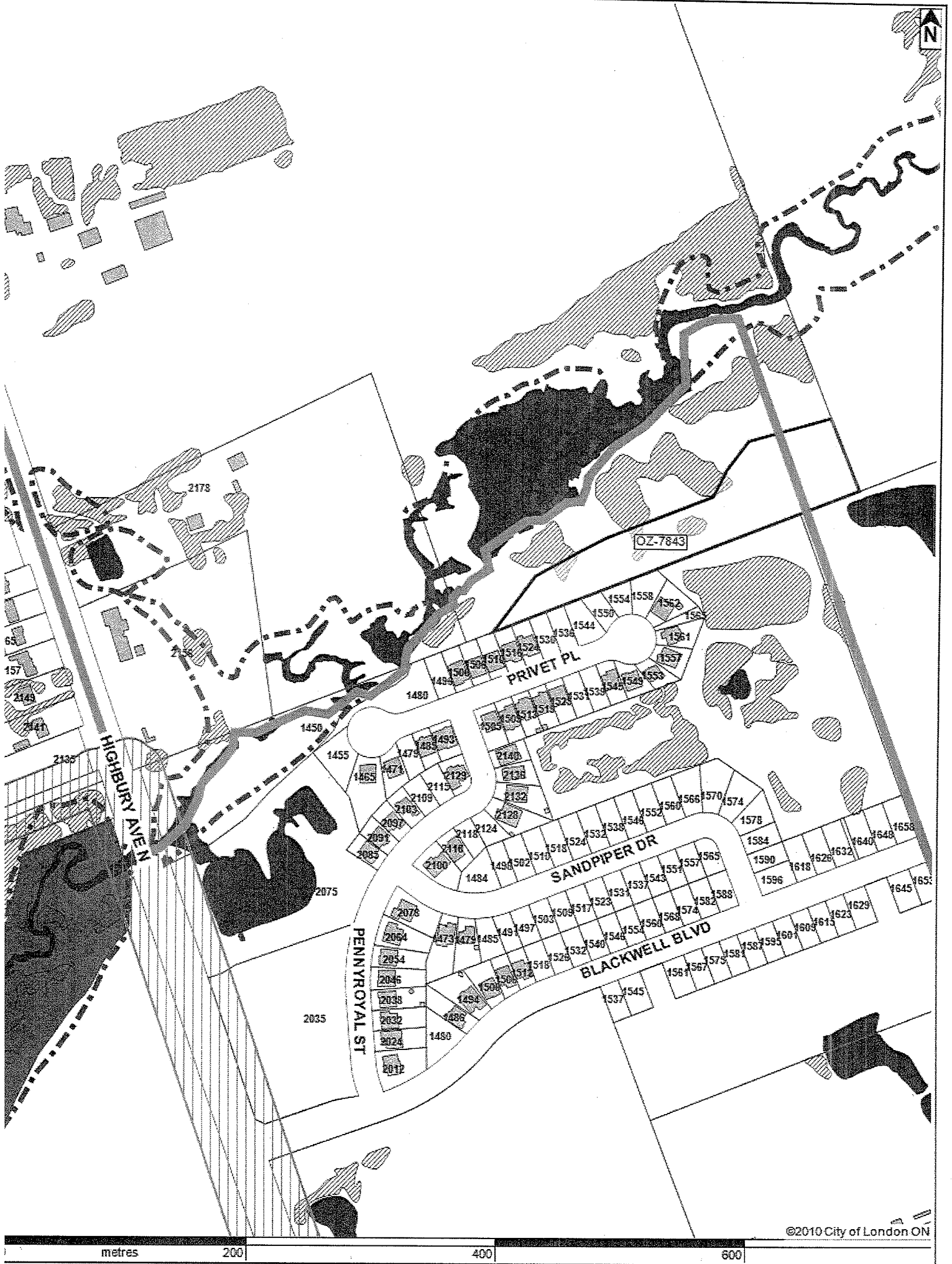
That, on the recommendation of the Managing Director of Development Approvals Business Unit and Director of Development Planning, the following actions be taken with respect to the application submitted by Sifton Properties Limited relating to the properties located at 2178 & 2270 Highbury Avenue North:

- (a) the request to amend the Official Plan to change the designation of the subject property from "Urban Reserve, Community Growth" and "Agriculture" to "Low Density Residential" and to move the Urban Growth Boundary to include a small portion of the lands within the Urban Growth Area **BE REFUSED** for the following reasons:
 - Expansion of the Urban Growth Boundary is not permitted outside of comprehensive review of the Official Plan;
 - It is not consistent with the Provincial Policy Statement;
 - It is not consistent with the policies of the Official Plan;

- (b) the request to amend Zoning By-law No. Z.-1 to change the zoning of the subject property from a Open Space (OS5) Zone which permits conservation lands and conservation works and a Residential R1 (R1-4) Zone which permits to a Residential R6 Special Provision (R6-2(____)) Zone to permit cluster housing in the form of single detached dwellings at a maximum density of 15 units per hectare and a maximum height of 10.5 metres with a special provision to permit a reduced interior side yard of 1.2 metres and reduced density of 15 units per hectare, and an Open Space Special Provision (OS1(____)) Zone to permit a public park/trail corridor extension with a special provision for 0 metre lot frontage onto a public road and reduced lot area of 1600 square metres **BE REFUSED** for the following reasons:
 - Is not consistent with the Provincial Policy Statement;
 - It does not conform with the policies of the Official Plan;
 - The requested zone would not appropriately implement the proposed lot structure of the associated draft plan submitted by the applicant;
 - It does not maintain the natural heritage linkage to the wetland;

- (c) the Built and Natural Environment Committee **CONDUCT** a public meeting on behalf of the Approval Authority and **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 2270 Highbury Avenue North.






- (d) Council **REQUESTS** staff to review the ESA designation of Block 60, Registered Plan 33M-601 in the upcoming Official Plan update commenting in 2011.



LOCATION MAP

Subject Site: 2270 Highbury Ave N
 Applicant: **Sifton Properties Limited**
 Roll Number: **090440152000000**
 File Number: **39CD-10513/OZ-7843**
 Planner: **Nancy Pasato**
 Created By: **Nancy Pasato**
 Date: **2010-11-25**
 Scale: **1:3700**

LEGEND

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



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PREVIOUS REPORTS PERTINENT TO THIS MATTER

O-6527/O-6235/O-6207 – Kilally North Area Plan and adoption of Official Plan amendments – Council resolution on November 3, 2003

39T-01509/OZ-6207 – Pittao Subdivision – Council resolution on November 24, 2003

PURPOSE AND EFFECT OF RECOMMENDED ACTION

The recommended action would refuse the application's necessary for a 14 unit vacant land condominium north of Privet Place.

RATIONALE

1. The proposed application is not consistent with the Provincial Policy Statement.
2. The proposed application is not consistent with the policies of the Official Plan.
3. The requested zone would not appropriately implement the proposed lot structure of the associated draft plan submitted by the applicant.
4. The proposed development does not maintain the natural heritage linkage to the wetland.

BACKGROUND

Date Application Accepted: November 11, 2010	Agent: Maureen Zunti, Sifton Properties Limited
REQUESTED ACTION: Official Plan, zoning by-law amendment and application for draft plan of condominium to create a 14 lot vacant land condominium.	

SITE CHARACTERISTICS:
<ul style="list-style-type: none"> • Current Land Use - vacant • Frontage – 24.77 m (Privet Place) • Depth – varies – approx. 38-70 m • Area – 1.568 ha • Shape - irregular

SURROUNDING LAND USES:
<ul style="list-style-type: none"> • North – Stoney Creek, wetland • South – open space (wetland), single detached residential, gravel pit • East – agriculture • West - open space

OFFICIAL PLAN DESIGNATION: (refer to map on page 4)
<ul style="list-style-type: none"> • Urban Reserve, Community Growth, Agricultural, and Open Space
EXISTING ZONING: (refer to map on page 5)
<ul style="list-style-type: none"> • Open Space (OS5) Zone

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PLANNING HISTORY

Annexation & Kilally North Area Plan

The subject lands were annexed into the City of London in 1993. In late 1999 Knutson Planning Inc. commenced a privately-initiated Planning Study for the lands bounded by the Urban Growth Boundary, the North Branch of the Thames River and Highbury Avenue East. The area described as the Kilally North Area Plan contained 125 ha (309 ac) of land. The background information provided by the consultant included background studies on Heritage and Archaeological resources, Slope Assessment, Sanitary Servicing, Master Drainage Plan and Transportation networks. This background information was used in the preparation of a Land Needs Requirements Study and a Community Facilities Study, and culminated in a preparation of a preferred Land Use Plan by the consultant. No further action was taken at that time.

The City of London undertook completion of the Kilally North Community Planning Study in the fall of 2003. The recommended land use plan proposed the developable portion of the subject lands be used for a mix of low and medium density residential. Lands along Stoney Creek and the unevaluated wetland were planned to be open space. Notice of the Area Study was sent to all affected and surrounding property owners. On November 3, 2003 City Council approved portions of the Area Plan and adopted the corresponding Official Plan Amendment. This site was not included as part of the Area Plan, and therefore remained Open Space and Urban Reserve, Community Growth.

Draft Plan of Subdivision – Pittao

The subject lands are just north of a large plan of subdivision application which was originally submitted by Pittao Construction Limited in 2001. The original submitted plan contained 130 single detached dwelling lots, 1 medium density residential block, 1 medium density residential/institution block (subject lands) and several open space, stormwater management, road widening and reserve blocks.

At the time the background studies were submitted for the draft plan of subdivision application, there was a difference of opinion regarding the classification of a vegetation patch (02022) within the Pittao lands. The consultants on behalf of Pittao recommended that the Environmental Review designation be removed from this patch as it did not receive an ecologically significant ranking. The City's Parks Planning and Design Division reviewed the information and noted that the patch is part of the Fanshawe Wetland and as such should be designated as an Environmentally Significant Area (ESA). As part of the evaluation one alternative considered was to protect the wetland and a natural heritage corridor between the Stoney Creek and the wetland.

In consultation with the Ministry of Natural Resources (MNR) and the Ministry of Municipal Affairs and Housing (MMAH), an agreement was reached whereby the wetland on the Pittao property would remain as an unevaluated wetland on the understanding the wetland would be protected via both an Open Space land use designation on Schedule "A" and by zoning the block as open space OS5. The end result was the wetland remained unevaluated but was designated and zoned as Open Space and conveyed to the City. The wetland block includes a 120 metre connection to Stoney Creek and the subdivision has built to the established limits.

In 2006 Sifton Properties Limited acquired the unregistered portions of the Pittao subdivision (39T-01509) and numerous registered lots in 33M-548.

Sometime between the 2007 Official Plan Schedule B update and the adoption of Schedules B1 and B2 by the Ministry in December, 2009, the "ESA" designation for the unevaluated wetland patch was inadvertently taken off of patch 02022 (Block 60, Plan 33M-601), but still remains designated Open Space on Schedule A and zoned Open Space OS5 in By-law Z.-1. It is recommended that the ESA patch be reapplied to Schedule B1 to reflect the significance of the patch. This can be done through the next Official Plan review.

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Through the Annexed Area Zoning By-law amendment, lands between the Pittao subdivision to the south and Stoney Creek to the north were zoned Open Space (OS5) to reflect their significance as part of the Fanshawe Wetland Complex/corridor.

It should be noted that proper public notice was given through each of these processes for this portion of land (which was not within the Pittao Subdivision).

SIGNIFICANT DEPARTMENT/AGENCY COMMENTS

*** PLEASE NOTE: comments have been summarized in this report. The full comments are available under Appendix "A" of this report.**

Environmental & Engineering Services Department (EESD) – by memo (January 20, 2011)

- Since a portion of the site is outside of the Urban Growth Boundary, and due to outstanding issues which will need to be addressed at site plan, a holding provision to address servicing and access concerns is recommended.
- The municipal pathway will need dedication of lands or easement and appropriate surveys.
- A water, sanitary and stormwater management report are all required to ensure appropriate servicing for the site.
- Easements will be required for the stormwater outlet, whether public or private. This may also require an MOE certificate.
- Overland flow routes and erosion are to be addressed to ensure not impact on adjacent lands.
- Further discussion on stormwater would be of benefit.

Parks Planning & Design – by memo (January 21, 2011)

- Do not support the proposed development application because it will not be consistent with the Provincial Policy Statement (2005) or the City of London Environmental Policies for protection of the Natural Heritage resources present on the subject property.
- The entire site is already zoned OS5 through the previous development process, in recognition of the ecological importance of the wetland, the adjacent lands providing supportive and specialised habitat, as well as linkage to the smaller wetland to the south.
- A report to Council is required to assess whether the City should acquire these lands.
- The three important Natural Heritage features present on this site are
 - 1) A Provincially Significant Wetland (as part of the Fanshawe Wetland Complex/ESA) - There is no clear discernible boundary between wetland and upland. The boundary was determined based on subtle differences in some species distributions augmented by soil pits. The wetland boundary has been confirmed by the MNR
 - 2) Habitat for Threatened species - The Least Bittern was observed and recorded as breeding in the marsh communities of the wetland.
 - 3) Significant Wildlife Habitat - The EIS did not evaluate the significance of wildlife habitat in accordance with Provincial Policy.
- The Assessment of Potential Impacts does not include a net effects assessment in table format which is a requirement of a complete EIS. Since the EIS has not evaluated Significant Wildlife Habitat, the impact assessment has not considered the impact of the development on the adjacent lands to the wetland. The adjacent lands include a distance of 120 m from the wetland boundary, which would overlap with the adjacent lands for the small wetland patch.
- The EIS proposes a 30 m buffer to protect the features and functions of the Fanshawe Wetlands. This is a minimum buffer recommended for protection of some wetland functions. The 30 m buffer will not protect the adjacent lands to the wetland that are important significant wildlife habitat in their own right, and that are necessary to protect the area sensitive species-at-risk, Least Bittern.
- Introduction of the proposed development will fragment the connection between the isolated wetland and wetlands along Stoney Creek resulting in loss of function; result in loss of significant wildlife habitat present in the thicket/meadow area; and introduce human related disturbances in close proximity to the habitat of a threatened species.
- Other construction related impacts that will result in loss of habitat and/or impacts to significant features and functions include the requirement for a new storm outlet to

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Stoney Creek to accommodate the storm water from the developed site; introduction of over 1 m of fill in order to facilitate construction; dewatering due to the proximity of the groundwater to construction; and the need for perimeter drains around basements.

- On the basis of these conclusions, Parks Planning & Design recommends that this development proposal not be supported.

Parks Planning - Additional comments – by memo (April 10, 2011)

- Through the planning for the original Pittao subdivision, now owned by Sifton, the significance of the existing physical linkage between the retained wetland area and the rest of the Stoney Creek Wetland Complex was assessed and it was determined that the physical linkage should be retained at the east end of the site and the westerly link could be abandoned. This conclusion was accepted by the City and the linkage established and zoned OS5.
- The previous EIS and planning report were very clear about the establishment and protection of the easterly linkage.
- On the basis of the planning rationale and EIS conclusion for retention of the easterly linkage - which permitted the original subdivision to proceed, and the full review of the latest EIS update, Parks Planning & Design recommends that this development proposal not be supported.

Environmental & Ecological Planning Advisory Committee (EEPAC) – by resolution (January 20, 2011)

- Do not support the proposal for the following reasons:
 - it threatens the integrity of the wetland by reducing the natural system to a fragmented system of isolated components;
 - the proposed development should not cross the existing urban boundary;
 - the proposed development should not encroach into the 30m wetland buffer setback zone;
 - the EIS report does not show how there will be adequate protection for the long-term sustainability and provision of natural system requirements between the PSW and the 02022 Wetland Patch;
 - priority bird species habitat is located in the area;
 - the wetland boundary is not adequately defined and mapped (with confirmation from the MNR);
 - a full season inventory of flora and fauna was not done; and
 - the hydrological function impacts of this proposed development are not adequately explained or reviewed.

Ministry of Municipal Affairs and Housing – by letter (January 17, 2011)

Ministry of Natural Resources:

1. Aggregate Pit

- New development should generally be excluded from areas within 150 metres for the extraction area of an existing aggregate pit, and if not, a noise impact assessment be conducted for locations within 300 metres of the extraction area, to ensure that potential noise impacts are addressed. In absence of any justification, MNR staff suggest the developer should provide a rationale as to why a reduce setback of 150 metres of the extraction area of the existing pit should be considered.
- MNR recommends that the noise and dust studies are peer reviewed, if the city does not have in house expertise.

2. Provincially Significant Wetlands

- MNR recommends that all water from the development be directed away from the wetland, preferably into a storm water management pond.
- The wetland polygon to the south of the proposed development (patch 02022) is part of the Provincially Significant Fanshawe Ridge Wetland. The wetland evaluation took place in 2009. MNR notes that the field work for the EIS was completed in 2008 and the evaluation took place in 2009, however the report was not submitted until 2010 and therefore this EIS should be referring to patch 02022 as part of the PSW, and discussing it the mitigation and conclusions as such.

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- Is the report stating that there are no linkages between the two wetlands or is it stating that there is no linkage between the two wetlands on the subject lands?

3. Terrestrial and species linkage

- The EIS does not reference the appropriate PPS sections (2.1).
- MNR recommends additional information be provided on the Least Bittern (species at risk).
- The EIS indicates there are alternative areas the fauna could be travelling to, such as ponds associated within the aggregate pits and one pond to the south in the agricultural field. Relying on these features to supply alternative habitats for the long-term is short sighted; as the aggregate pit ponds are not permanent features and the one pond to the south appears to be filled in for the development.
- The EIS also indicates snapping turtles nest in exposed soils, yet no indication as to where the snapping turtles in the future.
- The EIS for the Fanshawe Ridge Phase 4 condominium should consider and address all four categories of significant wildlife habitat. Section 9 of the Natural Heritage Reference Manual (second edition), provides guidance on significant wildlife habitat.

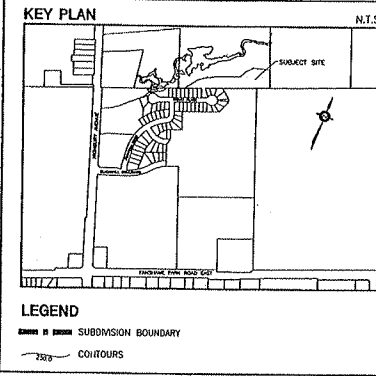
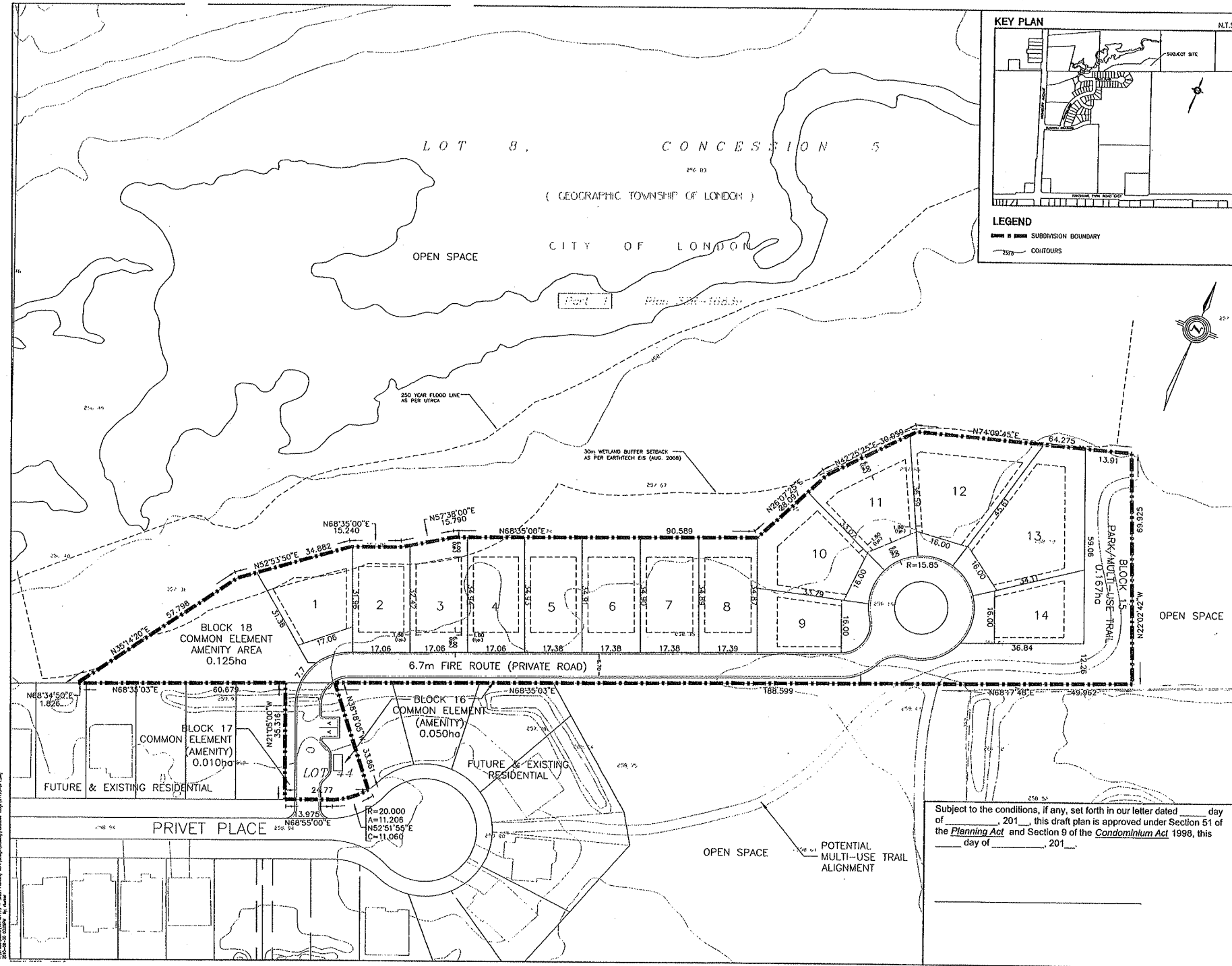
Ministry of Municipal Affairs and Housing:

- In accordance with Section 1.1.3.9 of the PPS, a comprehensive review must be undertaken to address any change to the area of settlement boundary.
- The City's recent 5-year update (OPA 438) indicated no additional need for lands.
- In accordance with Bill 26, the Strong Communities Act, there are no appeal rights for proponent driven requests to establish, expand or alter the area of settlement boundary.

Upper Thames River Conservation Authority (UTRCA) – by letter (January 21, 2011)

- A number of significant issues and clarifications were noted, therefore, given the outstanding concerns pertaining to the EIS and the SWM report, the UTRCA is not in a position to provide conditions of draft plan approval at this time. We recommend that the application be deferred to provide the applicant with an opportunity to address the Authority's concerns.

Proposed Vacant Land Plan of Condominium



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www.stantec.com

FANSHAWE RIDGE SUBDIVISION DRAFT PLAN OF CONDOMINIUM

LOT 44, PLAN 33M-548
AND PART OF
LOT 8, CONCESSION 5
(GEOGRAPHIC TOWNSHIP OF LONDON)
IN THE CITY OF LONDON
COUNTY OF MIDDLESEX

INFORMATION REQUIRED UNDER SECTION 31(7) OF THE PLANNING ACT
A: AS SHOWN ON DRAFT PLAN
B: AS SHOWN ON DRAFT AND KEY PLAN
C: AS SHOWN ON DRAFT AND KEY PLAN
D: ACCORDING TO LAND USE SCHEDULE
E: AS SHOWN ON DRAFT PLAN
F: AS SHOWN ON DRAFT PLAN
G: AS SHOWN ON DRAFT PLAN
H: MUNICIPAL PIPED WATER TO BE INSTALLED
I: SANDY SILT, SILT AND GRAVEL
J: AS SHOWN ON DRAFT PLAN
K: MUNICIPAL SANITARY AND STORM
L: AS SHOWN ON PLAN

LAND USE ANALYSIS:

1. AREA OF SITE:	1,568 ha
2. NUMBER OF UNITS:	14 Single Family Residential Units
3. COVERAGE:	32.6 %
4. DENSITY:	9 Units/ha
5. LANDSCAPE AREA:	51.0%
6. ZONING:	RE-3
7. PARKING:	2 / Unit
8. NUMBER OF PHASES:	1

AREA BREAKDOWN (sq.m)

Lot 1	658.71	Lot 8	606.67
Lot 2	545.40	Lot 9	864.37
Lot 3	579.55	Lot 10	804.82
Lot 4	595.94	Lot 11	785.25
Lot 5	606.92	Lot 12	976.38
Lot 6	606.72	Lot 13	1128.69
Lot 7	606.51	Lot 14	619.29
TOTAL	5669.00		0.966 ha

UNITS - LOTS 1-14

PARK/M-U, TRAIL - BLOCK 15	0.966 ha
COMMON ELEMENT - BLOCKS 16-18	0.167 ha
ROAD	0.250 ha
TOTAL	1.568 ha

OWNERS AUTHORIZATION
WE HEREBY SUBMIT THIS DRAFT PLAN OF SUBDIVISION
WE HAVE THE AUTHORITY TO BIND THE CORPORATION

Richard Duff *Sept 14, 2010*
DATE
RICHARD DUFF
PRESIDENT
SIFTON PROPERTIES LIMITED

W. Reid *Sept 14, 2010*
DATE
W. REID
VICE-PRESIDENT
FINANCE AND ADMINISTRATION
SIFTON PROPERTIES LIMITED

SURVEYOR'S CERTIFICATE
I HEREBY CERTIFY THAT THE BOUNDARIES OF THE LAND TO BE SUBDIVIDED, AS SHOWN ON THIS PLAN, AND THEIR RELATIONSHIP TO THE ADJACENT LANDS ARE ACCURATELY AND CORRECTLY SHOWN.

R. S. Sifton *Aug 31, 2010*
DATE
ROBERT S. SIFTON
Ontario Land Surveyor

Client/Project
SIFTON PROPERTIES LTD.

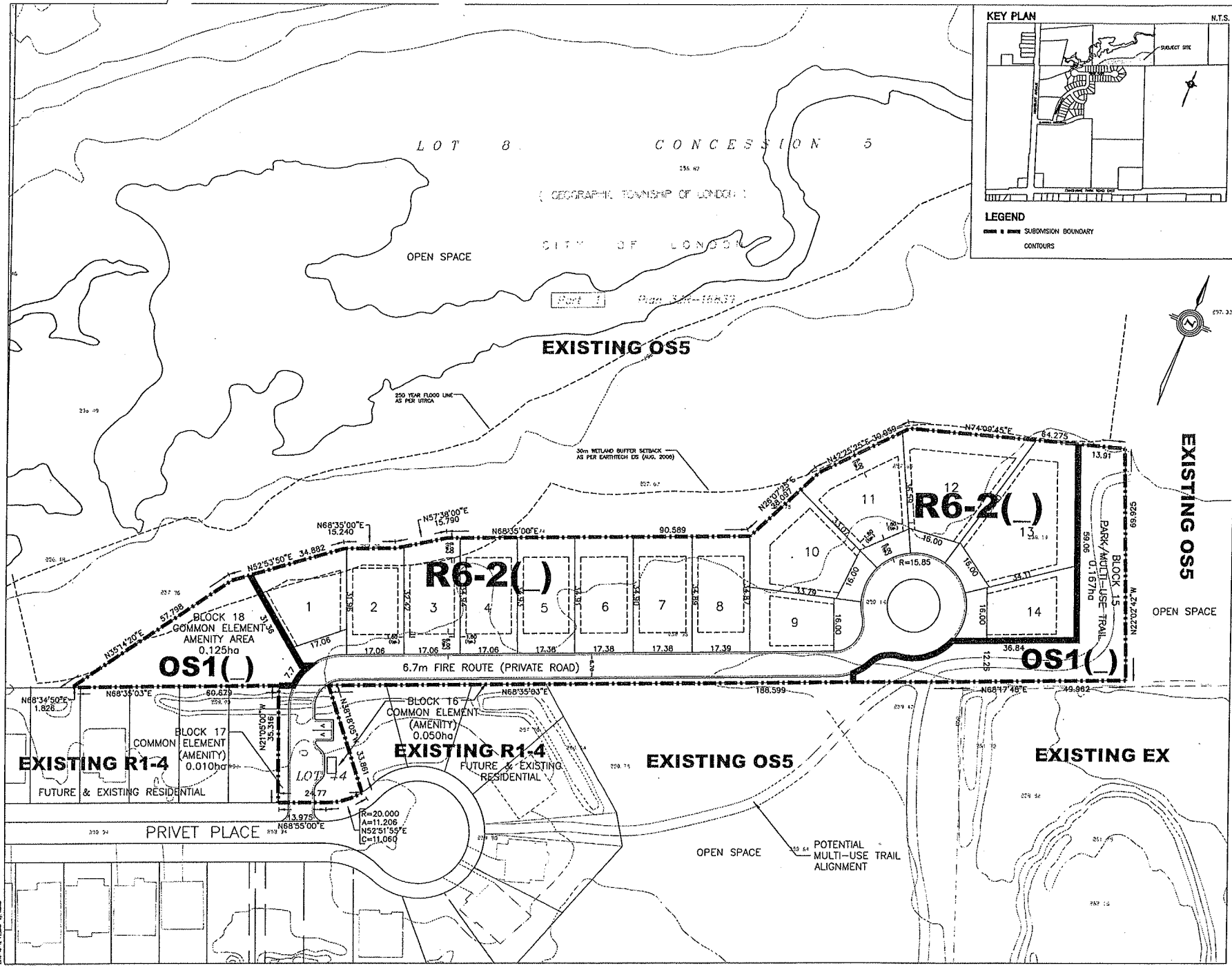
FANSHAWE RIDGE SUBDIVISION
MUN. NO. 1544 PRIVET PLACE
London ON Canada

Title
DRAFT PLAN OF CONDOMINIUM

Project No. 1614-01195
Scale 1:500
Drawing No. Sheet 1 of 1
Revision 0

Subject to the conditions, if any, set forth in our letter dated _____ day of _____, 201____, this draft plan is approved under Section 51 of the Planning Act and Section 9 of the Condominium Act 1998, this _____ day of _____, 201____.

Requested Zoning Amendment



KEY PLAN N.T.S.

LEGEND

- SUBDIVISION BOUNDARY
- CONTOURS

Stantec
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 www.stantec.com

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 authorized by Stantec in this drawing.

**FANSHAWE RIDGE SUBDIVISION
 DRAFT PLAN OF CONDOMINIUM**
 LOT 44, PLAN 33M-54B
 AND PART OF
 LOT 8, CONCESSION 5
 (GEOGRAPHIC TOWNSHIP OF LONDON)
 IN THE CITY OF LONDON
 COUNTY OF MIDDLESEX

**INFORMATION REQUIRED UNDER SECTION
 6(1)(7) OF THE PLANNING ACT**

A: AS SHOWN ON DRAFT PLAN
 B: AS SHOWN ON DRAFT AND KEY PLAN
 C: AS SHOWN ON DRAFT AND KEY PLAN
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 K: MUNICIPAL SANITARY AND STORM
 L: AS SHOWN ON PLAN

LAND USE ANALYSIS:

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4. DENSITY:	9 Units/ha
5. LANDSCAPE AREA:	51.6%
6. ZONING:	R6-3
7. PARKING:	2 / Unit
8. NUMBER OF PHASES:	1

AREA BREAKDOWN (sq.m.)

Lot 1 - 658.71	Lot 8 - 606.87
Lot 2 - 545.40	Lot 9 - 564.37
Lot 3 - 579.55	Lot 10 - 804.82
Lot 4 - 595.94	Lot 11 - 769.24
Lot 5 - 606.92	Lot 12 - 575.36
Lot 6 - 606.72	Lot 13 - 1128.86
Lot 7 - 606.51	Lot 14 - 519.29
TOTAL	3669.00 / 0.866 ha

UNITS - LOTS 1-14 0.866 ha
 PARK/A-L TRAIL - BLOCK 15 0.187 ha
 COMMON ELEMENT - BLOCKS 16-18 0.185 ha
 ROAD 0.250 ha
TOTAL 1.568 ha

OWNERS AUTHORIZATION
 WE HEREBY SUBMIT THIS DRAFT PLAN OF SUBDIVISION
 WE HAVE THE AUTHORITY TO BIND THE CORPORATION

ROBERT D. STYLING
 PRESIDENT
 SIFTON PROPERTIES LIMITED

WYNNE RED
 VICE-PRESIDENT
 FINANCE AND ADMINISTRATION
 SIFTON PROPERTIES LIMITED

SURVEYORS CERTIFICATE
 I HEREBY CERTIFY THAT THE BOUNDARIES OF THE LAND TO BE
 SUBDIVIDED, AS SHOWN ON THIS PLAN AND THEIR RELATIONSHIP
 TO THE ADJACENT LANDS ARE ACCURATELY AND CORRECTLY SHOWN.

ROBERT D. STYLING
 Ontario Land Surveyor

Client/Project
 SIFTON PROPERTIES LTD.

FANSHAWE RIDGE SUBDIVISION
 MUN. NO. 1544 PRIVET PLACE
 London ON Canada

Title
PROPOSED ZONING

Project No.
 1611-01195

Scale
 1:500

Sheet
 1

Revision
 0

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PUBLIC LIAISON:	On November 26, 2010, notice of application was sent to 31 residents within 120 m of the application. Living in the City notice was published on November 27, 2010.	4 replies received, (4 objections to the application)
<p>Nature of Liaison: The purpose and effect of this application is to consider a proposed draft plan of vacant land condominium on 2270 Highbury Avenue North. The plan consists of 14 residential units on a private road, with access from Privet Place. An Official Plan and zoning by-law amendment is also required. Consideration of a request to approve a vacant land plan of condominium consisting of 14 detached dwelling units, and a common element for the internal driveway and services. Vacant land condominiums include units and common elements. The "unit" is a parcel of land on which a building or structure will be constructed. When a vacant land condominium is registered, each unit may be sold to a future homeowner either before or after the home is constructed on the unit. Planning Committee will be considering the implications of dividing the land into units and common elements as shown on the attached draft plan. The Site Plan application associated with the proposal is also currently under review. Possible Amendment to the Official Plan to change the designation from "Urban Reserve, Community Growth" and "Agriculture" to "Low Density Residential" and to move the Urban Growth Boundary to include a small portion of these lands to allow the development of the lands for a 14 unit vacant land condominium. Possible Amendment to Zoning By-law Z.-1 to change the zoning from an Open Space (OS5) Zone and a Residential R1 (R1-4) Zone to a Residential R6 Special Provision (R6-2()) Zone to permit cluster housing in the form of single detached dwellings at a maximum density of 15 units per hectare and a maximum height of 10.5 metres with a special provision to permit a reduced interior side yard of 1.2 metres and reduced density of 15 units per hectare, and an Open Space Special Provision (OS1()) Zone to permit a public park/trail corridor extension with a special provision for 0 metre lot frontage onto a public road and reduced lot area of 1600 square metres.</p>		
<p>Responses: Overall, the neighbourhood response was in opposition to the proposal. Their main issues were:</p> <ul style="list-style-type: none"> • Never any indication to residents that there may be development in this location • Paid a lot premium to back onto Open Space • Safety concerns over increase in traffic • Development within 30m of wetland boundary? • Roads in the area are too narrow for two way traffic • Will affect and endanger wildlife and habitat in the area • Fill concerns – land will need to be significantly raised, repercussions on neighbouring properties 		

ANALYSIS

Subject Site & Application

The subject site is located on a portion of 2270 Highbury Avenue North and small portion of 2178 Highbury Avenue North, just north of Privet Place (see location map). The site is east of Highbury Avenue North and north of Fanshawe Park Road East and is approximately 1.58 hectares in size.

The applicant is proposing the following:

- An Official Plan amendment to change the designation of the lands from "Urban Reserve, Community Growth" and "Agriculture" to "Low Density Residential" and to move the Urban Growth Boundary to include a portion of lands within the urban growth area;
- A zoning by-law amendment to change the zoning from an Open Space (OS5) Zone and a Residential R1 (R1-4) Zone to a Residential R6 Special Provision (R6-2()) Zone to permit cluster housing in the form of single detached dwellings at a

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maximum density of 15 units per hectare and a maximum height of 10.5 metres with a special provision to permit a reduced interior side yard of 1.2 metres and reduced density of 15 units per hectare, and an Open Space Special Provision (OS1()) Zone to permit a public trail corridor extension with a special provision for 0 metre lot frontage onto a public road and reduced lot area of 1600 square metres;

- A vacant land condominium which would consists of 14 units (i.e. – lots) for detached dwellings served by a private street connecting to Privet Place.

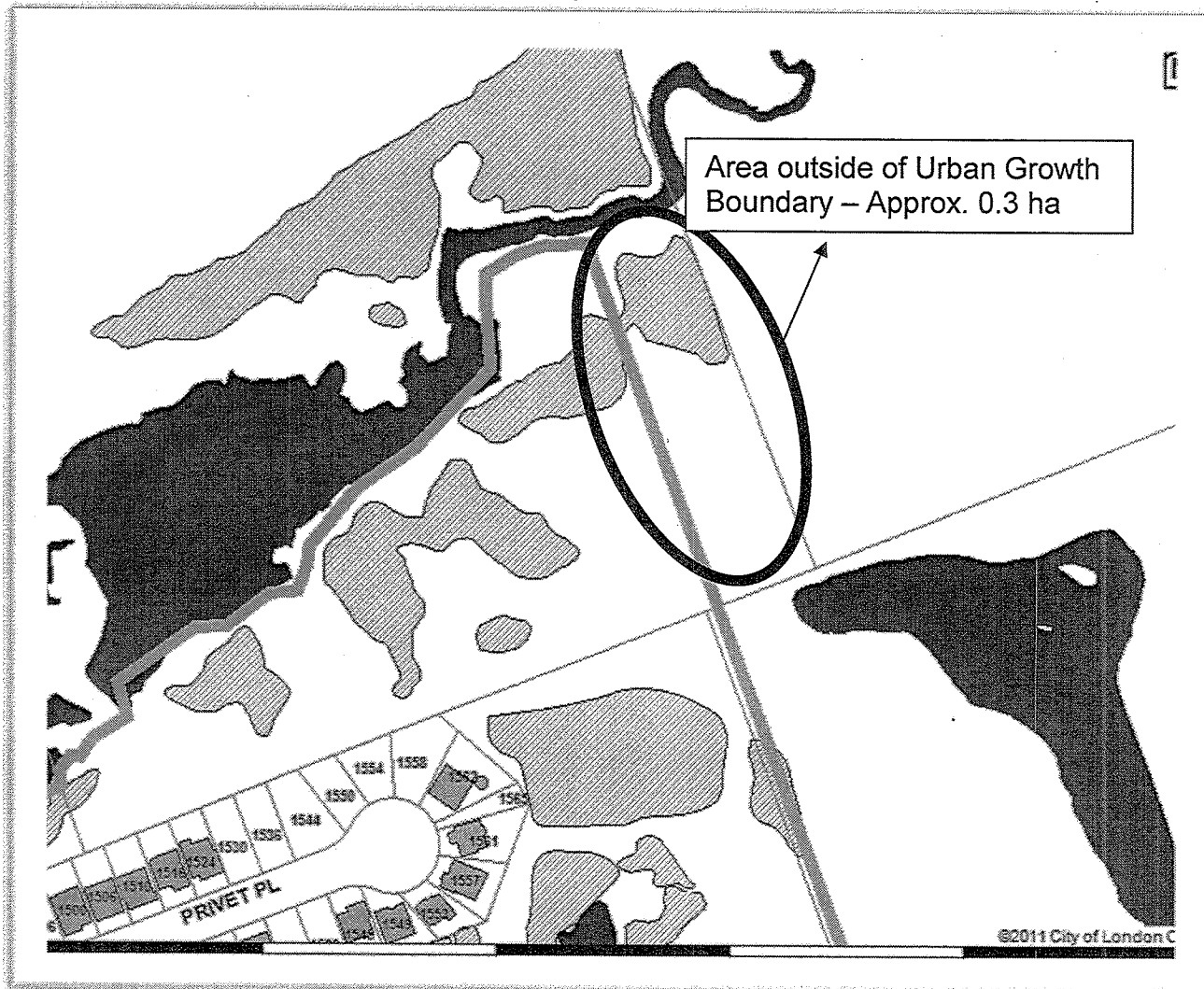
The subject site currently consists of various types of vegetation due to its proximity to Stoney Creek and wetland. It is generally flat, with a slight slope downwards to the north towards Stoney Creek. The applicant has indicated that grades will need to be raised as part of any application in order to accommodate servicing requirements.

The applicant is proposing an access through a lot within the adjacent registered plan of subdivision (Lot 44, 33M-548). It is not typical for a driveway to be provided through another lot on an adjacent plan of subdivision, and as such, is required to be rezoned as part of this process.

Is this application appropriate?

No. These lands were never anticipated to be developed due to their close proximity to Stoney Creek and their designation (on Schedule B1) within the Fanshawe Wetland Environmentally Significant Area (ESA). The following is a summary of the reasons for refusal.

1. Expansion to Urban Growth Boundary



The applicant has indicated this is a “minor boundary adjustment”. Based on Schedule A, a 0.3 hectare portion of the site is located outside of the current Urban Growth Boundary. Policy 19.1.1. of the Official Plan states that the boundaries between designations on Schedule “A” “are not intended to be rigid, except where they coincide with physical features (such as streets, railways, rivers or streams). The exact determination of boundaries that do not coincide with

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**File number:39CD-10513/OZ-7843
Nancy Pasato**

physical features will be the responsibility of Council.” The applicant has indicated that excluding this additional area would result in a land locked parcel that would be difficult to integrate into future development. This area represents 2-3 lots, which would have no impact on the land needs of the City.

The Urban Growth Boundary was applied through the OPA 88 process in 1996, and revised by the Ontario Municipal Board in 1999. The Kilally North Area Plan was adopted in 2004. Since 1999, two Official Plan reviews have occurred. Not once was this area asked to be considered as part of the Urban Growth Area. In fact, this whole area was never included within the Kilally North Area. Servicing was never contemplated, nor did any of the Environmental Assessments undertaken for stormwater and sanitary consider this area. Minimum Distance Separation nor Archaeological Assessments had ever been contemplated for this piece of land.

As per policy 1.1.3.9 of the Provincial Policy Statement (PPS), a comprehensive review must be undertaken to address any change to the area within the settlement boundary. Through the City’s most recent five year review, which resulted in OPA No.438, it was determined that no further lands for growth were needed within the 20 year planning horizon.

The Ministry of Municipal Affairs and Housing has commented that any expansion, regardless of size, should only be reviewed through a municipality’s comprehensive review of their Official Plan. For the City, this process for the 2011 review is just beginning.

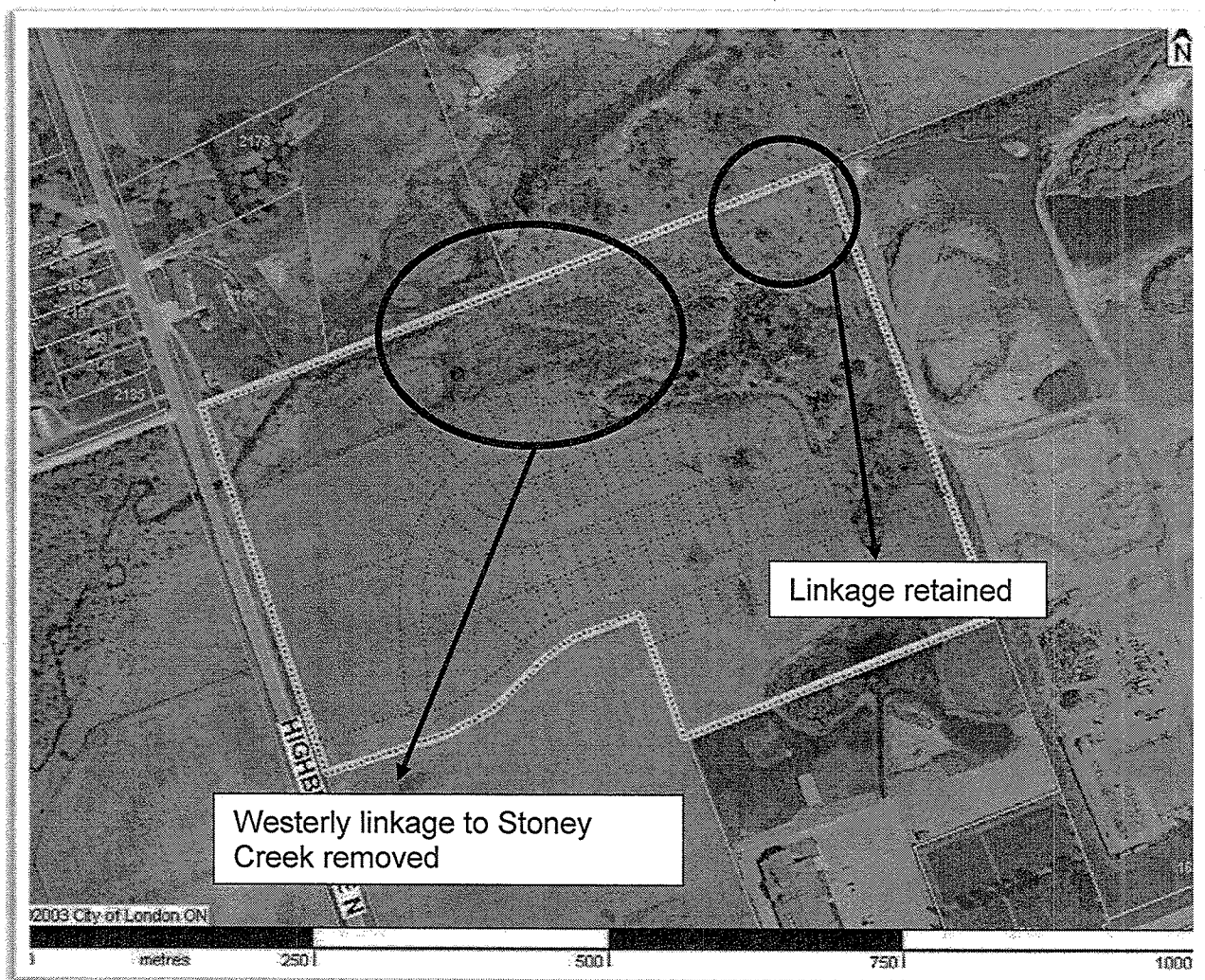
Also, in accordance with Bill 26 (the Strong Communities Act) there are no appeal rights for requests to expand or alter an urban growth boundary.

If Council supports this expansion and deems it an interpretation issue, this would set the precedent that other areas are also “minor boundary adjustments”. City Staff, nor the Province, believes this to be a minor lot adjustment. Therefore, staff are of the opinion it would not represent good land use planning to support the shift in the Urban Growth Boundary.

2. Connectivity to Natural Heritage

Through the application for the Pittao lands (39T-01509), the plan initially submitted proposed development on the wetland feature located to the south of the subject site. As a result of consultation with the Ministry of Municipal Affairs and Housing, Ministry of Natural Resources, UTRCA and City staff, the applicant changed the plan of subdivision. The wetland feature (known as patch 02002) was to be left as is and remain an unevaluated wetland feature and was dedicated to the City. The applicant at that time submitted a Scoped Environmental Impact Study (prepared by Biologic August 2002 and clarified by letter dated December 18, 2002), which discussed the significance of the existing physical linkage between the retained wetland area and the Fanshawe Wetland Complex (Policy 15.4.1.1 vi) and shown on Schedule “B1”). It was determined that the physical linkage should be retained at the east end of the site and the westerly link could be abandoned (see map). The retention of the unevaluated wetland was seen as a balance between allowing development to proceed and protecting the wetland and providing a terrestrial link to Stoney Creek. Through the Annexed Area Zoning By-law amendment, the subject site was zoned Open Space (OS5) in recognition of the ecological importance of the wetland, the adjacent lands providing supportive and specialised habitat, as well as linkage to the smaller wetland to the south.

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The applicant for the subject lands has indicated, through their submission of an EIS, that a terrestrial corridor would not be feasible or functional for the following reasons:

- *“The species that would most likely use it consist of common terrestrial amphibian species, which currently inhabit a functioning isolated system that sustains all lifecycle requirements for those species;*
- *Other significant species within the Fanshawe Ridge PSW would not normally utilize the habitat available in the southerly wetland patch and would likely utilize the better quality habitat within the PSW;*
- *There is a slightly higher grade between the patches suggesting that surface water flows do not connect between the two areas”.*

The applicant has concluded that specific provisions were not clearly identified and delineated in the planning documents and approvals associated with the adjacent lands, and that a terrestrial linkage could be provided through the proposed vacant land condominium plan through the park/trail block (Block 15).

The applicant is proposing that the common element area located outside of the urban growth boundary will be sufficient to provide connectivity between the wetlands. If the expansion to the Urban Growth Boundary is not supported, then this will remove any possible connectivity between the Fanshawe Wetland Complex and the wetland to the south.

Since draft plan of subdivision application 39T-01509 was granted draft approval in 2003 the wetland identified as Patch 02022 has been identified as being part of the Provincially Significant Fanshawe Wetland Complex.

As per the Provincial Policy Statement, the following policies apply:

- 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*

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features and areas, surface water features and ground water features.

- 2.1.3 *Development and site alteration shall not be permitted in:*
 - a) *significant habitat of endangered species and threatened species;*
 - b) *significant wetlands in Ecoregions 5E, 6E and 7E.*

- 2.1.4 *Development and site alteration shall not be permitted in:*
 - d) *significant wildlife habitat**unless it has been demonstrated that there will be no negative impacts on the natural features or on their ecological functions.*

- 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.*

The City's Official Plan policies also support the enhancement measures that protect the ecological function and integrity of the Natural Heritage System. Policy 15.3.7. details management and rehabilitation priorities, which include the following:

- "...i) The City's highest priority for rehabilitating and enhancing the Natural Heritage System shall be those areas linking or adjacent to natural heritage areas that are subject to flood or erosion hazard constraints.*
- ii) With respect to specific components of the Natural Heritage System, the City's management and rehabilitation priorities are:*
 - (a) Environmentally Significant Areas - to protect the existing ecosystem features and functions, to increase the amount of interior forest habitat, and to strengthen corridors..."*

Further Policy 15.4.6 details the importance and retaining/enhancement of corridors, which mimics the Provincial Policy Statement.

Overall, the Fanshawe Ridge Environmental Impact Study has not demonstrated that the proposed Draft Plan of Condominium will have negligible impacts on the significant features and ecological functions within the Fanshawe Ridge Subdivision area. The focus of the EIS was on protection of the Fanshawe Provincially Significant Wetland consistent with the PPS 2005 (2.1.3). The EIS has demonstrated no negative impact to the wetland itself, but has not demonstrated no negative impact on adjacent lands to the wetland which include a distance of 120 m from the wetland boundary. Based on the submitted EIS and after review and agency input received on the EIS, staff are of the opinion the EIS does not provide substantial and clear direction that the proposed development would not have an impact on the Stoney Creek corridor and associated adjacent water levels.

3. Setbacks for Development

A minimum 30 metre buffer is recommended for any development in the vicinity of a wetland (such as the Fanshawe Wetland Complex). The EIS proposes a 30 m buffer to protect the features and functions of the Fanshawe Wetlands and while it will protect some of the wetland functions it will not protect the adjacent lands to the wetland that are important significant wildlife habitat in their own right, and that are necessary to protect the area sensitive species-at-risk (Least Bittern). In certain areas the buffer is recommended to be 26 metres, further impacting the wildlife habitat.

The introduction of the proposed development will fragment the connection between adjacent lands that are currently zoned OS5 resulting in loss of function, a loss of significant wildlife habitat present in the thicket/meadow area, and will introduce human related disturbances in close proximity to the habitat of a threatened species. Also the introduction of a new storm outlet to Stoney Creek to accommodate the storm water from the developed site, the introduction of over 1 metre of fill in order to facilitate construction, the dewatering necessary during construction due to the proximity of the groundwater to construction, and the need for perimeter drains around basements, these construction related impacts will result in loss of

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habitat and/or impacts to significant features and functions.

In summary, the EIS recommended setbacks are not consistent with the City of London EIS Guidelines for protecting lands adjacent to a Provincially Significant Wetland which provide a significant wildlife habitat.

4. Planning Impact Analysis

Planning Impact Analysis are 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. The Official Plan also contains criteria to be used in the review of a vacant land condominium (which refers to the criteria used for the review of draft plans of subdivision).

The proposed development meets some of the criteria for Planning Impact Analysis and draft plans, such as:

- The proposed development is compatible in terms of type of use (single detached residential) and scale with adjacent residential development, and the parcel is of a sufficient size and shape to accommodate the proposed single detached development;
- The exterior design in terms of the bulk, scale, and layout of buildings, and the integration of these uses with present and future land uses in the area;
- Due to the location and proposed number of units, it is unlikely that there will be an effect on the transportation system in the area;
- The plan of condominium appears to be serviced with available uncommitted population-equivalent reserve capacity in the water and sewage treatment systems, and without requiring an undue financial commitment from the City;
- The plan of subdivision is designed to be integrated with adjacent lands;
- The height, location and spacing of any buildings in the proposed development, and any potential impacts on surrounding land uses to the south appear to be acceptable.

However, several of the Planning Impact Analysis criteria in the Official Plan have not been met. These include:

- The plan of condominium is not consistent with the objectives and policies of the Official Plan;
- This does not constitute affordable housing, as determined by the policies of Chapter 12 – Housing;
- It is not known whether the proposed development will be exposed to excessive noise levels or other significant adverse impacts associated with nearby aggregate operations;
- The proposed development is not located near schools and other community facilities;
- The proposed development has not demonstrated how it has incorporated the Placemaking design principles;
- Access is provided through a lot on a registered plan of subdivision, which is not appropriate;
- There is no indication of how or if the development is designed to support optimization of the available supply, means of supplying, efficient use and conservation of energy;
- The plan has not considered the need for tree preservation reports, and trees that have been identified for protection, nor has it identified the potential implications for street tree locations in the design of the subdivision;
- The stormwater outlet that is required for the development is located within the buffer area for the Fanshawe Wetlands and will outlet to the wetlands;
- It has not been demonstrated that the Natural Heritage System will be protected from any negative impacts associated with this plan;
- The proposed development will remove vegetation and fragment natural features that contribute to the visual character of the surrounding area;
- There is the potential for this development to severely impact the surrounding natural features;
- The measures planned by the applicant to mitigate any adverse impacts on adjacent features are not adequate (i.e. Common Element/Open Space, reduced 30 m buffer).

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Based on the criteria for Planning Impact Analysis, and in consultation with the public, UTRCA, MNR and City staff, although some of the criteria can be met, it has not been demonstrated that this proposed development is appropriate and will not negatively impact the existing Fanshawe Wetland Complex and the connectivity necessary between the wetland patches.

Public Responses

The main issues raised by the public on this application include:

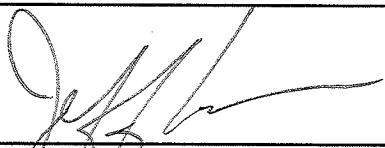

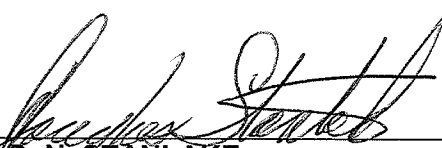
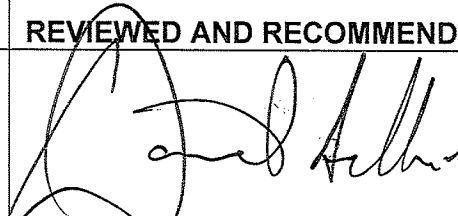
- Impact on the natural heritage system
- Impact of the development on the local transportation network (increased traffic, safety considerations)
- Impact on property values as a result of this application.

Most of these comments are similar to the issues raised by staff, and have been summarized in the report.

CONCLUSION

Overall, Staff recommend refusal of this proposed change. It is not consistent with the Provincial Policy Statement, nor is it consistent with the policies of the Official Plan. The expansion of the Urban Growth Boundary and the potential impact on natural heritage is not supported and does not represent good land use planning.

for

PREPARED BY:	SUBMITTED BY:
	
NANCY PASATO, MCIP RPP SENIOR PLANNER DEVELOPMENT PLANNING	JEFF LEUNISSEN, MCIP RPP MANAGER OF DEVELOPMENT PLANNING
RECOMMENDED BY:	REVIEWED AND RECOMMENDED BY:
	
D. N. STANLAKE DIRECTOR, DEVELOPMENT PLANNING	DAVID ATLES, P.ENG MANAGING DIRECTOR OF DEVELOPMENT APPROVALS BUSINESS UNIT

September 16, 2011

NP/np

Y:\Shared\Sub&Spec\CONDO\2010\39CD-10513 - 2270 Highbury Avenue North (NP)\report
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Responses to Public Liaison Letter and Publication in "Living in the City"

Telephone

Written

Michael Robertson
2132 Pennyroyal Street
N5X 0E7

- Opposed to application
- Issues with traffic, impact on natural heritage

Ireneusz Krysa & Patricia Brown
1562 Privet Place

- Opposed to application
- Issues with impact on lots, land depreciation, wetland buffer/setback

John & Elizabeth Baldassare
1557 Privet Place

- Opposed to application
- Issues with Issues with traffic, impact on natural heritage

Dan & Jana McCluskey
1524 Privet Place
N5X 0E7

- Opposed to application
- Issues with Issues with traffic, impact on natural heritage

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File number:39CD-10513/OZ-7843
Nancy Pasato

Bibliography of Information and Materials – 39CD-10513/OZ-7843
(Also see Appendix “A”)

Request for Approval:

City of London Subdivision & Zoning By-law Amendment Application Forms, completed by Sifton Properties – October 12, 2010. –

Reference Documents:

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

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

Ontario. Ministry of Municipal Affairs and Housing. Provincial Policy Statement, March 01, 2005.

Provincial Policy Statement, 2005.

Correspondence within City of London Planning File: 39CD-10513.

Correspondence within City of London Planning File: OZ-7843

Final Proposal Report and Appendices and Exhibits

- Proposed Draft Plan of Condominium
- Proposed Zoning and Proposed Official Plan Amendment
- Aerial view of proposed site and surrounding area
- Site Servicing / Grading Plan
- Appendix A - Fanshawe Ridge Vacant Land Condominium EIS, AECOM. September 2010
- Appendix B – Stage 1 & 2 Archaeological Assessment, Fanshawe Ridge Phase 4, Timmons Martelle Heritage Consultants. June 2009
- Appendix C – Fanshawe Ridge Phase 4 Stormwater Management Servicing and Water Balance Review, Delcan. July 2010
- Appendix D - Geotechnical Investigation – Proposed Condominium Development, Fanshawe Ridge Subdivision. Trow Associates Inc. September 2009
- Financial Calculation

City of London. Kilally North Area Plan, October 2003

City of London. Kilally North Area Plan Update, October 2004

City of London. Pittao Subdivision file (including correspondence, letters, e-mails, comments, maps, etc.) for 39T-01509. Various dates.

City of London. Pittao Subdivision report for 39T-01509. November 2003.

BioLogic. Scoped EIS, Fanshawe and Highbury Area. August 22, 2002

RWDI. Noise Impact Study for Part Lot 8, Concession 5. May 1, 2006 and addendum

Trow Associates. Geotechnical Investigation – Proposed Condominium Development, Fanshawe Ridge Subdivision. September 2007.

Earth Tech. Fanshawe Ridge Property Subject Lands Status Report. March 2008

AECOM. Fanshawe Ridge Vacant Land Condominium Draft EIS. February 2009

AECOM. Fanshawe Environmental Impact Study. October 7, 2010.

Delcan. Sanitary Capacity Review. November 8, 2010.

City of London. Record of Consultation. March 19, 2009.

AECOM. Response to EIS Comments. March 25, 2011.

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Appendix "A" – Stakeholder and public comments on application

Internal

- a) EESD – January 20, 2011
- b) Parks Planning – January 21, 2011 and April 10, 2011

Committees

- c) EEPAC – January 8, 2011

Agencies

- d) MMAH – January 17, 2011
- e) UTRCA – January 21, 2011

Public

- f) Dan McCluskey – December 6, 2010
- g) Mr. & Mrs. Robertson – December 3, 2010 & December 22, 2010
- h) Ireneusz Krysa & Patricia Brown – January 6, 2011
- i) John & Elizabeth Baldassare – January 6, 2011

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Appendix "A" – Stakeholder and public comments on application

Internal

- a) EESD – January 20, 2011
- b) Parks Planning – January 21, 2011 and April 10, 2011

Committees

- c) EEPAC – January 8, 2011

Agencies

- d) MMAH – January 17, 2011
- e) UTRCA – January 21, 2011

Public

- f) Dan McCluskey – December 6, 2010
- g) Mr. & Mrs. Robertson – December 3, 2010 & December 22, 2010
- h) Ireneusz Krysa & Patricia Brown – January 6, 2011
- i) John & Elizabeth Baldassare – January 6, 2011

a)



London
CANADA

MEMO

DATE: January 20, 2011

FILES 39CD-10513

R-7843

TO: Nancy Pasato
Development Business Unit

FROM: Lois Burgess, P. Eng
Engineering Review Division

RE: ZONING BY-LAW AMENDMENT Z-7843,
DRAFT PLAN OF VACANT LAND CONDOMINIUM
2270 FANSHAWE PARK RD
SIFTON PROPERTIES LIMITED

The City of London's Environmental and Engineering Services Department (EESD) offers the following comments with respect to the Draft Plan of Vacant Land Condominium and Zoning By-Law amendment application:

Zoning By-Law Amendment:

The Environmental and Engineering Services Department has no objection to the proposed Zoning By-law Amendment to Residential R6 (R6-2) Zone with respect to servicing. It is noted that a portion of this development is outside the Urban Growth Boundary which will need to be dealt with. At site plan application stage a number of site plan issues and site servicing and grading will need to be resolved with the owner and consulting engineer which may affect the future condominium corporation and unit owners. A holding provision to address servicing and access concerns is recommended

Draft Plan of Condominium

Specifically the following items, at the minimum, are to be considered for these lands to develop:

Access

- Access for the proposed condominium is proposed via a private street connecting to Privet Place across a lot currently within an unassumed subdivision, Lot 44, Plan 33M-601. The entry design and any impacts to the existing right of way need to be satisfactory to the City Engineer.
- The proposed storm outlet structure, if private, will need an access for future maintenance and a private easement over City property for the storm outlet located between this proposed site and Stoney Creek. If municipal, there needs to be a municipal multi-purpose easement across the affected condominium lands.
- The proposed road is the responsibility of the condominium and is to be operated and maintained privately by the condominium corporation at no cost to the City.
- Garbage, snow storage and removal must be considered. City trucks should not be expected to use the private road for snow or garbage management activities.
- A municipal pathway is contemplated through the site and will need dedication of lands or easement and appropriate surveys.

Sanitary:

- Sanitary sewer is being proposed to connect to the abutting unassumed Sifton Subdivision. A sanitary servicing report is required. Arrangements to connect to unassumed services are to be made with the adjacent Owner/Subdivider of Plan 33M-601 and the City.

Water:

- Potable water is being proposed to connect to the abutting unassumed Sifton Subdivision. A water servicing analysis and a hydraulic review are required. Arrangements to connect to unassumed services are to be made with the adjacent Owner/Subdivider of Plan 33M-601 and the City.

Stormwater:

- The subject lands are located in the Stoney Creek Subwatershed. The Owner's professional engineer must apply the proper stormwater practices to ensure that the SWM targets and criteria are met. Any provisions for a private permanent SWM system are required to be satisfactory to the City Engineer and UTRCA. This includes the submission of a stormwater management report. Enhanced stormwater treatment is required.
- If the Owner's design manages storm water flow from external lands/multiple land owners there are implications for private and municipal easements and municipal storm servicing.
- Any re-grading on external lands is to be to the satisfaction of the City Engineer. Permission from other property owners may be required.
- The proposed private storm outlet to Stoney Creek will require a MOE Certificate of Approval by Direct Submission and is not eligible for Transfer of Review. Note that there is a question as to whether this outlet and pond can be private as they appear to serve upstream properties. If the pond is municipal it must be a wet pond.
- The proposed storm outfall is dependent on UTRCA clearance prior to any submissions to the MOE and the acceptance by the City.
- The subject lands are within a UTRCA regulated area requiring UTRCA approval.
- All buffer setbacks are to be satisfactory to the City Engineer and General Manager of Planning and Development.
- Overland flow routes though the condominium are to be addressed in the detailed design and demonstrate that ponding and erosion impacts are not of concern.
- A water balance must be submitted especially with regard to protection of the wetland.
- Municipal work, slope stability issues, drainage, overland flow routes from abutting lands onto the condominium will need to be addressed.
- The geotechnical report has been reported as written but needs to be submitted.
- Further discussion would be of benefit regarding the storm water system.


These, among other issues may be addressed in greater detail through future applications for development such as site plan.

The proponent will also need to deal with the following:

- Site Plan Application
- Compliance with the approved Site Plan, site servicing plans, and Development Agreement
- Security for proposed municipal and private works
- Easements – internal and external, private and municipal
- Revision of subdivision servicing plans of the unassumed Subdivision, Plan 33M-601
- Any land or lot in Plan 33M-601 that is intended to be used as an access road and incorporated into the condominium
- The consultant's opinion on the need for any environmental assessments.

Additions and conditions may develop as the process evolves. These, among other issues may be addressed in greater detail through future applications for development such as site plan.

If you have any questions regarding the above please feel free to contact Marcus Schaum at (519) 661-2500 ext 4899.


Lois Burgess, P. Eng
Division Manager
Engineering Review Division
MS/

b)



Memo

To: Nancy Pasato
Senior Planner- DABU

From: Parks Planning and Design

Date: January 21 2010

RE: Fanshawe Ridge EIS

We have reviewed the Environmental Impact Study prepared by AECOM Canada Ltd. dated October 7, 2010 for Sifton Properties Limited. The EIS will require to be reviewed by the MNR since this wetland is a provincial interest.

Based on our detailed review of the EIS, we cannot support the proposed development application because it will not be consistent with the Provincial Policy Statement (2005) or the City of London Environmental Policies for protection of the Natural Heritage resources present on the subject property.

The entire site is already zoned OS5 through the previous development process, in recognition of the ecological importance of the wetland, the adjacent lands providing supportive and specialised habitat, as well as linkage to the smaller wetland to the south. In our opinion, this zoning is appropriate and necessary to protect the significant features and functions.

In keeping with Section 8A.2.6, if the development application proceeds to the next step, despite our significant issues, a report to Council is required to assess whether the City should acquire the OS lands.

The following Provincial policies apply to this site:

- 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:*
- a) significant habitat of endangered species and threatened species;*
 - b) significant wetlands in Ecoregions 5E, 6E and 7E.*
- 2.1.4 *Development and site alteration shall not be permitted in:*
- d) significant wildlife habitat*
- unless it has been demonstrated that there will be no negative impacts on the natural features or on their ecological functions.*

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.*

The three important Natural Heritage features present on this site are 1) a Provincially Significant Wetland, 2) Habitat for Threatened species, 3) Significant Wildlife Habitat.

Provincially Significant Wetland

The wetland boundary was identified in the field using a combination of wetland indicator species and soils. There is no clear discernible boundary between wetland and upland, as the slope of the land is relatively flat and the dominant shrub species, Gray Dogwood, is present throughout the upland and wetland portions. The boundary was determined based on subtle differences in some species distributions augmented by soil pits. The wetland boundary has been confirmed by the MNR. We agree that the proposed development will not directly impact any areas of the PSW.

Habitat for Threatened Species

The Least Bittern was observed and recorded as breeding in the marsh communities of the wetland. The coordinates for the location of the bittern, as observed during the avifauna survey by James Holdsworth, the location of the bird was 60 m from the nearest rear lot. The EIS reports the distance as 100 m from rear lots. This bird, considered a colonial species, is considered Threatened by the MNR for Ontario and COSEWIC for Canada. The NHIC describes the population as very small and declining, it depends on high quality marsh habitats that are being lost and degraded across the species' range. The main threat to Least Bitterns is draining of wetlands for conversion to farmland and urban development. Bitterns generally require large, quiet marshes and as marshes decrease in size and human recreation increases, the population declines in an area (ROM – Species at Risk October 2008). This species requires special protection measures.

Consultation with the Ministry of Natural Resources is required under the *Endangered Species Act*.

Significant Wildlife Habitat

The EIS did not evaluate the significance of wildlife habitat in accordance with Provincial Policy by means of the Significant Wildlife Habitat Technical Guide (MNR 2000); and by the City of London Official Plan policy 15.4.7 for Wildlife Habitat. We have reviewed two independent Consulting Biologist's reports contained in appendices of:

- Scoped EIS Pittao Construction, BioLogic August 22, 2002 - Appendix D: Faunal Inventory, 1998 and 2002 update, prepared by Dave Martin.
- Fanshawe Ridge EIS, AECOM February 6, 2009 – Appendix D: Avifauna and Species List, 2008, prepared by James Holdsworth

These two reports contain inventories of fauna that span a 10 year period from 1998 to 2008. This provides a reliable record of the stability and integrity of the habitat associated with this site that is functioning as breeding, feeding and migratory area for a high diversity of birds, reptiles,

amphibians, butterflies and odonata. Despite the EIS including the wildlife survey results for each of the 3 patches (the main wetland, the adjacent lands, and the smaller wetland), the EIS is silent on the evaluation and significance of these areas as a complex.

The Significant Wildlife Habitat Technical Guide (SWHTG, MNR 2000) describes 4 broad categories of wildlife habitat:

- seasonal concentration areas
- rare vegetation communities or specialised habitats for wildlife
- habitats of species of conservation concern, excluding the habitats of endangered and threatened species
- animal movement corridors

The wildlife and habitat present on the subject site has elements of significance in all four categories which will be discussed below.

Seasonal Concentration Areas :

1. *Colonial Bird nesting sites:* There are several colonial-nesting birds breeding or using the habitat of the subject site. According to the SWHTG “nesting colonies that support rare species and species that are highly sensitive to disturbance should be considered significant”. The presence of Least Bittern meets this criterion.

2. *Waterfowl nesting habitat:* The 1996 Fanshawe Wetland Evaluation noted Waterfowl Breeding as a locally significant special feature. According to the SWHTG “the best wetlands have a diversity of vegetation communities interspersed with open water, and are permanent wetlands that have provided habitat for staging or breeding waterfowl for many years”. Breeding evidence over many years has been recorded for Mallard, Blue-winged Teal and Canada Goose. These species are reported to nest up to 45 m from the water.

Specialised Habitat for Wildlife :

1. *Areas of High Diversity:* Each of the three primary habitats on and adjacent to the subject property; the wetland communities along Stoney Creek (patch 1), the shrub thicket and meadow (patch 2) and the wetland patch 02022 (patch 3) were described by James Holdsworth Consulting Biologist as highly diverse. The following are quotes from the faunal report prepared by him:

Patch 1 – is ecologically diverse and a good example of a healthy wetland complex. The mosaic of wetland habitat creates ideal breeding conditions for 23 marsh nesting birds. Species observations are indicative of a site of rare quality and diversity for Middlesex County. The Least Bittern [THR] is most noteworthy, as it is a rare [COSEWIC Threatened], local and declining species anywhere in Ontario. As well as avian diversity, the wetland provides superb habitat for Reptiles, Amphibians and Odonates.

Patch 2 – also contains a varied, diverse range of habitats and fauna (32 bird species), with numerous Conservation Priority species (11), far more than would be expected in such a small, compromised site. The patch also has good butterfly feeding and breeding habitat and forage habitat for Odonates. Its proximity to Patch 1 and to a large meadow east of the site forms a habitat block rich in faunal diversity as well as supplying a broad range of requirements for many faunal species.

Patch 3 – is connected to Patch 2 by meadow habitat. The wetland area is small, isolated and seriously compromised by local construction activities and small buffer. Even with this level of disturbance, the patch continues to be of fairly high quality, with a good faunal diversity (28 birds) and a functioning wetland component.”

Habitat of Species of Conservation Concern: The subject lands contain breeding habitat for an area-sensitive bird (Least Bittern); and thicket/grassland birds of conservation concern (northern flicker, eastern kingbird, willow flycatcher, brown thrasher, field sparrow, eastern towhee, rose-breasted grosbeak, Baltimore oriole, Bobolink). The habitat has not been disturbed for over 12 years.

Animal Movement Corridors : The linkage between the isolated wetland patch 02022 and the wetlands along Stoney Creek has been demonstrated to be important for the movement of species between these habitats. This movement was documented by Dave Martin (June 5, 2002) who wrote, “The various communities should not be viewed in isolation. A Brown Thrasher was flushed from Patch 02022 where it may have been foraging or bathing and flew into the thickets bordering the Fanshawe Wetlands. A Green Heron was also flushed from Patch 02022 and flew to the north. Later we observed two Green Herons in the Fanshawe Wetlands, likely a breeding pair, one of which was the bird seen earlier. The Painted Turtles likely colonized Patch 02022 from the Fanshawe Wetlands”.

The intervening thicket and meadow communities provide dispersal habitat for a number of species and buffer habitat for the protection of the isolated wetland. James Holdsworth (2008) wrote about patch 02022, “there remains just enough meadow buffer around most of the site to shield it from direct effects of nearby development, although it would be expected to degrade, with time, through silting, runoff and intrusion. If connectivity can be maintained or enhanced with patch 1 and 2, this area could remain viable and useful for local fauna.

The linkage assessment in the EIS considered only the potential movement of Leopard Frog and Snapping Turtle. Based on studies of movement and lifecycle requirements of Leopard Frog, they are noted to disperse between 40 to 100 m from a wetland. They like to disperse to wet meadows with some shrubs and trees for shade in the summer to forage for food. The CUM and CUT communities provide this habitat. Soils information from borehole test pits (Trow Associates, 2007) indicated that soil moisture throughout the subject lands was damp to moist. These conditions were observed in August, typically a drier season. The EIS suggests that adequate habitat would still be available within 50 m of their breeding ponds to provide this function. The suggested locations are a pond surrounded by agricultural land and ponds within aggregate extraction area. These locations are not comparable summer foraging habitat. The EIS concludes that a corridor established for these species would be ineffective. However, the corridor already exists and does not need to be established. The proposed development will fragment this corridor and remove a significant area of foraging habitat for Leopard Frog, not to mention the habitat functions for thicket and meadow dependent species including birds, butterflies and odonata.

The linkage was identified and zoned OS5 through the previous development process to be maintained, as development had eliminated the shorter, more direct link 100m to the west. The linkage is supported by OP Policy 8A.2.4. and by a previous decision of Council.

Assessment of Development Impacts

The Constraints and Opportunities section 4.0 of the EIS is not supported by City of London Official Plan policies or the Environmental Management Guidelines and has not been approved as a template for the assessment of ecological impacts. We have provided this comment and recommended changes to the table from our review of other EIS's prepared by AECOM. We will not accept or review the information provided in Chapter 4 of this EIS.

The Assessment of Potential Impacts in Chapter 5.0 does not include a net effects assessment in table format which is a requirement of a complete EIS. Since the EIS has not evaluated Significant Wildlife Habitat, the impact assessment has not considered the impact of the development on the adjacent lands to the wetland. The adjacent lands include a distance of 120 m from the wetland boundary, which would overlap with the adjacent lands for the small wetland patch. Therefore, all features and functions identified in chapter 2.0 of the EIS must be included in the assessment of impacts.

Buffers

The EIS proposes a 30 m buffer to protect the features and functions of the Fanshawe Wetlands. This is a minimum buffer recommended for protection of some wetland functions. The 30 m buffer will not protect the adjacent lands to the wetland that are important significant wildlife habitat in their own right, and that are necessary to protect the area sensitive species-at-risk, Least Bittern.

According to the SWHTG (MNR 2000), buffers for the protection of colonial-nesting birds, waterfowl nesting habitat, areas of high diversity, and habitat of species of conservation concern all require protection of the area of the site, plus a large area of contiguous undisturbed grassland habitat ranging from 120 to 200 m from the wetland or from incompatible land use. In addition, it is important to protect a good representation of suitable habitat for species of concern.

Introduction of the proposed development will:

- fragment the connection between the isolated wetland and wetlands along Stoney Creek resulting in loss of function;
- result in loss of significant wildlife habitat present in the thicket/meadow area; and
- introduce human related disturbances in close proximity to the habitat of a threatened species.

Other construction related impacts that will result in loss of habitat and/or impacts to significant features and functions include:

- the requirement for a new storm outlet to Stoney Creek to accommodate the storm water from the developed site;
- introduction of over 1 m of fill in order to facilitate construction;
- dewatering due to the proximity of the groundwater to construction; and
- the need for perimeter drains around basements.

Existing Impacts

Section 6.1 of the EIS notes three existing impacts that may be affecting the subject site:

1. Edge effects on core woodland habitat for sensitive bird species. The subject site does not contain a woodland community therefore this argument is not supported.
2. Noise impacts from Highbury Road. The proximity of the road and noise generated does not appear to be having long-term effects on the bird and wildlife species given the similarity of species inventories between 1998 and 2008. The presence of breeding Least Bittern in 2008 further suggests minimal disturbance affect due to traffic noise.
3. Sedimentation and dust deposition. This is generated from roads and current construction activities. Construction of the proposed development will bring these impacts even closer to the wetland communities further reducing vegetation productivity.

Conclusion and Recommendation

The Fanshawe Ridge Environmental Impact Study, prepared by AECOM October 7, 2010 for Sifton Properties Limited has not demonstrated that the proposed Draft Plan of Condominium will have negligible impact on the significant features and ecological functions within the Fanshawe Ridge Subdivision area. The focus of the EIS was on protection of the Fanshawe Provincially Significant Wetland consistent with the PPS 2005 (2.1.3). The EIS has demonstrated no negative impact to the wetland itself, but has not demonstrated no negative impact on adjacent lands to the wetland which include a distance of 120 m from the wetland boundary.

There are two other significant natural heritage features that were not adequately evaluated in this report. These include Habitat for Threatened species (PPS 2.1.3) as required under the *Species at Risk Act* and Significant Wildlife Habitat (PPS 2.1.4 and City of London OP policy 15.4.7.) In addition, PPS policy 2.1.2 protects habitat diversity and connectivity and long-term ecological function and biodiversity. The proposed Draft Plan of Condominium will result in a loss of connection between the small wetland patch 02022 and the wetlands along Stoney Creek, thereby isolating the wetland, and a loss of native flora and faunal diversity by replacing the previously identified and OS5-Zoned corridor and significant wildlife habitat with development.

On the basis of these conclusions, Parks Planning & Design recommends that this development proposal not be supported.

To protect these lands, we'd recommend that the City acquire Sifton's Lands south of creek at a minimum.

Bonnie Bergsma, M.Sc.
Ecologist Planner

BB

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London
CANADA

Memo

To: Jeff Leunissen
File Manager, DABU

From: Parks Planning and Design *DM*

Date: April 10, 2011

RE: Fanshawe Ridge EIS
39CD-10513

We have reviewed the February 6, 2009, Environmental Impact Study and the March 25, 2011 letter of response prepared by AECOM Canada Ltd for Sifton Properties Limited. Our initial review of this document was made on March 10, 2009 with a series of additional responses that are highlighted in a chronology (attached), as prepared by Ms. Bergsma. In addition to the EIS comments, Parks Planning and Design has summarized below our position on the open space linkage dating back to 2007.

Planning Context

Through the planning for the original Pitteao subdivision, now owned by Sifton, the significance of the existing physical linkage between the retained wetland area and the rest of the Stoney Creek Wetland Complex was assessed and it was determined that the physical linkage should be retained at the east end of the site and the westerly link could be abandoned.

This conclusion was accepted by the City and the linkage established and zoned OS5. The previous EIS and planning report were very clear about the establishment and protection of the easterly linkage. The City met with Sifton in June 2007 to review their potential development north of the original subdivision and we provided pages from the subdivision EIS - recommending the open space linkage and a copy of the planning report - noting the reference to the open space linkage. We clearly indicated that the linkage was key from an environmental perspective and also for the planned recreational linkages through the area that they were planning for development - noting the conceptual layout within the Area Plan and Bicycle Master Plan.

We met again in April 2008 and reviewed all of this background again and stressed the importance of the open space linkage. Notwithstanding this, Sifton wished to proceed with their development plans and worked to prepare the required EIS documents.

Environmental Impact Study

The City's ecologist has provided a detailed summary of previous meetings, submissions and a review of AECOM's latest EIS response. Ms. Bergsma's position is that the proposed development cannot be supported as meeting the test of the PPS, and the City's Official Plan

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and Guidelines. We understand that you have similar comments from EEPAC, the UTRCA and the Province.

On the basis of the planning rationale and EIS conclusion for retention of the easterly linkage - which permitted the original subdivision to proceed, and the full review of the latest EIS update, Parks Planning & Design recommends that this development proposal not be supported.

AM/bp/bb

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**Fanshawe Ridge Draft Plan of Vacant Land Condominium – 39CD-10513/OZ-7843
Environmental Impact Study**

Response to AECOM March 25, 2011 submission
Prepared by: Bonnie Bergsma, M.Sc. Ecologist Planner
April 6, 2011

Chronology

November 3, 2008 – Issues Summary Report received for review from AECOM
January 9, 2009 – Issues Scoping Meeting held and additional study requirements were added to the checklist report prepared by AECOM
March 2009 - Initial Proposal Report submitted to DABU including a draft EIS prepared by AECOM dated February 6, 2009
March 10, 2009 - memo sent to Allister Maclean (file planner at the time) from B. Bergsma indicating the EIS was incomplete, and noting that the EIS did not address the additional requirements for a complete EIS that were provided at the scoping meeting.
Spring 2009 – site visit to delineate and confirm wetland boundary with AECOM, MNR, UTRCA, City
September 15, 2009 - memo to Allister Maclean from B. Bergsma that provided a more detailed review of the EIS, despite the lack of additional information requirements as noted on March 10, 2009, and outlining reasons why the development is not supported.
October 7, 2010- Revised EIS report prepared by AECOM
December 16, 2010 – Notice of Application and circulation of the EIS to EEPAC
January 17, 2011 – letter from C. Cooper, MMAH/MNR, with comments on the EIS, not supportive of the development.
January 20, 2011 – EEPAC comments on the EIS referred to the File Planner for consideration. EEPAC cannot support the proposal.
January 21, 2011 – letter from C. Creighton, UTRCA, with comments on the EIS, not supportive of the development.
January 25, 2011 - memo to Nancy Pasato (new file planner) from B. Bergsma, re-stating previous concerns and issues with the EIS and reasons why the development is not supported.
March 25, 2011 – Response to agency comments prepared by AECOM.
March 30, 2011 – meeting with AECOM, Sifton Properties Ltd., City planning staff, UTRCA, MMAH

The following represents my response to the issues raised and discussed at the recent meeting based on the March 25 AECOM submission, including the response and position of other agencies, additional issues raised by AECOM and Sifton, and my review of the response to Parks Planning & Design issues.

Key Issues

1. Adequacy of buffers to protect the PSW and other significant features and functions
2. Provision of linkage from the wetland patch 02022 to the larger PSW
3. Significant Wildlife Habitat
4. Species-at-Risk [Least Bittern, Bobolink, Snapping Turtle, Monarch Butterfly]

Concerns Identified by AECOM and Sifton regarding the EIS process

- The requirements of the EIS are going beyond the original scope of issues identified at the outset of the process. [Disagree, additional EIS requirements were provided and not addressed in the first draft of the EIS. In addition the EIS Guideline Document (step 2 – ongoing

consultation) clearly permits the expansion of the terms of reference if data collection and analysis reveals new issues or concerns regarding the significance of features and functions that were overlooked in the initial scoping meeting.

- There was agreement on the 30 m buffer from UTRCA (Tara Tchir) and City (B. Bergsma) [Disagree – there was support for the preliminary identification of a minimum 30 m buffer; however, we never agree on final buffer limits until the EIS is complete].
- There was agreement on the wetland boundary limits [agree]
- There was acceptance of the EIS at the time of the site meeting – what has changed? [disagree – Parks Planning & Design has submitted several memos not in support of the EIS]
- A net effects table was not required because the EIS was to be a scoped study for a small development with relatively minor impacts. [Disagree – the EIS Guideline Document describes a scoped site EIS where the development setbacks and buffers are mutually agreed to by the developer and review agencies. All EIS reports must include a net effects table].

In my opinion there was no new evidence or rationale offered in the response to our comments that has changed my position on this application. The vegetation providing linkage between the two units of the PSW on the adjacent lands is required to protect and maintain ecological integrity and significant wildlife habitat functions including waterfowl nesting, high species diversity, refuge, dispersal and foraging of animals moving between the wetland units. In its own right, the adjacent lands function as breeding, feeding and migratory area for a high diversity and abundance of birds, reptiles, amphibians, butterflies and odonata, many of these species requiring both wetland and grassland/open meadow habitat to fulfill their life cycle needs. The evaluation of Significant Wildlife Habitat prepared by AECOM was incomplete, as one of the primary functions that define specialised wildlife habitat, that being areas of high diversity was not evaluated as per the Significant Wildlife Habitat Technical Guide (MNR, 2000). In my opinion, this criterion is well met by at this site. The lands were zoned OS5 in recognition of this contribution to the ecological integrity of the wetland/ESA complex.

It is recommended that the boundary delineation guidelines be re-applied to the vegetation patches and the vegetation within the adjacent lands of the PSW. According to Guideline 7, the cultural old field / shrub thicket habitat must be included in the ESA boundary as it connects two or more significant patches within a distance of 120 m. The MNR has confirmed that the small wetland patch 02022, previously recognized as ESA, has been complexed with the Fanshawe Wetlands PSW (see attached figure).

The breeding evidence for the two listed species, Least Bittern and Bobolink (territorial males calling in suitable habitat) supports POSSIBLE breeding territories for these species. This is sufficient evidence to be recorded in the Atlas of Breeding Birds of Ontario. The NHRM (2010) recommends that planning authorities should apply decision-making approaches that incorporate the precautionary approach where appropriate. Comments about the size and composition of the habitat areas for these bird species are of interest, but there is ample evidence of these species breeding in areas smaller than the "ideal" and in preferred habitats dominated by species other than the "ideal".

According to the definitions in the PPS 2005, *negative impact means degradation that threatens the health and integrity of the natural features or ecological functions for which an area is identified due to single, multiple or successive development or site alteration activities.* AECOM states several times that the development to the west removed the viable and functional linkage between the wetland patches, and provided little to no buffer for protection of the wetland features and functions. In my opinion, this argument, whether right or wrong, is not justification to permit additional development within an area

of land that was zoned OS5 to recognize and protect the terrestrial habitat connecting the two wetland units of the PSW. The provision of this connection was a condition of draft plan approval for the previous development. The proposed 14 lot condominium plan will create a permanent cultural barrier across the existing open habitat linkage between the two wetland units. This is a negative effect that cannot be mitigated and will result in cumulative impacts on the natural features and functions.

In summary, I will re-state the conclusions of the previous EIS reviews completed in 2009 and 2011:

The Fanshawe Ridge Environmental Impact Study, prepared by AECOM October 7, 2010 for Sifton Properties Limited has not demonstrated that the proposed Draft Plan of Condominium will have negligible impact on the significant features and ecological functions within the Fanshawe Ridge Subdivision area. The focus of the EIS was on protection of the Fanshawe Provincially Significant Wetland consistent with the PPS 2005 (2.1.3). The EIS has demonstrated no negative impact to the wetland itself, but has not demonstrated no negative impact on adjacent lands to the wetland which include a distance of 120 m from the wetland boundary.

There are two other significant natural heritage features that were not adequately evaluated in this report. These include Habitat for Threatened species (PPS 2.1.3) as required under the *Species at Risk Act* and Significant Wildlife Habitat (PPS 2.1.4 and City of London OP policy 15. 4.7.) In addition, PPS policy 2.1.2 protects habitat diversity and connectivity and long-term ecological function and biodiversity. The proposed Draft Plan of Condominium will result in a loss of connection between the small wetland patch 02022 and the wetlands along Stoney Creek, thereby isolating the wetland, and a loss of native flora and faunal diversity by replacing the previously identified and OS5-Zoned corridor and significant wildlife habitat with development.

On the basis of these conclusions, Parks Planning & Design recommends that this development proposal not be supported.

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Fanshawe Provincially Significant Wetland Complex Environmentally Significant Area



Guideline: Old Field/Thicket habitat must be included within the ESA boundary if they connect two or more patches.

- Urban Growth Boundary
- Zoning
- Open Space and ERI Land Use
- Provincially Significant Wetland
- Potential Naturalization Area
- Environmentally Significant Area
- Ecological Land Classification
 - Swamp
 - Marsh
 - Open Aquatic
 - Old Field/Thicket
- Contours



c)

EEPAC 2011 assessment of:
Fanshawe Ridge EIS
Project No. = 60116410

as submitted to the City of London
October 7th 2010

by: AECOM Canada Ltd

Fanshawe Ridge EIS Report on Sifton property

Having reviewed the EIS report (Project No.: 60116410) in December 2010/ January 2011, we, the working group for EEPAC, cannot support the proposal because:

- 1 In general, it threatens the integrity of the wetland by reducing the natural system to a fragmented system of isolated components, through the accumulative effects of:
 - (a) Spatial separation between elements.
 - (b) Imposition of possible new hydrological patterns within the sub-soils below the proposed building footprint that could damage 02022 Wetland Patch.
- 2 The proximity of this proposed housing development to a major water feature along this portion of the Stoney Creek watercourse, conflicts with wetland preservation in urban areas and compromises long-term future needs for the existence of wetlands.
- 3 The proposed development should not cross the existing urban boundary.
- 4 The proposed development should not encroach into the 30m wetland buffer setback zone; located at the North-West corner of the proposed development.
- 5 The proposed development does not address the issue of the existing beaver population in this wetland as to future and required management policies of the species and its relationship to the wet lands. Future conflicts or benefits are not reviewed in this report.
- 6 This EIS report does not show how there will be adequate protection for the long-term sustainability and provision of natural system requirements between the PSW and the 02022 Wetland Patch.
- 7 Priority bird species (CP) habitat is in the area of the proposed Development Patch 2. This habitat not only provides these species with breeding areas but also assists in the protection of the threatened species in the wetland area. The proposed development requires review under ESA 2007 as it could, for example, cause damage the Least Bittern habitat by shifting water levels or quality outside tolerated range, increase the threat of collision with fences, walls or other anthropogenic structures, or increase the potential of introduction of invasive species to the wetland (through garden escapees, disturbance, etc.). [See Appendix; item 1]
- 8 The wetland boundary needs to be defined and mapped with confirmation from the MNR.
- 9 A full season inventory of flora and fauna should be done; the EIS only mentions one season.
- 10 The hydrological function impacts of this proposed development are not adequately explained or reviewed. In particular, the extent and construction of new topographic elements are not provided (i.e. basic of graphical information); this places doubt that the proposed land works will have no impact on the hydrology. Given the sensitive nature of the wetlands- no mention of bio-swales is mentioned (for addressing contaminants from gardens and roads).

EEPAC working group members:
B. Maddeford; E. Carroll; S. O'Neill

Prepared:
8th January 2011

EEPAC 2011 assessment of:
Fanshawe Ridge EIS
Project No. = 60116410

as submitted to the City of London
October 7th 2010

by: AECOM Canada Ltd

Appendix

Item 1. Information on Least Bittern protection under ESA 2007 and threats as listed by COSEWIC.

Below are some direct quotes from the COSEWIC Report.

Assessment and Update Status Report on the Least Bittern (*Ixobrychus exilis*) in Canada. See link: http://dsp-psd.pwgsc.gc.ca/collection_2009/ec/CW69-14-409-2009E.pdf

"Endangered threatened and extirpated species on this list automatically receive legal protection under the ESA 2007. In addition to species protection, the ESA 2007 prohibits damage or destruction of habitat for species at risk (those listed as endangered or threatened on the Species at Risk in Ontario (SARO) List)."

"Some of these impacts, notably channelization, water extraction, and erosion, can degrade Least Bittern breeding sites even when they occur well away from those sites, because they shift water levels or quality (through siltation or eutrophication) outside the narrow, stable range tolerated by Least Bitterns."

"The few reports of Least Bitterns colliding with human-made structures are sufficiently dramatic to suggest the threat is locally serious. These include 16 birds killed by cars or colliding with fences in one weekend at one Louisiana refuge, regular collisions with a generator tower in Ontario that included eight on a single weekend, 18 strikes by airboats at one site in Florida, and nine road kills in one year along a 3.2 km section of highway in Florida."

"At sites across North America, including Ontario and Quebec, several invasive species are outcompeting the cattails in which most Least Bitterns breed. These species include Purple Loosestrife (*Lythrum salicaria*), Reed Canary Grass (*Phalaris arundinacea*), Common Reed (*Phragmites australis*), and, especially in Quebec, Flowering Rush (*Butomus umbellatus*; Lavoie et al. 2003; Hudon 2004; Jobin and Robillard 2005; Jobin 2006). All these species, as well as others that do not directly compete with cattails, such as European Frog-bit (*Hydrocharis morsus-ranae*), also encourage succession of marshes to drier habitat."

d)

Ministry of
Municipal Affairs
and Housing

ministère des
Affaires municipales
et du Logement



Municipal Services Office -
Western

Bureau des services aux municipalités -
région de l'Ouest

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January 17, 2011

Ms. Nancy Pasato
300 Dufferin Ave.
P.O. Box 5035
London, ON N6A 4L9

Dear Ms. Pasato:

Re: **Draft Plan of Subdivision and Official Plan/Zoning By-Law Amendment
Applications (39CD-10513 & OZ-7843)
2270 Highbury Avenue North
City of London, County of Middlesex**

MAH staff appreciate the opportunity to review and comment on the above-noted matter.

The purpose and effect of the applications is to consider a proposed draft plan of vacant land condominium on 2270 Highbury Avenue North. The plan consists of 14 residential units on a private road with access from Privet Place.

The policies of the 2005 Provincial Policy Statement (PPS) apply to the above-noted matter. Section 3(5) of the *Planning Act* requires land use decisions to be consistent with the Provincial Policy Statement and conform with provincial plans.

Under the "One Window" provincial planning system, MAH circulated the application to the Ministry of Natural Resources (MNR). Comments received are summarized below for your reference.

Ministry of Natural Resources:

MNR has reviewed the Final Proposal Report which included an Environmental Impact Study (EIS) for the Fanshawe Ridge Property for a Plan of Condominium in the northeast part of the City of London and would like to provide the following comments.

Final Proposal Report

Aggregates

Section 2 Provincial Policy Statement (PPS) (pg 6)

Section 2.5.2.4 of the PPS (2005) states that "mineral aggregate operations shall be protected from development and activities that would preclude or hinder their expansion or continued use...". Please clarify how this section of the PPS has been considered in the current Fanshawe Ridge Phase 4 Report.

MNR staff note that Section 3.5.6. Lands in vicinity of Byron Pits, City of London Official Plan requires that:

- o New development generally be excluded from areas within 150 metres for the extraction area of an existing aggregate pit; and
- o A noise impact assessment be conducted for locations within 300 metres of the extraction area, to ensure that potential noise impacts are addressed.

MNR recognizes that the above policies do not directly apply to the Fanshawe Ridge Phase 4 lands. However, these policies were recognized and used in the Noise and Dust Study: Fanshawe Ridge Subdivision 39T-01509 in June 2006. As such, MNR recommends that these policies apply to the Fanshawe Ridge Phase 4 development.

In absence of any justification, MNR staff suggest the developer should provide a rationale as to why a reduce setback of 150 metres of the extraction area of the existing pit should be considered. **(note: extraction area is only 5 metres from the south property line of Sifton Development)**. MNR staff note that the separation distance between the extraction site and the development is primarily used to help mitigate potential impacts from the aggregate extraction.

The report assumes noise and dust studies are not required because similar studies were conducted for the subdivision to the south and west. This is a new development never considered by any other noise or dust study (that MNR is aware of). The noise barrier built within the licensed area was designed to only mitigate noise for the properties immediately to the west of it.

A noise impact assessment should be conducted for this property to ensure that potential noise impacts are addressed. Such studies should take into account all aspects of the pit operation and the proximity of the proposed development to such operations.

MNR recommends that the noise and dust studies are peer reviewed, if the city does not have in house expertise.

Provincially Significant Wetlands

Section 7 Subdivision Design (pg 11)

MNR staff request that the proponent or City clarify if the rear yard and roof runoff will be directed to the wetland to "help maintain the water balance". Also clarify if Appendix G (Water Balance Calculations) supports the rear yard and roof runoff to be directed towards the wetland to maintain the water balance.

MNR recommends that all water from the development is directed away from the wetland, preferably into a storm water management pond.

MNR staff note that it is inappropriate to indicate that vegetation retention in the rear yards will increase the buffer to the provincially significant wetland when there is no mechanism to enforce the retention of vegetation or planting of vegetation to provide a buffer to the wetland on private condominium lots. This should not be considered as a mitigation tool.

Section 14.3 Terrestrial Linkage (pg 18)

Please clarify, is the report stating that there is no linkages between the two wetlands or is it stating that there is no linkage between the two wetlands on the subject lands. MNR is of the understanding that the drainage feature flowed Northwest from the Southern wetland pocket (patch 02022) into stony creek (on the adjacent lands).

Appendix A- Environmental Impact Study (EIS)

General

Section 1.4 Legislative Requirements (pg 2)

There are two references to the Provincial Policy Statement (PPS) (2005) that identify Section 2.3 of the PPS as the Natural Heritage section; the report should reference Section 2.1 of the PPS (2005) as the Natural Heritage section.

The Natural Heritage Reference Manual (NHRM) second edition came out in April 2010. The NHRM (2010) provides technical guidance for implementing the natural heritage policies of the PPS (2005). The NHRM (2010) represents the Province's recommended technical criteria and approaches for being consistent with the PPS in protecting natural heritage features and areas and natural heritage systems in Ontario. The NHRM (2010) should be reference and considered in this EIS.

Section 2 Natural Heritage Features and Function (pg 4)

Please clarify if Land Information Ontario was accessed to gather information. Land Information Ontario (LIO) manages geographic information for use in maps and Geographic Information Systems (GIS). LIO has a web-accessible data warehouse that contains more than 250 different layers of geographic data. The data ranges from the location of underground wells to satellite imagery. LIO can be reached at (705) 755-1878 or <http://www.mnr.gov.on.ca/en/Business/LIO/index.html>.

Species at Risk

Section 2.8 Wildlife Surveys (pg 18)

MNR notes that Least Bittern were observed within 100m from the closest proposed rear lot line. MNR recommends additional information be provided on the Least Bittern location given the context of the site and species observation.

The extent of significant habitat for the species should be identified and included in the EIS, as well as all associated avoidance/mitigation measures needed to ensure no impacts to this species or its habitat as a result of the development. The NHRM (2010) should be used to guide related setbacks and other specific species at risk mitigation approaches. Protection of significant habitat of a threatened species under the PPS 2005 could apply. This species is also protected under the Endangered Species Act (ESA), 2007.

MNR notes that Bobolink (BOBO) was reported during a field visit. At the time of the field work in 2008, the species had no status. However, Bobolink is now listed as Threatened by Committee on the Status of Species at Risk in Ontario (COSEWIC) and Species at Risk in Ontario (SARO). MNR recommends additional information is provided to determine to what extent that species is using the subject property (e.g. breeding, feeding, and dispersal of young).

MNR also recommends additional information is provided on how it was determined that the Chimney Swift was a passing feeder. This species is known to utilize natural tree cavities in addition to chimneys, so the presence of snags or other features on site may support nesting and/or roosting habitat in addition to foraging area. Habitat for this species is protected under both the PPS 2005 and ESA 2007.

Provincially Significant Wetlands

Section 2.7.3 Wetlands (Pg 17) &/or Section 3.4 Adjacent Wetland Patch (pg 26)

The wetland polygon to the south of the proposed development (patch 02022) is part of the Provincially Significant Fanshawe Ridge Wetland. The wetland evaluation took place in 2009.

MNR notes that the field work for the EIS was completed in 2008 and the evaluation took place in 2009, however the report was not submitted until 2010 and therefore this EIS should be referring to patch 02022 as part of the PSW, and discussing it the mitigation and conclusions as such.

MNR would suggest updating all maps to reflect the entire Provincially Significant Fanshawe Ridge Wetland.

Please clarify if wetland patch 02022 is within 120m from the proposed development.

Section 3.5: Linkage Assessment (Pg 26 & 27)

The EIS indicates there are alternative areas the fauna could be traveling to, such as ponds associated within the aggregate pits and one pond to the south in the agricultural field. Relying on these features to supply alternative habitats for the long-term is short sighted; as the aggregate pit ponds are not permanent features and the one pond to the south appears to be filled in for the development. The alternative features would need to be protected as well in order for the functions to be maintained.

The EIS also indicates snapping turtles nest in exposed soils, the report proceeds to indicate that "within 0.5km of the isolated wetland patch (02022), there are exposed soils in a variety of areas, especially those currently being developed. It is inappropriate to suggest the in-development soils of the adjacent development are suitable nesting habitat for snapping turtles. Please clarify where the snapping turtles are to nest in the future when the development is completed? The park land buffer is not well discussed (i.e. will it be mowed or kept natural) please provide more information detailing what is being proposed for the park land buffer.

Section 7.3: Restriction and Restoration

Environmental Management Plans (EMP) (Pg 36)

Recommendation 3 suggests a fence is to be installed around the rear lot lines, and that tempering with fencing or installation of gates, or ladders for the purpose of accessing the Environmental Protection Area shall be prohibited. Please clarify how this is going to be implemented over the long term.

EMP (Pg 36)

Recommendation 4 suggests there is an option to allow either the installation of a dedicated discharge pipe to the storm sewer system or to discharge the water to the front of the property. MNR recommends a dedicated discharge pipe is required not an option, to ensure water doesn't enter into the wetland.

Section 8 Conclusions and Recommendations (Pg 40)

Please clarify what activities are permitted within the Open Space designation identified for this area.

Significant Wildlife Habitat

Section 4.1 Environmental and Ecological Constraints, Table 5 Site Specific Constraints- Fanshawe Ridge (pg 29)

Significant wildlife habitat is identified as being a medium to high constraint in Table 5 on of the EIS. However no site specific information was provided on significant wildlife habitat (SWH).

It should be noted the province has not been surveyed comprehensively for the presence of SWH. Planning authorities identify such habitat or approve the work of others using criteria and process recommended in the Significant Wildlife Habitat Technical Guide and the NHRM, or municipal approaches that achieve or exceed the same objective as the provincial processes and criteria.

MNR staff note that the Significant Wildlife Habitat Technical Guide divides SWH into four broad categories:

- 1) Seasonal concentration areas
- 2) Rare vegetation communities or specialised habitats for wildlife
- 3) Habitats of species of conservation concern, excluding the habitats of endangered and threatened species
- 4) Animal movement corridors.

The EIS for the Fanshawe Ridge Phase 4 condominium should consider and address all four categories of significant wildlife habitat. Section 9 of the Natural Heritage Reference Manual (second edition), provides guidance on significant wildlife habitat.

Ministry of Municipal Affairs and Housing:

MAH staff have reviewed the applications and provide the following for the City's consideration.

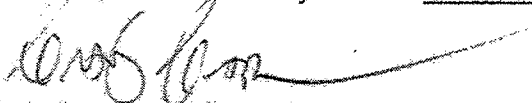
It appears that the subject site is partially located outside of the City of London Urban Growth Boundary (area of settlement boundary). In accordance with Section 1.1.3.9 of the PPS, a comprehensive review must be undertaken to address any change to the area of settlement boundary. MAH note, that we are aware of the City's recent 5-year update (OPA 438) to their Official Plan and through this process, it was determined that the City of London did not need any further lands for growth within the 20 year planning horizon as per Section 1.1.2 of the PPS. As such, it is not clear to MAH staff how the proponent has justified the expansion of the area of settlement boundary in light of the work already undertaken through OPA 438. Clarification on this point would be appreciated.

Further, MAH staff understand that the area of settlement boundary expansion official plan amendment request is a proponent driven request. MAH staff note that the City should be aware that in accordance with Bill 26, the *Strong Communities (planning amendment) Act*, there are no appeal rights for proponent driven requests to establish, expand or alter the area of settlement boundary.

The Upper Thames River Conservation Authority (UTRCA) as per their agreement with the Ministry of Natural Resources is the agency designated to comment on Provincial Interests regarding Natural Hazards as set out in Section 3.1 of the PPS. MAH staff has not received nor are we aware of any comments from the UTRCA. Therefore, we defer to them for comments regarding any natural hazards that may be present on the subject site.

Finally, it appears that there are several outstanding concerns that should be resolved prior to any decision by City Council. MAH staff suggest that a meeting to resolve these issues with Provincial and City staff is required.

On behalf of our Ministry, thank you for the opportunity to review and provide comments on this matter. If there are any questions or concerns with these comments, please contact me at (519) 873-4769, or send them by email to Craig.Cooper@ontario.ca.


Craig Cooper, MCIP, RPP
Planner, MSO-Western

c. Ms. Amanda McCloskey, MNR (Aylmer)

e)

UPPER THAMES RIVER

CONSERVATION AUTHORITY

"Working in Partnership with the Community for a Healthy Watershed"

January 21, 2011

The Thames
A Canadian
Heritage River



2879
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JAN 25 2011

**CITY OF LONDON
DEVELOPMENT APPROVALS BUSINESS UNIT**

The Corporation of the City of London
Development Approvals Business Unit - 6th Floor
PO Box 5035
London ON N6A 4L9

Attention: Nancy Pasato

Dear Ms. Pasato:

Re: **File No. 39CD-10513/OZ-7843 - Application for Draft Plan of Vacant Condominium and Official Plan & Zoning By-Law Amendment**
Applicant: Sifton Properties Limited - Fanshawe Ridge Phase 4
2270 Highbury Avenue North, London, Ontario

The Upper Thames River Conservation Authority (UTRCA) has reviewed the subject application with regard for policies contained within the *Environmental Planning Policy Manual for the Upper Thames River Conservation Authority (June, 2006)*. These policies include regulations made pursuant to Section 28 of the *Conservation Authorities Act*, and are consistent with the natural hazard and natural heritage policies contained in the *Provincial Policy Statement (2005)*. We offer the following comments.

PROPOSAL

The applicant is proposing to develop a 14 unit vacant land condominium, accessed by a private road on the subject lands.

CONSERVATION AUTHORITIES ACT

As shown on the enclosed mapping, the entire site is regulated by the UTRCA in accordance with Ontario Regulation 157/06 made pursuant to Section 28 of the *Conservation Authorities Act*. The Regulation Limit which applies to the property is comprised of a riverine flooding hazard associated with Stoney Creek (Harris Award Drain) as well as the provincially significant Fanshawe Wetland, unevaluated wetlands and the associated areas of interference. The UTRCA has jurisdiction over lands within the regulated area and requires that landowners 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.

UTRCA ENVIRONMENTAL PLANNING POLICY MANUAL (June 2006)

The policies which are applicable to the subject property include:

3.2.2 General Natural Hazard Policies

These policies direct new development and site alteration away from hazard lands. No new hazards are to be created and existing hazards should not be aggravated.

3.2.3 Riverine Flooding Hazard Policies

These policies address matters such as the provision of detailed flood plain mapping, floodplain planning approach (one zone vs. two zones), and uses that may be allowed in the flood plain subject to satisfying UTRCA permit requirements.

3.2.6 & 3.3.2 Wetland Policies

New development and site alteration is not permitted in wetlands. Furthermore, new development and site alteration may only be permitted in the area of interference and /or adjacent lands of a wetland if it can be demonstrated through the preparation of an Environmental Impact Study that there will be no negative impact on the hydrological and ecological function of the feature.

3.3.3.1 Significant Woodlands Policies

The UTRCA does not permit new development and site alteration in woodlands considered to be significant. Furthermore, new development and site alteration is not permitted on adjacent lands to significant woodlands (within 50 metres) unless an EIS has been completed to the satisfaction of the UTRCA.

The woodland feature that is located on the property has been identified as being significant in the Middlesex Natural Heritage Study (MNHS, July 2003). The MNHS assessed woodland patches across the County of Middlesex at a landscape level, including the City of London to determine criteria that could be utilized as indicators of significance. The study's conclusions included that those patches which met one criterion are significant woodland patches on the Middlesex landscape and should be protected as key elements of the natural heritage framework. The woodland on the property meets 5 criteria for significance.

3.4.2 Groundwater Policies

Development and site alteration will be limited in or near sensitive groundwater features in order to protect, improve and restore these features and their related hydrologic functions.

Section 15.4.1.1 *Identification of Environmentally Significant Areas* in the City of London's Official Plan indicates that the proposed development is located within a ground water recharge area.

ENVIRONMENTAL IMPACT STUDY

The UTRCA has reviewed the *Fanshawe Ridge Environmental Impact Study* prepared by AECOM dated October 8, 2010 (received December 16, 2010) and offers the following comments.

1. Section 1.4 makes reference to the PPS (2005) Section 2.3 Natural Heritage. Section 2.1 of the PPS deals with Natural Heritage matters. Please revise.
2. The EIS recommends a 30 metre buffer to protect the wetland. We note that Lots 1-4 and Block 18 do not meet this buffer requirement and no scientific justification has been provided for the reduced buffer width. Please provide a justification for the buffer size which should include a discussion on reconfiguring the plan or mitigation.

3. Map 5 *Rare Flora and Vegetation Communities* shows the location of only two of the regionally rare species (i.e. Downy Willow Herb and Common Evening Primrose) yet there are many more provincially/regionally significant floral species identified as part of the wetland evaluation. Please identify the location of all provincially/regionally significant floral species on Map 5, as well as Prickly Ash (*Zanthoxylum americanum*), and milkweed (breeding and foraging habitat). Please address how the proposed development will impact these locations.
4. Please ensure that construction in Patch 2 (described in section 2.8.2) does not occur during the breeding season for the bird species that displayed breeding behaviour. For areas adjacent to Patches 1 – 3, please ensure that construction begins either before or after breeding season, not during, to ensure that bird species are not disrupted by increased noise, lighting and construction traffic.
5. The EIS must evaluate the significance of wildlife habitat (e.g. thicket / meadow) in accordance with the Significant Wildlife Habitat Technical Guide (MNR 2000), and also incorporate the following two studies previously conducted on the subject lands:
- Scoped EIS Pittao Construction, BioLogic August 22, 2002 - Appendix D: Faunal Inventory, 1998 and 2002 update, prepared by Dave Martin and
 - Fanshawe Ridge EIS, ABCOM February 6, 2009 – Appendix D: Avifauna and Species List, 2008, prepared by James Holdsworth.
6. Based on a recent draft publication by the MNR (Draft Significant Wildlife Habitat Ecoregion Criteria Schedules, January 2009), the presence of more than 20 individuals of Northern Leopard Frog (a listed species) would qualify Patch 3 as a candidate significant wildlife habitat in Ecoregion 7E. The schedule notes that vernal pools located within a short distance from a larger forest habitat are more significant. Therefore we do not agree with the conclusion in Section 3.5 of the EIS that a corridor established for Northern Leopard Frog would not be effective. Rather, the connection between the PSW and Patch 3 is very important, and the two features are within 120m of each other (not 150m as shown on Figure 4.2.1). Given that the proposed development will fragment the connection between the isolated wetland patch 02022 and the wetlands along Stoney Creek, the EIS must discuss mitigation or avoidance of the fragmentation. Please show (on a map) where the prohibitive fencing will be installed to facilitate species movement.
7. How are the 9 PIF Priority Land bird species, and the 4 colonial bird species that may have colonies on site, being protected? Special consideration is necessary for the Least Bittern as it is considered Threatened by the MNR for Ontario and COSEWIC for Canada. As required under the Endangered Species Act, please confirm with the Ministry of Natural Resources that the Least Bittern will not be negatively impacted from the development.
8. Section 3.5, page 27, suggests that the EIS is encouraging snapping Turtles to use the soils that will be exposed from the development. Is this not hazardous to the turtles, as these soils will eventually be developed? Please address.
9. Please show the site specific features and the constraint levels from Table 5 on a map. Please use these to develop the Environmental Protection Areas (Section 7.1) and show those on a map. Also, please identify the areas of critical habitat for Conservation Priority birds as this is one of the key issues to be addressed in the November 3 ISR.

10. Please provide more details regarding the private amenity area (Block 18).
 11. Restrictions and restoration recommendations in Section 7.3 should be incorporated as part of the condominium rules.
 12. Please explain why a 1.8 m high chain link fence is proposed in EMP Recommendation 3.
 13. What measures will prohibit the conveyance of wildlife movement through the new development in EMP Recommendation 3?
 14. To reduce access, EMP Recommendation 7 should recommend planting large, native trees as well as native wildflower and shrub habitat. Please address.
 15. EMP Recommendation 10 states that surfaces susceptible to erosion should be re-vegetated. Please provide a plan showing where these are located.
 16. Please address other construction impacts such as fill, dewatering, drains and storm water outlets.
 17. Section 6.1 mentions existing impacts that require clarification:
 - the subject lands never had core woodland habitat, and therefore this cannot be an “existing impact”
 - is there support for the argument about noise and traffic impacts from Highbury Road? The number of federally, provincially and regionally recognized bird and wildlife species on the subject property since 1998 suggests that Highbury Road has not impacted these species.
- Please address.
18. Please provide an ecological analysis of the best location for the storm outlet.
 19. Please clarify if fill will be needed. If so, what will the impact be?
 20. Please include the wetland evaluation, along with list of species, in an Appendix. Please explain what the impact of dewatering will have on the wetland. What will the impact of perimeter drains have on the wetland?
 21. Appendix D is incomplete. For example, *Zanthoxylum americanum* and *Aster vimineus* are not found in the list, nor is milkweed (mentioned on page 9 of Appendix E). Please address.

Other comments:

1. The legend on Map 3 is not clear. Dead snags (community D1) do not differ in appearance to the cultural thicket communities. As well, the Provincially Significant Wetland is not readily identified. Is the boundary the thin red line? Please address.
2. Page 17 states that the wetland contains the regionally rare Common Evening Primrose, although Map 5 shows that it is located in the buffer zone outside the wetland. Is the buffer adequate to protect this species?

STORMWATER MANAGEMENT REPORT

The UTRCA has reviewed *Fanshawe Ridge Phase 4, Stormwater Management Servicing & Water Balance Review* prepared by Declan dated July 2010. We offer the following comments.

1. Under Section 1.2, it is noted that normal water quality will be provided. However, the calculations provided for the proposed Stormceptor STC 2000 indicate enhanced water quality. There appears to be a discrepancy between the report and the stormceptor calculations. The UTRCA requires that enhanced water quality be provided given the close proximity of Stoney Creek and the wetland system.

2. The UTRCA recommends that the base flow to the wetland located south of the proposed development be maintained under the post-development conditions. Therefore, the flows to the wetland system shall be quantified. Please provide a table showing the runoff to this wetland feature under the existing and proposed conditions.

Also, the base flow shall be calculated under the existing and proposed conditions and supported by a complete water balance analysis. The reduction in any component of the water balance shall be compensated to avoid impacts on the wetland. Please refer to the MOE SWM Manual section 3.2 and Table 3.1 for complete water balance analysis.

3. Under section 3, 50% imperviousness is noted while Figure 2 post-development conditions shows 70% and 40% imperviousness. Please address this inconsistency.
4. It is recommended that the proposed CBMH 3 be modeled using an acceptable hydrologic model under the proposed conditions to properly model the overflows from the existing 5 ha drainage area to the south by splitting the major and minor flows accordingly.

Furthermore, the UTRCA requires a capacity analysis for the proposed CBMH 3 using the MTO inlet capacity curve to avoid flooding during major flood events. The depth of flooding shall not increase 0.3 m above the CBMH during any storm events. Please submit.

5. The UTRCA is of the opinion that a typical SWM approach may not be required given the small difference between the existing conditions flows and the post-development conditions flows. Instead, the UTRCA recommends SWM BMP's and Low Impact Development (LID) for the site to mimic the existing hydrological conditions without impacting the wetland and the surrounding natural system.
6. Under section 4.2, it is indicated that erosion control is not required for the site and that the existing municipal Fanshawe Ridge SWM Facility has an opportunity to be over controlled. The UTRCA does not understand the connection of this statement with the proposed development and requests clarification.
7. It is indicated that the rear yard runoff will be collected and discharged to Stoney Creek at multiple points along the edge of the property. The UTRCA supports the rear yard runoff discharge to the Stoney Creek but has concerns that multiple outlets may cause erosion issues and sediment deposition may occur at various points along the edge of the property. We recommended proper sediment and erosion control measures or otherwise, the runoff should be collected at one location and discharged properly to avoid erosion and sedimentation.

Also, please provide a table showing the quantity of the runoff and velocities being proposed to flow towards the rear yards to the Stoney Creek.

8. It is indicated that the "permanent groundwater level" will be lowered due to construction of homes as well as the SWM and sanitary sewers. The UTRCA is concerned regarding the lowering of the groundwater which may impact the wetland. Please provide confirmation that the proposed development will not have a negative impact on the wetland.
9. It is noted that runoff is infiltrated into the groundwater under the existing conditions and it may be connected with the Stoney Creek exfiltration regime. Infiltration will be affected under the proposed conditions due to an increase in the impervious area and may cause local groundwater level fluctuations in Stoney Creek and in the existing wetland located to the south. Please submit a complete infiltration calculation.
10. The Time of Concentration (Tc) calculations for an area of 1.5 ha under the post development conditions do not match with the Authority's. Please check the TC calculations.
11. The IDF parameters for the 250 year storm event for the City of London do not match with the IDF parameter that the Authority has on record for this event. Please check the IDF parameters for the City of London for the 250 year storm event.
12. The post-development runoff calculations and volume do not match the Authority's calculations. For example the 100 year storm event, when using a TC of 27 min and composite runoff co-efficient of 0.25 for a drainage area of 7 ha will require a storage volume of 316 m³ to control flows to the pre-development level of 0.4081 m³/sec for TC of 28 min and a runoff co-efficient of 0.21 under the existing conditions. Please justify.

DRINKING WATER SOURCE PROTECTION

The *Clean Water Act (CWA)*, 2006 is intended to protect existing and future sources of drinking water. Drinking Water Source Protection represents the first barrier to protect drinking water. Protecting our surface and ground water from becoming contaminated or overused will ensure that we have a sufficient supply of clean, safe drinking water now and for the future.

Assessment Reports:

The Thames-Sydenham Source Protection Region has prepared *Assessment Reports* which contain detailed scientific information that:

- identifies vulnerable areas associated with drinking water systems;
- assesses the level of vulnerability in these areas; and
- identifies activities within those vulnerable areas which pose threats to the drinking water systems, and assess the risk due to those threats.

The Assessment Report for the Upper Thames watershed delineates three types of vulnerable areas: Well Head Protection Areas, Highly Vulnerable Aquifers and Significant Groundwater Recharge Areas. The subject property has been identified as being within an area with Highly Vulnerable Aquifers as well as a Significant Groundwater Recharge Area. Mapping which shows these areas is available at:

Highly Vulnerable Aquifers:

http://www.sourcewaterprotection.on.ca/downloads/assessment_reports/UTRCA/Appendices/A1-Maps/Map4-3-2_Highly%20Vulnerable%20Aquifers.pdf

Significant Groundwater Recharge Areas

http://www.sourcewaterprotection.on.ca/downloads/assessment_reports/UTRCA/Appendices/A1-Maps/Map4-2-2%20SGRA%20Vulnerability.pdf

Source Protection Plans:

Using the information in the *Assessment Report*, a *Source Protection Plan* is being developed for the Upper Thames watershed. It is anticipated that this *Plan* will consist of a range of policies that together, will reduce the risks posed by the identified water quality and quantity threats in the vulnerable areas. These policies will include a range of voluntary and regulated approaches to manage or prohibit activities which pose a threat to drinking water.

As indicated, the *Source Protection Plan* is currently being developed and as such, the UTRCA cannot speculate what the *Plan* might dictate for such areas. Under the CWA, the Source Protection Committee has the authority to include policies in the *Source Protection Plan* that may prohibit or restrict activities identified as posing a significant threat to drinking water. Proponents planning to undertake changes in these areas need to be aware of this possibility.

Provincial Policy Statement:

The Provincial Policy Statement (PPS, 2005) states the following:

In Section 2.2.1 that:

“Planning authorities shall protect, improve or restore the quality and quantity of water by: d) 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 features, and their hydrological functions.*

In Section 2.2.2 that:

“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”..

The foregoing information is provided for the information of the municipality to consider in moving forward on this application. .

RECOMMENDATION

Given the outstanding concerns pertaining to the EIS and the SWM report, the UTRCA is not in a position to provide conditions of draft plan approval at this time. We recommend that the application be deferred to provide the applicant with an opportunity to address the Authority’s concerns.

UTRCA REVIEW FEES

In June 2006, the UTRCA's Board of Directors approved the *Environmental Planning Policy Manual for the Upper Thames River Conservation Authority*. This manual authorizes Authority Staff to collect fees for the review of Planning Act applications. Our municipal plan review fee is \$1600.00.

The UTRCA also collects a fee for the peer review of technical reports. The fee for the review of the EIS and SWM submissions is \$900. We will invoice the applicant under separate cover.

Thank you for the opportunity to comment. If you have any questions, please contact the undersigned at extension 293

Yours truly,
UPPER THAMES RIVER CONSERVATION AUTHORITY



Christine Creighton
Land Use Planner
TT/IS/MSn/ CC/cc

Encl.

c.c. Applicant - Sifton Properties Limited – Maureen Zunti
UTRCA – Mark Snowsell, Land Use Regulations Officer



- Fanshawe Ridge Phase 4

September 17, 2010

Regulation Limit

Regulation under s.28 of the Conservation Authorities Act
 Development, interference with wetlands, and alterations to shorelines and watercourses. O. Reg. 157/00, 97/04

Legend

- No Collections Met
- 1+ Collections Met
- Roads
- DFO Drain Class
- Open
- Tilled
- London Contours (1:2K City)
- Assessment Parcel
- Evaluated Wetlands (MNR March 2010)
- Unevaluated Wetlands
- London Hazards
- FLD220
- Remnant Valley
- Stable Slope
- Top Erosion - Stable Slope
- Top of Slope
- Flooding Hazards
- Erosion Hazards
- Wetland Interference
- Regulation Limit

London Conservation Authority
 UPPER THAMES RIVER
 CONSERVATION AUTHORITY

The Regulation Limit depicted on this map schedule is a representation of O. Reg. 157/00 and O. Reg. 97/04.

The Regulation Limit is a conservative estimation of the hazard lands within the UTRCA watershed. Depending on the specific characteristics of the ground and the land use proposed, the Regulation Limit may be subject to change.

The UTRCA does not explicitly any warranty, representation or guarantee as to the content, accuracy, timeliness, fitness for a particular purpose, merchantability or completeness of any of the data depicted and provided herein.

The UTRCA assumes no liability for any errors, omissions or inaccuracies in the information provided herein and further assumes no liability for any decisions made or actions taken or not taken by any person in reliance upon the information and data furnished hereunder.

This map is not a substitute for professional advice. This map should not be viewed at a scale greater than 1:10,000. Please contact UTRCA staff for any changes, updates and amendments to the information provided.

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Pasato, Nancy

From: Dan McCluskey [REDACTED]
Sent: Monday, December 06, 2010 9:34 PM
To: Pasato, Nancy
Subject: OPPOSITION TO PROPOSED CONDOMINIUMS, 2270 Highbury Ave N.

RE: 39CD-10513/OZ-7843
DEAR NANCY,

DAN AND JANA MCCLUSKEY
1524 PRIVET PLACE
LONDON, ONT
N5X 0E7

MY WIFE AND I ARE VERY OPPOSED TO THE THE APPLICATION FOR CONDOMINIUMS TO BE BUILT AT 2270 Highbury Ave N. WE RESIDE AT 1524 PRIVET PLACE WHERE THE STREET WIDTH IS AT LEAST ONE CAR WIDTH NARROWER THAN THE ACCESS STREETS, BLACKWELL BLVD. AND PENNYROYAL ST. I ASSUME THE NARROW WIDTH WAS BECAUSE THE ORIGINAL PLAN DESIGNATED THIS STREET TO BE A CUL DE SAC. NAVIGATING PRIVET PLACE WHEN THERE ARE PARKED CARS ON THE STREET IS VERY DIFFICULT. 14 CONDOMINIUMS WOULD ALSO GREATLY INCREASE TRAFFIC ON A VERY NARROW STREET, NOT DESIGNED TO BE AN ACCESS ROAD.

ALSO, THE PROPOSED CONDOMINIUM DEVELOPMENT WOULD BE BUILT ON THE FLOOD PLANE OF STONEY CREEK, A PRISTINE NATURAL WILDLIFE HABITAT. THIS DEVELOPMENT WOULD SERIOUSLY ENDANGER THE NATURAL HABITAT OF MANY BIRDS AND ANIMALS WITH THE REMOVAL OF MUCH OF THE SUPPORTING VEGETATION AND ELEVATION CHANGES.

THANK YOU FOR YOUR CONSIDERATION OF OUR CONCERNS,

DAN AND JANA MCCLUSKEY

g)

Mr. & Mrs. Michael Robertson
2132 Pennyroyal Street
London, Ontario
N5X 0E7

December 3, 2010

Planning Committee of City Council
City of London
City Hall
300 Dufferin Ave.
6th Floor
London, ON
N6A 4L9

Attention: Nancy Pasato

Dear Ladies and Gentlemen:

Re: File No. 39CD-10513/0Z-7843
Municipal Address – 2270 Highbury Ave. North
Applicant – Sifton Properties Ltd.

#2567
RECEIVED BY

DEC 10 2010

CITY OF LONDON
DEVELOPMENT APPROVALS BUSINESS UNIT

We have for acknowledgment the Notice of Application dated November 26th, 2010 which we received in the mail this week. You have invited our comment and, as such, we take this opportunity so to do. While we have not yet been able to attend at the offices of the Planning Division to review the Environmental Impact Study it is our intention to do so if we can over this holiday season and may, thereafter, submit our further comments however, for the time being, the following shall suffice.

Fourteen residential units are proposed on what appears, at least from the maps and diagrams provided to be a fairly tight fit. We fear that parking to accommodate owners, guests, visitors and the like will spill over onto Privet Place. However, far more important, with entry and exit to those fourteen residential units solely from Privet Place, the traffic on Privet Place and our street, Pennyroyal, shall increase markedly. Even at this early stage, with lots remaining to be built upon on both Pennyroyal and Privet, traffic can, on occasion, be problematic particularly given the width of each of those two streets and the problems occasioned when cars park upon those streets. Simply, they are too narrow!

Even more importantly, we fear for the calamities and difficulties that emergency vehicles, particularly fire trucks, may experience in attempting to respond to emergency situations.

As recently as a month or two ago the last of the roadwork and final level of asphalt was placed upon Pennyroyal Street. We have significant concerns that with access to this suggested fourteen residential unit cluster heavy construction equipment and vehicles will not

[REDACTED]
[REDACTED]
[REDACTED] (416) 322-1660
[REDACTED] (416) 322-1660

Mr. & Mrs. Michael Robertson
703 Butler Avenue, London, ON. N6J 2C2

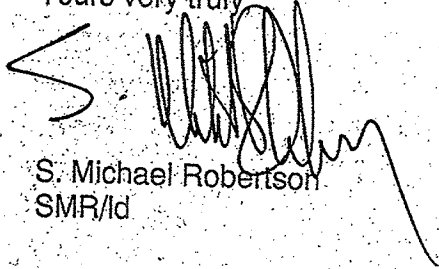
only make driving problematic and indeed dangerous for vehicles and pedestrians but will, in addition, compromise significantly the road surface.

As regards amendment of the Official Plan, the change of designation from "Urban Reserve, Community Growth" and "Agriculture" to "Low Density Residential" is also somewhat troubling. We have noted in our travels throughout the city that most new developments such as that in which we now live have designated park and recreation space. There is none in the Fanshawe Ridge community and to take away further green space is, in our humble opinion, not a prudent course. Further, it appears that the Application is to extend the development lands into what is a protected environment, we understand under the auspices of the Upper Thames Valley Region Conservation Authority. We categorically oppose infringement of that protected area by further residential development. It is our understanding that the subdivision, at least to date, has been designed around, carved around, this protected area and to simply impinge upon it now for development purposes is not appropriate.

We thank you for the opportunity of providing our comments as regards this apparent Application and subject to our further submissions; perhaps after review of the Environmental Impact Study, we will refrain now from further comment.

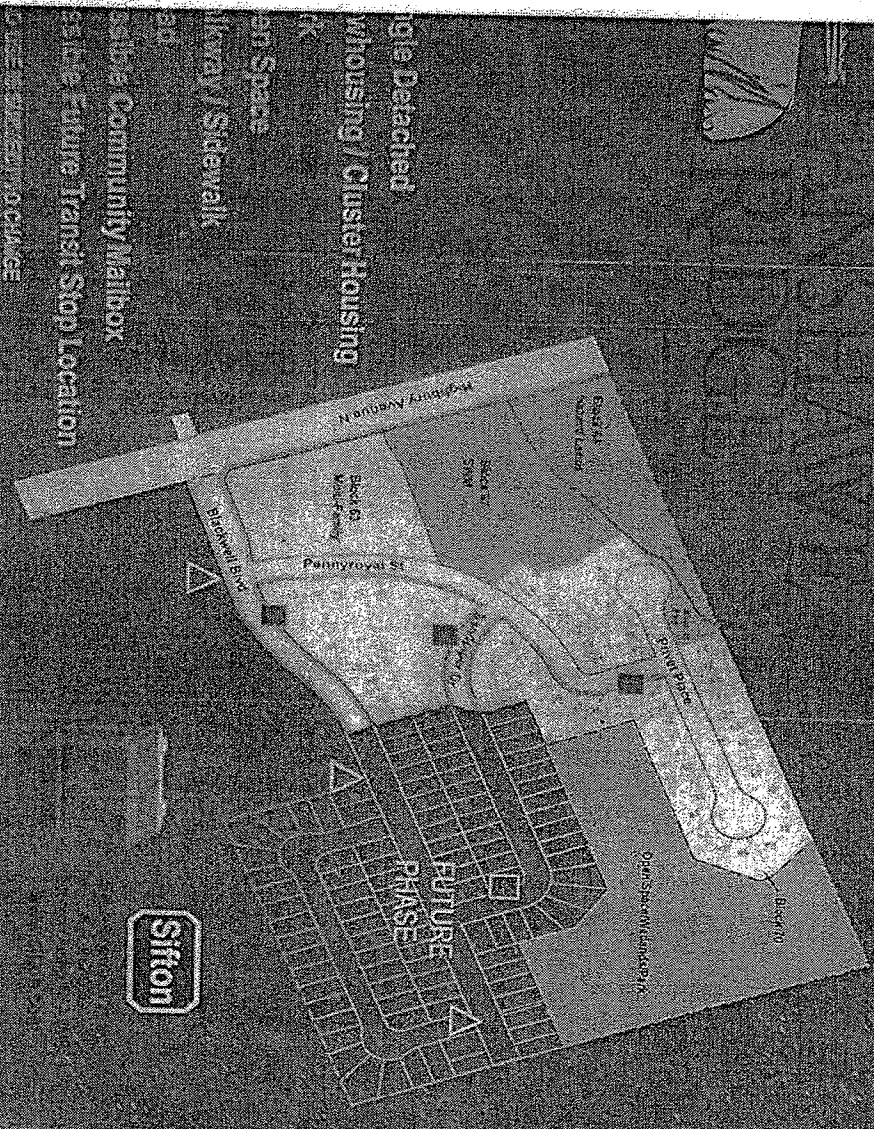
We note that this Application will be considered at a meeting of the Planning Committee. We will look forward to receipt of notice of the date, time and place for that meeting as it would be our intention to attend. Indeed, we would also appreciate receiving any written materials that the Committee shall be considering at that meeting so that we may review same and perhaps comment upon same.

Yours very truly



S. Michael Robertson
SMR/ld

[REDACTED]



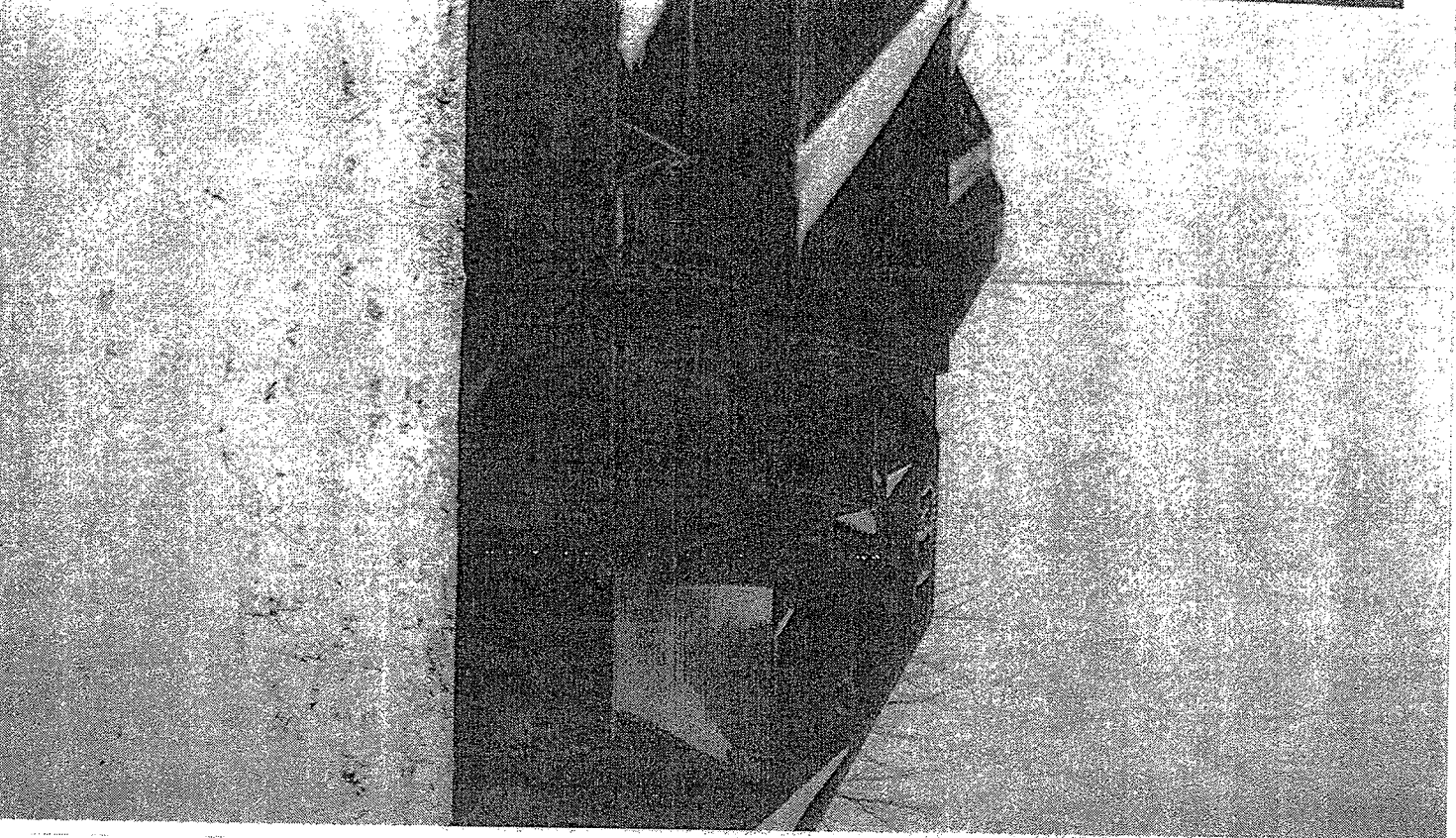
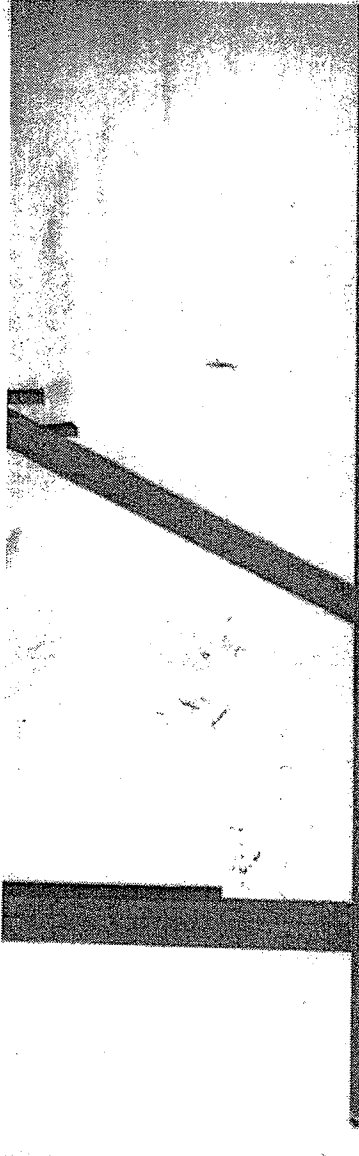
Single Detached
Housing / Cluster Housing

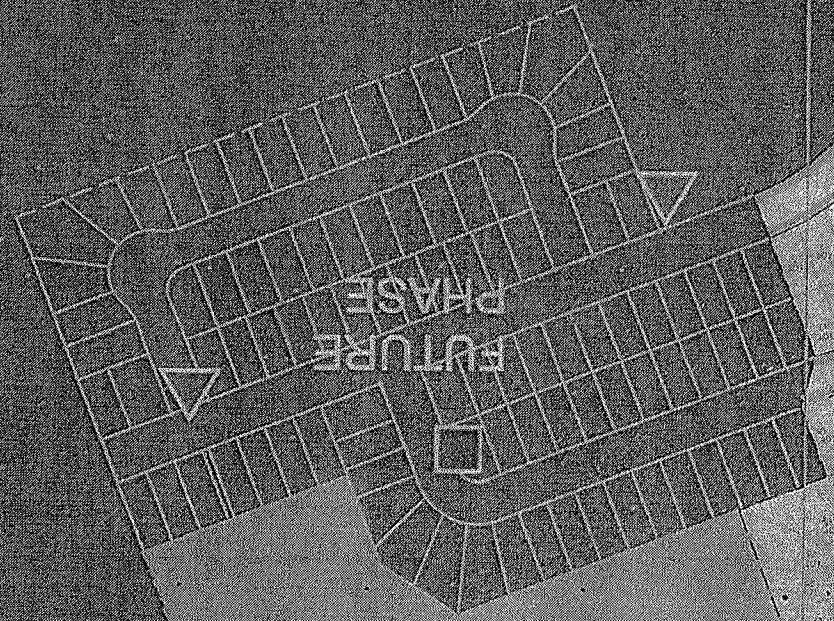
Open Space

Walkway / Sidewalk

Future Community/Mailbox

Future Transit Stop Location





Open Space/Wetlands/Park

Block 70

Rivet Place
Park
Block 69

Sandpiper Dr

Hazard Lands
Block 68

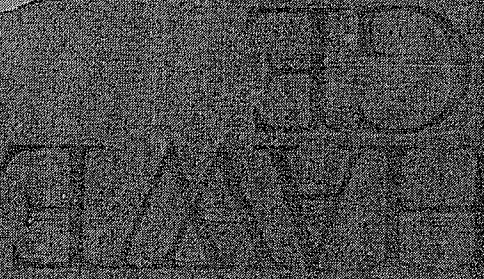
SWM
Block 67

Multi-Family
Block 63

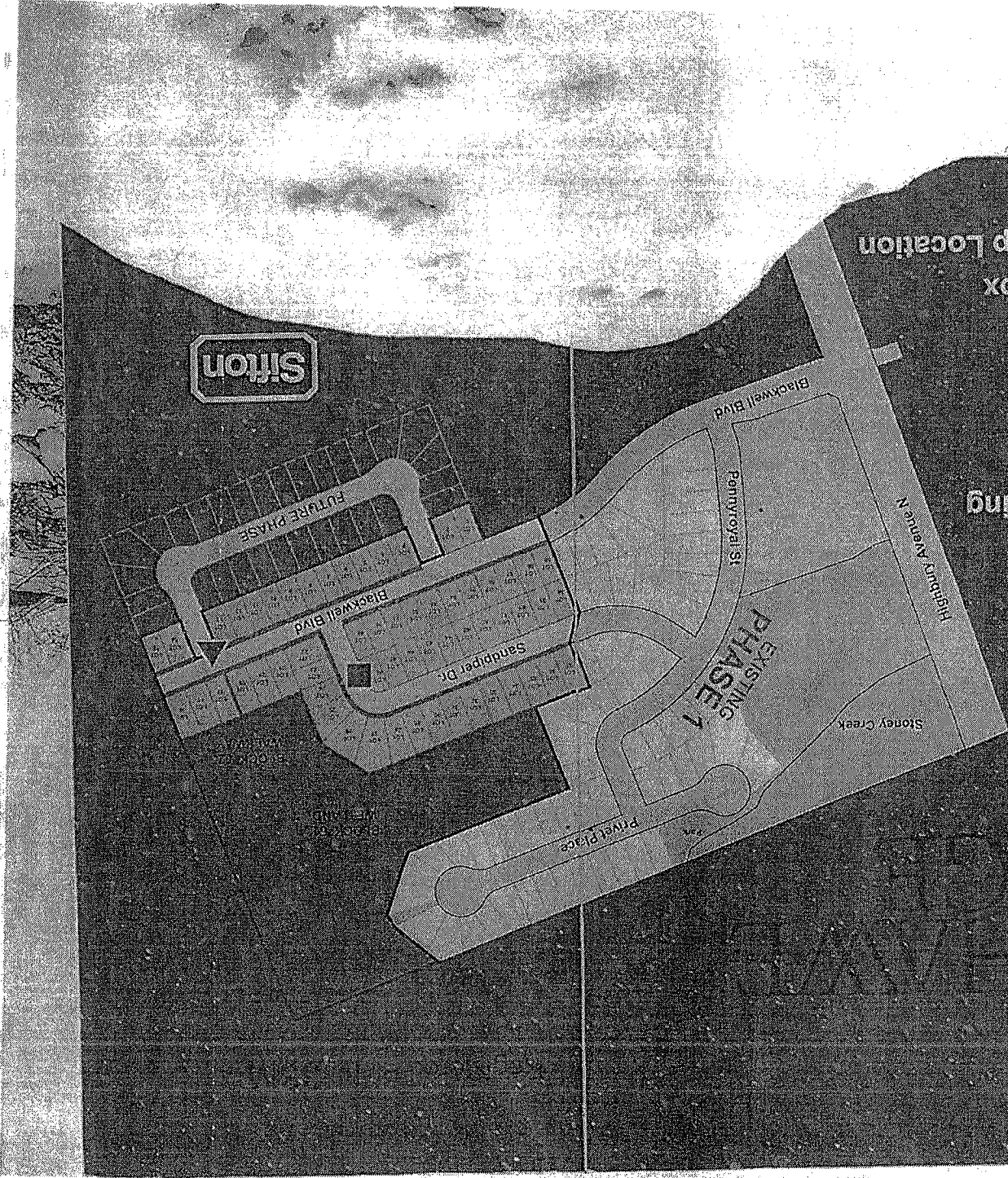
Blackwell Blvd

Pennyroyal St

Highway Avenue N



using



LAND USE IS SUBJECT TO CHANGE

Possible Future Transit Stop Location

Possible Community Mailbox

Road

Walkway / Sidewalk

Open Space

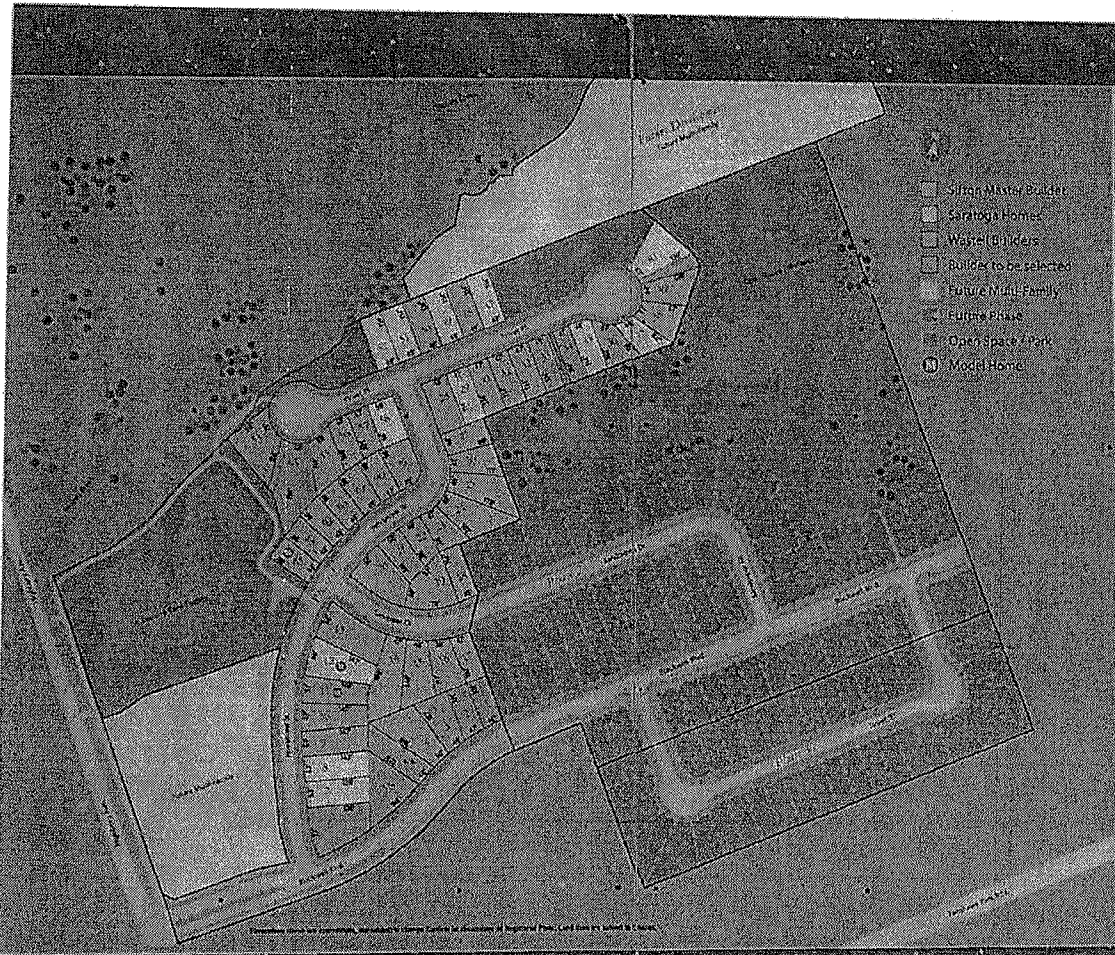
Park

Rowhousing / Cluster Housing

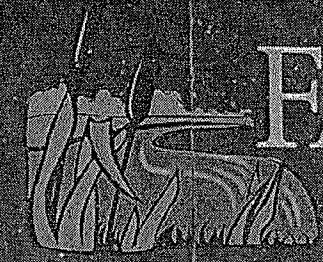
Single Detached

LEGEND





- Sifton Master Builder
- Saratoga Homes
- Waste Builders
- Builders to be selected
- Future Multi-Family
- Future Office
- Open Space Park
- Villa Home



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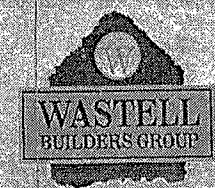
Sifton Neighbourhoods

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Mr. & Mrs. Michael Robertson
2132 Pennyroyal Street
London, Ontario
N5X 0E7

December 22, 2010

Planning Committee of City Council
City of London
City Hall
300 Dufferin Ave.
6th Floor
London, ON
N6A 4L9

Attention: Nancy Pasato

Dear Ladies and Gentlemen:

Re: File No. 39CD-10513/0Z-7843
Municipal Address – 2270 Highbury Ave. North
Applicant – Sifton Properties Ltd.

I take this opportunity firstly to thank Ms. Pasato for providing to me a copy of the Fanshawe Ridge Environmental Impact Study dated October 7th, 2010. While I have had an opportunity to glance through it I have yet to look at it in detail and will respectfully reserve any comments I may have in that regard to a later date.

What I shall do in this letter is supplement that of December 3rd, 2010 as it relates to traffic. With our recent weather and snowfall I, and no doubt all other homeowners in Fanshawe Ridge, can attest to problems navigating Blackwell Boulevard, Pennyroyal Street, Sandpiper Drive and Privet Place. The clearance of our roads and streets was significantly delayed and even when the streets were cleared they were only cleared for one lane for several days before plows further widened their stance. While travel and traffic throughout the subdivision was manageable, it was barely so, even with the limited traffic now frequenting the streets and roads above noted. One can only imagine the difficulties that we shall have once the balance of the lots within the subdivision already approved are built upon. To add another fourteen households, probably twenty or more vehicles attached to those households and their visitors, guests, trades people and the like the situation will no doubt be absolutely untenable.

Again, thanking you for your attention to this matter and your consideration of our concerns relative to the proposed condominium development.

CITY OF LONDON
DEVELOPMENT APPROVALS BUSINESS UNIT

RECEIVED

#2734
JAN 5 2011

FILE NO.

REFERRED TO

SUBSEQUENT REFERRALS

- FOR ACTION
- FOR INFORMATION
- FOR REPORT
- FILE
- B.F.
- OTHER

~~City of London (519) 393-6021~~

~~Planning and Development @cityoflondon.ca~~

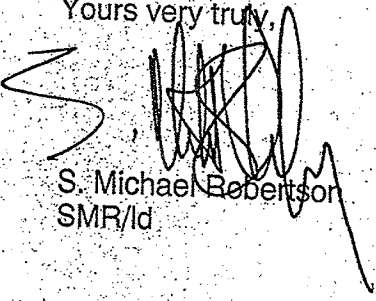
~~Facsimile (519) 393-1000~~

~~Business Hours: Monday to Friday (9:00-5:00pm)~~

~~Emergency: (519) 393-0840~~

Mr. & Mrs. Michael Robertson
2132 Pennyroyal Street, London, ON N5X 0E7

Yours very truly,



S. Michael Robertson
SMR/ld

~~Phone: (519) 881-1100~~

~~Email: michael.robertson@bell.ca~~

~~Home: (519) 881-1100~~

~~Business: (519) 881-1100 Fax: (519) 881-1100~~

h)

Pasato, Nancy

From: PATRICIA BROWN [REDACTED]
Sent: Thursday, January 06, 2011 1:27 PM
To: Pasato, Nancy
Subject: notice of application
Attachments: 000_0112.jpg; 000_0115.jpg; 000_0118.jpg; 000_0116.jpg

Hello Nancy,

This is in regards to the notice we received.

Municipal Address: 2270 Highbury Avenue North
Roll Number: 090440152000000
File Number: 39CD-10513/OZ-7843

We would like it noted that we are very much against the development of this land to allow 14 detached condominiums. When we first were thinking of building where we now reside at 1562 Privet Place, there was no indication given by the map posted at the entrance of Fanshawe Ridge, of any such development. An updated sign is now located further into the subdivision of the proposed expansion. But, the original one is still in the same location.

When we purchased our home, we paid a lot premium of \$16 000.00 to be able to enjoy the nature behind that lot, knowing it was going to be a natural environment. We are also disturbed at the fact that all the wildlife that will be destroyed

Being the parents of 3 children, we found it very comforting that we were buying on a closed court. Now having learned of this proposal, we are worried for the safety of our children because of all the increased traffic flow.

One last concern that we have. The streets are very narrow in this area. When two cars are parked on either side of the street, my van can barely fit between them, let alone an emergency vehicle.

Looking at the map, we can see that the proposed development crosses over the 30 meter wetland buffer setback. Was that an oversight?

Thank you for your consideration of our concerns and comments.

Sincerely

Ireneusz Krysa and Patricia Brown
1562 Privet Place
London, Ontario

i)

Pasato, Nancy

From: John Baldassarre [redacted]
Sent: Thursday, January 06, 2011 11:44 PM
To: Pasato, Nancy
Cc: [redacted]
Subject: Application for Draft Plan of Vacant Land .

Municipal Address : 2270 Highbury Avenue North

File : 39CD-105113/OZ-7843

In regards to the application to develop the above mentioned property to allow for 14 condominiums . My thoughts on this is that the roads in this subdivision are already very narrow allowing barely a car to pass when two cars are parked parallel to each other and that there are no sidewalks forcing the children to ride their bikes on the road. With the increased traffic flow that this development will bring I am of the opinion that this is increasing the odds of one of our children being hit . Originally when we looked at this subdivision to build the posted signs by Sifton never showed this development in which case we would have not picked this court to build on . There is an abundance of wildlife in this area and I am sure that some of it will be forced to relocate or will be destroyed. It also looks to be very low in this area in which case I am wondering how they plan on raising it (fill ???) . Thank you in advance for taking the time to read my comments .

John and Elizabeth Baldassarre
1557 Privet Place