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TO:	CHAIR AND MEMBERS PLANNING AND ENVIRONMENT COMMITTEE
FROM:	GEORGE KOTSIFAS, P. ENG. MANAGING DIRECTOR, DEVELOPMENT & COMPLIANCE SERVICES AND CHIEF BUILDING OFFICIAL
SUBJECT:	SUBDIVISION AGREEMENT PROVISIONS RELATING TO SCHOOL BLOCKS & PARK FACILITIES MEETING ON SEPTEMBER 6, 2016

RECOMMENDATION

That, on the recommendation of the Manager, Development Services, the following report relating to the provision of school blocks and park facilities in subdivision agreements **BE RECEIVED** for information.

PREVIOUS REPORTS PERTINENT TO THIS MATTER
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November 18, 2014- Planning and Environment Committee (PEC) – Report recommending amended General Provisions for the standard Subdivision Agreement Template.

BACKGROUND

The purpose of this report is to provide background information on timing for the development of school blocks and installation of park facilities within plans of subdivision. At its session on November 25, 2014, Council endorsed modifications to the General Provisions in the Subdivision Agreement Template and requested staff to report back at a future PEC meeting on the subdivision agreement provisions related to:

- a) the timing for school boards to decide upon reserved school blocks within plans of subdivision, in conjunction with the Thames Valley Liaison Committee; and
- b) the timing for installation of parks within plans of subdivision.

SCHOOL BLOCKS

Joint Liaison Committees:

The Thames Valley District School Board Liaison Committee and London District Catholic School Board Liaison Committee are comprised of representatives from City Council, administration and the respective school boards. These committees, which meet periodically, provide a venue for strategic discussions between the City and the boards on matters of common interest as well as emerging issues associated with educational facilities in the City of London. The committees are not involved in the day-to-day consideration of subdivision applications or specific school locations.

Planning Legislation:

Subsection 51(24) of the Planning Act, which identifies the criteria to be considered in reviewing draft plan of subdivisions, includes “the adequacy of school sites”. While the Act doesn’t

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provide explicit powers with respect to the identification and protection of school blocks, Subsection 51(24) states that conditions to the approval of a plan of subdivision may be imposed which in the opinion of the Approval Authority are reasonable, having regard to the nature of the development proposed for the subdivision. This would include the power to identify and reserve blocks for future school sites.

Section 1.1.1b) of the 2014 Provincial Policy Statement (PPS) includes reference to the need for “institutional” uses in sustaining healthy, liveable and safe communities but does not explicitly address educational or school requirements.

Official Plan:

The subdivision review criteria in S. 19.6.1. of the Official Plan support the provision of community facilities including school sites in considering subdivision applications, as follows:

- iii) The plan of subdivision can be adequately serviced and makes suitable provision for municipal services including, but not limited to public streets, water, storm and sanitary sewers, waste collection and disposal, public utilities, fire and police protection, parks, schools and other community facilities.*

Before they are considered at the subdivision stage, future school requirements are typically identified through the completion of “Area Plans” or “Secondary Plans” for future growth areas, based on population estimates, demographic characteristics, and the anticipated number of housing units. School Boards are notified of these plans and have an opportunity to provide input in identifying the need for future school facilities within the community.

Specific school site locations are identified in most secondary plans. In the case of the Southwest Area Plan (SWAP), which covers a significant geographic area, specific locations were not pre-identified; however, a policy in SWAP requires applicants to consult with school boards in advance of initiating the subdivision application process.

Specific locations and block sizes are subsequently reviewed and confirmed when subdivision applications are received by the City.

Subdivision Process:

All draft plans of subdivision and vacant land condominium applications received by the City are liaised to the four boards of education responsible for planning and developing public funded school facilities within the City of London:

- Thames Valley District School Board
- London District Catholic School Board
- Conseil scolaire Viamonde
- Conseil scolaire catholique Providence

Ideally, interest in developing school sites will be identified at the Consultation stage (i.e. before applications are formally submitted and accepted by the City), so that potential sites can be considered with the developer, School Board representatives and City officials before an application is submitted. Sites are sometimes requested on the basis of locations that have been previously identified in secondary plans or area plans. In other instances, sites are requested by a board based on student growth trends, shifts in student populations and funding decisions for facilities in a particular location.

If a school board confirms interest in reserving a future school site, an appropriately located and sized block is identified on the draft plan. The site is typically zoned for both school and residential purposes so that when they purchase, area residents will be aware of other uses that could be developed “as-of-right” if the site is ultimately retained by the developer. Concept plans showing how a school site can be developed for alternative (i.e. residential) uses are normally submitted with an application for draft plan of subdivision.

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Requirements for reserved school sites are identified in the General Provisions of the Subdivision Agreement (excerpt attached as Schedule “1”). Under the specified provisions, the three (3) year option period commences when either seventy percent (70%) of the Lots in the subdivision have had building permits issued or when the servicing of the site is completed, whichever is later. The effective “reserve period” for a school block can often range between five (5) and ten (10) years from the date of draft approval given that draft plans are often registered in phases and built out in stages.

The School Boards may waive their right to purchase a reserved site by giving notice to the Owner and the City. If the school boards confirm they have no interest in a site that has been reserved in a draft approved plan of subdivision, the City has a further two (2) years to purchase the site for municipal purposes. If it’s determined that the site is not required for municipal purposes, the land is retained by the Owner and may be developed in accordance with the approved zoning.

The key steps in the identification and disposition of school blocks through the subdivision approval process are summarized as follows:

1. School Board identifies the need for a school block as part of Consultation, or in response to notice of a proposed plan of subdivision;
2. Proposed school block location, size & configuration are confirmed, in consultation with the School Board and landowner;
3. Proposed site is zoned & identified as a school block on the draft approved plan;
4. Plan of subdivision is registered and development proceeds;
5. Upon seventy percent (70%) of the Lots in the subdivision having building permits issued or when the servicing of the site is completed (whichever is later), the school boards are advised that they have three years to acquire the school block:
 - a) if interest is expressed by any of the boards, two years is provided (from the date notice is issued by the Board) to complete the transaction;
 - b) If no interest is expressed and/or all four boards waive their right to purchase, the City has a further two year period within which to determine whether to purchase the site for municipal purposes;
6. After departments are liaised, if no municipal interest is expressed, a report is prepared for PEC to confirm that the Owner is free to sell and/or develop the block;
7. If a municipal interest is expressed, a report is prepared and presented at a public participation meeting to consider the staff recommendation for acquisition;
8. The final decision is made by City Council on whether to purchase or not purchase the site for municipal purposes.

Council Policy:

The Council-adopted policy setting out detailed administrative procedures for the disposition of reserved school sites is attached as Schedule “2”.

Identified School Blocks:

The identification of school blocks on a draft plan of subdivision does not guarantee they will be ultimately developed for school use. Blocks that were identified as possible school sites, but not ultimately acquired by one of the school boards, include:

- 2000 Quarrier Road (Blk. 56, Plan 33M-465)
- 1931 Jubilee Crescent (Blk 241, Plan 33M-605)
- 1345 Whetherfield Street (Blk 63, Plan 33M-566 & Blk 271, Plan 33M-600)

Since these sites were not required for municipal purposes, they were retained by the owners for the development of residential uses, in accordance with the approved zoning.

A review of draft approved and registered plans of subdivision indicates that there are currently

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ten (10) blocks being reserved for future school sites in various registered (33M) plans and draft approved plans of subdivision. While the blocks are typically identified through the application process based on a request from one school board, there is no order of preference or hierarchy in selecting sites and all of the boards have an opportunity to negotiate with a developer to enter into an option agreement and purchase of a site that's being held in reserve.

A proposed school block can be reserved at the time of draft plan approval in response to a request from one school board, but can be optioned and/or purchased several years later by a different board based on student demand and available Provincial funding. If no interest is expressed by any school board at by the end of the reserve period, the City has an opportunity to acquire the block for municipal purposes. If there is no municipal interest, the block remains with the developer and can be developed in accordance with the approved zoning.

Process Improvements:

Input from local school boards will continue to be encouraged through pre-consultation of subdivision applications, to ensure that early consideration is given to the need for future school facilities; and avoid modifications to draft plans and zoning by-law amendments after development has commenced in an area. Consideration can also be given to an enhanced level of co-ordination with the school boards, by conducting regular dialogue on long-term planning needs and other matters of common interest.

PARK FACILITIES

The Planning Act includes several requirements pertaining to the provision of parkland (or cash-in-lieu payments) as part of the plan of subdivision, site plan and consent processes. Some of the requirements in the Act were modified, and recently proclaimed through the enactment of the *Smart Growth for Our Communities Act* (Bill 73).

Subsection 51(25) of the Planning Act provides that the Approval Authority may impose conditions to the approval of plans of subdivision that land be dedicated or other requirements be met for park or other public recreational purposes. Subsection 51.1 of the Act further defines parkland dedication requirements in plans of subdivision (and consents) in an amount not exceeding 2% for commercial and industrial subdivisions, and 5% for other subdivisions. Alternatively, land may be conveyed at a rate of one hectare per 300 dwelling units proposed, or at a lesser rate determined by the municipality.

In lieu of accepting a land conveyance, Subsection 51.1(3) of the Planning Act provides that the Approval Authority may require a cash-in-lieu payment for the value of the land (as of the day prior to approval of the draft plan); or, at the alternative rate of one hectare per 500 dwelling units proposed, or at a lesser rate determined by the municipality.

Official Plan:

The City of London Official Plan includes several policies that provide for the establishment of schools, public parks and other community facilities. Section 3.6.4 recognizes that a range of community facilities normally associated with and integral to a residential environment, including schools and parks, are permitted in all residential land use designations.

As noted in Section 19.2.1 of the Official Plan, Secondary Plans (formerly Area Plans & Community Plans) are prepared to provide a greater level of detail for a particular area than is contemplated in the general policies and designations of the Official Plan. A Secondary Plan will typically include provision for district and neighbourhood parks & recreational facilities that are required to serve a particular area based on population forecasts, anticipated need and existing facilities in the surrounding area. The proposed park locations are identified on the Secondary Plan – either conceptually (as in the Southwest Area Secondary Plan); or more accurately defined blocks (as in the Riverbend South Secondary Plan).

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Section 19.6 of the Official Plan, which includes policies to guide the preparation and evaluation of subdivision applications, requires provision for community facilities as follows:

The plan of subdivision can be adequately serviced with and makes suitable provision for municipal services including, but not limited to, public streets, water, storm and sanitary sewers, waste collection and disposal, public utilities, fire and police protection, parks, schools, and other community facilities.

Requirements for the functional classification of parkland (neighbourhood, district, city-wide, regional) are outlined in Chapter 16 of the Official Plan, along with policies that provide for the acquisition of parkland through land dedication and/or cash-in-lieu payments, pursuant to the relevant provisions of the Planning Act. The priorities for acquisition, as outlined in Section 16.3.3, are based on:

- i) Existing and proposed population densities;
- ii) Existing facilities and their accessibility;
- iii) The availability of funds for acquisition;
- iv) The suitability of lands available for sale; and
- v) Acquisitions which will serve to create a more continuous or linked park system

The Parks & Recreation Strategic Master Plan complements the policies of the Official Plan by providing direction for the ongoing management and development of the City’s parks and recreation infrastructure, programs and service delivery mechanisms.

Subdivision Process:

In areas of the City that are experiencing new development, the location and size of parkland blocks is considered and confirmed at a detailed level through the subdivision review process.

All draft plans of subdivision and vacant land condominium applications received by the City are subject to consultation prior to the acceptance of a formal application. Parkland is identified in each subdivision for both active park blocks and passive open space lands, within the context of relevant policies in the Official Plan and Secondary Plan (or Area Plan). The parkland requirements are reflected on the draft plan of subdivision application, which is liaised to the public and considered in a report presented to a Public Participation Meeting at Planning & Environment Committee. Requirements for parkland conveyance or cash-in-lieu payment, are specified in the recommended Conditions of Draft Approval for each draft plan of subdivision, and implemented through requirements in the Subdivision Agreement. Sites that are identified for active/passive parkland and natural heritage protection, are zoned Open Space at the time of Draft Plan Approval.

Standard requirements for park facilities are identified in the General Provisions of the Subdivision Agreement (excerpt attached as Schedule “3”). Under these provisions, parkland (or cash-in-lieu) is required to be conveyed to the City pursuant to By-law CP-9 – the Parkland Conveyance & Levy By-law. Grading, servicing and seeding of park blocks is required to be undertaken by the Owner in accordance with City approved timelines and design specifications. Boundary fencing for parks and open spaces is required to be installed to control private use encroachments onto public lands.

Parkland works are identified on the approved servicing and grading drawings that comprise part of the subdivision agreement. Performance security is held in the form of cash and letter of credit, to ensure that all required site works are completed in accordance with the approved plans and subdivision agreement. The City will retain sufficient security and will not issue an Assumption Certificate until the owner has provided final “as constructed” drawings confirming all required services and works have been completed in a satisfactory manner.

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Timing of Park Facilities:

For larger subdivisions, which often develop in phases based on the availability of services and road connections, park facilities are sometimes located in a later phase which may be developed several years after the first homes are occupied. This can create a lag period for the provision of parkland and recreational facilities in an area. While this may be unavoidable in certain areas, it may be possible to adjust phasing boundaries in some instances, to more closely co-ordinate the phasing of development with the provision of parkland and recreational facilities. Conditions of draft approval can be formulated, where appropriate, to ensure that the provision of parkland is aligned with the completion of residential development in an area.

SUMMARY

School blocks and parkland are essential community facilities that need to be included in the long term planning for residential neighbourhoods of the City. These facilities will continue to be considered in the preparation of secondary plans, and proactively implemented as part of the subdivision approval process through early input by school boards and municipal departments.

PREPARED & RECOMMENDED BY:	REVIEWED BY:
TERRY GRAWAY MANAGER, DEVELOPMENT SERVICES & PLANNING LIAISON DEVELOPMENT SERVICES	ANDREW MACPHERSON MANAGER, ENVIRONMENTAL & PARKS PLANNING PLANNING SERVICES
REVIEWED BY:	SUBMITTED BY:
JENNIE RAMSAY, P.ENG MANAGER - DEVELOPMENT SERVICES & ENGINEERING LIAISON DEVELOPMENT SERVICES	GEORGE KOTSIFAS, P.ENG. MANAGING DIRECTOR, DEVELOPMENT & COMPLIANCE SERVICES AND CHIEF BUILDING OFFICIAL

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SCHEDULE "1"
EXCERPT OF SUBDIVISION AGREEMENT GENERAL PROVISIONS
(SCHOOL SITES)

16. PROPOSED SCHOOL SITES

- 16.1 The Owner shall advise all purchasers that there is no commitment by the London District Catholic School Board to construct a permanent educational facility within the development area at this time. Sufficient pupil accommodation will not be available for all anticipated Catholic students residing within the development area. The London District Catholic School Board reserves the right to accommodate Catholic students in temporary (holding) facilities and/or bus students to educational facilities outside of the development area, and further, such students may later be transferred to a neighbourhood school should one be constructed.

- 16.2 The Owner shall inform all Purchasers of residential lots by including a condition in all Purchase and Sale and/or Lease Agreements stating that the construction of additional public school accommodation is dependent upon funding approval from the Ontario Ministry of Education, therefore the subject community may be designated as a "Holding Zone" by the Thames Valley District School Board and pupils may be assigned to existing schools as deemed necessary by the Board.

- 16.3 The Owner shall set aside an area or areas (being Block(s) _____) as a site or sites for school purposes to be held subject to the rights and requirements of any School Board having jurisdiction in the area.

- 16.4 The School Boards shall have the right, expiring three (3) years from the later of the date on which servicing of the relevant site is completed to the satisfaction of the City or the date on which seventy percent (70%) of the Lots in the subdivision have had building permits issued, to purchase the site and may exercise the right by giving notice to the Owner and the City as provided elsewhere in this Agreement and the transaction of purchase and sale shall be completed no later than two (2) years from the date of giving notice.

- 16.5 The School Boards may waive the right to purchase by giving notice to the Owner and the City as provided elsewhere in this Agreement.

- 16.6 Where all School Boards have waived the right to purchase, the City shall then have the right for a period of two (2) years from the date on which the right to purchase by the School Board has expired or has been waived as the case may be, to purchase the site for municipal purposes and may exercise the right by giving notice to the Owner as provided elsewhere in this Agreement and the transaction of purchase and sale shall be completed no later than sixty (60) days from the date of giving notice.

- 16.7 The Owner agrees that the school blocks shall be:
 - (a) graded to a one percent (1%) grade or grades satisfactory to the City, the timing for undertaking the said works shall be established by the City prior to the registration of the Plan; and

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(b) top soiled and seeded to the satisfaction of the City, the timing for undertaking the said works to be established prior to assumption of the subdivision by the City.

16.8 Where the Owner has been required to improve the site by grading, top-soil and seeding, the responsibility of the Owner for the maintenance of the site shall cease upon completion by the Owner of his obligations under this Agreement.

16.9 If and when the City purchases the site, the City may establish a policy with respect to the ultimate use or disposition of the site.

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SCHEDULE "2"

COUNCIL POLICY - DISPOSITION OF SCHOOL SITES

19(34) Disposition of School Sites

That a policy be established with respect to the disposition of school sites set aside in Subdivision Agreements as set out in Appendix 19(34A).

ADOPTED OCTOBER 17, 1988, APPENDIX AMENDED March 5, 2007 [19(34)]

19(34A) Appendix to School Sites Policy

- (1) the Planning Division shall determine the commencement date for the three year option period for all Boards of Education, based on their electoral status, to exercise their right to purchase the block being held in reserve for a school. This shall be determined by monitoring the reports compiled by various Divisions within the Planning and Development Department, giving details on "building permits issued" in each subdivision. When these reports indicate either seventy (70%) percent of the dwelling units in a subdivision have had building permits issued or when the servicing of the subject site is completed to the satisfaction of the General Manager of Environmental and Engineering Services & City Engineer, whichever is the later, the indicator shall determine the three year option period commences;
- (2) the Planning Division shall notify the School Boards, the Owner, and the Manager of Realty Services of the commencement date of the three year option period for the Boards of Education;
- (3) the Planning Division shall, monitor the time frame and six months prior to the expiry date of the three year option period, remind the Boards of Education, in writing, of the expiry date and provide the Owner with a copy of the reminder notice;
- (4) if the subdivision agreement or the Planning Report indicates the City has no interest in acquiring all or any portion of the school site, the Planning Division shall write the Owner to indicate that the Owner is free to sell or develop the block;
- (5) if the subdivision agreement or the Planning Report indicates the City has an interest in acquiring all or a portion of the school site
 - (i) upon the expiration of the Board of Education's option, or in the event that the Boards of Education notifies the Planning Division earlier, in writing, that they waive their option to purchase the school site, then the Planning Division shall provide written notice to the Owner and the Manager of Realty Services that the two year option period for the City to acquire the subject parcel has commenced;
 - (ii) the Planning Division shall immediately liaise with the appropriate Civic Departments in order to determine whether or not it is desirable for the City to acquire all or a portion of the subject land and shall prepare an appropriate report, with recommendations, for the Planning Committee;
 - (iii) the Planning Division shall establish a time and date for a public participation session to consider the staff's recommendations referred to in (i) above at a Planning Committee within six months of the commencement of the City's two year option period and the Planning Division shall arrange for notice to be sent to the owners of properties

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within a 120 metre (400 foot) radius of the subject property and shall place an advertisement in the "Living in the City" section of the London Free Press advising of the public participation meeting and the opportunity for citizens to present their views on whether or not the City should take up its option to purchase the subject property;

(iv) the Planning Committee shall make a recommendation on the matter to the City Council;

- (6) should the City Council determine that the subject property should be acquired, the City Clerk, shall so notify the Owner and the Manager of Realty Services, in writing. The Manager of Realty Services shall be directed to commence immediate negotiations for the acquisition of the land and ensure that an appropriate recommendation is made to the Board of Control and the City Council with respect to the offer to purchase, so that within sixty days of the date of the Clerk's notice, the purchase transaction is completed;
- (7) should the City Council determine that the subject property should not be purchased, the Planning Division shall immediately notify the Owner, in writing, that the City has waived its right to purchase the said property.

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SCHEDULE “3”
EXCERPT OF SUBDIVISION AGREEMENT GENERAL PROVISIONS
(PARK FACILITIES)

13.3 The Owner shall convey to the City lands that are required for parkland dedication pursuant to the Parkland Conveyance and Levy By-law CP-9, as identified in **Schedule “D”** of this Agreement. All lands to be conveyed shall be free from all encumbrances, liens and charges to the satisfaction of the City Solicitor.

The Owner shall grade, topsoil and seed all lands to be conveyed at one percent (1%) grade or grades otherwise approved by the City. Grading and landscaping shall be undertaken by the Owner in accordance with the City’s specifications for parkland development and at no cost to the City. The design specifications and timing for completion of all works shall be to the satisfaction of the City.

In instances where cash-in-lieu of parkland is required by the City, the Owner shall pay money at the prevailing value of the land pursuant to the requirements in the Parkland Conveyance and Levy By-law CP-9, as identified in **Schedule “D”** and further described in this Agreement.

25.3 PARKS

(a) Within one (1) year of registration of this Plan or otherwise approved by the City, the Owner shall grade, service and seed all Park Blocks and Open Space Blocks, transferred to the City as part of the parkland dedication requirements, pursuant to current City Park development standards, to the satisfaction of City, and at no cost to the City.

Within (1) year of registration of this Plan, the Owner shall have its consultant provide a certificate that identifies that the Block has been rough graded as per the approved plan and receive City approval of rough grades prior to topsoil installation.

(b) Within one (1) year of registration of this Plan or otherwise approved by the City, the Owner shall install a 1.5 metre chain link fence, without gates, along the property limit interface of all private Lots and Blocks adjacent to any park and/or open space Blocks, in accordance with City Standard S.P.O. 4.8, to the satisfaction of the City, and at no cost to the City. Any alternative fencing arrangements shall be to the approval and the satisfaction of the City.

Within (1) year of registration of this Plan, the Owner shall have its consultant provide a certificate to the City Plan that identifies that the fencing has been installed as per the approved plan.

(c) The Owner shall not grade into any park or open space area. Where Lots abut lands zoned as open space, all grading of the developing Lots at the interface with the park or open space areas are to match grades to maintain existing slopes, topography and vegetation. In instances where this is not practical or desirable, any grading into the park or open space zones shall be to the satisfaction of the City.