

Alexander Peterson  
793 Fleet Street  
London, ON N5Y 1R8

3 September 2012

Re: City of London File OZ-8055

Dear City of London Planning and Environment Committee,

I would like to present to you several reasons why the proposed amendment to the current city plan and zoning by-law for the area of 8 Fairview Court and 770 Whetter Avenue should be rejected.

**First** and foremost, the proposed building does not meet the required setbacks from a level rail crossing. **Second**, the building will not “blend in” as the developer asserts. It will dominate the area and is out of character with existing housing units. **Third**, the business model is suspect with intended renters being out of character with the neighbourhood, and an unwritten idea from the developer noised about at an information session included using several units as an extended-stay hotel. **Fourth**, the increased density will exacerbate already difficult traffic and parking issues. **Finally**, the determination of the developer and investors to push through their vision without change or compromise does not bode well for neighbourhood relations with a group that will become a major stakeholder in the area if the developer’s proposal is accepted.

**1)** In regards to the railway setback by-laws: In section 4.24 of the city by-law below, there is no mention of “holding provisions to ensure vibration mitigation,” etc. as written in the notice of public meeting for the proposed amendment of the zoning change. It simply states that buildings cannot be built within 45.5 metres of a level crossing. The proposed structure falls within the setback radius of the by-law and the site plan would need to be altered to meet code.

I hope to present a drawing with the 45.5 meter radius marked on it at the Planning and Environment Committee meeting on Tuesday September 4, 2012.

At a preliminary information session with councillor Bud Polhill, the developer, project investors and area residents and church parishioners on June 28, which was held in the Christ the Saviour Church hall, the property investors and developer dismissed the city by-law as irrelevant because CN Rail had not informed them of it, and because CN Rail did not seem concerned enough to mention the city by-law. The other reason the developer put forth for not following the by-law was that there are existing buildings in the city that are within this radius of other crossings, so this building should not be subject to the by-law either.

However, there are three reasons the by-law needs to be held in force:

One - There are exemptions in the downtown corridor and other designated zones which account for existing buildings which are in a similar situation. I do not believe this proposed structure is in any of those exempt zones.

Two – It is convention in Canada that as building codes are updated and changed, existing buildings are usually “grandfathered” and do not need to meet the new codes unless they are subsequently renovated, or are torn down and a new structure erected. Since this is a proposed new build, it needs to conform to the current by-laws and they should not be set aside for the convenience of a builder.

Three - It is not up to CN to do the work of informing the developer and investors of city by-laws. CN has regulations requiring berms and setbacks of which they informed the developer, but those requirements do not override any additional requirements dictated by other authorities such as city legislative bodies. The ignorance of the developer and investors of any additional regulations dealing with level rail crossings at city streets does not render London city by-laws null and void.

**2)** The height of the development is also a concern. The proposed apartment, with its peaked roof is in effect five stories tall; at least twice as high as any existing structure in the immediate vicinity save the cupola of the church across the road. However, church cupolas are exempt in height restrictions as noted in section 4.9 of the by-law below. Also the effect of the cupola is minimal as compared to the almost 74 metre roofline of the proposed building.

While the developers may point to the height of the hospital towers on Baseline Road, those structures are at least mitigated by the slope of the land and the tree lined streets and properties in the area. This proposed building is in the middle of one-and-a-half storey homes, two story town homes and two-and-a-half storey apartments and, shadowing studies notwithstanding, the roofline and entire building will dominate the skyline in the neighbourhood,.

**3)** The business model for renting the proposed units cannot guarantee the style of proposed renter and thus is a shaky model on which to plan. The proposed building as a "luxury" apartment is out of character with a neighbourhood of middle class, small family homes occupied by empty nesters and new families, town homes mixed with subsidised occupants and lower rental apartments. Any real estate agent will acknowledge that building or renovating substantially above the character of a neighbourhood will make a home difficult to sell (or rent) at a price that would allow the recovery costs of the build. The same can be said for apartments. The intended target group of upwardly mobile professionals and well-to-do medical professionals are less likely to rent in a neighbourhood that is out of character with their lifestyle and expectations.

The business model of luxury apartments was proposed to allow investors to use the rent as retirement income. If they cannot maintain the profit margin required for their intended retirement lifestyle, because they need to drop rental prices to attract renters more in line with the current neighbourhood - where will they find their required profit margin without cutting costs in areas such as maintenance?

There is a concern that this complex will not be just an apartment building. Another idea verbalized by investors and the developer at the June 28 session included setting aside several furnished units for short term (weekly/monthly) rentals to offer to families with long-term patients at Victoria Hospital. However, this in essence turns at least a portion of the building into an extended-stay hotel, not an apartment. Besides putting the proposed apartment in competition with local hotels, it also adds a different business to the site than does the current written proposal.

**4)** The area is already at a virtual gridlock at shift change at the hospital. Adding more cars from 54-75 units at the proposed building to the local traffic will only exacerbate the problem. The idea of renters almost exclusively working at Victoria Hospital and related medical facilities in the area, was apparently to allay these known traffic concerns, as the developer feels that these type of tenants would "likely walk to work." However, as noted above, the investors and developers cannot guarantee who the renters will be, or that two-income couples would not require automobile transportation to get to other parts of the city for work, etc.

Parking will be at a premium at this new building, especially if it does attract two-car couples, and there is the real possibility that visitors to the complex will need use of the street for overflow parking. Parking is already at a premium in the area. Due to an entrance being proposed across from the church, parishioners will lose Sunday parking on the north side of Whetter Avenue as well.

5) Finally, I would like to say that the tone of the investors and developer at the June information session was less than conciliatory and lacked any concern for the neighbourhood when questions and any opposition to the project were raised. When one resident stated "This is our neighbourhood," the reply from an investor was "well, this is our retirement plan." At the end of the information session, the clique formed by the developer and investors were chatting and the comment was overheard, "if we don't get approval at Council, we'll just go direct to the OMB."

These comments leave the impression that they are prepared to see this development pushed through despite of, and over any concerns the existing residents have, that the investment needs of a non-resident trump those needs of people who are current residents. This does not bode well for future neighbourhood relations if this zoning change and project are approved.

Overall, this proposal causes more challenges for the neighbourhood than improvements. I would urge Council to reject the proposed zoning change.

A handwritten signature in black ink that reads "Alex Peterson". The signature is fluid and cursive, with a long horizontal stroke at the end.

Alexander Peterson  
Parishioner  
Christ the Saviour Russian Orthodox Church

**Attachment:** Excerpts of City of London zoning by-law No. Z-1, sections 4.24 and 4.9

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To letter from: Alexander Peterson, 793 Fleet Street, London, ON N5Y 1R8

Re: City of London File OZ-8055

Dated: 3 September 2012



**Zoning By-law No. Z-1 (Portion)  
City of London, Canada**

[To table of contents](#)

**SECTION 4**

**GENERAL PROVISIONS**

**4.24 [SIGHT TRIANGLE](#)**

On any corner lot in all zones except the Downtown Area (DA), Business District (BDC) and Arterial Commercial (AC) Zones, no fence or structure shall be erected to a height greater than 1.0 metre (3.3 ft.) above grade of the streets that abut the lot, within the triangular area bounded by the street lines and a line joining points on the street lines at a distance as established by the following:

<b>Interior Angle Formed By Intersection of Street Lines</b>	<b>Distance from Point of Intersection of Street Lines</b>
20 degrees or less	26.0 metres (85.3 feet)
over 20 degrees and up to 30 degrees	18.0 metres (59.1 feet)
over 30 degrees and up to 40 degrees	13.5 metres (44.3 feet)
over 40 degrees and up to 50 degrees	10.5 metres (34.4 feet)
over 50 degrees and up to 60 degrees	9.0 metres (29.5 feet)
over 60 degrees and up to 80 degrees	7.5 metres (24.6 feet)
over 80 degrees and up to 110 degrees	6.0 metres (19.7 feet)

In agricultural zones no driveway, buildings or vegetation greater than .3 m (1 ft.) high shall be erected within 9m (29.5 ft) of the intersection of joined streets.

Where a road or street crosses a railway at the same grade then no building or structure shall be erected closer to the point of intersection of the centre line of both railway and the road or street than 45.5m (150 ft) (Z-1-051390)

**4.9 [HEIGHT EXEMPTION](#)**

Any height limitations of this By-Law shall not apply to church spires, belfries, cupolas, mechanical penthouses and domes which are not used for human occupancy; nor to chimneys, ventilators, skylights, water tanks, solar collectors, windmills, bulkheads, hydro, radio, television or microwave towers and antenna and similar features or necessary mechanical appurtenances or electrical supply facilities usually situated above the roof level; nor to any industrial apparatus such as silos, cracking towers, or conveyors; nor any main agricultural buildings or structures, such as barns, grain elevators and storage bins, grain dryers or windmills. Such features, however, shall be erected only to such height as is necessary to accomplish the purpose they are to serve. (Z.-1-051390)