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File: OZ-8055
Planner: C. Smith

TO:	CHAIR AND MEMBERS PLANNING & ENVIRONMENT COMMITTEE
FROM:	JOHN M. FLEMING MANAGING DIRECTOR, PLANNING AND CITY PLANNER
SUBJECT:	APPLICATION BY: 1841577 ONTARIO INC. C/O LISA LANSINK 8 FAIRVIEW COURT AND 770 WHETTER AVENUE PUBLIC PARTICIPATION MEETING ON SEPTEMBER 4, 2012

RECOMMENDATION

That, on the recommendation of the Managing Director, Planning and City Planner, the following actions be taken with respect to the application of 1841577 Ontario Inc. relating to the property located at 8 Fairview Court and 770 Whetter Avenue:

- (a) the proposed by-law attached hereto as Appendix "A" **BE INTRODUCED** at the Municipal Council meeting on September 18, 2012 to amend the Official Plan to change the designation of the subject lands **FROM** a Low Density Residential designation, **TO** a Multi Family Medium Density Residential designation, to permit apartment buildings with a maximum density of 75 units per hectare;
- (b) the proposed by-law attached hereto as Appendix "B" **BE INTRODUCED** at the Municipal Council meeting on September 18, 2012 to amend Zoning By-law No. Z.-1, in conformity with the Official Plan as amended in part (a) above, to change the zoning of the subject property **FROM** Residential R2 (R2-2) Zone and a Residential R1 Special Provision /Residential R2 Special Provision (R1-1 (4)/R2-1 (7)) Zone which permits single, semi, duplex and converted dwelling maximum two units with a 15m setback from the CN railway right-of-way **TO** a Holding Residential R9 Special Provision (h-5*h-18*h-65*R9-1 ()*H15) Zone which permits apartment buildings with a maximum height of 15m, density of 75 units/ha, a minimum setback of 15m from the CN railway right-of-way, a 0.0m sight triangle setback from the point of intersection of the centre line of both the railway and the road, subject to holding provisions to ensure that noise and vibration mitigation measures, archaeological evaluation be completed and a development agreement, be entered into with the City, to the satisfaction of Council and to ensure that urban design matters are addressed following public site plan review;
- (c) a public participation meeting of the Planning and Environment Committee be held for consideration of the site plan required for this development prior to the removal of the "h-5" symbol;
- (d) the site plan approval authority **BE REQUESTED** to consider the following items through the site plan approval process:
 - provide landscaping which:
 - provides for the preservation of the existing mature vegetation along westerly property line for the purpose of providing a privacy buffer to abutting properties;
 - enhances street based landscaping along existing easterly berming;
 - defines the pedestrian realm, highlights the street edge and provides a prominent pedestrian entrance off of Westminster Avenue;
 - minimizes the need for extensive watering;
 - provide a building which:

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- clearly expresses a base, middle, and top (roof) on all elevations, predominantly using masonry materials;
 - uses variations in massing, materials, scaling and architectural features to identify the east façade and entrance as the front of the building and the south façade and entrance as a service egress;
 - location of parking underground;
 - location of the garbage storage be located within the building;
 - all lighting be oriented and its intensity controlled so as to prevent glare on adjacent residential properties and roadways; and
- (e) to ensure that lands are assessed for the presence of archaeological resources prior to development, the h-18 symbol shall not be deleted until the proponent carries out an archaeological resource assessment of the subject site and mitigate, through avoidance or documentation, adverse impacts to any significant archaeological resources found, to the satisfaction of the Ministry of Citizenship, Culture and Recreation, and the City of London. No grading or other soil disturbance shall take place on the subject property prior to the issuance of a letter of clearance by the City of London Planning Division
- (f) to ensure there are no land use conflicts between the adjacent arterial roads and/or rail line and the proposed residential uses, the "h-65" shall not be deleted until the owner agrees to implement all noise and vibration attenuation measures, recommended in noise and vibration assessment reports acceptable to the City of London

PREVIOUS REPORTS PERTINENT TO THIS MATTER

February 9, 1998- 39T-97512/Z-5510- Draft Plan of Subdivision and Zoning By-law amendment.
June 28, 1998 and September 10, 2004- OMB decisions-PL980265

PURPOSE AND EFFECT OF RECOMMENDED ACTION

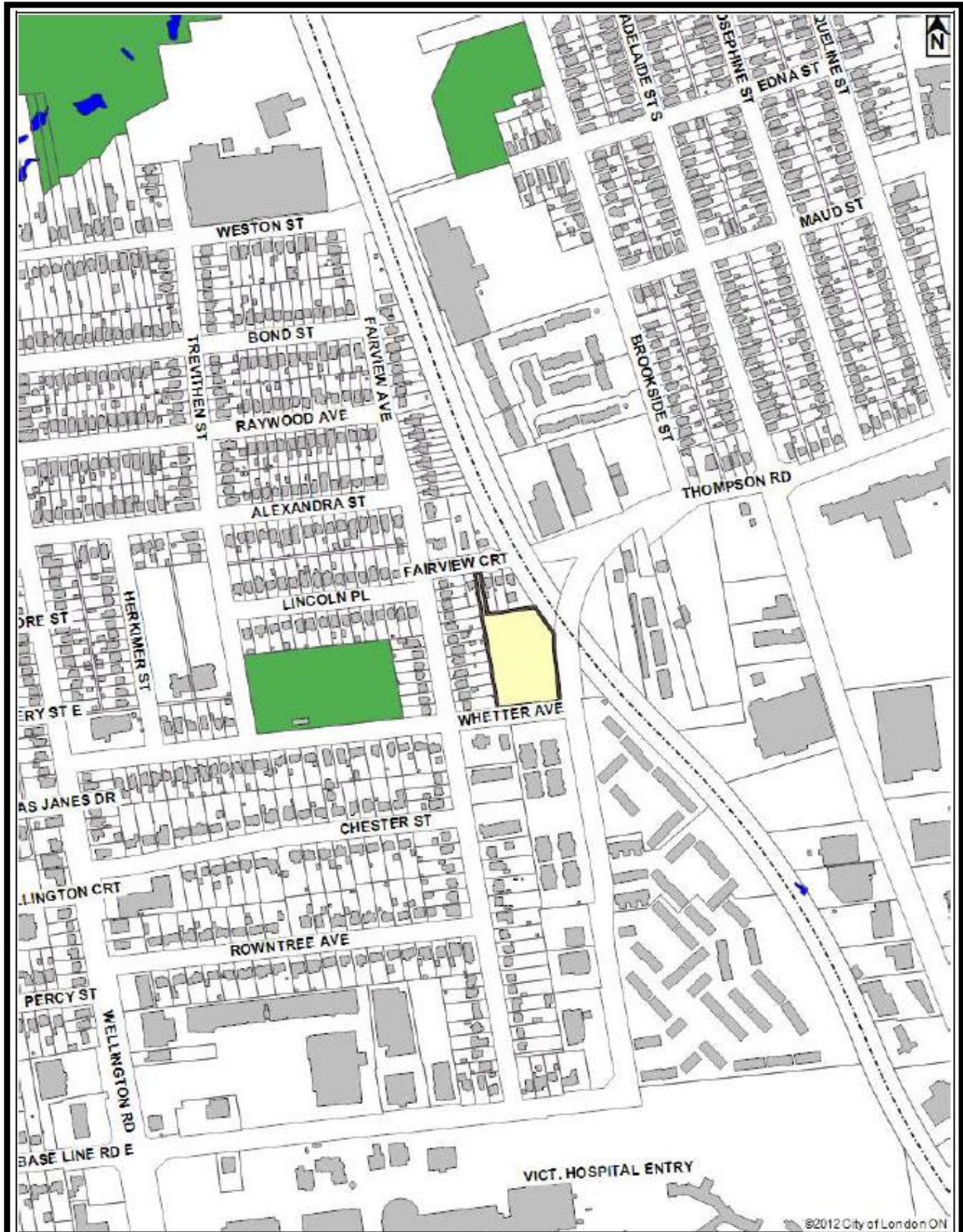
The purpose and effect of the proposed Official Plan and Zoning By-law amendment is to allow for the construction of a 3 storey (15m), 54 unit (75units/ha) apartment building.

RATIONALE

The proposed Official Plan and Zoning By-law amendment to permit a three storey (15m tall) apartment building with a density of 75units/ha (54units) is appropriate as:

- The recommended amendment is consistent with the policies of the Provincial Policy Statement (2005);
- The proposed amendment is consistent with the Multi Family Medium Density Residential policies of the City of London Official Plan;
- The recommended amendment is consistent and compatible with the existing uses in the area;
- Holding provisions have been added to ensure that a public site plan meeting is held, archeological and noise and vibration measures are identified and any required mitigations are incorporated and a development agreement is entered into with the City of London; and
- Through the holding provision requiring a public site plan meeting the scale and compatibility with the surrounding uses will be further refined.

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0 metres 250 500 750 1000

LOCATION MAP

Subject Site: 8 Fairview Crt and 770 Whetter Ave
 Applicant: 1841577 Ontario Inc C/O Lisa Lansink
 File Number: OZ-8055
 Planner: Craig Smith
 Created By: Craig Smith
 Date: 2012-05-10
 Scale: 1:5000

LEGEND

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



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BACKGROUND

Date Application Accepted: April 30, 2012	Agent: IBI Group c/o Michael Pease
<p>REQUESTED ACTION: The purpose and effect of this Official Plan and Zoning change is to allow for a 3 storey (15m), 54 unit (75units/ha) apartment building.</p> <p>Possible amendment to Schedule 'A' of the Official Plan FROM Low Density Residential TO Multi Family Medium Density Residential.</p> <p>Possible amendment to the Zoning By-law FROM Residential R1 Special Provision /Residential R2 (Special Provision R1-1 (4)/R2-1 (7) which permits single, semi, duplex and converted dwelling maximum two units with a 15m setback from the CN railway right-of-way TO Residential R9 Special Provision (R9-1 ()H*15) Zone which permits apartment buildings with a maximum height of 15m, density of 75 units/ha and a 15m setback from the CN railway right-of-way.</p>	

SITE CHARACTERISTICS:
<ul style="list-style-type: none"> • Current Land Use – vacant residential • Frontage – 66.9m • Depth – 102m • Area – 0.73ha • Shape - rectangular

SURROUNDING LAND USES:
<ul style="list-style-type: none"> • North - Residential- single detached dwellings • South - Residential- low rise apartment • East - Residential- townhouses • West - Residential- single detached dwellings

OFFICIAL PLAN DESIGNATION: (refer to Official Plan Map)
<ul style="list-style-type: none"> • Low Density Residential
EXISTING ZONING: (refer to Zoning Map)
<ul style="list-style-type: none"> • Residential Special Provision R1/Residential Special Provision R2 (R1-1 (4)/R2-1 (7)

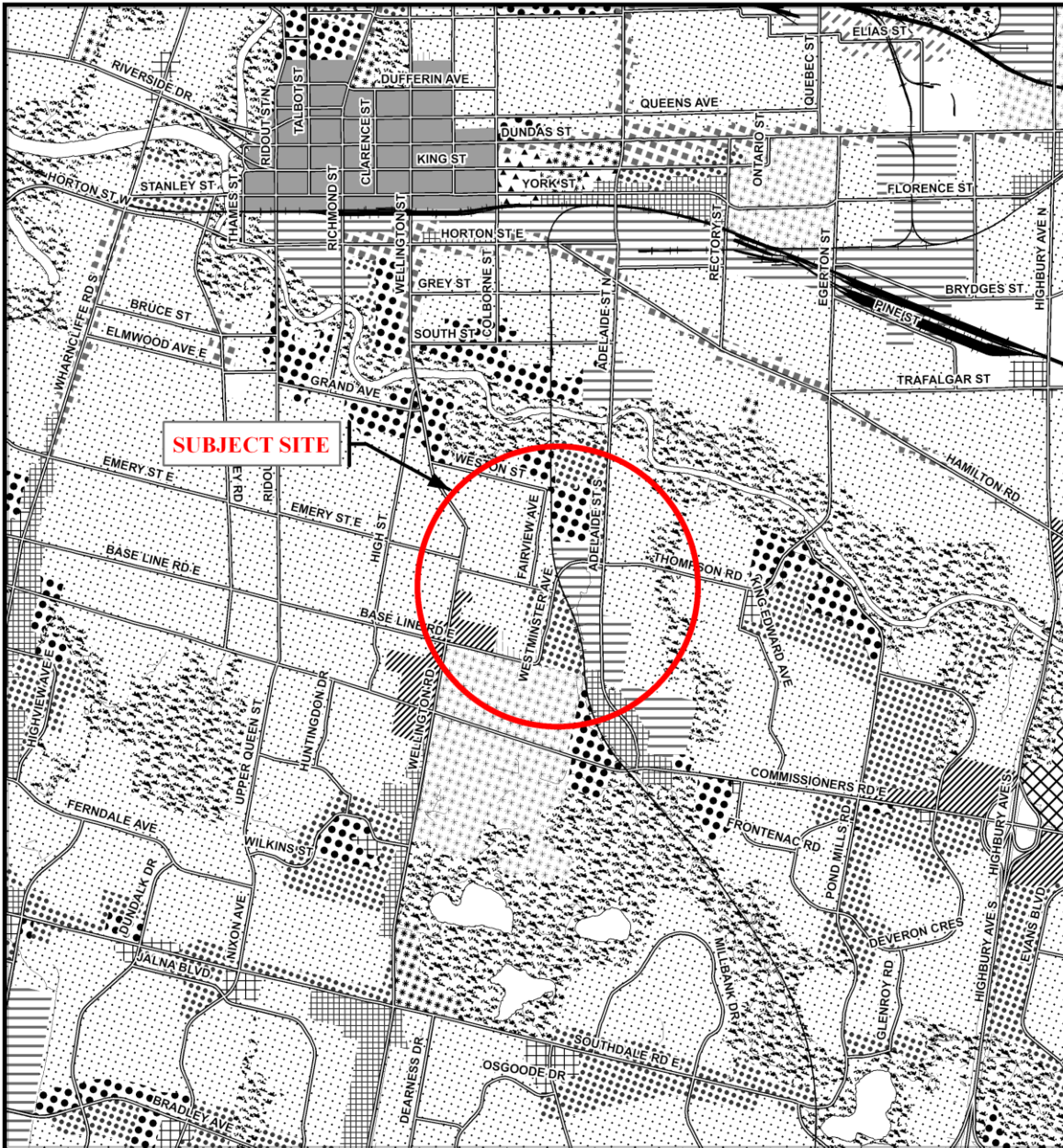
PLANNING HISTORY

In June 1995, the Committee of Adjustment granted conditional approval to an application by Tweed-Ottawa Park Inc. to develop the subject site with a forty-three (43) unit apartment building in place of a maximum of thirty-five (35) units as permitted by Zoning By-law Z.-1. The application was approved, with conditions, to accommodate a proposed non-profit apartment project which did not proceed.

In February, 1996, Council approved a Zoning By-law Amendment to change the zoning from a Residential R8 (R8-2) Zone to a combination Residential R5 Special Provision/Residential R6 Special Provision/Residential R8 Special Provision (R5-2(2)/R6-4(4)/R8-2(1)) Zone. The special

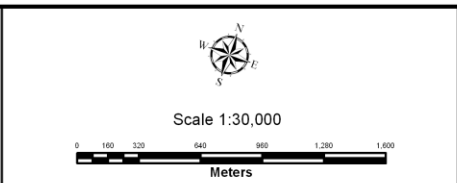
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Legend			
	Downtown Area		Office Business Park
	Enclosed Regional Commercial Node		General Industrial
	New Format Regional Commercial Node		Light Industrial
	Community Commercial Node		Regional Facility
	Neighbourhood Commercial Node		Community Facility
	Main Street Commercial Corridor		Open Space
	Auto-Oriented Commercial Corridor		Urban Reserve - Community Growth
	Multi-Family, High Density Residential		Urban Reserve - Industrial Growth
	Multi-Family, Medium Density Residential		Rural Settlement
	Low Density Residential		Environmental Review
	Office Area		Agriculture
	Office/Residential		Urban Growth Boundary

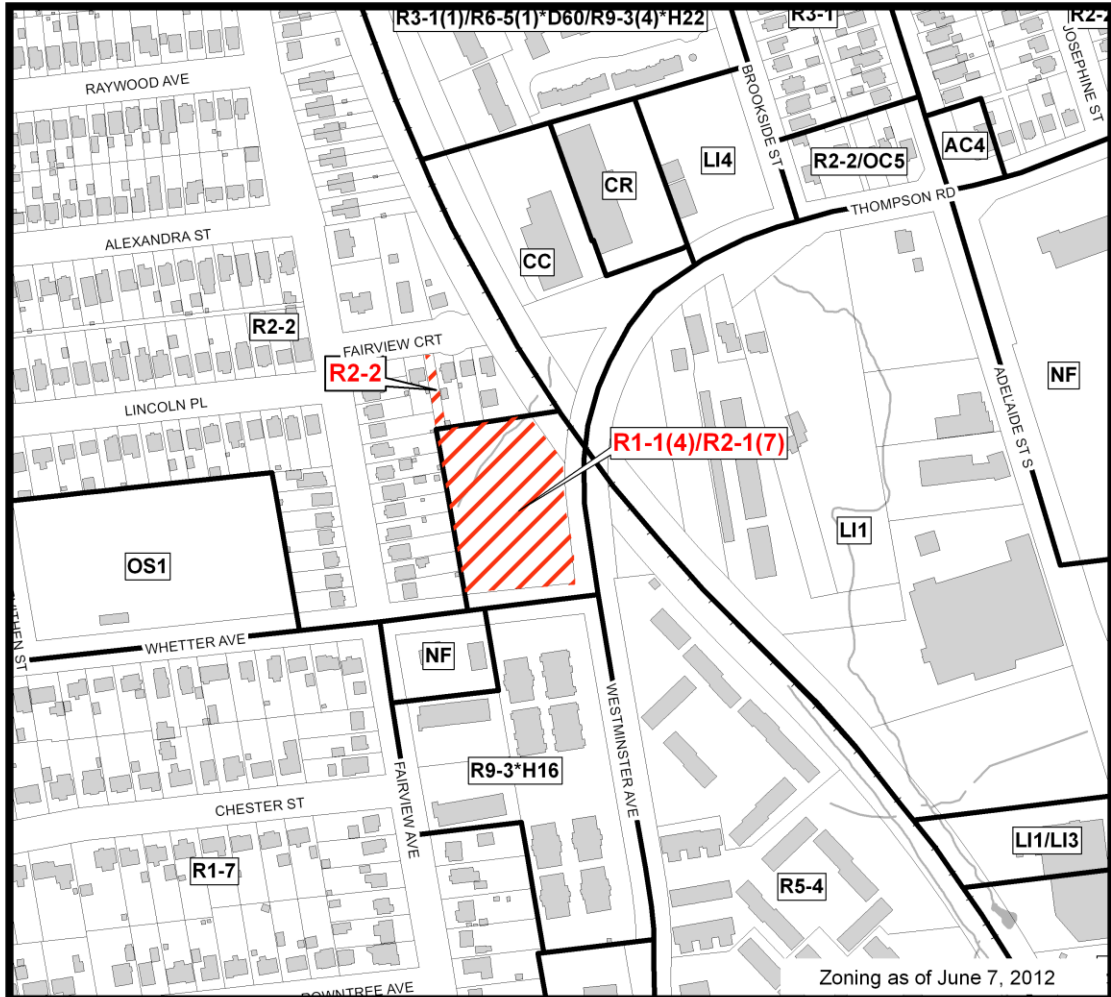
CITY OF LONDON
Department of
Planning and Development
OFFICIAL PLAN SCHEDULE A
- LANDUSE -
PREPARED BY: Graphics and Information Services



FILE NUMBER: OZ-8055
PLANNER: CS
TECHNICIAN: CK
DATE: 2012/06/27

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File: OZ-8055
Planner: C. Smith



COUNCIL APPROVED ZONING FOR THE SUBJECT SITE: R1-1(4)/R2-1(7) & R2-2

1) **LEGEND FOR ZONING BY-LAW Z-1**

- R1 - SINGLE DETACHED DWELLINGS
- R2 - SINGLE AND TWO UNIT DWELLINGS
- R3 - SINGLE TO FOUR UNIT DWELLINGS
- R4 - STREET TOWNHOUSE
- R5 - CLUSTER TOWNHOUSE
- R6 - CLUSTER HOUSING ALL FORMS
- R7 - SENIOR'S HOUSING
- R8 - MEDIUM DENSITY/LOW RISE APTS.
- R9 - MEDIUM TO HIGH DENSITY APTS.
- R10 - HIGH DENSITY APARTMENTS
- R11 - LODGING HOUSE

- DA - DOWNTOWN AREA
- RSA - REGIONAL SHOPPING AREA
- CSA - COMMUNITY SHOPPING AREA
- NSA - NEIGHBOURHOOD SHOPPING AREA
- BDC - BUSINESS DISTRICT COMMERCIAL
- AC - ARTERIAL COMMERCIAL
- HS - HIGHWAY SERVICE COMMERCIAL
- RSC - RESTRICTED SERVICE COMMERCIAL
- CC - CONVENIENCE COMMERCIAL
- SS - AUTOMOBILE SERVICE STATION
- ASA - ASSOCIATED SHOPPING AREA COMMERCIAL

- OR - OFFICE/RESIDENTIAL
- OC - OFFICE CONVERSION
- RO - RESTRICTED OFFICE
- OF - OFFICE

- RF - REGIONAL FACILITY
- CF - COMMUNITY FACILITY
- NF - NEIGHBOURHOOD FACILITY
- HER - HERITAGE
- DC - DAY CARE

- OS - OPEN SPACE
- CR - COMMERCIAL RECREATION
- ER - ENVIRONMENTAL REVIEW

- OB - OFFICE BUSINESS PARK
- LI - LIGHT INDUSTRIAL
- GI - GENERAL INDUSTRIAL
- HI - HEAVY INDUSTRIAL
- EX - RESOURCE EXTRACTIVE
- UR - URBAN RESERVE

- AG - AGRICULTURAL
- AGC - AGRICULTURAL COMMERCIAL
- RRC - RURAL SETTLEMENT COMMERCIAL
- TGS - TEMPORARY GARDEN SUITE
- RT - RAIL TRANSPORTATION

- "h" - HOLDING SYMBOL
- "D" - DENSITY SYMBOL
- "H" - HEIGHT SYMBOL
- "B" - BONUS SYMBOL
- "T" - TEMPORARY USE SYMBOL

2) ANNEXED AREA APPEALED AREAS

CITY OF LONDON
PLANNING, ENVIRONMENTAL AND ENGINEERING SERVICES

ZONING BY-LAW NO. Z.-1
SCHEDULE A

THIS MAP IS AN UNOFFICIAL EXTRACT FROM THE ZONING BY-LAW WITH ADDED NOTATIONS

FILE NO:	
OZ-8055	CS
MAP PREPARED:	
2012/06/27	CK
1:3,500	
0 15 30 60 90 120 Meters	

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File: OZ-8055
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provision provided for a minimum set-back from a railway right-of-way of 15.0 metres (49.2 feet).

In February 1998, Municipal Council approved Draft Plan of Subdivision and Zoning By-law amendment 39T-97512/Z-5510 to amend the zoning from a Residential R2 (R2-2) Zone and a Residential R5 Special Provision/Residential R6 Special Provision/Residential R8 Special Provision (R5-2(2)/R6-4(4)/R8- 2(1)) Zone to a Residential R1 Special Provision/Residential R2 Special Provision (R1-1()/R1-2()) Zone to permit a 12 lot subdivision.

CN Rail appealed Municipal Council's decision. On June 28, 1998 the OMB granted Draft Plan of Subdivision and Zoning By-law amendment with the following conditions:

- *With regard to the zoning appeal, I am satisfied that the minimum setback of 15 metres from the railway right of way, as contained in the present and proposed by-laws, accords with CN's requirement. Accordingly, with the new conditions of draft approval put in place in this decision, I see no further justification for CN's appeal of the zoning by-law and that appeal is dismissed. (emphasis added)*
- *That the owner shall carry out an archaeological survey and rescue excavation of any significant archaeological remains found on the site to the satisfaction of the Southwestern Regional Archaeologist of the Ministry of Culture, Tourism and Recreation; and that no grading or other soil disturbance shall take place on the subject property prior to the letter of release from the Ministry of Citizenship and Culture; (emphasis added)*
- *That prior to the signing of the final plan, the Approval Authority is to be advised by the Ministry of Culture, Tourism and Recreation that Condition 14 (above) has been carried out to their satisfaction;*
- *That the owner shall engage a qualified noise and vibration consultant to undertake an analysis of noise and vibration in order to recommend abatement measures necessary to achieve the maximum level limits set by the Ministry of Environment and Energy and Canadian National Railway. Upon review and acceptance by the City Engineer of the noise and vibration reports, appropriate recommendations are to be included in the Subdivision Agreement; (emphasis added)*
- *That the owner shall agree to construct and maintain an earthen berm a minimum of 2.0 metres above grade at the property line, having side slopes not steeper than 2.5 to 1, adjoining and parallel to the railway right of-way with returns at the ends;*
- *That the owner shall agree to install and maintain a chain link fence of minimum 1.83metres in height along the mutual property line between the CN right of-way and the subdivision;*
- *That the owner shall agree to submit to the City any proposed alteration to the existing drainage pattern affecting Railway Property, substantiated by a drainage report satisfactory to the City Engineer;*

The conditions of draft subdivision were further refined by an OMB decision on September 10, 2004, (PL980265) which states:

- *That the owner shall construct a noise mitigation feature being an earthen berm having a maximum height of 2.0 metres above grade, at the property line with side slopes, not steeper than 2.5 to 1, adjoining and parallel to the railway right of way with returns at the ends. Such measures may also include an acoustic barrier, of a size and type acceptable to CN Rail and the City Engineer, along the top of the berm.*

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- *That the owner shall submit to CN Rail the measures it proposes to incorporate in the construction of homes on lots 2 to 11, both inclusive, to mitigate the impact of vibration by passing trains. On receipt of CN approval, such measures to be incorporated in the subdivision agreement, which is to be registered against the title to each lot;*
- *That the subdivision agreement identify and describe the features constructed, or to be constructed, to mitigate noise, vibration and safety issues, as well as maintenance of same;*
- *Said agreement to contain the following warning clause (exhibit A-10), agreed to by the parties, and set out herewith:*

WARNING CLAUSE

- *Purchasers are advised that despite the inclusion of noise and vibration control measures within the subdivision and within the individual building unit, ' noise and vibration levels may continue to be of concern, occasionally interfering with some activities of the dwelling occupants, There may be alterations to, or expansions of, the rail facilities on such right of way in the future, including the possibility that the Railway or its assigns or successors as aforesaid may expand its operations, which expansion may affect the living environment of the residents in the vicinity, notwithstanding the inclusion of any noise and vibration attenuating measures in the design of the subdivision and individual dwellings; and the Railway will not be responsible for any complaints or claims arising from the use of its facilities and/or operations.
Warning to Solicitors: Solicitors are advised to stress the importance of the above warning clause when advising their clients on the purchase of units in the subdivision.*

On February 7, 2007, the Ontario Municipal Board (Decision/Order No. 0341) advised that the draft plan approval lapsed on the 1st day of November 2006 and therefore as pursuant to the Planning Act, R.S.O. 1990, withdrew approval of the draft plan of subdivision 39T-97512. The City of London subsequently closed the draft plan of subdivision file 39T-97512 on February 26, 2007.

SIGNIFICANT DEPARTMENT/AGENCY COMMENTS

The City of London Development Services Division:

The City of London's Development Services offers the following comments with respect to the aforementioned Official Plan and Zoning By-Law amendments application:

- *Municipal Services (water, storm & sanitary) exist at the property boundary off Whetter Avenue to serve the proposed 54 unit apartment building. The applicant is advised that his engineer must ensure there is adequate water for domestic use and fire fighting purposes and design the site servicing to take water quality into consideration. The City may require premise isolation at property line if the water quality on site has a potential to pose a hazard to the municipal water system.*
- *Transportation issues include road widening on Whetter Avenue and a 6m X 6m daylight triangle on the northwest corner of Whetter Avenue and Thompson Road. Access to the subject site will be off Whetter Avenue located a minimum 60.0m from the center line of Thompson Road and have a minimum 8.0m clear throat distance. In addition, a sidewalk will have to be constructed on Whetter Avenue between Fairview Avenue and Thompson Road to serve the proposed development.*

The above comments, among other engineering and transportation issues, will be addressed in greater detail when these lands come in for site plan approval

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The City of London Urban Design Peer Review Panel:

The following comments from the Panel are based on the submitted Urban Design Brief. The inclusion of landscape plans, rendered elevations as well as building and street sections would have completed the brief and been helpful in fully understanding the design intent of the project.

1. *The panel commented on the placement of the building in relation to the street edge and suggested that if the building was adjacent to the street and the parking was in the rear a greater connection to the street would be created as well as a defined street edge.*
2. *Consideration should be given to programming the shared outdoor space to make it useable for residents and appear active to the community.*
3. *A landscape strategy is required along the edge of Westminster Avenue and Whetter Avenue to define the pedestrian realm, promote the pedestrian experience and highlight the street edge.*
4. *Landscaping should be used to define the pedestrian entrance off of Westminster Avenue by making it more prominent and celebrating the entrance to the site.*
5. *Bike racks should be provided on the exterior, near main entrances, as well as the interior to encourage bicycling and promote safety and security.*
6. *The elevations hint at undulations happening in the building envelope, though the site plan does not reflect this. Undulations and defined articulations within the shape of the building are encouraged to improve the massing and design of the project. It is noted that the line of the fascia would step accordingly.*
7. *With gabled roofs as shown the location of Rain Water Leaders are important and should be considered and integrated into the design.*
8. *Consideration and selection of exterior building materials is critical to the success of the design. Materials such as stone and masonry are encouraged due to their durability and residential character.*
9. *Appropriate site lighting should be utilized to promote safety, limit spill-over onto adjacent residential properties and improve the pedestrian experience.*
10. *The Brief mentions Victorian ornamentation and character, however, this style is not consistent with the context of the site and is not encouraged for this project.*
11. *A pedestrian connection is encouraged through easement connecting the site to Fairview Crt.*
12. *To summarize, material selection, landscaping and the outdoor amenity spaces are the key to the success of this development and will require detailed design attention.*

On behalf of the Panel, I thank you for your submission. Please note that the Panel does not require this project to be re-submitted for review. We trust the foregoing comments are helpful in creating a successful project when moving forward.

PUBLIC LIAISON:	On January 18, 2012, Notice of Application was sent to 81 property owners in the surrounding area. Notice of Application was also published in the "Living in the City" section of the London Free Press on January 21, 2012. A "Possible Land Use Change" sign was also posted on the site.	7 written replies were received opposing the proposed amendments, 1 phone reply in agreement
<p>Nature of Liaison: The purpose and effect of this Official Plan and Zoning change is to allow for a 3 storey (15m), 54 unit (75units/ha) apartment building.</p> <p>Possible amendment to Schedule 'A' of the Official Plan FROM Low Density Residential TO Multi Family Medium Density Residential.</p> <p>Possible amendment to the Zoning By-law FROM Residential Special Provision R1/Residential Special Provision R2 (R1-1 (4)/R2-1 (7) which permits single, semi, duplex and converted dwelling maximum two units with a 15m setback from the CN railway right-of-way TO Residential Special Provision R9 (R9-1 (H*15) Zone which permits apartment buildings with a maximum height of 15m, density of 75 units/ha and a 15m setback from the CN railway right-of-way.</p>		

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Responses: the following is a summary of the main issues raised through the circulation process:

Compatibility- not sensitive to surrounding single detached dwelling built form; height, bulk placement not consistent with existing single detached dwellings; too big; not a good fit in the neighbourhood.

Traffic - increased traffic load onto Whetter Avenue; cannot turn left on to Westminster Avenue from Whetter, will create safety issues with increased traffic in the existing residential area; poor sight lines, safety is an issue with cars pulling out, pedestrian safety;

Parking – 68 parking spaces not enough - overflow parking on adjacent streets;

Decreased Property Values - will the City be decreasing property taxes when property values drop?

Security & Tenancy – low income residents and/or students; transient nature of renters – no sense of community

Official Plan, Zoning By-law - Does not conform with the Low Density Residential designation: should be a smaller form of residential development, the proposed building is not setback 45m from the Westminster Avenue and CN railroad intersection;

Design Considerations - building design – too high, not in keeping with the existing single detached dwellings, too close to the existing single detached dwelling.

Nuisance - increased lighting, noise from garbage trucks, additional people, cars, snow removal, snow storage, pollution from cars; increased trash around site; loss of sunlight, amenity space,

Stromwater- cannot contain large storm events on site; will cause flooding on abutting properties.

Greenspace & Environmental - loss of greenspace and amenity, loss of existing mature trees, sunlight, privacy; loss of habitat for woodland creatures; removal of old mature trees and concerns with soil contamination.

ANALYSIS

Subject site

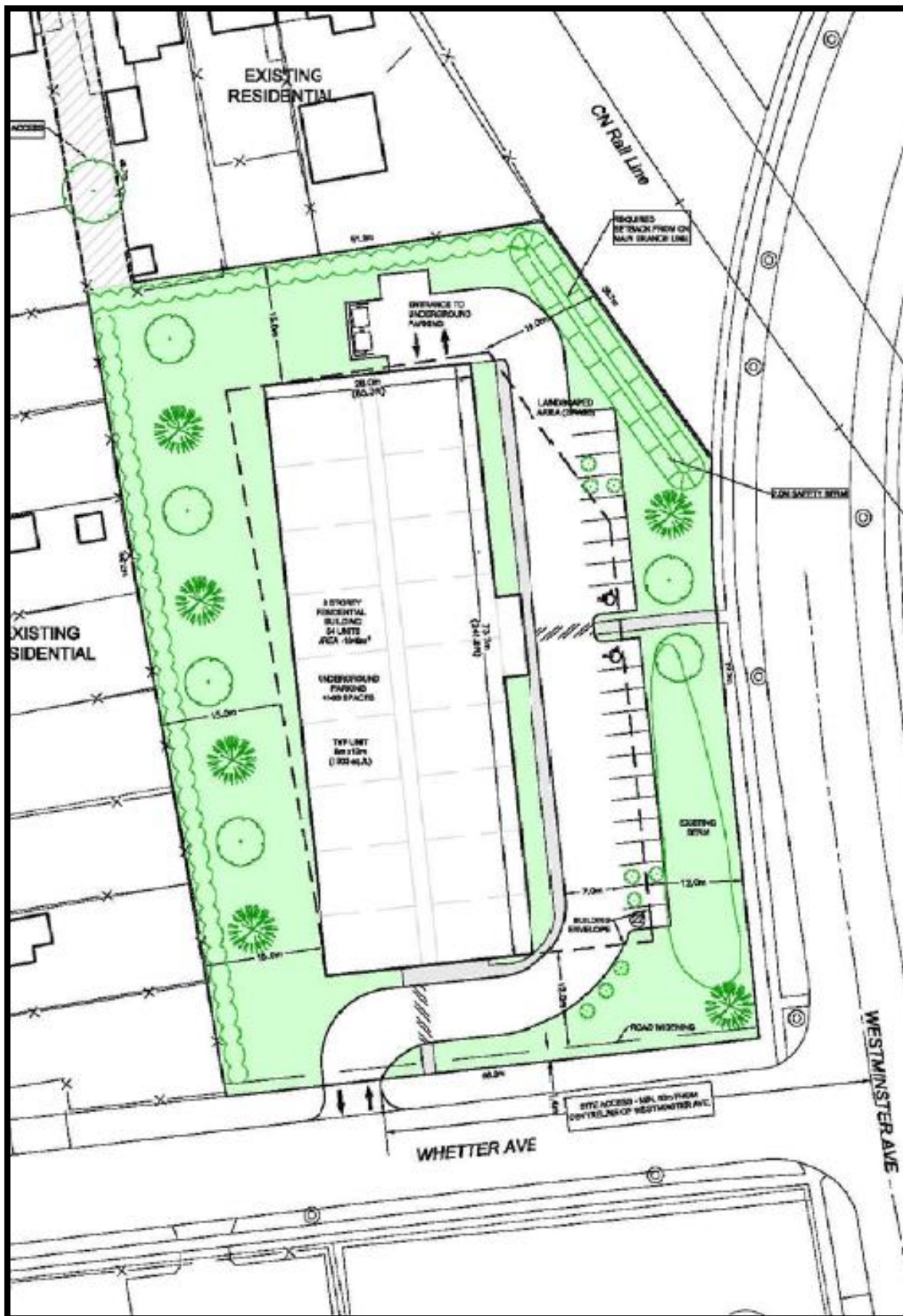
The subject site is located on the southwest corner of Whetter Avenue and Westminster Avenue. It is a 0.7 hectare piece of land. The subject site is surrounded by townhouse units to the east, apartments to the south and single family detached houses to the west. The CN railroad St Thomas spur line is located along the northerly boundary. Westminster Avenue is a primary collector road which has an annual average daily traffic volume of 15,000 vehicles. Whetter Avenue is a secondary collector with an estimated annual average daily traffic volume of 3,500 vehicles.

What is the nature of the proposed amendment?

The applicant, has requested a zoning by-law amendment for the above-noted lands from Residential R1 Special Provision /Residential R2 (Special Provision R1-1 (4)/R2-1 (7) which permits single, semi, duplex and converted dwelling maximum two units with a 15m setback from the CN railway right-of-way to Residential R9 Special Provision (R9-1 ()H*15) Zone which permits apartment buildings with a maximum height of 15m, density of 75 units/ha and a 15m setback from the CN railway right-of-way. The proposed amendment will allow for a three storey 54 unit apartment building with 47 underground parking spaces.

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Proposed Site Plan



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Proposed Elevations



Provincial Policy Statement (PPS)

The PPS promotes and directs efficient land use and development patterns. The proposed development is consistent with Section 1.0 Building Strong Communities and Section 3.0 Protecting Public Health and Safety as it:

- provides for a mix of dwelling units;
- provides for intensification;
- efficiently utilizes existing infrastructure;
- efficiently uses land and resources in the City of London;
- provides for the utilization of the existing public transit systems; and
- promotes a healthy community.

Official Plan

The site is designated Low Density Residential in the City of London Official Plan. The primary permitted uses in the Low Density Residential designation are residential uses such as single, semi, duplex dwellings and may include town homes and low rise apartments to a maximum density of 30 units per hectare. The applicant proposes to amend the designation to a Multi Family Medium Density Residential to allow for 75 units per hectare.

The proposed Official Plan amendment and development is consistent with the following Official Plan Policies:

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Section 2.3 Planning Principles

- The proposed development encourages a compact urban form which is conducive to the maintenance and efficient use of services and facilities and minimizes the loss of productive agricultural land.
- The proposed development directs the redevelopment and intensification activity to an underutilized site that is located at the intersection of a primary and secondary collector street in the City of London not adversely affecting existing residential areas.
- The proposed development promotes attractive, functional and accessible site and building design which is sensitive to the scale and character of surrounding uses.

Section 2.4 City Structure Policies

- The site is located at the intersection of a primary and secondary collector street, and is appropriate for infill redevelopment to a higher density residential use.
- The proposed development promotes a compact urban form and efficient use of serviced land. The infill development maximizes the use of existing services and minimizes the need for and cost of new infrastructure.
- The proposed amendment will allow a development that provides for a residential use that infills and intensifies the lands at an appropriate scale.

Section 2.9 Energy Conservation Policies

- The proposed development encourages a denser development: contiguous with an existing built up area and promotes the efficient use of existing infrastructure.
- The proposed development promotes the efficient use of existing infrastructure.
- The proposed development is located in close proximity to the Westminster Hospital South Campus lands and utilizes existing public transit providing transportation alternatives to the automobile.

Section 2.11.3 Transportation Planning

The proposed development provides for a form of residential development that utilizes existing transit infrastructure.

- Promotes and supports the existing public transit.
- Provides a transit friendly compact development with pedestrian linkages along Westminster Avenue and Whetter Avenue.

Section 3 Multi-Family, Medium Density Residential objectives states:

- i) *Support the development of multi-family, medium density residential uses at locations which enhance the character and amenity of a residential area, and where there is safe and convenient access to public transit, shopping, public open space, recreation facilities and other urban amenities.*
- ii) *Encourage the development of well-designed and visually attractive forms of multi-family, medium density housing.*
- iii) *Adequate municipal services can be provided to accommodate the needs of the development.*
- iv) *Traffic to and from the location should not have a significant impact on stable, low density residential areas.*
- v) *The site or area is of suitable shape and size to accommodate medium density housing and to provide for adequate buffering measures to protect any adjacent low density residential uses.*

The proposed amendment will permit a development that is consistent with the Multi Family Medium Density Residential objectives as it:

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- i) Enhances the character and amenity of the abutting residential area by providing:
 - A building with a strong pedestrian base (podium), with access to Westminster Avenue and Whetter Avenue with many windows which creates an active streetscape;
 - Building materials which are sensitive to the neighbourhood;
 - Eyes on the street, enhancing the feeling of safety in the area; and
- ii) Has safe and convenient access to London Transit routes;
- iii) Is in close proximity to commercial/shopping uses along the Wellington Road corridor;
- iv) Is in close proximity to the Westminster Hospital South Campus lands a large regional facility use;
- v) Reduces vehicular interaction with pedestrians, by locating the vehicular access 60 metres from the centre line Westminster Avenue; and
- vi) Is sited on a property having a site size and shape that can accommodate the proposed development and will through the site plan process provide adequate buffering from the abutting residential uses.

Public Site Plan Review and Urban Design

Section 3.2.3.5 of the Official Plan lists site planning and urban design issues that are required to be evaluated. The section states that residential intensification site plan proposals will be evaluated to ensure:

- i) *Sensitivity to existing private amenity spaces as they relate to the location of proposed building entrances, garbage receptacles, parking areas and other features that may impact the use and privacy of such spaces;*
- ii) *The use of fencing, landscaping and planting buffers to mitigate impacts of the proposed development on existing properties;*

The Official Plan requires that a public site plan meeting be held. The proposed amendment will include an h-5 holding provision which requires that the public site plan meeting be held and the measures to insure mitigation and buffering from the abutting residential uses are provided prior to the removal of the holding provision.

- iii) *Consideration of the following Urban Design Principles:*
 - a. *Residential Intensification projects shall use innovative and creative standards of design for buildings to be constructed or redeveloped;*
 - b. *New development should provide for a diversity of styles, continuity and harmony in architectural style with adjacent uses;*
 - c. *New development should include active frontages to the street that provide for the enhancement of the pedestrian environment;*
 - d. *The design and positioning of new buildings should have regard for the impact of the proposed development on year-round sunlight conditions on adjacent properties and streets;*
 - e. *Buildings should be positioned to define usable and secure open space areas on the site and to afford a reasonable measure of privacy to individual dwelling units;*
 - f. *Parking and driveways should be located and designed to facilitate manoeuvrability on site and between adjacent sites, and to reduce traffic flow disruption to and from the property; and,*
 - g. *Projects should have regard for the neighbourhood organizing structure. Building and site designs should facilitate easy connections to and around the site to public transit and destinations.*

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Description of Design

The proposed development meets the intent of Section 3.2.3.5 as it will provide:

- A building with a strong pedestrian base (podium), with access to Westminster Avenue and Whetter Avenue and with many windows which creates an active streetscape;
- Building materials which are sensitive to the neighbourhood;
- Eyes on the street, enhancing the feeling of safety in the area;
- Strong pedestrian corridors with access to Westminster Avenue and Whetter Avenue;
- Strong pedestrian access utilizing the existing transit corridor along Westminster Avenue and Whetter Avenue;
- Reduced vehicular interaction with pedestrians, by locating the vehicular access corridor on Beaufort Street; and
- Enhanced landscaping which includes berming along Westminster Avenue and the retention of existing vegetation and additional plantings along the westerly property line to provide a buffer from the existing single detached dwellings.

The City of London Urban Design Peer Review Panel (UDPRP) evaluated the proposed development on May 23, 2012. The UDPRP has submitted some concerns regarding pedestrian connectivity, landscaping and building location. Through the public site plan approval process enhanced landscaping and pedestrian connection will be further considered.

Zoning

What are the Current Zoning Regulations?

In February 1998, Municipal Council approved the current Residential R1 Special Provision/Residential R2 Special Provision (R1-1())/R1-2()) Zone to permit the development a 12 lot subdivision. The draft plan approval for the 12 lot subdivision lapsed in 2007 and there have been no new proposals to develop this property. The Zoning on the property prior to the February 1998 amendment was Residential R2 (R2-2) Zone and a Residential R5 Special Provision/Residential R6 Special Provision/Residential R8 Special Provision (R5-2(2)/R6-4(4)/R8- 2(1)) Zone. The previous zone allowed for a large range of residential uses including apartment uses. A variance was granted in 1995 to allow the property to be developed with a 43 unit affordable housing apartment building, which was subsequently abandoned.

The current zone allows for single, semi, duplex and converted dwelling maximum two units with a 15m setback from the CN railway right-of-way.

What are the Proposed Zoning Regulations?

The proposed amendment is a Holding Residential R9 Special Provision (h-5*h-18*h-65*R9-1 ()*H15) Zone which permits apartment buildings with a maximum height of 15m, density of 75 units/ha, a minimum setback of 15m from the CN railway right-of-way, a 0.0m sight triangle setback from the point of intersection of the centre line of both the railway and the road, subject to holding provisions to ensure that noise and vibration mitigation measures, archaeological evaluation be completed and a development agreement, be entered into with the City, to the satisfaction of Council and to ensure that urban design matters are addressed following public site plan review.

Sight Triangle

Section 4.24 Site Triangles, Zoning By-law Z.-1 requires: *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).*

The City of London adopted the annex area Zoning By-law Z.-1 051390 in 2005 for all lands annexed by the City of London in 1993. The former Township of West Nissouri By-law 63-91 Section 4.22 required building setbacks from railway grade crossings and was included in the annex area by-law. The intent of the provision is to ensure that in rural areas that adequate setbacks be required from level railroad crossings to provide clear site triangles.

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The provision does not apply to these lands as the appropriate development setback from this railway right of way was determined during the Zoning By-law amendment process during the Plan of Subdivision (39T-98512) process in 1998 and was confirmed as appropriate by the 1999 OMB decision. The h-65 holding provision requires that consultation with CN rail occurs and all appropriate setbacks and mitigation measure, including buffering, will be implemented prior to the removal of the holding provision.

Holding provisions and requirement for public site plan

Section 3.2.3.5 of the City of London Official Plan requires that proposals for infill and intensification be subject to a public site plan process. The h-5 holding provision which states: *To ensure that development takes a form compatible with adjacent land uses, agreements shall be entered into following public site plan review specifying the issues allowed for under Section 41 of the Planning Act, R.S.O. 1990, c. P.13, prior to the removal of the "h-5" symbol.*

The proposed holding provisions will ensure that a public site plan meeting and a development agreement will be completed prior to the removal of holding provision to ensure the orderly development of the lands.

Holding provisions and requirement for archaeological investigation

The property is located in an area that is identified as having archaeological resource potential. As was included in the OMB's condition of draft plan of subdivision an archaeological survey and the rescue excavation of any significant archaeological remains found on the site to the satisfaction of the Ministry of Citizenship, Culture and Recreation, and the City of London is required. To ensure that lands are assessed for the presence of archaeological resources prior to development, and that there is no grading or other soil disturbance on the subject property, the h-18 holding provision shall not be removed prior to the issuance of a letter of clearance by the City of London Planning Division.

Holding provisions and requirement for noise and vibration mitigation

The CN railroad abuts the property along the northerly property line. Section 19.9 of the City of London Official Plan requires that: *development proposals for lands which may be affected by rail noise levels which exceed maximum provincial standards, will be circulated to the appropriate rail operator for comment. Where the City has adopted a guideline document, the development proposal will be circulated to the appropriate rail operator to clarify which mitigating measures will be included as a condition of approval of the development. Where a guideline document has not been completed the City will rely on provincial and agency input; and input from a qualified consultant for the applicant, to determine potential noise impacts and appropriate attenuation measures.*

To ensure there are no land use conflicts between the adjacent rail line and the proposed residential uses, the "h-65" shall not be deleted until the owner agrees to implement all noise and vibration attenuation measures, recommended in noise and vibration assessment reports acceptable to the CN rail and the City of London.

Further Issues Raised Through Circulation of the Application

Traffic and Noise Impacts

Area residents expressed the following concerns about potential traffic impacts, including:

- The use of Whetter Avenue as a "cut through" from Westminster Avenue to Wellington Road.
- Access to this site will create unsafe conditions resulting in increased vehicular accidents on Whetter Avenue and Westminster Avenue and will create unsafe pedestrian conditions.
- Will result in increased traffic in the neighborhood.

Environmental and Engineering Services Department staff have indicated that the development is not of a sufficient size to pose a concern for increased traffic volumes. A Traffic Impact Study

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was not required to be submitted as part of this application. The expected traffic flow is unlikely to contribute substantially to the existing traffic flow on Whetter Avenue and should not impact existing pedestrian and vehicular safety.

The concern regarding the sight triangle setback from the intersection of the Westminster Avenue and CN railroad and any other transportation requirements related to the development of this site will be identified and addressed at the public Site Plan Approval stage.

Lighting

Area residents expressed concerns that lighting will be directed onto the abutting residential uses.

Through the public Site Plan Approval process the applicant is required to enter into a development agreement which specifically requires: *All lighting of the site shall be oriented and its intensity controlled so as to prevent glare on adjacent roadways and residential properties to the satisfaction of the Director of Building Controls.*

Fencing

The abutting property owners raised questions including; what is the requirement for fencing; and can enhanced fencing be required.

Through the public Site Plan Approval process enhanced fencing can be required. The type of fencing will be reviewed during the public Site Plan Approval process and will be enforceable through the schedules/details shown on the site and landscape plans in the Development Agreement.

Housing tenure and decreased property values

Some members of the public expressed concerns that the use of the building, combined with the proposed built form, would reduce the saleability and price of the surrounding homes. Conclusive information regarding the impact on property values associated with higher density forms of housing or tenure characteristics is difficult to determine. Very often the impact on property values is related to such matters as the design of the higher density development, property upkeep and maintenance, property management, and the quality of construction. These issues relate more to the design and management of the use rather than the actual use itself. Municipal planning is not based on property values, but rather on assessing issues such as planning impact, appropriate land use, scale, density, massing and design.

Amount of parking

Concern was raised that not enough parking is provided on site and will create parking issues in the neighbourhood. Parking issues currently exist in the neighbourhood due to the close proximity to the Westminster Hospital South Campus lands.

Zoning By-law Z.-1 requires that all required parking is provided on the lot. The current proposal shows 47 underground and 22 surface parking spaces on the site. The Zoning By-law requires 1.25 parking spaces per unit for an apartment use. The by-law would require a minimum of 68 parking spaces be provided for an apartment use. The applicant is proposing 69 spaces be provided on the site.

The City of London has in the past sent parking questionnaires to area residents. The latest was in March of 2012 regarding a request to consider 2 hour parking, Monday to Saturday, on the south side of Whetter Ave between Westminster Ave and Fairview Ave. Area residents were opposed to the change and therefore the existing regulations regarding parking in the area remain in effect.

Servicing

Stormwater Management

Neighbourhood residents expressed concerns that due to the existing slope of the land, water run-off and pooling onto surrounding yards would occur.

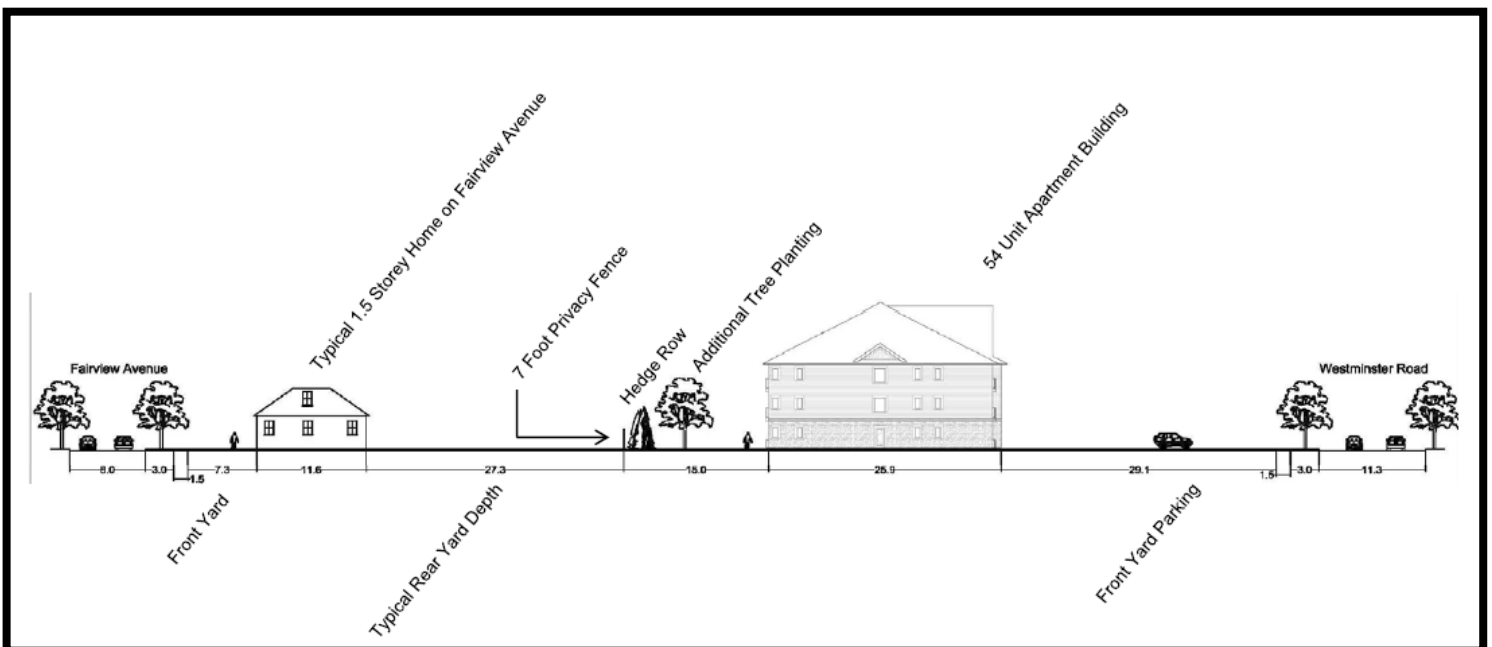
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The Engineering and Environmental Services Department did not express any concerns about the ability of the developer to achieve an acceptable stormwater management solution on this site. All storm water will be required to be mitigated on site as per the City of London Drainage By-law WM-4.

Shadowing and massing on abutting properties

Area residents expressed concerns that the size and height of the proposed apartment will create negative impacts on their properties.

Cross Sections Showing Apartment in Relation to Abutting Uses



The applicant has also completed shadowing studies. On December 21st (winter solstice) at 8:30am the shadow from the apartment is not cast onto the dwellings along Fairview Avenue. On June 21st (summer solstice) at 8:30am no shadowing from the apartment occurs on the properties

The proposed apartment will be adequately buffered and setback from the existing single detached neighbourhood and will not create any new adverse impacts.

CONCLUSION

The proposed development of a low-rise apartment building is consistent with the Provincial Policy Statement and the City of London Official Plan policies for Multi Family Medium Density Residential designation. Overall, the proposed development meets the policies of the Official Plan for location, type, and density, is a good utilization of existing serviced land, will provide an appropriate mix of housing in the area, and will not negatively impact the adjacent area.

Agenda Item # Page #

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File: OZ-8055
Planner: C. Smith

PREPARED BY:	SUBMITTED BY:
C. SMITH COMMUNITY PLANNING AND DESIGN	JIM YANCHULA, MCIP, RPP MANAGER OF COMMUNITY PLANNING AND DESIGN
RECOMMENDED BY:	
JOHN M. FLEMING, MCIP, RPP MANAGING DIRECTOR, PLANNING AND CITY PLANNER	

June 28, 2012

CS/

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File: OZ-8055
 Planner: C. Smith

Responses to Public Liaison Letter and Publication in “Living in the City”

<u>Written</u>	<u>Telephone</u>
Heather Picton 16 Fairview Court	Rhoma Investments Ltd c/o 100 Piccadilly St
Judith Ferren 761 Whetter Avenue	
Pam Ireland and Heather McLean 121 Fairview Avenue	
Carolann and Robert Sequin 4 Fairview Court	
Tyler Straatman 130 Fairview Avenue	
Helen Padega 32 Fairview Court	
Joel White 122 Fairview Avenue	

Agenda Item # Page #

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File: OZ-8055
Planner: C. Smith

**Bibliography of Information and Materials
OZ-8055**

The following documents were used in the review of this development proposal:

- Provincial Policy Statement, 2005
- City of London Official Plan
- Zoning By-law Z.-1
- City of London Zoning Application Form, completed by Mike Pease, IBI Group April 27, 2012
- All internal and external correspondence sent to C. Smith as contained in the City of London file OZ-8055

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File: OZ-8055
Planner: C. Smith

Appendix "A"

Bill No. (number to be inserted by Clerk's Office)
2012

By-law No. C.P.-1284-_____

A by-law to amend the Official Plan for the City of London, 1989 relating to 8 Fairview Court and 770 Whetter Avenue

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

1. Amendment No. (to be inserted by Clerk's Office) to the Official Plan for the City of London Planning Area – 1989, as contained in the text attached hereto and forming part of this by-law, is adopted.
2. This by-law shall come into effect in accordance with subsection 17(38) of the *Planning Act, R.S.O. 1990, c.P.13.*

PASSED in Open Council on September 18, 2012.

Joe Fontana
Mayor

Catharine Saunders
City Clerk

First Reading – September 18, 2012
Second Reading - September 18, 2012
Third Reading - September 18, 2012

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File: OZ-8055
Planner: C. Smith

AMENDMENT NO.

to the

OFFICIAL PLAN FOR THE CITY OF LONDON

A. PURPOSE OF THIS AMENDMENT

The purpose of this Amendment is:

1. To change the designation of certain lands described herein from Low Density Residential to Multi Family Medium Density Residential on Schedule "A", Land Use, to the Official Plan for the City of London.

B. LOCATION OF THIS AMENDMENT

1. This Amendment applies to lands located at 8 Fairview Court and 770 Whetter Avenue in the City of London.

C. BASIS OF THE AMENDMENT

The amendments are consistent with the policies of the *Provincial Policy Statement, 2005* and are consistent with the multi family medium density residential policies of the Official Plan.

The recommended amendment permits apartment buildings with a maximum density of 75 units per hectare.

D. THE AMENDMENT

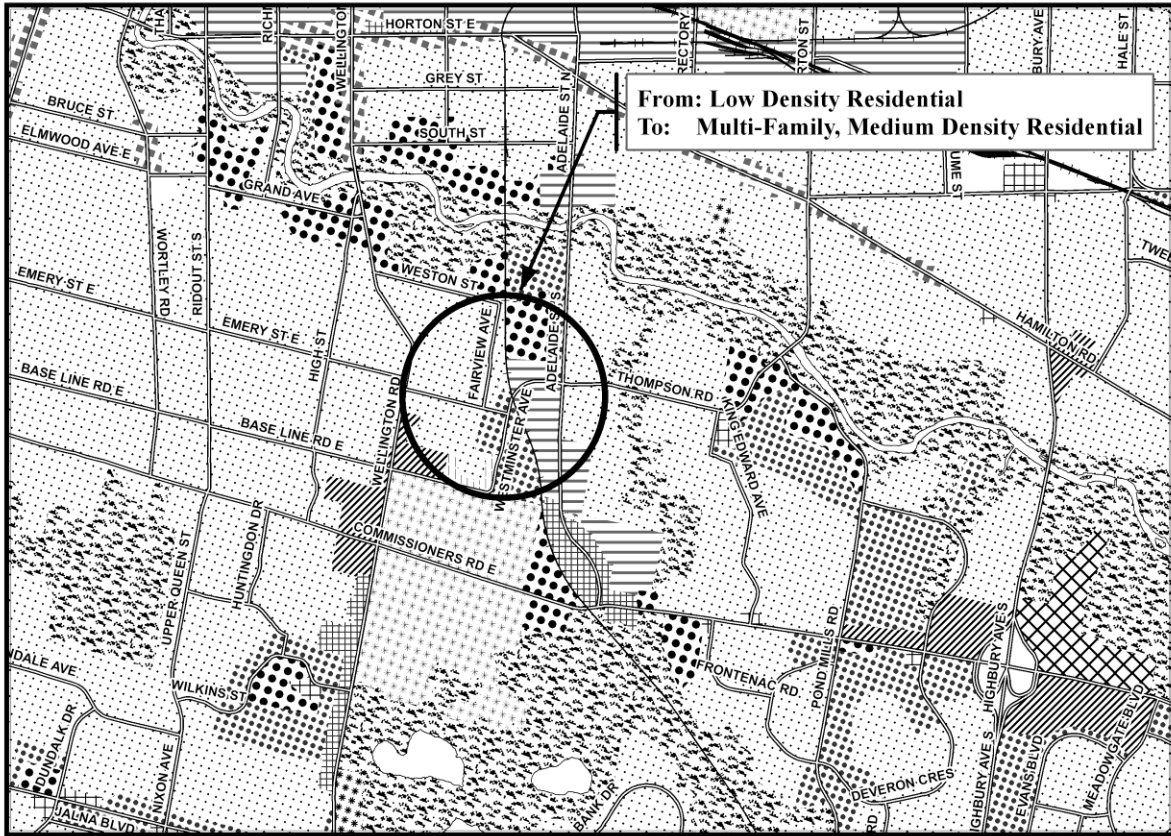
The Official Plan for the City of London is hereby amended as follows:

1. Schedule "A", Land Use, to the Official Plan for the City of London Planning Area is amended by designating those lands located at 8 Fairview Court and 770 Whetter Avenue in the City of London, as indicated on "Schedule 1" attached hereto from Low Density Residential to Multi Family Medium Density Residential.

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File: OZ-8055
Planner: C. Smith

AMENDMENT NO:



Legend

- | | |
|--|-----------------------------------|
| Downtown Area | Office Business Park |
| Enclosed Regional Commercial Node | General Industrial |
| New Format Regional Commercial Node | Light Industrial |
| Community Commercial Node | Regional Facility |
| Neighbourhood Commercial Node | Community Facility |
| Main Street Commercial Corridor | Open Space |
| Auto-Oriented Commercial Corridor | Urban Reserve - Community Growth |
| Multi-Family, High Density Residential | Urban Reserve - Industrial Growth |
| Multi-Family, Medium Density Residential | Rural Settlement |
| Low Density Residential | Environmental Review |
| Office Area | Agriculture |
| Office/Residential | Urban Growth Boundary |

This is an excerpt from the Planning Division's working consolidation of Schedule A to the City of London Official Plan, with added notations.

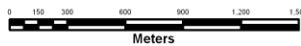
**SCHEDULE 1
TO
OFFICIAL PLAN**

AMENDMENT NO. _____

PREPARED BY: Graphics and Information Services



Scale 1:30,000



FILE NUMBER: OZ-8055

PLANNER: CS

TECHNICIAN: CK

DATE: 2012/06/28

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File: OZ-8055
Planner: C. Smith

Appendix "B"

Bill No. (number to be inserted by Clerk's Office)
2012

By-law No. Z.-1-12_____

A by-law to amend By-law No. Z.-1 to rezone an area of land located at 8 Fairview Court and 770 Whetter Avenue.

WHEREAS 1841577 Ontario Inc has applied to rezone an area of land located at 8 Fairview Court and 770 Whetter Avenue, as shown on the map attached to this by-law, as set out below;

AND WHEREAS upon approval of Official Plan Amendment Number (number to be inserted by Clerk's Office) this rezoning will conform to the Official Plan;

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

Schedule "A" to By-law No. Z-1 is amended by changing the zoning applicable to lands located at 8 Fairview Court and 770 Whetter Avenue, as shown on the attached map comprising part of Key Map No. 116, from a Residential R2 (R2-2) Zone and a Residential Special Provision R1/Residential Special Provision R2 (R1-1 (4)/R2-1 (7)) Zone to a Holding Residential R9 Special Provision (h-5*h-18*h-65*R9-1 ()*H15) Zone.

1) Section Number 13.4 of the Residential (R9) Zone is amended by adding the following Special Provision:

) R9-1() 8 Fairview Court and 770 Whetter Avenue

a) Regulations:

- i) Setback from a Railway Right-of-Way (Minimum) 15 metres
- ii) Setback from a Railway Right-of-Way means the shortest horizontal distance between the nearest boundary of a railway right-of-way and the nearest part of any residential building
- iii) Sight triangle setback from the point of intersection of the centre line of both the railway and the road 0.0 metres

The inclusion in this By-law of imperial measure along with metric measure is for the purpose of convenience only and the metric measure governs in case of any discrepancy between the two measures.

This By-law shall come into force and be deemed to come into force in accordance with Section 34 of the *Planning Act, R.S.O. 1990, c. P13*, either upon the date of the passage of this by-law or as otherwise provided by the said section.

PASSED in Open Council on September 18, 2012.

Agenda Item # Page #

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File: OZ-8055
Planner: C. Smith

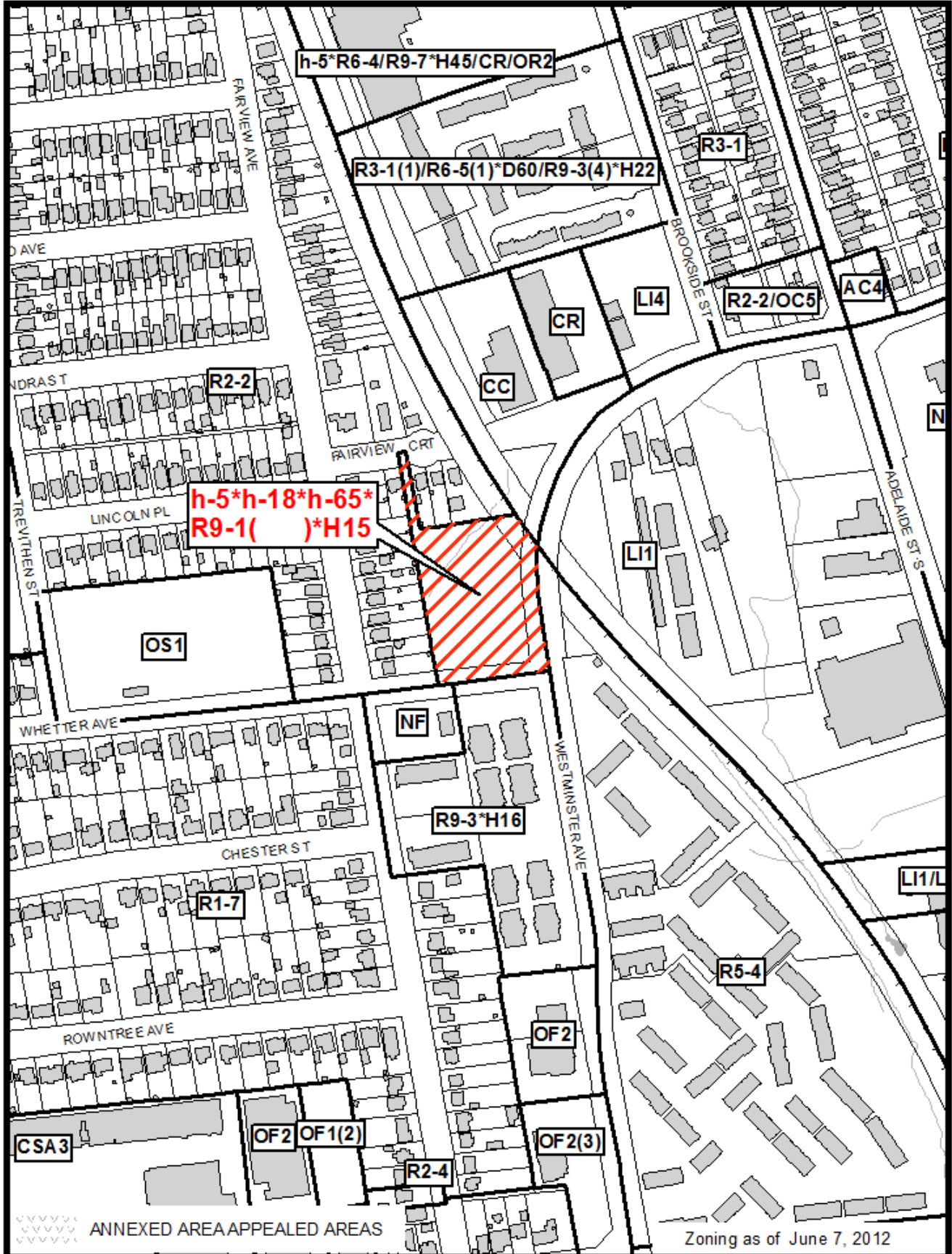
Joe Fontana
Mayor

Catharine Saunders
City Clerk

First Reading - September 18, 2012
Second Reading - September 18, 2012
Third Reading - September 18, 2012



AMENDMENT TO SCHEDULE "A" (BY-LAW NO. Z.-1)




File Number: OZ-8055

Planner: CS

Date Prepared: 2012/07/24

Technician: CK

By-Law No: Z.-1-

SUBJECT SITE 

1:3,500

0 15 30 60 90 120 Meters

