

Mr. Tony Mara
127 Orkney Cres.
London, ON N5X 3R9

December 31, 2018

Dear Mr. Mara:

You and your neighbours have asked me to provide an independent review of zoning by-law amendment Z-8945. I am providing this letter for you to use as you see fit as you engage with city staff and councillors in this planning process.

Summary of Opinion

Based on my review, which is detailed below, I support the professional planning opinion of London staff that the applicant's request of R5-7(□) with site-specific provisions for 536 and 542 Windermere Road (Z-8945) is an over intensification of the site and should be refused.

I disagree with the London staff recommendation of h-5•h-•R5-5(□) with the site-specific provisions noted be introduced at Council on January 14, 2019. Instead, I recommend that the Planning and Environment Committee direct staff to negotiate with the applicant and local residents to create a development and associated regulations that address the concerns noted by staff in their report as well as concerns about the front yard setback raised by residents.

Basis of Opinion

The opinion I am providing is based on the review of the applicant's submissions, the staff report to the Planning and Environment Committee, your submissions to London planning staff, the site context, the London Zoning By-Law No. Z.-1, and similar by-laws from other Ontario municipalities as they relate to implementing residential intensification policies in low-density residential designations.

This opinion is not a professional planning opinion; however, it is an opinion based on both my planning education (MA in Planning, University of Waterloo) and my practical experience with residential intensification planning (eight years as a Waterloo City Councillor in a rapidly intensifying suburban ward).

Summary of Review of Other Municipal By-laws

Given zoning by-laws in London will be updated to conform to the London Plan at a future date with the expectation that different standards from current zoning are appropriate for this site, I reviewed zoning regulations for townhouses, back-to-back, and stacked townhouses in a number of Ontario municipalities. Specifically, I reviewed by-laws in Hamilton, Mississauga, Windsor, Guelph, Kitchener, Cambridge, Waterloo, Barrie, and Oakville.

Most municipalities are still operating under old zoning. Some municipalities have an Official Plan very recently passed (Mississauga, Cambridge) or, like London, under appeal (Kitchener). Others are updating their zoning by-laws in stages, leaving residential until last (Hamilton, Kitchener). Among those reviewed, only Barrie, Oakville, and Waterloo have passed an updated zoning by-law, though they may not yet be in effect or only partially in effect.

Generally, the existing by-law in London is consistent with the other noted municipalities for these uses with two exceptions. Recently adopted bylaws in Barrie, Oakville, and Waterloo have lower interior side yard setbacks (1.2m-1.8m) and parking requirements (1.1-1.5/u). These uses are typically located adjacent to more intense uses and are transit-oriented. The provision of greater rear yard setbacks for taller buildings when adjacent to low-rise residential, typically single- or semi-detached dwellings, would be an important mechanism to manage transition and facilitate compatibility. Notably, front yard setbacks are similar with London's current bylaw, which are substantially greater than the setbacks requested by the applicant or recommended by London staff.

Review of the Applicant's Request and Staff Report

The staff recommendation to refuse the applicant's request for a zoning amendment to R5-7() in their Report to the Planning and Environment Committee (Z-8945) is based upon their professional planning opinion that the amendment "does not conform (to) the residential intensification policies in the 1989 *Official Plan* or *The London Plan*." After reviewing staff's rationale and the applicant's planning submissions, I prefer and support the opinion of London staff for the reasons they have provided.

The staff recommended by-law requests Council consider instead h-5•h-•R5-5(), which provides for reduced density (45uph v. 60uph, or 12 units v. 16 units) and a more significant but still reduced westerly interior side yard setback (3m v. 1.7m) than requested by the applicant. It also agrees with the applicant's request for a lower front yard setback (2.1m with the patio encroaching 1.9m into the setback). Staff also express concerns with the tree preservation plan, stating it does not demonstrate sensitivity to the character of the neighbourhood, and the separation distance between buildings, stating it is evidence of over-intensification of the site.

Westerly Interior Side Yard Setback

On the westerly interior side yard setback, staff have considered what setbacks would be required for the as-of-right zoning (R1-6) the applicant already possesses if they were to build within the height limits. For the proposal as submitted, this would be 2.4m. If the proposed building increased to the staff recommended 10.5m height limit by adding another storey, the interior side yard setback would be 3m. The 3m dimension is the minimum requirement in R5 zones where there are no windows on that façade. I do not object to this setback given the site context.

Front Yard Setback

On the front yard setback, staff have considered the street wall and streetscape character of Windermere Rd, particularly the fence line that predominates the northern streetscape. In their view, the proposal would enhance the streetscape and would be consistent with the fence line with this reduced setback.

While I agree that the fence line is a predominant part of the existing street wall, it is not the entirety of it. Mature trees, mostly on adjacent private property, are also an important component of the street wall. These private trees provide a sense of enclosure to pedestrians today and will provide a sense of enclosure to drivers when the street widens. Allowing the applicant to construct buildings to the property line means there are no trees on the north side of the sidewalk. The only trees planted will be on public land intended for a future road widening. This is inconsistent with the existing street wall. While it may be appropriate for dense urban environments such as main streets to permit building to

the property line, it is not appropriate for suburban contexts as they will not attract the same municipal resources to design and plant streetscapes.

In my view, the staff recommended front yard setback is not sufficient. Instead, it should be sufficient to provide the soil volume for tree planting and tree growth entirely on private land, which the staff recommendation does not permit. A compromise between the proposed setback and the existing 6-8m setback in the bylaw is reasonable here given the context of the fence line as long as the private realm makes the appropriate contribution to the tree canopy.

Height, Density, Tree Preservation, and Building Separation

On the height and density recommendations of staff, I do not object to either the reduced height or the reduced density, provided the applicant can demonstrate a development of this intensity and scale can address staff and community concerns around building separation and tree preservation.

While staff are hopeful that the proposed regulations will permit this, it is not clear how the applicant will achieve this. Specifically, **the development envelope provided does not address the tree preservation for building separation concerns of staff**, as nowhere mature trees are removed due to construction is removed from the developable area of the site. The developers comments as presented in the staff report about achieving a comparable bedroom yield with 12 units to their original 16 units should not provide the committee with confidence that concerns will be addressed if these regulations are approved.

A reduced density may therefore be required to achieve staff and community concerns, which may also be more consistent with the constraints of the site and its location outside of major activity centres and the inner city.

Conclusion

The Planning and Environment Committee should refuse the application and defer consideration of the staff recommended bylaw until the applicant, staff, and residents had an opportunity to design a site that addresses the concerns raised in this process. Development regulations to ensure the city and community's objectives are achieved through site plan control can then be written and considered by the Planning and Environment Committee.

Please let me know if I can be of any further assistance.

Sincerely,

Jeff Henry, MA (Planning)