

Report to Planning and Environment Committee

To: Chair and Members
Planning & Environment Committee

From: George Kotsifas, P. Eng.
Managing Director, Development & Compliance Services and
Chief Building Official

Subject: Delegation Request By: Mainline Planning Services Inc
6188 Colonel Talbot Road
Obtain a Section 45(1.4) Council Resolution

Meeting on: January 21, 2019

Recommendation

That, on the recommendation of the Director, Development Services, the following information report regarding 6188 Colonel Talbot Road, **BE RECEIVED** for information.

Executive Summary

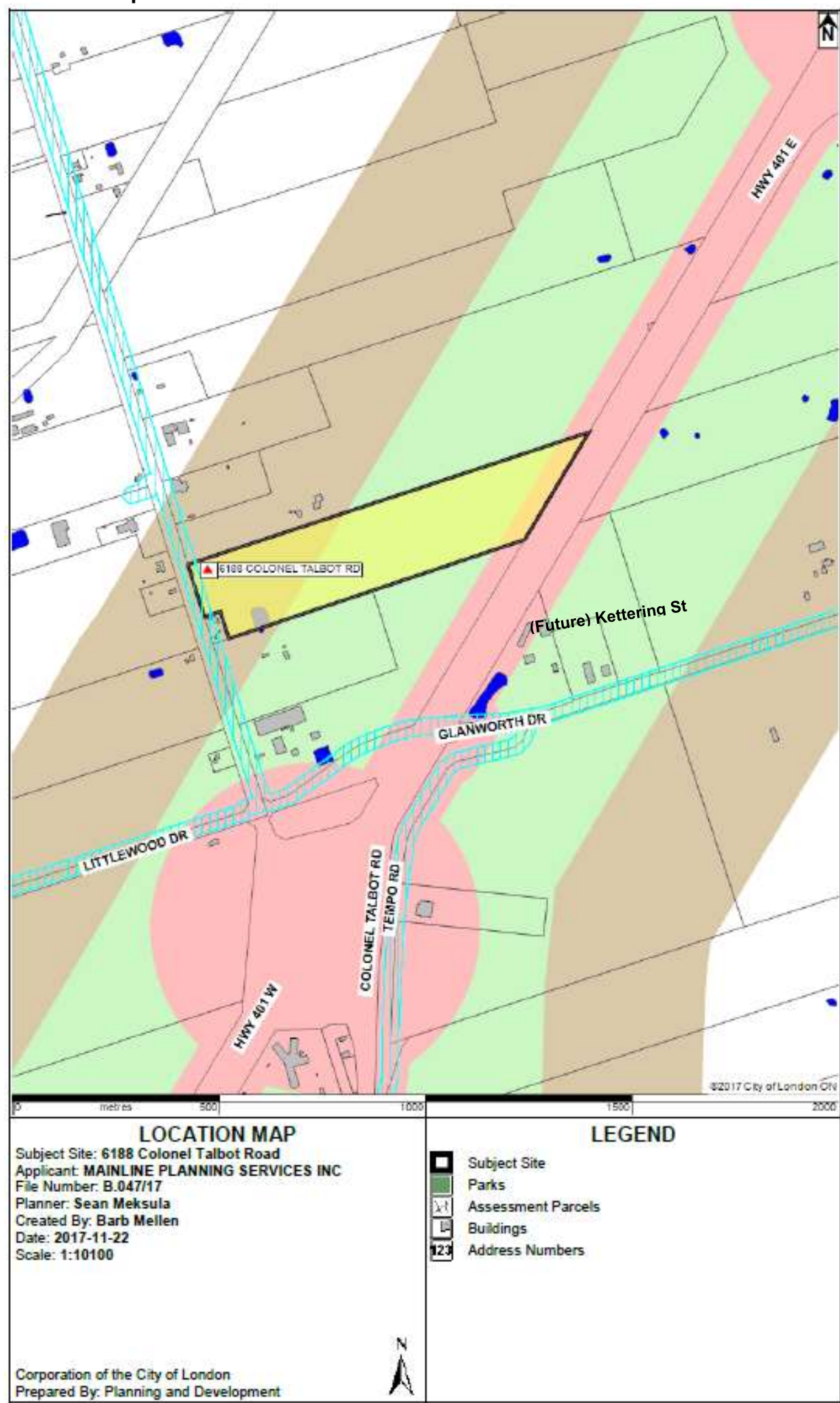
Purpose and the Effect

The purpose and effect of this report is to provide information to Municipal Council about the planning history and policy context for the subject site. This information is being provided in response to a delegation request (see Appendix C) from a potential applicant requesting approval to submit a Minor Variance Application to seek permission for relief to the Zoning By-law to assist in facilitating the creation of 2 undersized agricultural parcels. The *Planning Act* does not permit the consideration of Minor Variance for two years following the date of the adoption that the by-law was amended, unless otherwise permitted by Municipal Council.

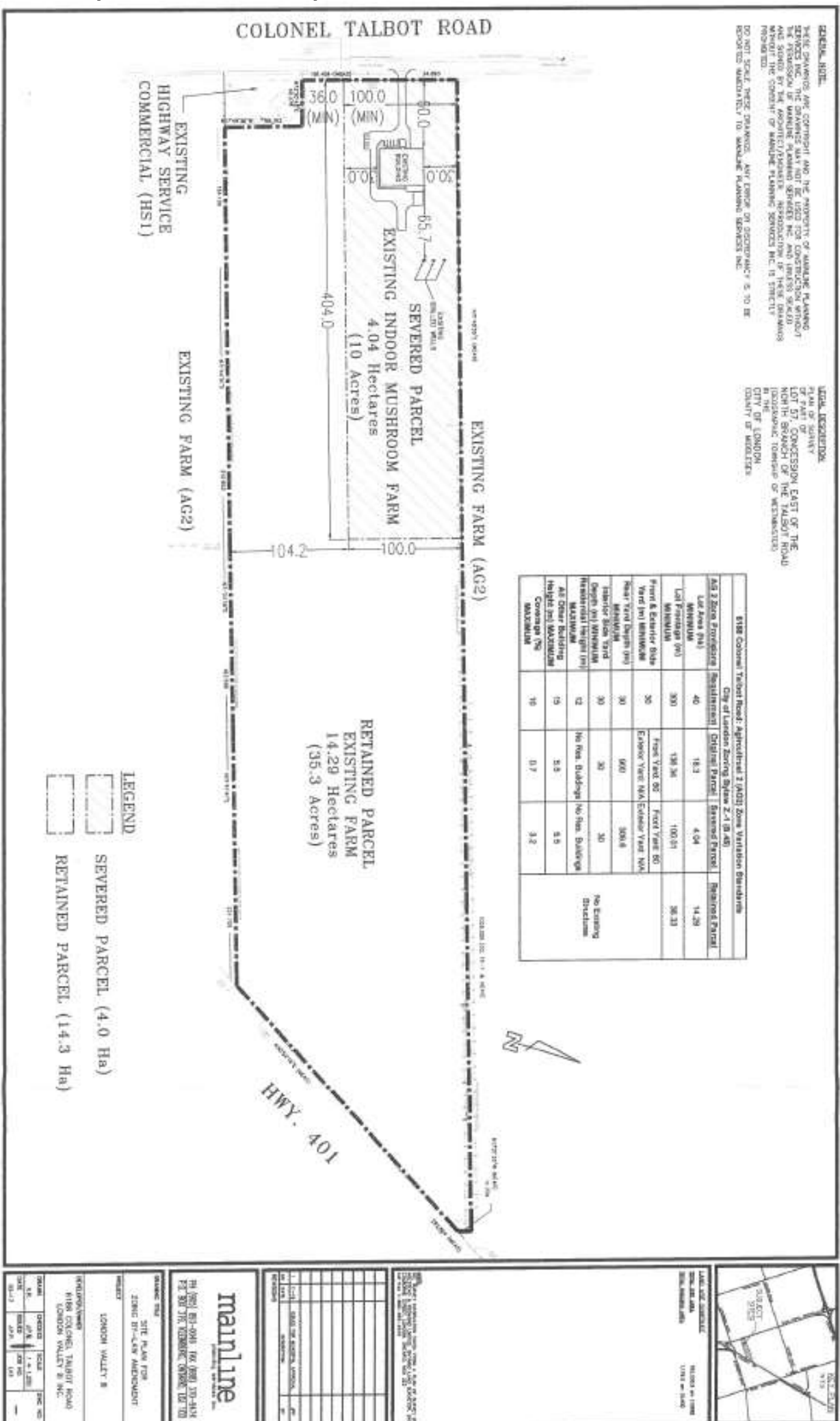
Should Municipal Council resolve that the applicant is permitted to request an application to the Committee of Adjustment, the merits of the proposed application would be evaluated following the submission of a complete application.

Analysis

1.1 Location Map



1.2 Proposed Severance Map – 6188 Colonel Talbot



2.0 Revelant Background

2.1 Previous Reports Pertinent To This Matter

Z – 8795 - 6188 Colonel Talbot Road — Report to Planning and Environment Committee (October 23, 2017). City Staff submitted a planning report recommending refusal of the requested application to amend the Zoning By-law to facilitate a severance to create a 4.04 ha parcel and a 14.29 ha parcel within an Agricultural land use designation/place type .

Z – 8795 - 6188 Colonel Talbot Road (On October 16, 2017 Municipal Council directed staff to report back to PEC with a solution to facilitate the applicant's previous request) City Staff submitted a planning report to Planning and Environment Committee (November 6, 2017) that included a Zoning By-law amendment to facilitate a future severance of a 4.04 ha agricultural parcel. The amendment also required that the property owner, through the consent process, to merge the proposed 14.29 ha parcel with another parcel to meet the 40ha minimum lot area required within an Agricultural land use designation/place type.

2.2 Planning History

In November 2017, Mainline Planning Services Inc., c/o Joseph Plutino, submitted an application for consent on behalf of 2533430 Ontario Inc. for lands located at 6188 Colonel Talbot Road. The application would permit the severance of agricultural land from a property with an Agricultural designation for Maitake Mushroom Farm. Notice of the application was published in *The Londoner* on November 30, 2017 and circulated to internal and external agencies for comment. On November 29, 2017 a mail circulation to all residents within a 60m radius was sent out. On May 3, 2018, based on the recommendation by Development Services (see Appendix 'A') the Consent Authority granted provisional approval of the application for consent subject to the applicant satisfying nine conditions prior to obtaining final approval (see Appendix 'B').

The applicant previously applied for and was granted a Zoning By-law Amendment (Z-8795) to permit a reduced lot frontage of 100 m and reduced lot area for the retained parcel (Maitake Mushroom Farms) and a reduced lot frontage only of 36 m for the conveyed parcel.

In granting provisional consent (B.047/17) the Consent Authority included a condition that the applicant be required to ensure that the lands comply with the provisions of the Zoning By-law as amended (Z-8795). As such, the proposed conveyed parcel is required to either be conveyed to an abutting property and/or seek additional Planning Act application approval. No public comment was received as part of the consent application.

The subject lands are located in a prime agricultural area, which requires protection for long-term use as per Section 2.3 of the Provincial Policy Statement (PPS). The permitted uses outlined in the PPS for prime agricultural areas are agricultural uses, agriculture-related uses and on-farm diversified uses. The Maitake Mushroom farm is considered an on-farm diversified use which is compatible with, and does not hinder, surrounding agricultural operations. The conveyance of the surplus lands to an adjacent use would increase the size of the agricultural parcel and further facilitate normal farm practices for the conveyed parcel which are promoted and protected in accordance with provincial standards.

During the course of the review of the consent application a request for an archeological investigation was identified and was included as part of conditions for granting consent. This is consistent with the h-18 holding provision which is included with the Zone of the subject property requiring the completion of an archaeological study prior to development occurring, including the granting of Consent.

Appeal

On May 18, 2018, an appeal to the Local Planning Appeals Tribunal (LPAT) was submitted by Mainline Planning Services Inc. c/o Joseph Plutino, in opposition to the Notice of Provisional Decision of Consent approved by the Consent Authority (see Appendix 'C'). There were two parts to the appeal; the first related to a condition regarding an archeological assessment and the second related demonstrating compliance with the Zoning By-law for both parcels at the time of consent.

With regards to the second part of the applicants appeal, Staff provide that the Zoning By-law that was recently amended (Z-8795) to permit a reduced lot frontage and lot area for the proposed Maitake Mushroom Farm operation (retained parcel) and a reduced lot frontage only for the proposed severed parcel (14+hectares) is in force and effect. The approved Zone did not include a regulation for a reduced lot area for the proposed severed parcel. To facilitate the Consent and demonstrate compliance with the Zone, the applicant would either have to merge the proposed severed parcel with an adjoining parcel and/or seek additional *Planning Act* Approvals. As a result, the Consent Authority included a condition for granting consent that *at the time of consent the severed and retained lands shall comply with the minimum requirements of the Z.-1 Zoning By-law. The applicant may be required to obtain further Planning Act approvals to accommodate this requirement. The above shall be satisfied by applicant, and at no cost to the City.*

A date for the Land Planning Appeal Tribunal hearing for the appeal has not yet been determined.

3.0 Policy Content

The following policies include a list of Provincial Policy Statement policies and *Planning Act* policies that would apply to the proposed Consent / Minor Variance as well as policies in The London Plan that apply.

Additional policies that apply to the subject site may be identified through the review of any future *Planning Act* application for the subject site.

3.1 Provincial Policy Statement

2.3 Agriculture

2.3.1 *Prime agricultural areas* shall be protected for long-term use for agriculture. *Prime agricultural areas* are areas where *prime agricultural lands* predominate. *Specialty crop areas* shall be given the highest priority for protection, followed by Canada Land Inventory Class 1, 2, and 3 lands, and any associated Class 4 through 7 lands within the *prime agricultural area*, in this order of priority.

2.3.2 Planning authorities shall designate *prime agricultural areas* and *specialty crop areas* in accordance with guidelines developed by the Province, as amended from time to time.

2.3.3 Permitted Uses

2.3.3.1 In *prime agricultural areas*, permitted uses and activities are: *agricultural uses, agriculture-related uses* and *on-farm diversified uses*.

Proposed *agriculture-related uses* and *on-farm diversified uses* shall be compatible with, and shall not hinder, surrounding agricultural operations. Criteria for these uses may be based on guidelines developed by the Province or municipal approaches, as set out in municipal planning documents, which achieve the same objectives.

2.3.3.2 In *prime agricultural areas*, all types, sizes and intensities of *agricultural uses* and *normal farm practices* shall be promoted and protected in accordance with provincial standards.

2.3.3.3 New land uses, including the creation of lots, and new or expanding livestock facilities shall comply with the *minimum distance separation formulae*.

2.3.4 Lot Creation and Lot Adjustments

2.3.4.1 Lot creation in *prime agricultural areas* is discouraged and may only be permitted for:

- a. *agricultural uses*, provided that the lots are of a size appropriate for the type of agricultural use(s) common in the area and are sufficiently large to maintain flexibility for future changes in the type or size of agricultural operations;
- b. *agriculture-related uses*, provided that any new lot will be limited to a minimum size needed to accommodate the use and appropriate *sewage and water services*;
- c. a *residence surplus to a farming operation* as a result of farm consolidation, provided that:
 1. the new lot will be limited to a minimum size needed to accommodate the use and appropriate *sewage and water services*; and
 2. the planning authority ensures that new residential dwellings are prohibited on any remnant parcel of farmland created by the severance. The approach used to ensure that no new residential dwellings are permitted on the remnant parcel may be recommended by the Province, or based on municipal approaches which achieve the same objective; and
- d. *Infrastructure*, where the facility or corridor cannot be accommodated through the use of easements or rights-of-way.

2.3.4.2 Lot adjustments in *prime agricultural areas* may be permitted for *legal or technical reasons*.

2.3.4.3 The creation of new residential lots in *prime agricultural areas* shall not be permitted, except in accordance with policy 2.3.4.1(c).

3.2 Planning Act

Powers of Committee

45 (1) The committee of adjustment, upon the application of the owner of any land, building or structure affected by any by-law that is passed under section 34 or 38, or a predecessor of such sections, or any person authorized in writing by the owner, may, despite any other Act, authorize such minor variance from the provisions of the by-law, in respect of the land, building or structure or the use thereof, as in its opinion is desirable for the appropriate development or use of the land, building or structure, if in the opinion of the committee the general intent and purpose of the by-law and of the official plan, if any, are maintained. R.S.O. 1990, c. P.13, s. 45 (1); 2006, c. 23, s. 18 (1); 2009, c. 33, Sched. 21, s. 10 (11).

3.3 The London Plan

1181_ Farmland in London is intended to:

1. Provide necessary agricultural goods for residents and businesses in the City of London, the region and beyond.
2. Produce food, fuel, and fibre now and into our future
3. Allow for innovative practices that are sustainable, and support green technology and farm management.
4. Foster an agricultural sector that is diverse, profitable, and able to adapt.
5. Continue in a manner which does not have a negative impact on our Natural Heritage System.
6. Allow for flexibility as farm practices and management techniques evolve.

Delegation Request
Lou Pompili

7. Permit on-farm diversified uses that are compatible with and do not hinder surrounding agricultural operations such as secondary farm businesses and home occupations
8. Support a pattern of agricultural land holdings that increases the viability of farm operations and avoids the fragmentation of land ownership.
9. Discourage uses which are not supportive of agriculture from locating in the Farmland Place Type. Limited non-agricultural uses may be permitted only where it can be demonstrated that the proposed use is consistent with the *Provincial Policy Statement*.
10. Minimize the potential for land use conflicts between residential uses and farm operations
11. Mitigate impacts from any new or expanding non-agricultural uses on surrounding agricultural operations and lands by directing any proposed non-agricultural uses in the Farmland Place Type to lands that are classified as having a lower soil capability in the *Canada Land Inventory* and to areas where the potential for conflict between agriculture and the proposed non-agricultural uses will be minimized.

Existing Farmland Lots

1215_ It is the intent of this Plan, as set out in the Agricultural Land Consent policies of this chapter and the Minimum Distance Separation policies in the Our Tools part of this Plan, to:

1. Encourage the retention or consolidation of farm parcels so that farms are of sufficient size to promote efficient operations and responsible environmental management, and to maintain long-term agricultural viability and flexibility.
2. A minimum farm parcel size of 40 hectares will be established in the Zoning By-law in keeping with this intent.
3. Recognize that existing land holdings in the Farmland Place Type that do not meet the minimum 40 hectare farm parcel size and that are under separate ownership from abutting parcels of land at the date of adoption of this Plan, may be used for agricultural purposes, including one single detached dwelling, subject to Minimum Distance Separation (MDS I) setback(s).

AGRICULTURAL LAND CONSENT GENERAL CONSENT POLICIES

1225_ Within the Farmland Place Type consent to sever will be granted where consistent with the *Provincial Policy Statement* and only if the use of the land is in conformity with all applicable policies of this Plan, and in accordance with the provisions of the *Zoning By-law*, and it is clear that a plan of subdivision is not required for the orderly development of the lands. Where a consent contravenes the *Zoning By-law*, the granting of a consent will be conditional upon the approval of a zoning by-law amendment.

1226_ Applications for consent will be reviewed for conformity with the following criteria:

1. An uneconomical extension of any major municipal service will not be required.
2. Ribbon development of any type along highways or major streets will be prevented.
3. As a condition of consent being granted, the applicant shall demonstrate that an adequate supply of potable water that meets the requirements of the Ontario Drinking Water Standards can be provided to the proposed lot(s), and that there will be no impacts on adjacent properties that are serviced by private water wells. The applicant shall also demonstrate that the development of private on-site waste water systems and private stormwater systems on the proposed lot(s) will not have an adverse impact on existing area properties serviced by private water wells. The reporting must meet the requirements of the Ministry of the Environment and Climate Change Procedure D-5 Technical Guidelines for Private Wells: Water Supply Assessment. A peer review by a qualified professional of this report may be required, at the applicant's expense.

Delegation Request
Lou Pompili

4. As a condition of consent being granted, soils will be suitable or made suitable to support an individual on-site wastewater treatment system subject to the approval of the authority having jurisdiction.
5. All parcels must have access to a public street.
6. The Minimum Distance Separation policies in the Our Tools part of this Plan are complied with.
7. Both the severed and retained parcels created by the consent would conform with the provisions of the Zoning By-law and are appropriate for the use proposed.
8. The proposed consent will not detract from or result in the loss of area of any wetland, woodland, or other environmental feature identified or delineated on Map 5 - Natural Heritage
9. Both the severed and retained parcels would conform with the Consent to Sever Lands policies in the Our Tools part of this Plan, where applicable

1227_ A consent to sever land in the Farmland Place Type may be granted only under the following circumstances and in conformity with the Rural Place Type policies of this Plan:

1. Consent for farming operations.
2. Lot corrections.
3. Surplus farm dwellings.
4. Agricultural-related commercial and industrial uses

CONSENTS FOR FARMING OPERATIONS

1228_ It is the policy of this Plan to discourage the severing of smaller parcels from larger land holdings. In this regard, 40 hectares will be regarded as the minimum size for a basic farm parcel. City Council will discourage the severing of farm parcels which exceed 40 hectares in size. An application to sever may be permitted if the land is to be used for agricultural purposes and provided that the following criteria are met:

1. Both the severed and retained parcels are of sufficient size for the predominant type of agricultural uses common in the area, and are sufficiently large to maintain flexibility to provide for future changes in the type or size of agricultural operations.
2. The size of both the severed and retained parcels conforms with the provisions of the Zoning By-law. Should the severed or retained parcel not conform with the minimum lot area requirements of the Zoning By-law, a zoning by-law amendment will be required.

LOT CORRECTIONS

1229_ The granting of consent for purposes of minor corrections or adjustments to lot boundaries will be permitted provided:

1. The conveyance does not lead to the creation of an undersized or irregularly shaped lot unsuited to the purpose for which it is being used or to be used.
2. The lands being conveyed will be registered in the same name and title as the lands to which they are being added and will be deemed from that date to be one parcel. .

SURPLUS FARM DWELLINGS

1230_ Consent to sever agricultural land to create a lot for an existing dwelling is permitted in conformity with the policies of the Farmland Place Type, where the land being severed from the dwelling lot is to be added to an adjoining parcel, subject to the following:

1. The land being conveyed from the dwelling lot parcel will be registered in the same name and title as the adjoining parcel and will be deemed from that date to be one parcel.
2. The retained dwelling lot will be kept to a minimum size necessary to comply with the Zoning By-law and to accommodate individual on-site waste water treatment and water supply.

Delegation Request
Lou Pompili

3. The dwelling lot cannot be severed if it is part of the farm cluster. The farm cluster is the grouping of buildings and structures on the farm unit that would include the principal farm residence and any secondary dwelling unit and farm-related buildings and structures.
4. No new residential dwelling units are permitted on any remnant parcel of farmland created by the severance. Such restriction will be recognized in zoning.

LOT CREATION FOR AGRICULTURAL-RELATED USES

1231_ A consent to sever agricultural land to create a lot for an agricultural-related commercial or industrial use may be permitted subject to the policies of the Farmland Place Type and provided the lot is kept to the minimum size necessary to support the use, comply with the *Zoning By-law*, and to accommodate individual on-site wastewater treatment and water supply.

Consent Criteria

1699_1. That any lot(s) to be created would conform to the policies of this Plan, the Zoning By-law, and any applicable area study or guideline document.

1699_2. That the matters which, according to the Planning Act, are to be regarded in the review of a draft plan of subdivision have been taken into account.

1699_3. That the size and shape of any lot(s) to be created would be appropriate for the intended use, and would generally conform with the intent of the policies of this Plan and the Zoning By-law as they pertain to the subject area.

1699_4. That the size and shape of any lot(s) to be created is compatible with adjacent development and conforms to any development agreements registered against the title of the subject land.

1699_5. That the creation of any lot(s) would have the effect of infilling an existing developed area where the pattern of land use has been established, and would not have the effect of extending a developed area.

1699_6. That the proposed lot(s) would front on, or have access to, an existing public street and would not involve the opening or extension of a public street.

1699_7. That the proposed lot(s) would not unduly reduce the accessibility of abutting lands suitable for development.

1699_8. That access to the proposed lot(s) would not create traffic problems or hazards and that policies of this Plan regarding street access would be complied with.

1699_9. That adequate municipal services and utilities would be available.

1699_10. That any health and safety matters relating to the Building Code are adequately addressed.

1699_11. For a consent application pertaining to lands within the Farmland or Future Growth Place Types, that the lot to be created would conform to the Farmland policies of this Plan.

1699_12. For a consent application pertaining to natural features located on lands within a Green Space or Environmental Review Place Type the potential impacts resulting from fragmentation of natural features corridors and linkages will be taken into consideration.

1699_13. That potential impacts on components of the Natural Heritage System will be addressed in conformity with the policies of this Plan.

4.0 Conclusion

This report is to be read in conjunction with the delegation provided by the potential applicant for the property at 6188 Colonel Talbot Road.

Should Municipal Council resolve to allow the request for a Committee of Adjustment application (Minor Variance) to be submitted to provide relief to the lot area (minimum) regulations of the Agricultural (AG2) Zone applicable to this site, and such an application is submitted, Staff will present future recommendations to the Committee of Adjustment with regard to the merits of the application.

Prepared by:	Lou Pompillii, MPA, RPP Manager, Development Planning
Recommended by:	Paul Yeoman, RPP, PLE Director, Development Services
Submitted by:	George Kotsifas, P. Eng. Managing Director, Development and Compliance Services and Chief Building Official
<p>Note: The opinions contained herein are offered by a person or persons qualified to provide expert opinion. Further detail with respect to qualifications can be obtained from Development Services.</p>	

CC: Matt Feldberg, Manager, Development Services (Subdivisions)

January 14, 2019

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APPENDIX A



THE CORPORATION OF THE CITY OF LONDON

London
CANADA

Date: April 6, 2018
To: J.M. Fleming
London Consent Authority
From: Paul Yeoman
Development Services – S. Meksula
Subject: Development Planning - Consents

B.047/17 6188 Colonel Talbot Road (Severance) **REVISED II**

OFFICIAL PLAN DESIGNATION:
• Agriculture
PLACE TYPE:
• Farmland
EXISTING ZONING:
• h-18*AG2(24) and h-18*AG2(25)

PURPOSE AND EFFECT

	Area	Frontage	Depth	Use
Severed Lot	4.04ha	100m	404m	Existing Maitake Mushroom Farm
Retained Lot	14.29ha	36m	1,028m	Existing Agricultural Uses

The purpose and effect of this severance will permit the severance of surplus land from an agricultural property. The severance will result in the retention of an existing agricultural use (Maitake Mushroom farm) at 6188 Colonel Talbot Road and the conveyance of a severed parcel for the purposes of a farm consolidation with an abutting agricultural parcel.

PROPOSED CONSENT

The applicant, Mainline Planning Services Inc. c/o Joseph Plutino for 6188 Colonel Talbot Road, is requesting to sever and convey 14.29ha (35.3acres) to an abutting parcel, to meet the 40ha (100 acre) minimum lot area requirement and to retain 4.04ha (10 acres) for an existing agricultural use (Maitake Mushroom farm).

RECOMMENDATION

Development Services are recommending that the Consent Authority **approve** the requested severance.

RATIONALE

1. The consent is consistent with PPS 2014.
2. The severance is consistent with the Official Plan, and the London Plan.
3. With the final approval of Z-8795, the severance is consistent with the regulations of the Zoning By-law.
4. The consent will not impact the ability of the surrounding lands to be developed in their intended manner.
5. The consent will not permit an increase in the number of agricultural lots but facilitates the creation of a new agricultural parcel by way of consolidation that meets the minimum lot area requirement, and is consistent with the goal to support a pattern of agricultural land holdings that increases the viability of farm operations and avoids the fragmentation of land ownership.

INTRODUCTION

Notice of Application for Consent was mailed to area residents on November 29, 2017 and Notice of Application for Consent was published in the "The Londoner" on November 30, 2017. The applicant is proposing the severance of the subject lands to create one parcel for the existing Maitake Mushroom farm and the conveyance of the surplus farm land to an abutting parcel to meet the 40ha (100 acre) minimum lot area requirement, for the purpose of existing agricultural uses. The applicant applied for a Zoning By-law Amendment (Z-8795) to permit a reduced lot frontage of 100m for retained parcel and a lot frontage of 36m for the conveyed parcel. The applicant shall be required to ensure that the lands comply with provisions of the Zoning By-law and the conditions of the Zoning By-law amendment are satisfied at the time of consent.

PLANNING ACT

In considering this application, Development Services staff had regard for the health, safety, convenience, accessibility for persons with disabilities and welfare of present and future inhabitants of the municipality and to Section 51 (24) of the *Planning Act*.

It is the opinion of Development Services staff that the attached conditions are reasonable having regard for the nature of the development proposed and are in accordance with Section 51 (25) of the *Planning Act*.

PROVINCIAL POLICY STATEMENT

The consent has been reviewed in conjunction with the 2014 Provincial Policy Statement.

Building Strong Communities: This consent application is outside the Urban Growth Boundary, and within an Agricultural designation that encourages the consolidation of farm parcels through consent.

Wise Use and Management of Resources: The lands are located in a prime agricultural area which shall be protected for long-term use for agriculture as per Section 2.3 of the PPS. The permitted uses in the PPS for prime agricultural areas and activities are agricultural uses, agriculture-related uses and on-farm diversified uses. The Maitake Mushroom farm is a related on-farm diversified use which is compatible with, and shall not hinder, surrounding agricultural operations. The conveyance of the surplus agricultural lands to an adjacent use agricultural use increases the size and intensifies agricultural uses and normal farm practices which are promoted and protected in accordance with provincial standards.

This consent application is also within an area of identified cultural heritage and has been identified as an area with potential archaeology significance which shall be addressed through a condition of consent. The h-18 holding provision was applied to the entire property through the Zoning By-law Amendment (Z-8795) which was passed on November 14, 2017 and is in force and effect. However, as part of this application (Z-8795) the applicant completed a Stage 1-2 Archeological investigation and provided a letter from the Ministry of Tourism, Culture and Sport. The letter states that a Stage 3 archaeological assessment should be conducted to precisely define the nature and extent of the site. The results of the Stage 3 assessment will be used to evaluate the significance of the site and to develop a series of recommendations concerning any further mitigative options that may be necessary. The City's Heritage Planner has not received the Stage 1-2 Archeological report for review and has acknowledged that further archaeological assessment of the site is required. A Consent Condition has been included to ensure that appropriate archeological assessments are completed.

Protecting Public Health and Safety: There are no known Natural Hazards or Human-Made Hazards issues associated with this consent application.

In the opinion of the Development and Compliance Services the proposal is consistent with the PPS.

OFFICIAL PLAN

These lands are designated Agriculture (AG) designation on Schedule "A", which is intended primarily for the cultivation of land and the raising of livestock. A full range of farming types shall be permitted including, but not limited to, general farming, livestock farming, cash crop farming, market gardening, specialty crops, nurseries, forestry, aquaculture and agricultural research. The severed lands are currently occupied by the Maitake Mushroom farm operation on what would be a 4.04 hectare parcel. The retained parcel, with a lot area of 14.29 hectares shall be required to comply with provisions of the Zoning By-law and the conditions of the Zoning By-law Amendment (Z-8795) at the time of consent.

Section 9.2.14.2 of the City of London Official Plan states that a consent to sever land in the agricultural designation may only be granted under the following circumstances i) consent for farming operation in accordance with 9.2.14.3 ii) consent for mortgage purposes in accordance with 9.2.14.4 iii) lot corrections in accordance with 9.2.14.5 iv) surplus farm dwellings in accordance with 9.2.14.6 and v) agricultural commercial and industrial uses in accordance with 9.2.14.7. The AG2 agriculture zone requires minimum lot size for both the severed and retained parcel of 40ha (98.8ac). As per Section 9.2.14.3 iii) the size of both the severed and retained parcels shall conform to the provisions of the Zoning By-law. Should the severed or retained parcel not conform to the minimum lot area requirements of the Zoning By-law, an amendment to the By-law will be required. In this situation the applicant applied for and has received the Zoning By-law Amendment (Z-8795) for the retained parcel.

The application conforms to the existing (1989) Official Plan and the London Plan. The subject lands are designated Agricultural. Pursuant to Section 9.2.1 of the Official Plan, the minimum area required for a severance in an Agricultural designation is 40 ha. The areas of the severed and retained parcel are 4.04ha (10 acres) for the existing Maitake Mushroom farm use and 14.29ha (35.3 acres) respectively for agricultural use which will have been rezoned to permit the use (Z-8795; Z-1-172625). The 14.29ha (35.3 acres) shall be conveyed to an abutting agricultural lot when consolidated the new lot an area of 40 hectares (99 acres) or greater, which exceeds the area required for a severance in an Agricultural designation. The lands being severed are being conveyed to an adjoining parcel and the Maitake Mushroom farm parcel is being kept to a minimum size to comply with the Zoning By-law amendment.

Chapter 19 - Implementation

Policies of the Official Plan that are directly relevant to the consideration of this consent application include the following:

19.7.1.i(a) Requires that any lot(s) to be created conforms with the provisions of the Official Plan, Zoning By-law and any applicable area study or guideline document.

The proposed severed and retained lands conform to both the Official Plan, London Plan and Zoning By-law, as the approved Zoning By-law amendment (Z-8795) is now in force and effect. The applicant shall be required to ensure that the lands comply with provisions of the Zoning By-law and the conditions of the Zoning By-law amendment (Z-8795) are satisfied at the time of consent.

19.7.1.i(b) Requires that the matters which, according to the Planning Act, are to be regarded in the review of a draft plan of subdivision have been taken into account;

The matters of Section 51(24) have been considered as part of the evaluation for consent.

19.7.1.i(c) Requires that the size and shape of any lots to be created would be appropriate for the intended use, and would generally conform to adjacent development and to any development agreements registered against the title of the subject land.

The proposed severance is in accordance with the size requirements to support permitted uses within the AG. This severance produces parcels that are generally in accordance with adjacent development.

19.7.1.i(d) that the creation of any lot(s) would have the effect of infilling an existing developed area where the pattern of land use has been established, and would not have the effect of extending a developed area;

The proposed severance would not be out of character with the surrounding uses, and would not have the effect of extending a developed area.

19.7.1.i(e) Requires that the proposed lot(s) would front on, or have access to, an existing public road and would not involve the opening or extension of a public road.

The proposed lot and the retained lot will have access to a Colonel Talbot Road.

19.7.1.i(f) Requires that the proposed lot(s) would not unduly reduce the accessibility of abutting lands suitable for development;

The proposed severance should not affect the accessibility of abutting lands, as the abutting lands are currently agricultural lands which are not suitable at this time for development.

19.7.1.i(g) That access to the proposed lot(s) would not create traffic problems or hazards and that Official Plan policies regarding road access would be complied with.

The proposed severance will not result in any traffic problems.

19.7.i(h) That adequate municipal services and utilities would be available.

The subject lands are on private services.

19.7.i(i) For a consent application pertaining to lands within the Agriculture or Urban Reserve designations, that the lot to be created would conform to policy 9.2.14.;

The proposal conforms to section 9.2.14 of the agricultural consent policies.

Section 19.7.1 (i) (j) requires for a consent application pertaining to natural features designated as "Open Space" or "Environmental Review" the potential impacts resulting from fragmentation of natural features corridors and linkages will be taken into consideration.

The subject lands do not include lands designated "Open Space" or "Environmental Review".

Section 19.7.1 (i) (k) requires that potential impacts on components of the Natural Heritage System will be addressed in accordance with the provisions of Section 15.5.

The subject lands do not include any lands within the Natural Heritage System.

19.7.1.ii(a) the proposed development is consistent with the surrounding area in terms of pattern and size;

The proposed lot is generally consistent with the surrounding development.

19.7.1.ii(b) the proposed development does not represent an extension to an area for existing development on individual services; and

The proposed conveyance does not represent an extension to an existing developed area.

19.7.1.ii(c) the proposed development would not create a precedent for future similar applications on adjacent or nearby lots.

The proposed severance is in keeping with the intent of lands zoned Agricultural (AG2). The proposed severance would not create a precedent for similar applications based on Agricultural (AG2) Zone as it would permit a form of development consistent with the provisions of the zone.

9.3.6 – Minimum Distance Separation Requirements

Any proposed rezoning or consent within an Agricultural designation that would reduce the distance between the built-up area and an existing livestock operation will be reviewed for its effects on the livestock operation in accordance with the Minimum Distance Separation (MDS) requirements. If the proposed rezoning or consent will result in a development that imposes operating constraints on the livestock operation, the rezoning or consent shall not be permitted.

Staff performed an aerial analysis of the subject lands and their surrounding area. There were no significant livestock facilities identified within a 1km radius of the subject lands

THE LONDON PLAN

The London Plan was adopted by City Council on June 23, 2016. As a result, *Planning Act* applications within the City of London shall have regard for the Plan.

The subject lands are designated as a 'Farmland' Place Type. Agricultural uses, agricultural-related commercial and industrial uses and on-farm diversified uses will be permitted.

Similar to the Official Plan, policies are present in the London Plan which provide guidance for and promoted sustainable farm practices on *Farmlands*, and criteria in the consideration of consent proposal. Based on staff analysis, the provisions of the Plan have been substantially addressed in the previous section of this report.

ZONING

At the time of application, the proposed severance was not consistent with the requirements under the Agricultural (AG2) Zone. As a result, the applicant applied for a Zoning By-law Amendment to amend the regulations that would have the effect of permitting a retained parcel with a minimum lot area of 4 ha and a lot frontage of 100m and a severed parcel with a minimum lot frontage of 36m to be created through the consent process (Z-8795). The subject severance is conditional upon the Zoning By-law Amendment coming into full force and effect which occurred on November 14, 2017 as By-law No. Z.-1-1 72625 as follows:

Severed Land - 6188 Colonel Talbot Road

Holding Agricultural Special Provision (h-18*AG2(24)) 6188 Colonel Talbot Road

a) Regulations

- i) Lot Area (Minimum) 4 hectares (10 acres)
- ii) Lot Frontage (Minimum) 100 metres (328 feet)

Retained Land - 6188 Colonel Talbot Road

Holding Agricultural Special Provision (h-18*AG2(25))

a) Regulations

- i) Lot Frontage (Minimum) 36 metres (118 feet)

Since the Zoning By-law Amendment is in full force and effect as per By-law No. Z.-1-1 72625, ensuring the consent conforms to the regulations of the Zoning By-Law. The applicant shall be required to ensure that the lands comply with provisions of the Zoning By-law and the conditions of the Zoning By-law amendment (Z-8795) are satisfied at the time of consent.

CONDITIONS

Based on the above, Development Services has **no objection** to the proposed consent application provided that the following conditions are satisfied prior to the certification of any documents:


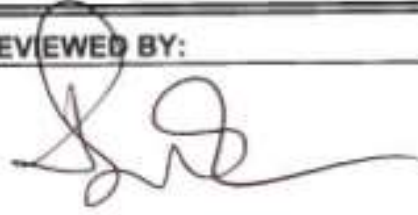


1. That, pursuant to Section 53(41) of the Planning Act, if the applicant has not within a period of one year after notice was given of a decision to grant a provisional consent fulfilled all of the following conditions, the application shall be deemed to be refused.
2. That a certificate fee shall be paid at the London Consent Authority's office in the amount current at the time of the issuance of the Consent Authority's Certificate.
3. For the purposes of satisfying any of the conditions of provisional approval herein contained, the Owner shall file with Development Services Staff (6th floor, City Hall), at a minimum of 3 working days in advance of final consent approval, a complete submission consisting of all required clearances, fees, draft transfer(s) and final plans, and to advise in writing how each of the conditions of provisional approval has been, or will be, satisfied. The Owner acknowledges that, in the event that the final approval package does not include the complete information required by the Consent Authority, such submission will be returned to the Owner without detailed review by the City.

**Delegation Request
Lou Pompili**

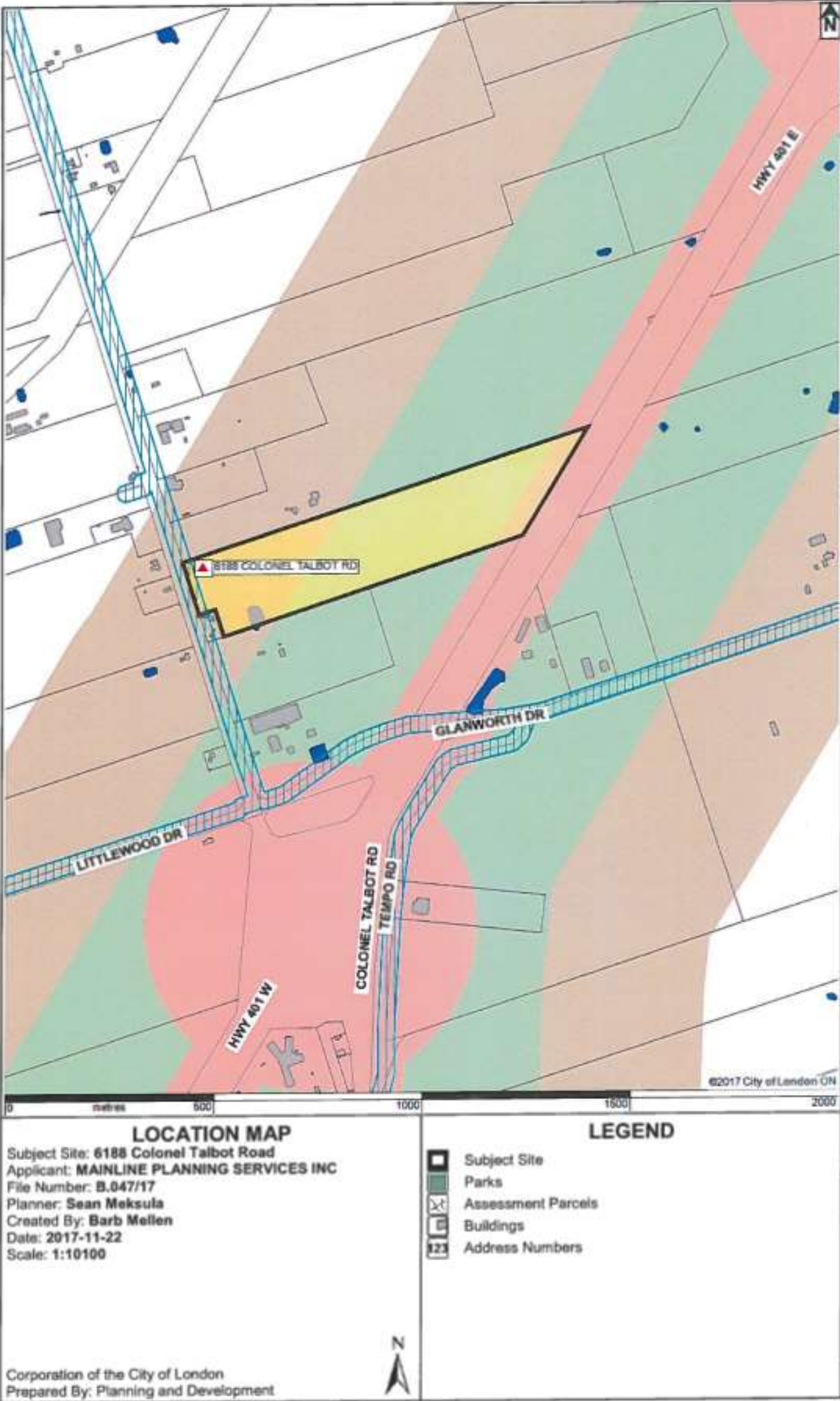
4. That the Owner shall submit 2 white prints of a reference plan of survey, showing the subject land which conforms with the application submitted and which shows the dimensions and areas of each part shown on the plan. That approval of the draft reference plan shall be obtained from the Consent Authority, and; 2 prints of the resultant deposited reference plan shall be received.
5. That prior to issuance of certificate of consent, the Owner shall pay in full all financial obligations/encumbrances owing to the City on the said lands, including property taxes and local improvement charges.
6. The proponent shall retain an archaeologist, licensed by the Ministry of Tourism, Culture and Sport under the provisions of the Ontario Heritage Act (R.S.O. 1990 as amended) to carry out a Stage 1 (or Stage 1-2) archaeological assessment of the entire property and follow through on recommendations to mitigate, through preservation or resource removal and documentation, adverse impacts to any significant archaeological resources found (Stages 3-4). The archaeological assessment must be completed in accordance with the most current Standards and Guidelines for Consulting Archaeologists, Ministry of Tourism, Culture and Sport. No demolition, construction, or grading or other soil disturbance shall take place on the subject property prior to the City's Planning Services receiving the Ministry of Tourism, Culture and Sport compliance letter indicating that all archaeological licensing and technical review requirements have been satisfied.
7. At the time of consent the severed and retained lands shall comply with the minimum requirements of the Z.-1 Zoning By-law. The applicant may be required to obtain further Planning Act approvals to accommodate this requirement. The above shall be satisfied by applicant, and at no cost to the City.
8. The Owner transfer at no cost to the City sufficient lands free of encumbrances, to widen Colonel Talbot Road to a maximum width of 18.0m in perpendicular width from the centerline of Colonel Talbot Road along the Colonel Talbot Road frontage of the subject lands as determined by the City's Chief Surveyor. The reference plan describing the widening to be transferred must be pre-approved by the City's Chief Surveyor.
9. The Consent Certificate shall lapse after 6 months of issuance if the transaction has not been completed.

NOTES TO CONSENT:

- I. Draft addressing shall be assigned, at the time of consent, by Development Services.
- II. No municipal watermain, storm and sanitary sewers available along Colonel Talbot Road.
- III. Property is located within the MTO control zone, MTO permits may be required.

PREPARED BY:  SEAN MEKSULA MCIP RPP PLANNER II, DEVELOPMENT SERVICES	REVIEWED BY:  CRAIG SMITH MCIP RPP SENIOR PLANNER, DEVELOPMENT SERVICES
REVIEWED BY:  LOU POMPILII MPA RPP MANAGER, DEVELOPMENT PLANNING	SUBMITTED BY:  PAUL YEOMAN RPP, PLE DIRECTOR, DEVELOPMENT SERVICES

Y:\Shared\DEVELOPMENT SERVICES2 - Consents\2017 Consents\B.047-17 - 6188 Colonel Talbot Road (SM)\Notice of Decision\B.047-17 - 6188 Colonel Talbot Road_DS Comments.doc



APPENDIX B

Applicant: Mainline Planning Services Inc. c/o Joseph Plutino
File No: 047/17
Municipality: City of London
Subject Lands: 6188 Colonel Talbot Road

Date of Decision: May 3, 2018
Date of Notice: May 3, 2018
Last Date of Appeal: May 23, 2018
Lapsing Date: May 3, 2019



NOTICE OF PROVISIONAL CONSENT DECISION

Section 53 of the Planning Act

TAKE NOTICE that the City of London Consent Authority, **GRANTED** applicant Mainline Planning Services Inc. c/o Joseph Plutino for 6188 Colonel Talbot Road consent to sever 4.04ha (10 acres) for an existing agricultural use (Maitake Mushroom farm) and retain 14.29ha (35.3 acres) for the purpose of existing agricultural uses, file No. B.47/17 on the **3rd day of May, 2018**, under Section 53 of the *Planning Act*, R.S.O., 1990, c.P.13, as amended, subject to **CONDITIONS** which must be satisfied before any certificates of consent are issued. A copy of the Provisional Decision is attached. It being noted that no public comment was received as part of this application.

AND TAKE NOTICE that any person or public body may appeal this decision or any of the conditions imposed by the Consent Authority to the Local Planning Appeal Tribunal by filing a notice of appeal with the City of London Consent Approval Authority, Development Services, 300 Dufferin Avenue, London, ON N6A 4L9, **NOT LATER THAN THE 23rd day of May, 2018**. The notice of appeal must set out the reasons for the appeal and must be accompanied by the \$300.00 fee prescribed by the Local Planning Appeal Tribunal Act, in the form of a **certified cheque or money** order made payable to the Minister of Finance and must be accompanied by an **Appellant Form (A1)** found on <http://elto.gov.on.ca/tribunals/lpat/forms/appellant-applicant-forms/> or from the office of the London Consent Authority. If you have any questions regarding the appeal process, please contact the ELTO Citizen Liaison Office toll free at 1-866-448-2248, by email at elto.clo@ontario.ca or in person at 655 Bay Street, Suite 1500, Toronto, ON.

The land to which this application applies is not the subject of an application under the *Planning Act*.

Only individuals, corporations or public bodies may appeal decisions in respect for consent to the Local Planning Appeal Tribunal. A notice of appeal may not be filed by an unincorporated association or group. However, a notice of appeal may be filed in the name of an individual who is a member of the association or group on its behalf.

You will be entitled to receive notice of any changes to the conditions of the Provisional Consent if you have either made a written request to be notified of the decision of the London Consent Authority or you made a written request to the London Consent Authority to be notified of changes to the conditions for the provisional consent.

Please note that all conditions of the Provisional Consent must be fulfilled within one year from May 3rd, 2018 prior to the issuance of any Certificate by the London Consent Authority failing which this consent shall be deemed to be refused. It is the responsibility of the applicant to satisfy all the conditions. **PLEASE ALLOW THREE WORKING DAYS FOR THE CERTIFICATE TO BE ISSUED.** There is an issuance of certification charge of \$100.00 for the first certificate and \$200.00 for each additional lot/document.

Additional information on this consent decision is available from Development Services, 6th floor, City Hall or by telephoning 519-930-3500 during business hours/weekdays from 8:30 a.m. to 4:30 p.m.

Dated at the City of London this 3rd day of May, 2018

J. M. Fleming
City Planner
City of London Consent Authority
300 Dufferin Avenue, London, ON N6A 4L9

Applicant: Mainline Planning Services Inc. c/o Joseph Plutino
File No: 047/17
Municipality: City of London
Subject Lands: 6188 Colonel Talbot Road

Date of Decision: May 3, 2018
Date of Notice: May 3, 2018
Last Date of Appeal: May 23, 2018
Lapsing Date: May 3, 2019

OWNER:
2533430 Ontario Inc.
3380 Service Road
Burlington ON, L7N 3J5

AGENT:
Mainline Planning Services Inc.
c/o Joseph Plutino
P.O. Box 319
Kleinburg ON, L0J 1C0

THE CORPORATION OF THE CITY OF LONDON'S CONSENT AUTHORITY PROVISIONAL DECISION FOR CONSENT, FILE NUMBER B.047/17 IS AS FOLLOWS:

The City of London Consent Authority on Decision date 3rd day of May, 2018 **GRANTED** Provisional Approval to the applicant, Mainline Planning Services Inc. c/o Joseph Plutino for 6188 Colonel Talbot Road consent to sever 4.04ha (10 acres) for an existing agricultural use (Maitake Mushroom farm) and retain 14.29ha (35.3acres) for the purpose of existing agricultural uses, subject to **CONDITIONS** which must be satisfied before any Certificates of Official are issued.

NO. CONDITIONS

1. That, pursuant to Section 53(41) of the Planning Act, if the applicant has not within a period of one year after notice was given of a decision to grant a provisional consent fulfilled all of the following conditions, the application shall be deemed to be refused.
2. That a certificate fee shall be paid at the London Consent Authority's office in the amount current at the time of the issuance of the Consent Authority's Certificate.
3. For the purposes of satisfying any of the conditions of provisional approval herein contained, the Owner shall file with Development Services Staff (6th floor, City Hall), at a minimum of 3 working days in advance of final consent approval, a complete submission consisting of all required clearances, fees, draft transfer(s) and final plans, and to advise in writing how each of the conditions of provisional approval has been, or will be, satisfied. The Owner acknowledges that, in the event that the final approval package does not include the complete information required by the Consent Authority, such submission will be returned to the Owner without detailed review by the City.
4. That the Owner shall submit 2 white prints of a reference plan of survey, showing the subject land which conforms with the application submitted and which shows the dimensions and areas of each part shown on the plan. That approval of the draft reference plan shall be obtained from the Consent Authority, and; 2 prints of the resultant deposited reference plan shall be received.
5. That prior to issuance of certificate of consent, the Owner shall pay in full all financial obligations/encumbrances owing to the City on the said lands, including property taxes and local improvement charges.
6. The proponent shall retain an archaeologist, licensed by the Ministry of Tourism, Culture and Sport under the provisions of the Ontario Heritage Act (R.S.O. 1990 as amended) to carry out a Stage 1 (or Stage 1-2) archaeological assessment of the entire property and follow through on recommendations to mitigate, through preservation or resource removal and documentation, adverse impacts to any significant archaeological resources found (Stages 3-4). The archaeological assessment must be completed in accordance with the most current Standards and Guidelines for Consulting Archaeologists, Ministry of Tourism, Culture and Sport. No demolition, construction, or grading or other soil disturbance shall take place on the subject property prior to the City's Planning Services receiving the Ministry of Tourism, Culture and Sport compliance letter indicating that all archaeological licensing and technical review requirements have been satisfied.
7. At the time of consent the severed and retained lands shall comply with the minimum requirements of the Z-1 Zoning By-law. The applicant may be required to obtain further Planning Act approvals to accommodate this requirement. The above shall be satisfied by applicant, and at no cost to the City.
8. The Owner transfer at no cost to the City sufficient lands free of encumbrances, to widen Colonel Talbot Road to a maximum width of 18.0m in perpendicular width from the centerline of Colonel Talbot Road along the Colonel Talbot Road frontage of the subject lands as determined by the City's Chief Surveyor. The reference plan describing the widening to be transferred must be pre-approved by the City's Chief Surveyor.
9. The Consent Certificate shall lapse after 6 months of issuance if the transaction has not been completed.

**Delegation Request
Lou Pompili**

Applicant: Mainline Planning Services Inc. c/o Joseph Plutino	Date of Decision: May 3, 2018
File No: 047/17	Date of Notice: May 3, 2018
Municipality: City of London	Last Date of Appeal: May 23, 2018
Subject Lands: 6188 Colonel Talbot Road	Lapsing Date: May 3, 2019

NOTES TO CONSENT:

- I. Draft addressing shall be assigned, at the time of consent, by Development Services.
- II. No municipal watermain, storm and sanitary sewers available along Colonel Talbot Road.
- III. Property is located within the MTO control zone, MTO permits may be required.

Applicant: Mainline Planning Services Inc. c/o Joseph Plutino
File No: 047/17
Municipality: City of London
Subject Lands: 6188 Colonel Talbot Road

Date of Decision: May 3, 2018
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APPEALS TO THE LOCAL PLANNING APPEAL TRIBUNAL CONSENTS
SECTION 53. PLANNING ACT, R.S.O. 1990, c. P.13 (as amended)

The following extracts from Section 53 of the Planning Act outline the appeal process for appealing consents:

Appeal

53 (19) (19) Any person or public body may, not later than 20 days after the giving of notice under subsection (17) is completed, appeal the decision or any condition imposed by the council or the Minister or appeal both the decision and any condition to the Tribunal by filing with the clerk of the municipality or the Minister a notice of appeal setting out the reasons for the appeal, accompanied by the fee charged under the *Local Planning Appeal Tribunal Act, 2017*. 1994, c. 23, s. 32; 1996, c. 4, s. 29 (6); 2017, c. 23, Sched. 5, ss. 80, 81.

Note: The fee for an appeal is \$300.00 and \$25.00 for a related appeal and should be in the form of a **certified cheque or money order** made payable to the Minister of Finance of Ontario.

Appeal

53 (27) (27) Any person or public body may, not later than 20 days after the giving of notice under subsection (24) is completed, appeal any of the changed conditions imposed by the council or the Minister by filing with the clerk of the municipality or the Minister a notice of appeal setting out the reasons for the appeal, accompanied by the fee charged under the *Local Planning Appeal Tribunal Act, 2017*. 1994, c. 23, s. 32; 1996, c. 4, s. 29 (10); 2017, c. 23, Sched. 5, s. 81.

Record

53

(28) If the clerk or the Minister, as the case may be, receives a notice of appeal under subsection (19) or (27), the clerk or the Minister shall ensure that,

- (a) a record is compiled which includes the information and material prescribed; and
- (b) the record, the notice of appeal and the fee are forwarded to the Tribunal within 15 days after the last day for filing a notice of appeal under subsection (19) or (27). 1994, c. 23, s. 32; 2017, c. 23, Sched. 5, s. 100 (4).

Hearing

53 (30) On an appeal, the Tribunal shall hold a hearing, of which notice shall be given to such persons or public bodies and in such manner as the Tribunal may determine. 2017, c. 23, Sched. 5, s. 100 (6).

Dismissal without hearing

53

(31) Despite the *Statutory Powers Procedure Act* and subsection (30), the Tribunal may dismiss an appeal without holding a hearing, on its own initiative or on the motion of any party, if,

- (a) it is of the opinion that,
 - (i) the reasons set out in the notice of appeal do not disclose any apparent land use planning ground upon which the Tribunal could give or refuse to give the provisional consent or could determine the question as to the condition appealed to it,
 - (ii) the appeal is not made in good faith or is frivolous or vexatious,
 - (iii) the appeal is made only for the purpose of delay, or
 - (iv) the appellant has persistently and without reasonable grounds commenced before the Tribunal proceedings that constitute an abuse of process;
- (b) the appellant did not make oral submissions at a public meeting or did not make written submissions to the council or the Minister before a provisional consent was given or refused and, in the opinion of the Tribunal, the appellant does not provide a reasonable explanation for having failed to make a submission;

Applicant: Mainline Planning Services Inc. c/o Joseph Plutino	Date of Decision: May 3, 2018
File No: 047/17	Date of Notice: May 3, 2018
Municipality: City of London	Last Date of Appeal: May 23, 2018
Subject Lands: 6188 Colonel Talbot Road	Lapsing Date: May 3, 2019

- (c) the appellant has not provided written reasons for the appeal;
- (d) the appellant has not paid the fee charged under the *Local Planning Appeal Tribunal Act, 2017*; or
- (e) the appellant has not responded to a request by the Tribunal for further information within the time specified by the Tribunal. 2017, c. 23, Sched. 5, s. 100 (6).

Representation

(32) Before dismissing an appeal, the Tribunal shall notify the appellant and give the appellant the opportunity to make representation on the proposed dismissal but this subsection does not apply if the appellant has not complied with a request made under clause (31) (e). 2000, c. 26, Sched. K, s. 5 (7); 2017, c. 23, Sched. 5, s. 80.

Dismissal

(32.1) The Tribunal may dismiss an appeal after holding a hearing or without holding a hearing on the motion under subsection (31), as it considers appropriate. 2017, c. 23, Sched. 5, s. 100 (6).

Decision final

(33) If all appeals under subsection (19) or (27) are dismissed or withdrawn, the Tribunal shall notify the council or the Minister and, subject to subsection (23), the decision of the council or the Minister to give or refuse to give a provisional consent is final. 1994, c. 23, s. 32; 2017, c. 23, Sched. 5, s. 80.

Powers

(34) On an appeal under subsection (14) or (19), the Tribunal may make any decision that the council or the Minister, as the case may be, could have made on the original application and on an appeal of the conditions under subsection (27), the Tribunal shall determine the question as to the condition or conditions appealed to it. 2017, c. 23, Sched. 5, s. 100 (6).

Amended application

(35) On an appeal, the Tribunal may make a decision on an application which has been amended from the original application if, at any time before issuing its order, written notice is given to the persons and public bodies prescribed under subsection (10) and to any person or public body conferred with under subsection (11) on the original application. 2017, c. 23, Sched. 5, s. 100 (6).

APPENDIX C



November 30, 2018

c/o Heather Lysynski
City Clerk's Office
City of London
300 Dufferin Avenue
PO BOX 5035
London, ON N6A 4L9

Attention: Heather Lysynski, City Clerk

Re: Delegation Status Before Planning Committee to Obtain a Section 45(1.4) Council Resolution. Related Files: Zoning Bylaw Amendment File No. Z-1-172625, Consent File No. B.047-17, LPAT File No. PL180521. 2533430 Ontario Inc. 6188 Colonel Talbot Road.

Mainline Planning Services Inc. is retained as the owner's agent with respect to the above referenced applications.

Delegation Request:

On behalf of the owner of the subject property ('2533430 Ontario Inc.'), kindly accept this letter as his formal request that we are scheduled as a delegation before the Planning and Environmental Committee on December 10, 2019

Request for Council Resolution:

The owner requires a Council Resolution pursuant to Section 45(1.4) of the Planning Act. The purpose of the proposed resolution is to:

- Facilitate the creation of 2 lots that conform to the bylaw as required by conditional consent approval granted.
- Direct the City Clerk to accept a minor variance application to amend the Zoning Bylaw as necessary to ensure that both the severed and retained lots comply.

Reason for the Resolution

The resolution will allow staff to accept an application to amend the zoning bylaw and fulfill a condition of Consent Approval recently granted (City file no. 'B.047-17'). The matter is before the Local Planning Appeal Tribunal ('LPAT'), however, with the support of Council, the owner will be able to comply with the zoning condition avoiding costly litigation which is in the interest of all concerned. The severance is needed to convey a 4 Ha parcel to the existing hydroponic farm tenant to make the business viable avoiding the need to relocate.

Section 45(1.4):

A Council resolution is required under Section 45 (1.4) of the Planning Act, if section 45 (1.3) applies. Section 45 (1.3) states, *"Subject to subsection (1.4), no person shall apply for a minor variance from the provisions of the by-law in respect of the land, building or structure before the second anniversary of the day on which the by-law was amended"*. Section 45 (1.4) states, *"Subsection (1.3) does not apply in respect of an application if the council has declared by resolution that such an application is permitted, which resolution may be made in respect of a specific application, a class of applications or in respect of such applications generally"*. City of London Zoning staff informed that since a zoning by-law amendment for the subject site was passed on November 16, 2017, Section 45 (1.3) applies and a minor variance application cannot be submitted without the resolution of council (Section 45(1.4)) which makes the condition of consent approval unobtainable.

Background

In June of 2016, a building permit was issued to construct a 5-million-dollar farm building used to

- 2 -

hydroponically grow a rare maitake mushroom crop. The current farm operation utilizes a small fraction of the existing 18.3 Ha lot ('subject property') leaving nearly 16 Ha of land fallow and underutilized. In order to obtain financing, the Shogun Maitake Canada Co., Ltd. ('tenant' / 'Maitake') agreed with his investor(s) to purchase the land necessary for his farm operation. In order to keep the tenant, the owner agreed to sever the land into 2 lots and sell a 4.04 Ha lot to Maitake. The tenant has plans to expand the indoor farm operation and must own the parcel to obtain the millions of dollars investment capital to operate the business and remain in London.

In February of 2017, Mainline attended a pre-application consultation prior to submitting a consent application. At this meeting, staff from The City of London reported that "... a Zoning By-law amendment [is required to support the consent] if the severed or retained parcels do not conform to the existing Zoning requirements".

In response to staff advice, applications for zoning by-law amendment and consent were submitted in June of 2017. Both applications requested the creation of two lots from the subject property and consideration for reduced frontage and lot area for both the severed and retained parcels. Despite the clarity of both our application and a staff report to council acknowledging our request ([excerpt] "**FROM** Agricultural (AG2) Zone, which permits agricultural uses and includes a minimum lot area of 40 ha and a minimum lot frontage of 300m, **TO** a Holding Agricultural Special Provision (h-18 • AG2(_)) Zone, which permits the same agricultural uses but also permits two parcels having a lot area of 4.04 ha and 14.29 ha, and a lot frontage of 100m and 36.3") the By-law amendment approved by Council on November 16, 2017 (see attached pdf) failed to provide an area reduction for the retained lot.

The Consent application (City file no. 'B.047-17') was reactivated in November 2017 and provisionally approved on May 3, 2018. The provisional approval includes a condition requiring both the severed and retained parcels to comply with the by-law. The consent approval was appealed to LPAT as the zoning condition appeared unattainable. In considering legal advice concerning the condition, the owner is requesting relief under Section 45(1.4) to Section 45(1.3) of the Planning Act. A Council Resolution would allow the owner to comply with the Zoning Bylaw and obtain final consent approval.

Our Professional Opinion

A Section 45 (1.4) exception by Council Resolution is appropriate because without it the consent approval is unattainable. The consent was approved to facilitate the creation of two lots in accordance with zoning bylaw amendment Z-1-172625 so that a 4 Ha parcel of land would be conveyed to the Maitake Corporation. The conveyance is necessary to keep a newly constructed \$5 million-dollar indoor hydroponic farm business economically viable so that it can remain in the City of London. The only way that zoning compliance can occur is by amendment to the bylaw. I trust that Council will provide this necessary relief so that we may submit a minor variance application and avoid litigation as it is in the best interest of all parties concerned.

Sincerely,
Mainline Planning Services Inc.



Joseph P. Plutino, M.C.I.P., R.P.P.
jplutino@mainlineplanning.com
905-893-0046

cc. Members of Council
City Clerk
Aynsley Anderson, City Solicitor
client