

**From:** Tony Mara  
**Subject:** Important Information re: ZBA application Z-8945  
**Date:** April 14, 2019 at 5:36:20 PM EDT  
**To:** "Hopkins, Anna" <[ahopkins@london.ca](mailto:ahopkins@london.ca)>

Councillor Hopkins,

In preparation for the public meeting at this Monday's PEC meeting, related to ZBA application Z-8945, I feel compelled to share some important information with you. This information is relevant to the pending ZBA decisions regarding Z-8945, and vitally important to our concerns regarding this development application, which still exist after the latest revisions.

I apologize in advance for the length of this communication, however, if you are willing to take the time to review this information, I am confident you will find it useful for Monday's PEC meeting.

1. Inaccurate information within the tree report and tree preservation plan:
  - Trees along western property line impacting westerly interior side yard setback

**Hedge #3:** Mistaken identification and positioning:

The consultant for the developer has supplied city staff with inaccurate information. What is described in the tree report as Emerald Cedar Hedge is in fact a grouping of trees (see attachment #1,2)

Also, this grouping of trees/"hedge" is incorrectly shown on the tree plan as being located on the property of 536 Windermere Rd (look at the image of vegetation located in the south-west section of the tree plan, along the westerly property line, but on the 536 Windermere Rd side - identified as 3 - attachment #3 for close up). These trees are located close to the property line but in fact, fully located on the 123 Orkney property (see attachment #4)

The lower branches of these trees have been pruned significantly (see attachment #4), not making it possible to use drip line to evaluate critical root zone. In the tree report, the diameter at breast height (DBH) of these trees range from 7 - 14cm (as of May 2018). One of these trees was measured on April 5, 2019 with a DBH of 14.6cm. As per Schedule C (Pg 21) of the City of London's Tree Protection By-law (see attachment #5), for trees with a DBH of 15cm (rounded up, as per instructions) the critical root zone shall be 3.2m. This particular tree is located almost directly on the property line. With a minimal 3m setback from the westerly property line to the foundation of the new building, the critical root zone of these trees may be compromised.

**Tree protection zones - a moving target:**

In the first tree preservation plan, the tree protection zone was shown as only 0.5m from the westerly property line, not even sufficient separation space to clear all of the canopy coverage for these trees on the 123 Orkney Cres side, and which are indicated to be preserved in the tree

report. This tree preservation zone was provided in support of a 1.7m interior side yard setback originally requested by the application (see attachment #6).

In the latest tree preservation plan, with a 3m interior side yard setback, this tree protection zone is now shown at 1m from the westerly property line (see attachment #7).

It seems that the tree protection zone is a moving target which moves to suit the interior side yard setback the applicant is requesting. My understanding is that the tree preservation report with the indicated tree protection zone is supposed to direct setback requirements, not the other way around.

The tree protection zones are established based on the drip line of these trees, represented on the tree plan as the outer range of each tree's canopy. A majority of the trees along the property line adjoining 123 Orkney Cres and 536 Windermere Rd, and located on the property of 123 Orkney Cres have had their lower branches/boughs pruned (see attachment #8,9). These are all Coniferous trees where the largest component of their canopy would be located closest to ground level, unless the canopy has been managed through pruning/trimming. As per Schedule C (Pg 21) of the City of London's Tree Protection By-law (see attachment #5), "If any drip line cannot be measured, the alternate dimension shown in the Table below shall be used". Based on the table within Schedule C, and using the DBH measurements already provided within the tree report, the critical root zone for the group of trees #6 through #18 is, should be extended by as much as an additional 2m in order to avoid impacting these trees during construction.

As mentioned above under "Hedge #3", this grouping of trees is not correctly represented on the tree preservation plan and is not taken in to consideration when establishing a proper tree protection zone. Also as mentioned above, the critical root zone, as determined using DBH method and the table within Schedule C of the tree preservation by-law, these trees would require a tree protection zone NO LESS THAN 3m from the westerly property line.

One last point regarding the inaccurate information provided to staff within the tree report and plan. The canopy measurements (which establishes drip line) for several of the trees in close proximity of the westerly property line of 536 Windermere Rd is incorrect and not reflective of the real situation. Using tree #10 as an example. On the tree report, tree #10 has the largest DBH of any tree in this area, but a smaller canopy measure. This appears to be because the canopy was measured on the side towards 536 Windermere Rd. As per the city's tree preservation by-law "The Critical Root Zone is measured horizontally and radially in all directions from the outside bark at the base of the trunk. For tree #10 and several other trees in this area, the canopy is much more developed on the westerly side of the tree, away from the property line. For tree #10, recent measurements establishes the drip line at 3.3m (report indicates a canopy/drip line of 2m. Based on DBH (30cm in tree report, 34cm by recent measurement) and per Schedule C table, the critical root zone for tree #10 should be 4.8m. The drip line for this tree is indicated on the tree preservation plan as being well within the 1m tree protection zone, when in fact the critical root zone extends almost 3.5m beyond the property line on the 536 Windermere side and more than 2m beyond the current tree protection zone indicated in the latest revised tree plan. With a minimal 3m interior side yard setback, the roots of tree #10 will be compromised.

Based on the evidence provided here, I hope you agree that the current tree preservation plan, and the associated tree protection zone should not be considered when forming an opinion regarding matters related to ZBA application Z-8945, especially the westerly interior side yard setback.

## 2. Problems with the building design related to below grade amenity spaces:

There are several issues with the design of the proposed development, which you are being asked to consider re-zoning this site based on, especially as it relates to the recommended special provisions. One specific example: below grade “amenity spaces”. Section 2.6 of the City of London’s Site Plan Control By-law regulates Private Outdoor Space for Residential Development (beginning at the bottom of Pg 19 - see attachment #10).

### 2.6.3 c) Privacy:

- Separation between a private outdoor space and adjacent uses should be sufficient to define the territorial boundaries between these uses. This can be accomplished by distance separation or screening.
- Where screening alone is used to provide separation between abutting on grade privacy areas, this screening should be at least 1.8 m (6 feet) high.

As can be seen on the revised site plan, space has been reserved in front of the amenity spaces attached to the south face of the southern building - towards Windermere Rd. However, this space is located mostly beyond the new property line which means landscaping required to provide privacy for these amenity spaces will be planted on city of London land (see attachment #11). Additionally, if you look at the amenity spaces attached to the north face of the northern building - towards 127 Orkney Cres, there is NO space indicated for landscaping to separate these amenity spaces from the walkway (see attachment #12). The required separation/privacy screening is missing from this area.

### 2.6.3 d) Parking Separation:

- Common parking lots should not be closer than 3 m (9.8 feet) to a private outdoor space.
- Private outdoor spaces which are more than 1 m (3 feet) lower than a common parking lot should be separated by not less than 7.5 m (25 feet) with appropriate screening and by not less than 15 m (50 feet) without appropriate screening
- Parking spaces should be oriented so that headlights and fumes are not directed towards the private outdoor space by using a parallel parking arrangement or by screening with planting or fencing.

As indicated on the applicant’s site plan (original and latest revised), there is only a 1.8m separation distance between the closest amenity spaces and the common parking lot, with no available space for screening or the increased separation distance required by the site plan control by-laws (see attachment #13). With the development limitations due to the water main easement on the eastern portion of the site, there does not appear to be a way available for this development to meet these site plan approval requirements. These parking spaces are also oriented such that headlights and fumes are directed towards multiple amenity spaces.

While these issues are principally site planning matters, they do serve to question whether this is a valid concept worth considering for a re-zoning determination.

Thank you for your time and diligent consideration of these matters.

Best regards

Tony Mara  
127 Orkney Crescent

Summary of Attachments:

1. Picture of south-west perimeter trees from sidewalk on Windermere Rd, facing north
2. Close up picture of south-west perimeter trees from sidewalk on Windermere Rd, facing north
3. Original tree preservation plan with close up of hedge #3
4. View of south-west trees designated as hedge #3, confirming location on property of 123 Orkney Cres. Also showing extensive pruning of lower branches
5. London's Tree Preservation By-law, Schedule C (Pg 21)
6. Original tree preservation plan with close up of west trees and recommended tree protection zone at 0.5m
7. Revised tree preservation plan (March 2019) with close up of west trees and recommended tree protection zone at 1m
8. Pictures of trees #8,9,10,11,12 from tree preservation report on 123 Orkney Cres property
9. Pictures of trees #16,17,18 from tree preservation report on 123 Orkney Cres property
10. London's Site Plan Control By-law, Section 2.6
11. Revised site plan (January 2019) with close up of front amenity spaces and reserved space for landscaping
12. Revised site plan (January 2019) with close up of rear amenity spaces and NO reserved space for landscaping
13. Revised site plan (January 2019) with close up of east side amenity spaces and proximity to common parking area















