

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: Joe Marche and Monique Rodriguez
6682 Fisher Lane

Public Participation Meeting on: April 15, 2019

Recommendation

That, on the recommendation of the Director, Development Services, the following actions be taken with respect to the application of Joe Marche and Monique Rodriguez relating to the property located at 6682 Fisher Lane:

- (a) The proposed by-law attached hereto as Appendix "A" **BE INTRODUCED** at the Municipal Council meeting April 23, 2019 to amend Zoning By-law No. Z.-1, in conformity with the Official Plan, to change the zoning of the subject property **FROM** an Agricultural AG (AG2) Zone and an Environmental Review (ER) Zone **TO** an Agricultural Special Provision/ Temporary (AG2(_)/T-_) Zone and an Environmental Review (ER) Zone.
- (b) Subject to Policy 19.1.1. of the 1989 Official Plan, the land use designation of the subject site **BE INTERPRETED** as "Agriculture".

Executive Summary

Summary of Request

The requested amendment would permit a new single detached dwelling on an existing lot of record.

Purpose and the Effect of Recommended Action

The purpose and effect of the recommendation is to allow for a single detached dwelling with special provisions for reduced lot area, reduced front yard setback, reduced interior side yard setback, reduced rear yard setback, reduced lot frontage, a reduced deck setback, and to recognize the existing driveway width. The amendment would also temporarily permit the use of the land for two single detached dwellings and allow for a temporary increase in lot coverage.

Rationale of Recommended Action

- 1. The recommended amendment is consistent with the PPS 2014.
- 2. The recommended amendment conforms to the 1989 Official Plan policies and Farmland and Green Space Place Type policies of The London Plan.
- 3. The recommended amendment facilitates the continued use of an existing lot of record for a use that has been established on the subject site.
- 4. The recommended temporary use will not continue on a long-term basis.

Analysis

1.0 Site at a Glance

1.1 Property Description

The subject site is located along Fisher Lane immediately north of the intersection of Wellington Road South and Fisher Lane. The site is currently used for residential

purposes and is occupied by a single detached dwelling and detached accessory structure. The southeast portion of the subject site is regulated by the Kettle Creek Conservation Authority and contains a watercourse known as the Harry White Drain. The property to the south of the subject site is also occupied by a single detached dwelling, while the lands to the northeast are farmed for agricultural purposes. On the west side of Fisher Lane are remnant parcels which are occupied by single detached dwellings and commercial buildings.

1.2 Current Planning Information (see more detail in Appendix D)

- Official Plan Designation – Agriculture and Open Space
- The London Plan Place Type – Farmland and Green Space
- Existing Zoning – Agricultural (AG2) Zone and Environmental Review (ER) Zone

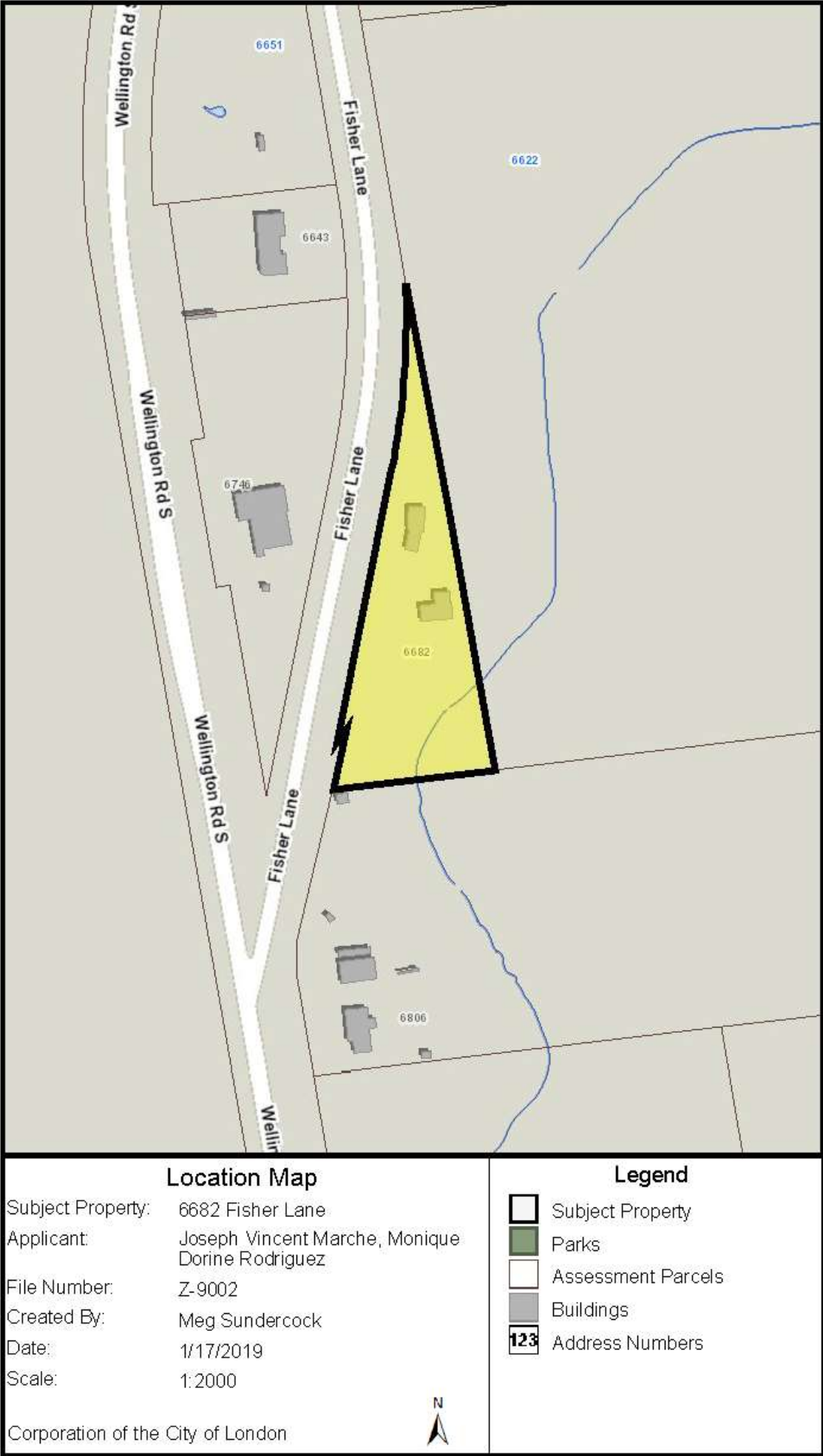
1.3 Site Characteristics

- Current Land Use – Residential
- Frontage – 209 m (685 ft)
- Depth – Irregular
- Total Lot Area – 7425m² (79922 ft²)
- Shape – Triangular

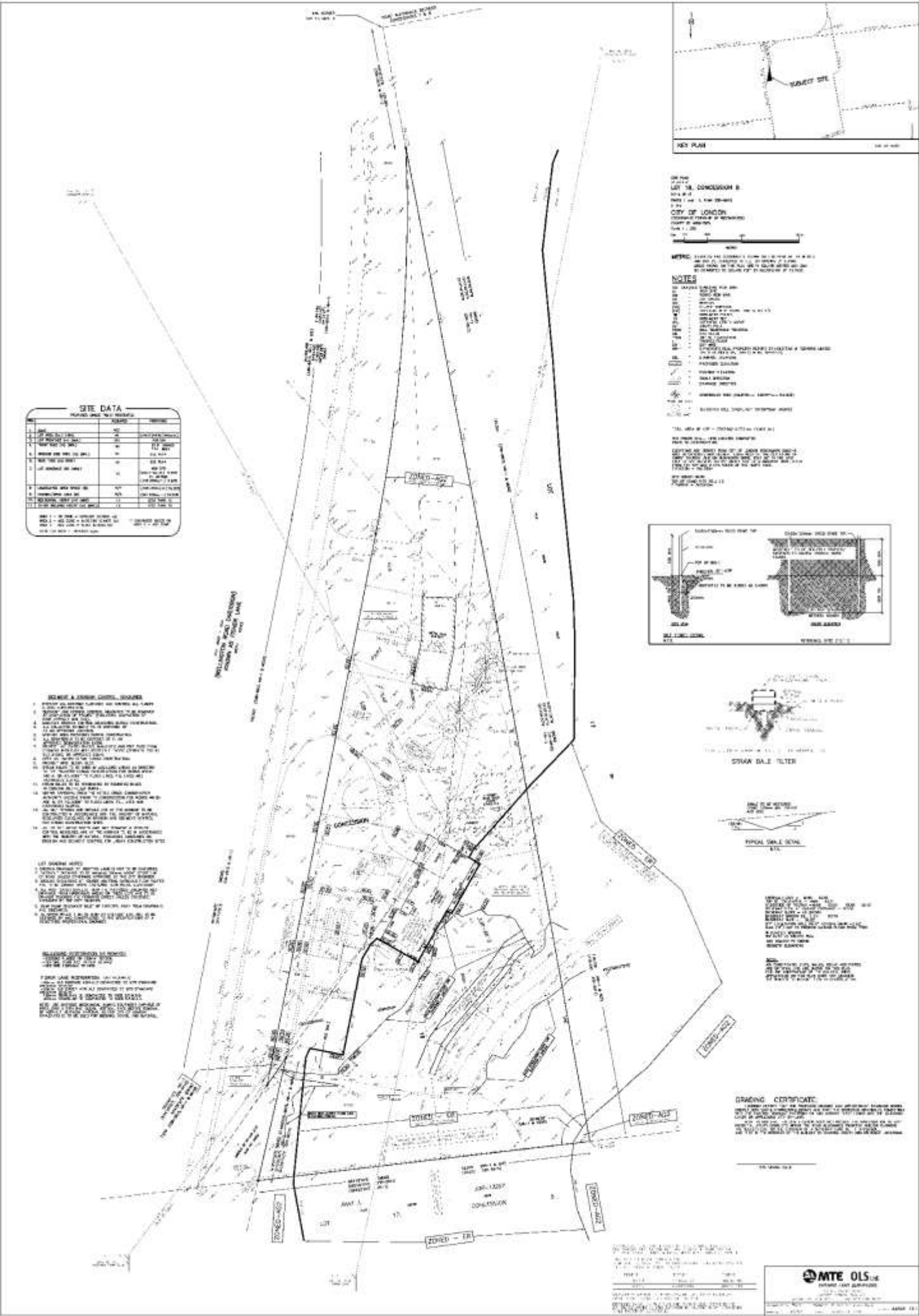
1.4 Surrounding Land Uses

- North – Agricultural
- East – Agricultural
- South – Residential
- West – Residential and Commercial

1.5 Location Map



1.6 Proposed Site Plan



2.0 Description of Proposal

2.1 Development Proposal

The proposed development is for a new 1-storey single detached dwelling which is being moved to the subject lands, and for the demolition of the existing 1-storey single detached dwelling once the new dwelling is habitable.

3.0 Relevant Background

3.1 Planning History

The subject site is occupied by an existing single detached dwelling which was constructed in approximately 1890. The property is irregularly shaped due to the nature of the Fisher Lane road allowance which has existed in this manner since at least 1862 and was formerly known as County Road No. 36. The subject site has never been the subject of a *Planning Act* application.

3.2 Requested Amendment

The requested amendment would permit a new single detached dwelling that recognizes the existing:

- A lot area of 4436 m² whereas a minimum of 40 hectares is required.
- A lot frontage of 209 metres whereas a minimum of 300 metres is required; and,
- The existing driveway width of 22 metres.

The amendment would also permit the following special provisions for the new dwelling:

- A reduced minimum front yard depth of 18 metres whereas a minimum of 30 metres is required;
- A reduced interior side yard depth of 0 metres whereas a minimum of 30 metres is required;
- A reduced rear yard depth of 0 metres whereas a minimum of 30 metres is required; and,
- A deck setback of 0 metres whereas 1.2 metres is the minimum required.

The requested Temporary Use Zone would permit the use of the property for two single detached dwellings for a period of time not exceeding 6 months, and allow for increased lot coverage of 12% whereas 10% is the maximum permitted.

The amendment will require a change to the Zoning By-law Z.-1 from an Agricultural AG (AG2) Zone and an Environmental Review (ER) Zone to an Agricultural Special Provision/ Temporary (AG2(_)/T-_) Zone and an Environmental Review (ER) Zone.

3.3 Community Engagement (see more detail in Appendix B)

On January 24, 2019, Notice of Application was sent to all property owners within 120 metres of the subject lands. Notice of Application was published in The Londoner on January 25, 2019, and a Revised Notice of Application was published on March 21, 2019. No responses were received at the time this report was prepared.

3.4 Policy Context (see more detail in Appendix C)

The subject site is currently located in the Agriculture and Open Space designations of the 1989 Official Plan. The London Plan also identifies the subject site as being in the Farmland and Green Space Place Types.

Provincial Policy Statement, 2014

The Provincial Policy Statement 2014 (PPS) provides policy direction on matters of provincial interest related to land use and development. Section 1.1 Managing and Directing Land Use to Achieve Efficient and Resilient Development and Land Use Patterns of the PPS encourages healthy, integrated, and viable rural areas to be supported by promoting regeneration and encouraging the conservation and redevelopment of existing rural housing stock on rural lands (1.1.4.1.). Rural areas may include rural settlement areas, prime agricultural areas, and natural heritage features and areas (1.1.4.). The PPS permits limited residential development on rural lands provided it is compatible with the landscape and can be sustained by rural service levels

(1.1.5.2., 1.1.5.4.). The PPS requires that prime agricultural areas are to be protected for long-term agricultural use, and impacts from any new or expanding non-agricultural uses on surrounding agricultural operations and lands are to be mitigated to the extent feasible (2.3.6.2.).

The London Plan

The London Plan is the new Official Plan for the City of London (Council adopted, approved by the Ministry with modifications, and the majority of which is in force and effect). *The London Plan* policies under appeal to the *Local Planning Appeals Tribunal* (Appeal PL170100) and not in force and effect are indicated with an asterisk throughout this report and include some of the Place Type policies pertinent to this planning application. *The London Plan* policies under appeal are included in this report for informative purposes indicating the intent of City Council, but are not determinative for the purposes of this planning application.

The London Plan provides Key Directions (54_) to be considered in reviewing applications which provide direction and focus that serve as a foundation to the policies of the Plan. Each direction encompasses a variety of strategies intended to guide planning and development over the twenty year planning horizon. Due to the nature of the proposed development outside of the Urban Growth Boundary and defined settlement area in the City, the relevant Key Direction, Direction #8 Make wise planning decisions (62_) is most applicable in this context which presents the following strategies:

1. Ensure that all planning decisions and municipal projects conform with The London Plan and are consistent with the Provincial Policy Statement.
2. Plan for sustainability – balance economic, environmental, and social considerations in all planning decisions.
3. Think “big picture” and long-term when making planning decisions – consider the implications of a short-term and/ or site-specific planning decision within the context of this broader view.
8. Avoid current and future land use conflicts – mitigate conflicts where they cannot be avoided.
9. Ensure new development is a good fit within the context of an existing neighbourhood.

Balancing the environmental and social considerations with respect to the proposed development and the continuation of the existing use of the land forms the basis for the recommendation, while land use conflicts have been mitigated to the extent feasible recognizing that the proposed development is not considered an intensification of the use, nor a change in use.

The London Plan also provides clear direction for each Place Type. The Farmland Place Type provides for agricultural uses and promotes sustainable farm practices in addition to the conservation of natural heritage features (1180_). Uses which are not supportive of agriculture are discouraged from locating within the Place Type and may be permitted only where the use is consistent with the Provincial Policy Statement, including non-farm residential lots, the creation of which is also discouraged so as to limit the potential for land use conflicts (1181_). However, despite the foregoing, non-farm residential uses are permitted on existing lots of record (1182_).

Farmland Place Type policies 1190_, 1191_, and 1192_ provide specific direction for residential dwellings on existing lots of record, and permits new dwellings subject to a zoning by-law amendment provided it does not create conflicts with farming operation or adjacent natural heritage features. Minimum Distance Separation (MDS I) setbacks must also be applied prior to the issuance of the building permit. New residential units may be permitted only where adequate water and sanitary facilities are or can be made available.

With respect to the intensity of uses in the Farmland Place Type, policy 1213_ limits residential uses to existing lots of record to prevent the establishment of estate lots, but are encouraged to locate in urban areas of the City or within the Rural Neighbourhoods

Place Type. This policy also directs non-agricultural uses to be grouped.

A portion of the subject lands are also within the Green Space Place Type which provides for the protection and enhancement of natural heritage features and areas recognized as having city-wide, regional, or provincial significance. The Harry White Drain bisects the subject site, and is identified as a significant valleyland on Map 5 – Natural Heritage, which is subject to LPAT appeal PL170100. Where development is proposed adjacent to components of the Natural Heritage System, the Environmental Policies of the Plan require environmental impact studies to confirm or redefine the boundaries of such components to ensure the development does not negatively impact the natural features and their ecological function (1431_). The applicant has demonstrated to the satisfaction of the Kettle Creek Conservation Authority and City staff that the proposed location of the dwelling will not negatively impact the natural heritage features on site, and is outside of the flood and erosion hazard limits.

The 1989 Official Plan

The subject site is currently designated Agriculture and Open Space. Non-farm residential uses are not permitted as primary or secondary uses in the Agriculture designation, however, where they legally existed on the date of adoption the use may be regarded as permitted (9.2.3). The minimum farm parcel size is established through the Zoning By-law as 40 hectares to encourage the retention or consolidation of farm parcels so that farms are of a sufficient size to maintain long term viability. It is recognized that there are existing properties in the designation that do not meet the minimum farm parcel size. Policy 9.2.9 provides the following direction which allows for single detached dwellings on undersized lots within the agriculture designation:

Single detached dwellings are also subject to the following policies:

- i) An adequate and potable water supply is available or can be made available on the site subject to the approval of the authority having jurisdiction.*
- ii) The lot size is sufficient and the soils are suitable to support an individual on-site waste disposal system subject to the approval of the authority having jurisdiction.*

Policy 9.2.10 also speaks to Minimum Distance Separation Requirements, which requires that existing livestock operations are to be protected from the encroachment of all new development through the application of Minimum Distance Separation (MDS I) requirements.

Similarly to the Green Space Place Type applied through The London Plan, a portion of the subject site is also designated Open Space by the 1989 Official Plan which is applied to lands within a flood plain or are susceptible to erosion and unstable slopes, including natural heritage areas. Permitted uses are limited to non-intensive uses including agriculture, conservation, essential public utilities and municipal services, and recreational and community facilities subject to applicable zoning. Residential uses are not considered a permitted use (8A.2.2).

Chapter 15 – Environmental Policies provides additional direction with respect to natural heritage features and environmentally sensitive areas, and expands on the range of permitted uses within the Open Space Designation. Policy 15.3.2.ii) states that notwithstanding policy 8A2.2, expansions to existing uses are permitted provided that it can be demonstrated to the satisfaction of Council that there will be no negative impacts on the natural features or their ecological functions.

Chapter 19 of the 1989 Official Plan provides guidance regarding the interpretation of the policies, objectives, and Schedules of the Plan. The boundaries between land use designations are not intended to be rigid where they do not coincide with physical features, and as such Council may permit minor departures from the boundaries as shown provided that the general intent of the Plan is maintained and that the departure is advisable and reasonable.

4.0 Key Issues and Considerations

Through the circulation process there were no substantial concerns or issues raised by internal departments or commenting agencies based on the proposal submitted, and there were no responses from the public regarding this application. The section below identifies key issues and considerations in detail.

4.1 Issue and Consideration # 1 – Use

The development proposed through the requested amendment is not specifically contemplated under the current policy framework. As noted above, policies are in place which prohibit non-farm residential uses from locating in areas intended for agricultural and conservation uses, but speak largely to the creation of new uses through lot creation or the permission to maintain existing non-conforming uses.

In this instance, the applicant is proposing to establish a new dwelling on the property which is larger than the existing dwelling and requires an amendment to the Environmental Review (ER) Zone line in order to accommodate the new dwelling. The proposed development is not considered an expansion of a non-conforming use, as it will lose its non-conforming status under the Zoning By-law, due to the proposed modification to the zone line. This change has triggered the requirement for a Zoning By-law Amendment to permit the use in the form proposed. Were the proposed dwelling to be located on the portion of the property within the existing Agricultural (AG2) Zone an amendment would not be required.

Provincial Policy Statement, 2014 (PPS)

The PPS is intended to be read in its entirety with all relevant policies applied based on the development proposed. When considering development on rural lands, which includes prime agricultural land, a planning authority shall apply the relevant policies of Section 1: Building Strong Healthy Communities, Section 2: Wise Use and Management of Resources, and Section 3: Protecting Public Health and Safety (1.1.5.1). The proposal is consistent with the goals and intent of the PPS 2014 as it would permit the redevelopment of existing rural housing stock and is compatible with the rural landscape by way of accommodating adequate services and facilities appropriate for the use (1.1.5.2).

The PPS policies in Section 2 regarding agriculture and the protection of agricultural land prohibit residential dwellings which are unrelated to farm uses, but require that any impacts from new or expanding non-agricultural uses on surrounding agricultural operations are mitigated to the extent feasible (2.3.6.2). The Building Division has confirmed that the proposed dwelling and septic system are adequately setback from adjacent agricultural uses and did not raise any concerns with respect to the MDS I setbacks.

The policies of Section 1 allow for limited residential development on rural lands in municipalities which are appropriate to the infrastructure planned or available, while prioritizing agriculture and agriculture-related uses so as to avoid the need for unjustified or uneconomical expansion of infrastructure and potential land use conflicts with livestock facilities or agriculture-related industries (1.1.5.2, 1.1.5.4). In this instance, the expansion of an existing residential use on an existing lot of record conforms to the policies of the PPS in that it is representative of *limited residential development* in a rural area that is compatible with the rural landscape and would not have the effect of removing prime agricultural land currently being used for agriculture from its intended use. The applicant is able to accommodate the required water and sanitary infrastructure on the subject lands and would not represent an unjustified extension of civic infrastructure.

The London Plan

The Farmland Place Type applied to the subject site does not permit residential dwellings except for where they are located on existing lots of record (1182_). Limited

non-agricultural uses may be permitted only where it can be demonstrated that the proposed use is consistent with the Provincial Policy Statement. As addressed previously, the proposed development is consistent with the PPS.

The proposed development complies with policies 1190_, 1191_, and 1192_, which are in force, and allow for residential uses on existing lots of record, subject to a zoning by-law amendment. The new residential dwelling will not create new impacts on abutting agricultural uses beyond what current exists and the applicant has demonstrated that the proposed development will not negatively impact the natural heritage component on the subject property, as confirmed by the KCCA and Development Services.

With respect to the proposed intensity of the use, policy 1213_ directs non-agricultural uses to be grouped. 6746 Wellington Road South, which is located to the west of the subject property on the east side of Wellington Road South is assessed as a commercial building, and the adjacent property to north, 6643 Fisher Lane is assessed as a single detached dwelling. As evidenced by historical surveys, Fisher Lane originally formed part of Wellington Road before it was re-aligned while still within the Township of Westminster. This created a small number of parcels which are not of a sufficient size and shape to support agricultural uses and created a group of properties which are not being used for agricultural purposes. The continued use of the subject property for a single detached dwelling is not out of character with adjacent uses.

1989 Official Plan

The Agriculture designation does not permit residential dwellings which are not being used in conjunction with agriculture-related uses except where the use was legally existing on the date of Council adoption of Policy 9.2.3 – Existing Uses. The existing dwelling was constructed in approximately 1890 and reference plan 33R-8615 was deposited with the Land Registry Office on February 2, 1989 and registered on the title of the lands. This confirms that the use and the current boundaries of the subject property were existing on the date of annexation to the City of London in 1993, and are recognized as having non-conforming status under both the Plan and the Z.-1 Zoning By-law.

Section 19.5 of the 1989 Official Plan contains policies regarding non-conforming uses and where they are non-conforming to the Official Plan, the Zoning By-law, or both. However, the policies do not specifically address a situation where a use is recognized as being existing under the Official Plan but requires a slight modification to the zone boundary. As noted above, by amending the zone line the use is no longer considered a legal, non-conforming situation under the By-law but retains its status under the Official Plan. The use of the lands for a single detached dwelling is proposed to remain unchanged and the recommended amendment will not result in the loss of land zoned for agricultural use and is consistent with policies 9.2.9. (Existing Agricultural Lots), and 9.2.10. (Minimum Distance Separation Requirements). The lot is of a sufficient size and soil quality to support an on-site waste disposal system and has an adequate potable water supply to facilitate the use, and as such is compliant with the policies of the 1989 Official Plan.

Z.-1 Zoning By-law

The regulations of the Zoning By-law permit the continued use of land for a purpose legally existing on the date the By-law was passed so long as it continues to be used for that purpose. The By-law also allows for the rebuilding and repair of a building which is legally existing, provided that the dimensions of the building or structure are not increased, or, where extensions or additions are proposed, the building complies with the regulations of the By-law. Where a proposed building addition or enlargement does not comply with the Zoning By-law, the Committee of Adjustment may consider applications to allow the extension or enlargement of a non-conforming use. However, the Committee of Adjustment does not have the authority to allow for an extension or enlargement beyond the limits of the lands that had been used in conjunction with that building.

The regulations of the Agricultural (AG) Zone recognize existing agricultural lots which are deficient in lot area and permits the use of such lots for existing single detached dwellings. The subject site as it currently exists is deemed to be conforming. Were the applicant proposing to rebuild or expand the existing dwelling it would be considered by the Committee of Adjustment. As noted above, the use of the land for a single detached dwelling is recognized as an existing use under the Official Plan. However, the applicant is proposing to demolish the existing dwelling and locate the new, larger dwelling in a location which requires an amendment to the limit of the AG Zone boundary. As such, it loses its non-conforming status under the regulations of the Zoning By-law and the proposed development is beyond the purview of the Committee of Adjustment. Were the applicant to locate the proposed dwelling within the boundary of the existing AG2 Zone, a Zoning By-law Amendment would not be required to achieve compliance.

4.2 Issue and Consideration # 2 – Intensity

1989 Official Plan and The London Plan

The 1989 Official Plan and The London Plan permit the use of temporary use by-laws which enable a property owner to temporarily use the land for a purpose which would otherwise not be permitted under the current zone. In this instance the applicant is requesting a temporary zone in addition to the requested zoning by-law amendment to allow for two single detached dwellings on the subject site for a period of no more than 6 months.

As the applicant is proposing to move an existing house from outside the City, there will temporarily be two dwellings on the property. Under the Ontario Building Code the applicant may be granted a conditional permit which would require the existing dwelling to be demolished within 3 months of occupancy of the new dwelling. The temporary zone would require the property owner to complete the required works to obtain occupancy of the new dwelling and the subsequent demolition of the existing dwelling within 6 months, functionally allowing 3 months for construction and 3 months for demolition.

The intensity of the site is not increasing permanently as part of this application, as additional units are not being proposed. The purpose of the requested Zoning By-law Amendment is to recognize the existing use of the land for a single detached dwelling and to permit special provisions to allow for the proposed dwelling, while the temporary use by-law is to allow for the existing and proposed dwellings to be located on the same lot for no more than 6 months.

Z.-1 Zoning By-law

Chapter 45 of the Zoning By-law regulates land in the Agricultural (AG) Zone and contains specific provisions for lots containing single detached dwellings existing prior to the passing of the By-law. These specific regulations (45.3) differ from the regulations of the base zone in that they allow for reduced lot sizes but still provide for setback and lot frontage requirements which are in excess of typical residential zone permissions to discourage the establishment of estate lots.

As the proposed use of the subject lands is not considered legally existing under the Zoning By-law, it is subject to the regulations of the Agricultural (AG2) Zone and not the Existing Single Detached Non-Agricultural Dwellings regulations of Section 45.3.2. As such, the applicant is requesting a number of special provisions to permit the use of the land for a new single detached dwelling as follows.

Permitted use: Single detached dwelling

The AG2 Zone permits a range of agricultural and conservation uses which includes farm dwellings, but not single detached dwellings where they are not already existing. As previously addressed, the construction of a new dwelling negates the non-conforming status of the use despite the fact that the use is functionally remaining the

same. No additional units are proposed and the subject property will continue to be used for a single detached dwelling.

Lot area: 4437 m²

The minimum lot size in the AG Zone is 40 hectares to ensure the continued use of lands in the Agriculture designation for agricultural purposes. Exceptions are made for properties within the AG4 Zone, which permits existing single detached dwellings with lot areas as legally existing on the date the By-law was passed.

The subject site has a total lot area of approximately 7424m², with 4437m² zoned AG2, and the remainder being within the Environmental Review (ER) Zone. There is a small portion at the southeastern portion of the site which is also zoned AG2 but remains unchanged as part of this application. As per regulation 3.9.2 of the Zoning By-law, where a lot is divided into two or more zones each portion is considered to be a separate lot. As such, the requested special provision to allow a lot area of 4436m² applies to the portion of the property located within the AG2 Zone on the west side of the Harry White Drain.

While the site is not subject to policy 45.3.2, the regulations provide guidance into the appropriate lot size for single detached, non-agricultural dwellings. In these instance, the zone requires a minimum lot area of 4000m². As a result of this application, the Agricultural Zone will be expanded onto lands which are presently zoned ER and, in this instance, represents a relatively minor and appropriate deviation from the requirements of the zone.

Lot Frontage: 209m

The AG2 Zone requires a minimum lot frontage of 300m to support appropriately sized and shaped agricultural lots. The subject site has a frontage of 208m². The requirement for existing non-conforming lots is a minimum lot frontage of 60m. Based on previous analysis of the context of this amendment, the requested special provision to allow for a relatively minor deficiency in lot frontage which exceeds the minimum requirement for existing non-farm residential lots is considered appropriate in this instance.

Front Yard Depth: 18m
Rear Yard Depth: 0m
Interior Side Yard Depth: 0m

The regulations of the AG2 Zone require a minimum front, rear, and interior side yard depth of 30m. Due to the irregular shape of the lot and the proposed amendment to the ER Zone line, the applicant is requesting special provisions to allow for reduced setbacks. The proposed zone line will abut the foundation of the proposed dwelling, and due to the provisions of 3.9.2, the zone line functions as a lot line and will result in 0m setbacks for the rear and interior side yard. The ER Zone is intended to protect natural heritage features from development impacts, and in this instance the KCCA has confirmed that the proposed setbacks are acceptable. Environmental and Parks Planning has also confirmed that provided the structure and associated septic bed are outside of the ER Zone, they have no concerns with respect to the proposed development on the watercourse. There are also no concerns with respect to setbacks from adjacent properties for Minimum Distance Separation purposes. As such, the 0m rear and interior side yard setbacks are suitable for the proposed development.

The reduced front yard setback is due to the shape of the lot and the location of the natural heritage feature on the subject property. An additional 12 metre front yard setback to comply with the zone regulations would result in the dwelling being located closer to the watercourse and the adjacent agricultural property to the east. The regulations for existing dwellings require a 20m setback, which while not applicable, provides guidance for considering the reasonableness of the proposed special provisions. A front yard setback of 18m is consistent with the intent and purpose of the regulation and adequate for the development proposed.

Deck Setback: 0m

Decks are regulated under the General Provisions of Chapter 4 of the Zoning By-law, which requires unenclosed decks to be located no closer than 1.2 metres to a lot line. Similarly to the interior and rear yard setbacks above, the proposed deck at the rear of the dwelling will abut the ER Zone line and would be considered to have a 0m setback as the zone line functions as a lot line. Reduced deck setbacks are common applications made to the Committee of Adjustment and are typically given Staff support provided no structure is located closer than 0.6 metres from the property line to allow sufficient space for access and maintenance, and to prevent the encroachment of footings on adjacent properties. In this instance, the reduced setback is to a zone line and is located sufficiently far enough from abutting properties that no impacts to privacy or encroachments are expected as a result of the reduced setback.

Given Subsection 34.10.0.0.1 of the *Planning Act* prohibits an application for a minor variance within 2 years of the approval of a Zoning By-law Amendment without permission from Council, the inclusion of this special provision will prevent the applicant from needing additional approvals to construct a deck, which is considered a generally appropriate and desirable feature for single detached dwellings.

Driveway Width: 22m

Maximum driveway width is also regulated under Chapter 4 of the Zoning By-law. The subject lands have two driveways with access from Fisher Lane, and have a total combined width of 22 metres. For agricultural uses, driveways are not permitted to be wider than 10 metres. For residential lots with frontage of greater than 12 metres, the regulation allows for a driveway width of 50% of the required lot frontage to a maximum of 8 metres, whichever is less.

Site Plan Approval is not required for the proposed development and the applicant is not proposing to increase the driveway width beyond what presently exists save to extend the driveway to the new dwelling. The main access is 17.8 metres in width, with a second access at 3.4 metres in width. The proposed special provision is to recognize an existing situation.

When considering minor variances applications for increased driveway width, Staff are typically unsupportive of major departures from the maximum regulation due to the potential impacts on neighbourhood character and streetscape. In this instance, the driveway is an existing condition and the access is not formalized with a curb, but forms part of the gravel shoulder of Fisher Lane. Given the context of the subject site and its adjacent uses, maintaining the existing driveway width is an appropriate departure from the regulations.

Coverage: 12%

The requested special provision for an increase of lot coverage by 2% is being applied through the temporary zone. The maximum permitted lot coverage in the AG2 Zone is 10%. The proposed development will ultimately result in a total lot coverage of 9% comprised of the existing detached accessory structure and the proposed single detached dwelling, which is compliant with the regulations of the By-law. The temporary condition of two detached dwellings and the accessory structure results in a lot coverage of 12% and as such is requested as a special provision to the temporary zone. Once the existing dwelling is demolished the lot will once again be compliant and the provision will no longer apply.

4.3 Issue and Consideration # 3 – Temporary Use By-law

1989 Official Plan and The London Plan

Both the 1989 Official Plan and The London Plan contain policies regarding the implementation of temporary use by-laws to authorize the temporary use of land, buildings or structures for a purpose otherwise prohibited by the Plan. The criteria for evaluating a temporary use by-law are largely similar between Plans, only differing in The London Plan by the inclusion of two additional matters which City Council will have regard for. Policy 19.4.5. in the 1989 Official Plan and Policies 1671_, 1672_ and 1673_ require that when enacting a temporary use by-law, City Council will have regard for the following matters:

1. Compatibility of the proposed use with surrounding land uses.

The applicant has demonstrated compliance with Minimum Distance Separation (MDSI) Guidelines for the proposed dwelling in relation to adjacent agricultural uses, and the temporary use of the subject property for two dwellings will not impact the character of the surrounding area nor limit the ability of these lands to function in their intended manner.

2. Any requirement for temporary buildings or structures in association with the proposed use.

The temporary use would allow for a second dwelling to occupy the subject lands for a period of no more than 6 months to allow the applicant to receive a conditional occupancy permit which will require the existing dwelling to be demolished within 3 months of occupancy of the new dwelling.

3. Any requirement for temporary connection to municipal services and utilities.

The new dwelling will be required to connect to adequate on-site water and sanitary facilities which will be addressed during the permit process through the Building Division. The existing dwelling will be disconnected from existing services, and any on-site infrastructure will be decommissioned.

4. The potential impact of the proposed use on mobility facilities and traffic in the immediate area.

As no additional units are proposed as part of the temporary use, there will be no increase in traffic or additional impacts on mobility facilities in the area.

5. Access requirements for the proposed use.

The proposed access on the subject site is not changing as part of this application and is adequate for the proposed use.

6. Parking required for the proposed use, and the ability to provide adequate parking on-site.

There are adequate parking facilities on the subject site, as the use of the lands for a single detached dwelling requires two parking spaces.

7. The potential long-term use of the temporary use.

The occupancy of the proposed dwelling is conditional on the demolition of the existing dwelling within 3 months, and as such will not continue over the long-term.

8. *In the case of temporary commercial surface parking lots in the Downtown, the impact on the pedestrian environment in the Downtown.*

This application will not facilitate a temporary commercial surface parking lot in the Downtown.

9. *The degree to which the temporary use may be frustrating the viability of the intended long-term use of the lands*

The legal use of the lands for a single detached dwelling predates the adoption of the 1989 Official Plan and Z.-1 Zoning By-law. The temporary use by-law is to facilitate the unique situation of moving an existing house to the subject lands while the property owner continues to live in the existing dwelling during construction. Were the property owner to repair or rebuild the existing dwelling the use would be permitted as of right. As such, the introduction of a temporary use by-law to facilitate this particular circumstance will not frustrate the viability of the long-term use of the lands.

More information and detail is available in Appendix B and C of this report.

5.0 Conclusion

The requested amendment to amend the existing Agricultural (AG2) Zone line and to add a number of special provisions on the subject site as well as a temporary use by-law to permit the temporary use of the lands for two single detached dwellings would facilitate the continued use of the site for a single detached dwelling. The recommended zoning is consistent with the PPS 2014 and with the City of London 1989 Official Plan and The London Plan.

Prepared by:	Meg Sundercock, BURPL Site Development Planner, Development Services
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
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	

April 5, 2019
MT\mt

cc. Michael Tomazincic, MCIP, RPP, Manager, Current Planning

Appendix A

Bill No. (number to be inserted by Clerk's Office)
2019

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

A by-law to amend the Official Plan for the City
of London, 1989 relating to 6682 Fisher Lane.

WHEREAS Joe Marche and Monique Rodriguez have applied to rezone a
portion of the property located at 6682 Fisher Lane as shown on the map attached as
Schedule "A" to this by-law, as set out below;

AND WHEREAS this rezoning conforms to the Official Plan;

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

1. Schedule "A" to By-law No. Z.-1 as amended, is amended by changing the
zoning applicable to a portion of the lands located at 6682 Fisher Lane as shown on
the map attached as Schedule "A" to this by-law from an Agricultural AG (AG2)
Zone and an Environmental Review (ER) Zone to an Agricultural Special Provision/
Temporary (AG2(_)/T-_) Zone and an Environmental Review (ER) Zone
2. Section Number 45.4 of By-law No. Z.-1, as amended being the Agricultural
AG2 Zone is amended by adding the following Special Provisions:
 -) AG2(_) 6682 Fisher Lane
 - a) Additional Permitted Use:
 - i) Single Detached Dwelling
 - b) Additional Regulations:

i) Lot Area (m ²) (Minimum)	4437 m ²
(47759.5ft ²)	
ii) Lot Frontage (m) (Minimum)	209 m
(685.7ft)	
iii) Front Yard Depth (m) (Minimum)	18 m (59 ft)
iv) Rear Yard Depth (m) (Minimum)	0 m (0 ft)
v) Interior Side Yard Depth (m) (Minimum)	0 m (0 ft)
vi) Driveway Width (m) (Maximum)	22 m (72 ft)
vii) Rear Yard Setback for an unenclosed	0 m (0 ft)
deck (m) (Minimum)	
3. Section Number 50.2 of the Temporary (T) Zone is amended by adding the
following subsection for a portion of lands known municipally as 6682 Fisher Lane:
 -) T-_ 6682 Fisher Lane

A portion of lands located at 6682 Fisher Lane, may be occupied by
two (2) single detached dwellings and may be permitted a
maximum lot coverage of 12% for a temporary period not

exceeding six (6) months from the date of the passing of the by-law beginning April 23, 2019.

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.

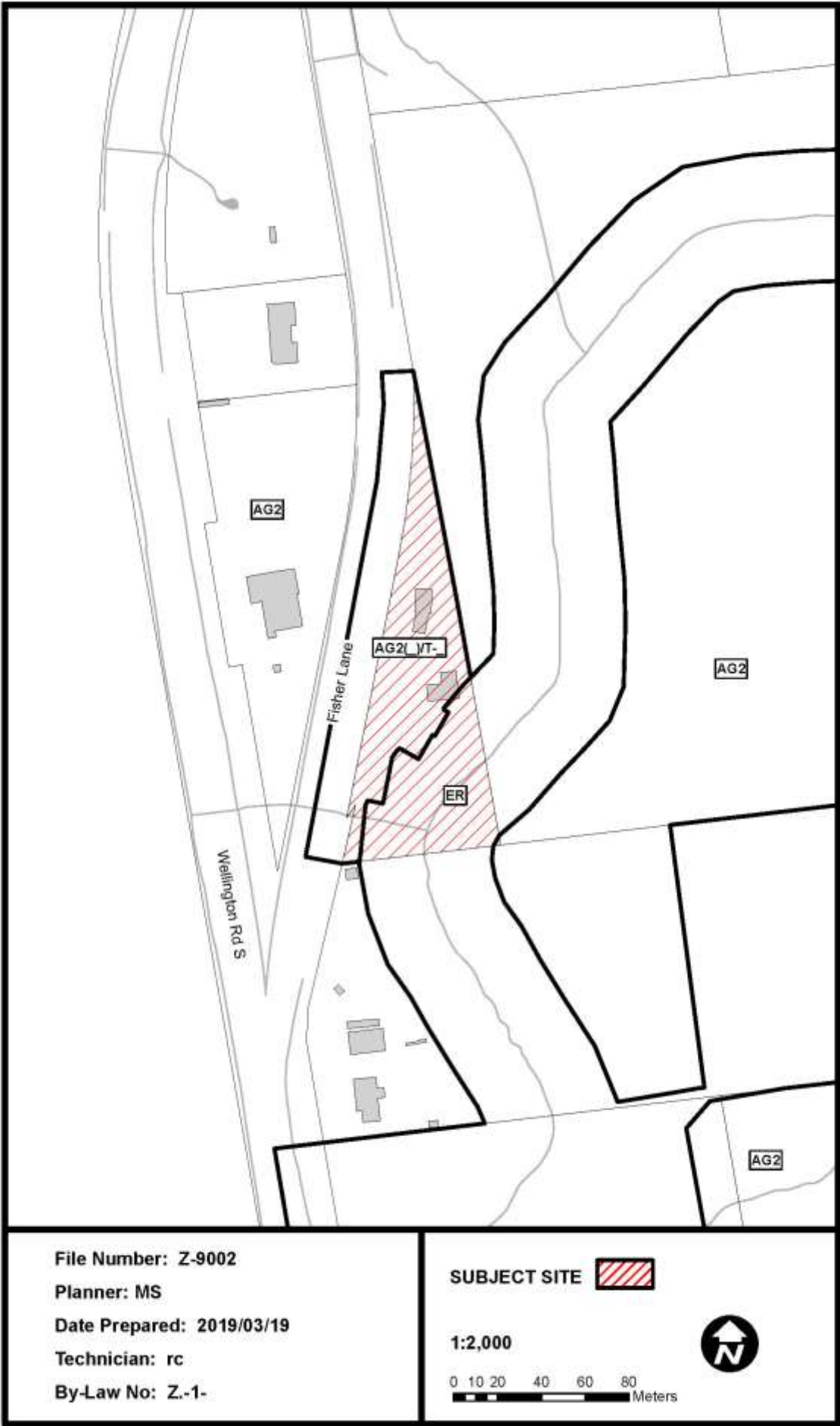
PASSED in Open Council on April 23, 2019.

Ed Holder
Mayor

Catharine Saunders
City Clerk

First Reading – April 23, 2019
Second Reading – April 23, 2019
Third Reading – April 23, 2019

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



Appendix B – Public Engagement

Community Engagement

Public liaison: On January 24, 2019, Notice of Application was sent to eight (8) property owners in the surrounding area. Notice of Application was also published in the *Public Notices and Bidding Opportunities* section of *The Londoner* on January 25, 2019. A “Planning Application” sign was also posted on the site. On March 20, 2019, Revised Notice of Application was sent to eight (8) property owners in the surrounding area. Revised Notice of Application was also published in the *Public Notices and Bidding Opportunities* section of *The Londoner* on March 21, 2019.

No replies were received

Nature of Liaison: The purpose and effect of this zoning change is to permit a single detached dwelling with reduced setbacks and to temporarily permit two dwellings on the subject property. Possible change to Zoning By-law Z.-1 **FROM** an Agricultural AG (AG2) Zone and an Environmental Review (ER) Zone **TO** an Agricultural Special Provision/ Temporary (AG2()/T-) Zone and an Environmental Review (ER) Zone. Special provisions would permit: a new single detached dwelling with a reduced minimum front yard depth of 18 metres whereas 30 metres is the minimum required; a reduced lot area of 4437m²; a reduced interior side yard and rear yard depth of 0 metres whereas 30 metres is the minimum required; a lot frontage of 209 metres whereas 300 metres is the minimum required; a deck setback of 0 metres whereas 1.2 metres is the minimum required, and; to recognize the existing driveway width of 22 metres. The requested Temporary Use Zone would permit the use of the property for two single detached dwellings for a period of time not exceeding 6 months, and to temporarily permit a lot coverage of 12% whereas 10% is the maximum permitted. **Responses:** A summary of the various comments received include the following:

Responses to Public Liaison Letter and Publication in “The Londoner”

Telephone	Written

Agency/Departmental Comments

Kettle Creek Conservation Authority

Staff of Kettle Creek Conservation Authority (KCCA) has reviewed the subject application and associated lands with regard to delegated responsibilities for Natural Hazard policies of the 2014 Provincial Policy Statement (PPS), and KCCA regulations enacted under Section 28 of the Conservation Authorities Act (O.Reg.181/06).

Please be advised that KCCA has no objection to its approval.

We offer the following additional comments:

1. In review of the MTE/OLS Ltd. Survey, dated December 5, 2018, KCCA is satisfied that the proposed development (ie. new single detached dwelling and septic system) are located away and outside of any flooding hazard associated with the abutting watercourse.
2. A permit from KCCA will be required prior to construction of the new single detached dwelling as a portion of the subject property is affected by KCCA Regulations. Pursuant to Section 28 of the Conservation Authorities Act, the proponent must obtain a permit from KCCA prior to any development and/or alteration. The current regulation is "Development, Interference with Wetlands and Alterations to Shorelines and Watercourses, Ontario Regulation 181/06".

Kettle Creek Conservation Authority – March 19, 2019 as a revised plan was submitted

I have reviewed the revised drawing with the proposed deck and confirm that KCCA would have no objections to proposed zoning line with the inclusion of the proposed deck as shown on the drawing provided.

Environmental and Parks Planning

The Environmental and Parks Planning Section has reviewed the request for the proposed zoning by-law amendment and notes no concerns with the application as proposed provided the new dwelling unit and associated septic field are located outside of the ER zone. Staff understand a Section 28 permit is required and will be processed through the Kettle Creek Conservation Authority.

Development Services – Engineering

The City of London's Environmental and Engineering Services Department offers the following comments with respect to the aforementioned pre-application:

Comments for the re-zoning application:

If the applicant is proposing to install a new well and a new septic system, then the following comments will need to be addressed;

1. The applicant is required to confirm the proposed private wells and septic systems meet the required setbacks as per the OBC. Highlight the setback dimensions on the drawing and provide a table which shows the OBC requirements. Consultation with a qualified professional may be required.

Appendix C – Policy Context

The following policy and regulatory documents were considered in their entirety as part of the evaluation of this requested land use change. The most relevant policies, by-laws, and legislation are identified as follows:

Provincial Policy Statement

1.1 Managing and Directing Land Use to Achieve Efficient and Resilient Development and Land Use Patterns

1.1.4 Rural Areas in Municipalities

1.1.4.1 b, c, d, h

1.1.5 Rural Lands in Municipalities

1.1.5.2 c

1.1.5.4

1.1.5.9

2.0 Wise Use and Management of Resources

2.3 Agriculture

2.3.3 Permitted Uses

2.3.6 Non-Agricultural Uses in Prime Agricultural Areas

2.3.6.1 a, b

2.3.6.2

1989 Official Plan

Open Space

8A.2. Open Space

8A.2.2 Permitted Uses

Agriculture

9.2.3 Existing Uses

9.2.9 Existing Agricultural Lots

9.2.10 Minimum Distance Separation Requirements

Environmental Policies

15.2.3 Natural Heritage Policies – Open Space – Environmental Review

15.3 Natural Heritage Areas Designated as Open Space

15.3.2 ii) a) Permitted Uses

Implementation

19.1.1 i) Boundaries Between Land Use Designations

19.1.1 ii) Delineation of Flood Plain, Environmental Features

19.4 Zoning

19.4.5 Temporary Use By-laws

16.5 Non-Conforming Uses

The London Plan

Our Strategy

58_ Direction #4 Become one of the greenest cities in Canada

62_ Direction #8 Make wise planning decisions

Green Space

760_ Role within the City Structure

761_ How will we realize our Vision?

762_ Permitted Uses

Farmland

1180_ Role within the City Structure

1181_ How will we realize our Vision?

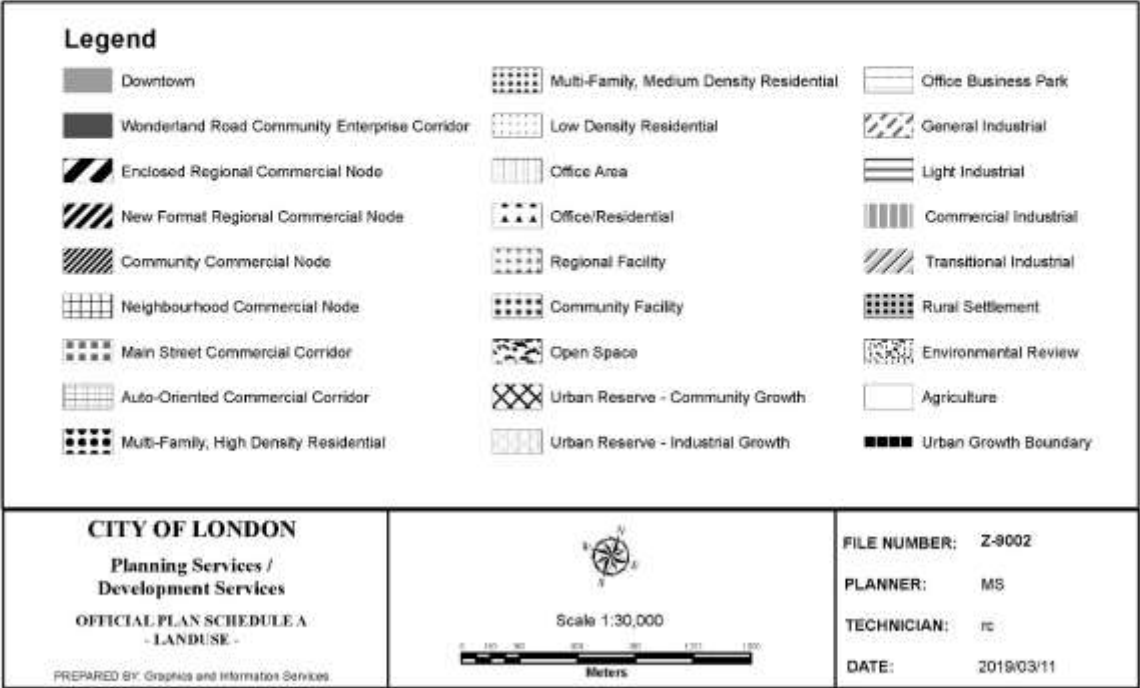
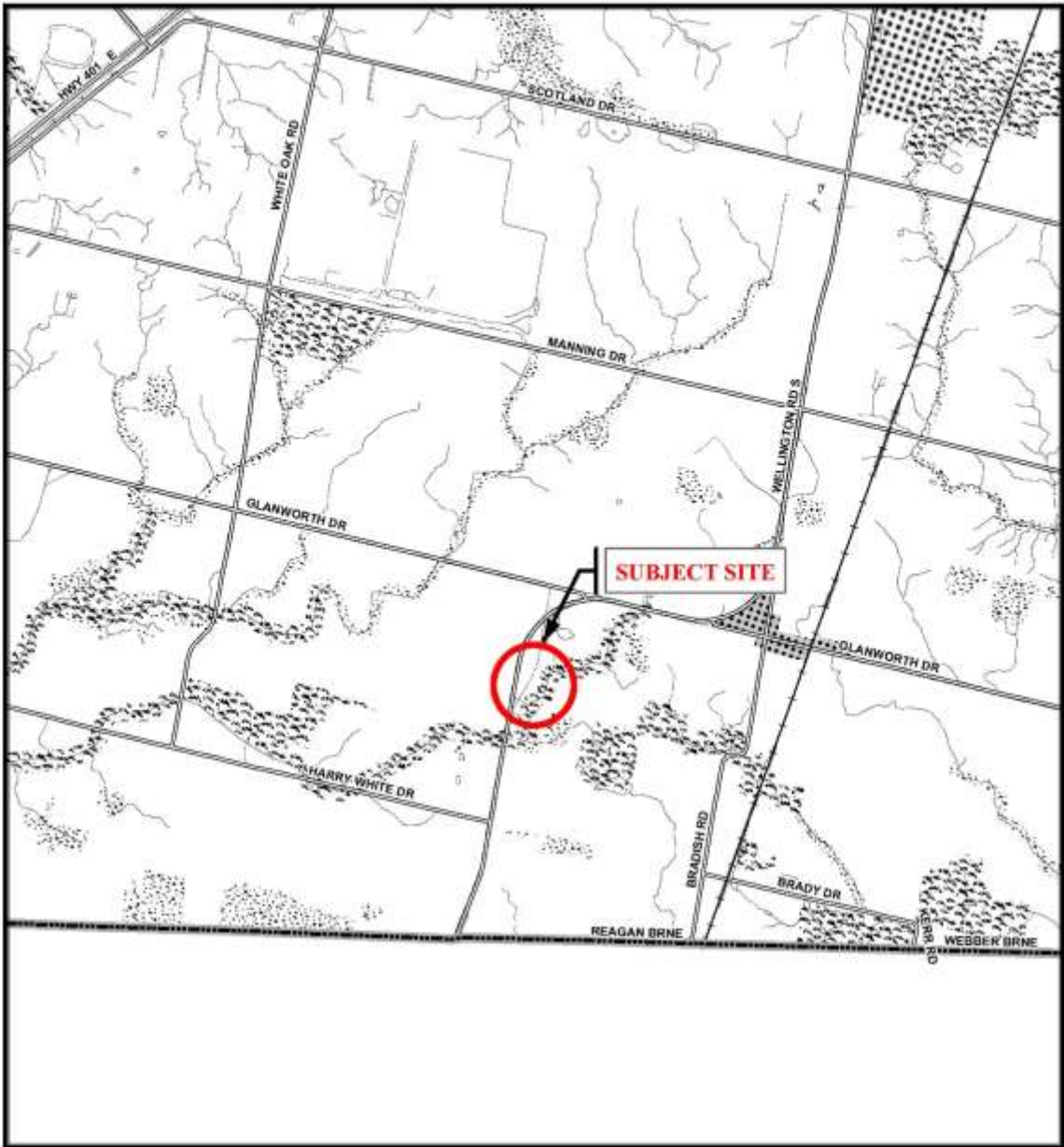
1182_ Permitted Uses

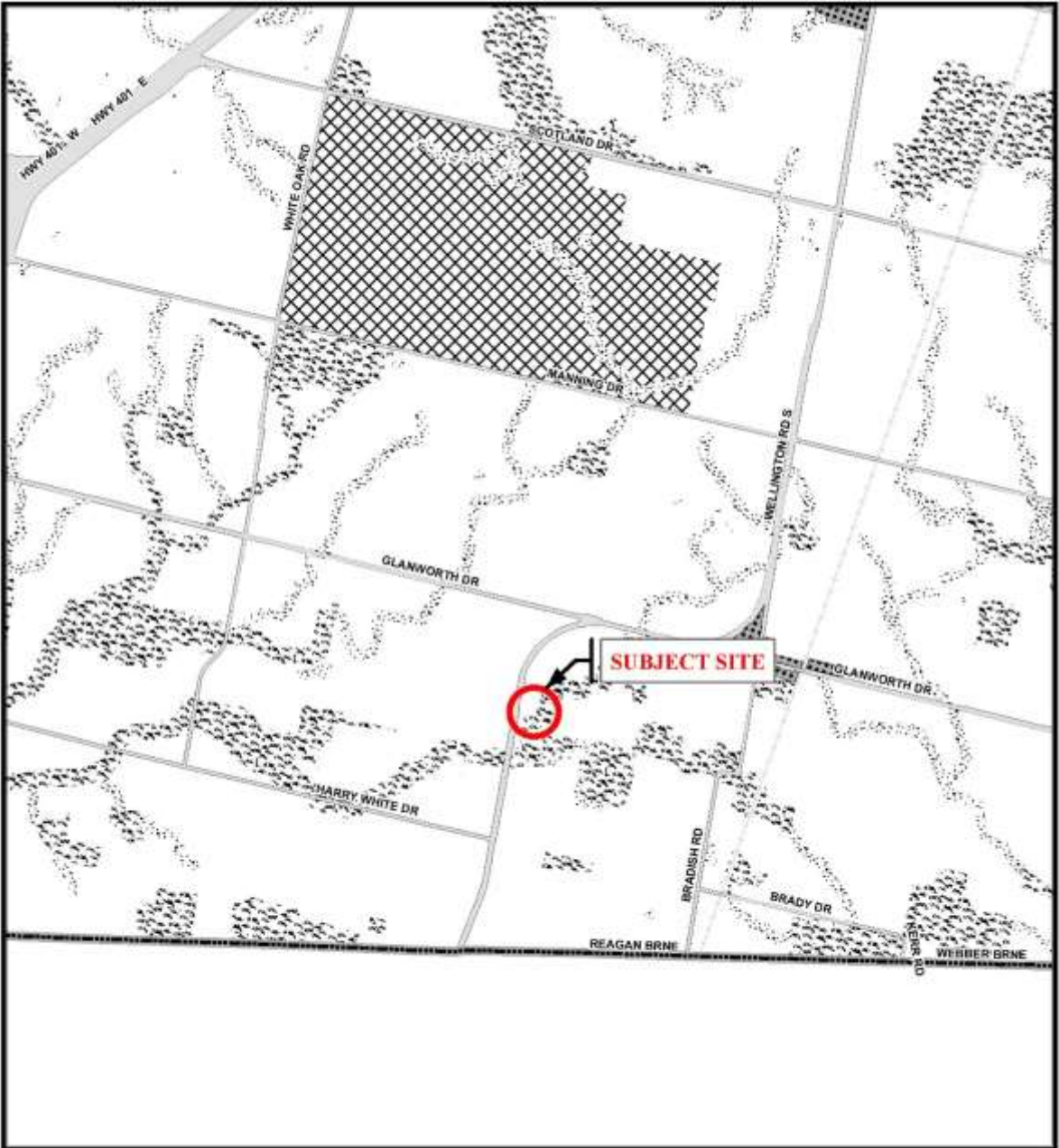
1190_ - 1192_ Residential Uses on Existing Lots of Record

1213_ Intensity

Appendix D – Relevant Background

Additional Maps





Legend

	Downtown		Future Community Growth		Environmental Review
	Transit Village		Heavy Industrial		Farmland
	Shopping Area		Light Industrial		Rural Neighbourhood
	Rapid Transit Corridor		Future Industrial Growth		Waste Management Resource Recovery Area
	Urban Corridor		Commercial Industrial		Urban Growth Boundary
	Main Street		Institutional		
	Neighbourhood		Green Space		

This is an excerpt from the Planning Division's working consolidation of Map 1 - Place Types of the London Plan, with added notations.

At the time of the printing of this map, the Rapid Transit EA is in progress. This map shows the Rapid Transit Corridors and Urban Corridors to recognize potential alignments. These Place Types will be modified to align with the results of the EA process for the final version of The London Plan.

CITY OF LONDON
Planning Services /
Development Services

LONDON PLAN MAP 1
- PLACE TYPES -

PREPARED BY: Planning Services

Scale 1:30,000

Meters

File Number: Z-9002

Planner: MS

Technician: rc

Date: March 11, 2019

Project Location: E:\Planning\Projects\p_zoning\z-1zones\amendments\Z-9002\projects\Z-9002-LP-Placetypes-Excerpt.mxd

