

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: Application By: Sarah Stevens
9345 Elviage Drive
Removal of Holding Provision
Meeting on: July 22, 2019

Recommendation

That, on the recommendation of the Director, Development Services, based on the application by Sarah Stevens, relating to a portion of the lands located at 9345 Elviage Drive, the proposed by-law attached hereto as Appendix "A" **BE INTRODUCED** at the Municipal Council meeting to be held on July 30, 2019 to amend Zoning By-law No. Z.-1, in conformity with the Official Plan, to change the zoning of a portion of the subject lands **FROM** a Holding Agricultural (h-2•AG2) Zone **TO** an Agricultural (AG2) Zone to remove the h-2 holding provision for this site.

Executive Summary

Purpose and the Effect of Recommended Action

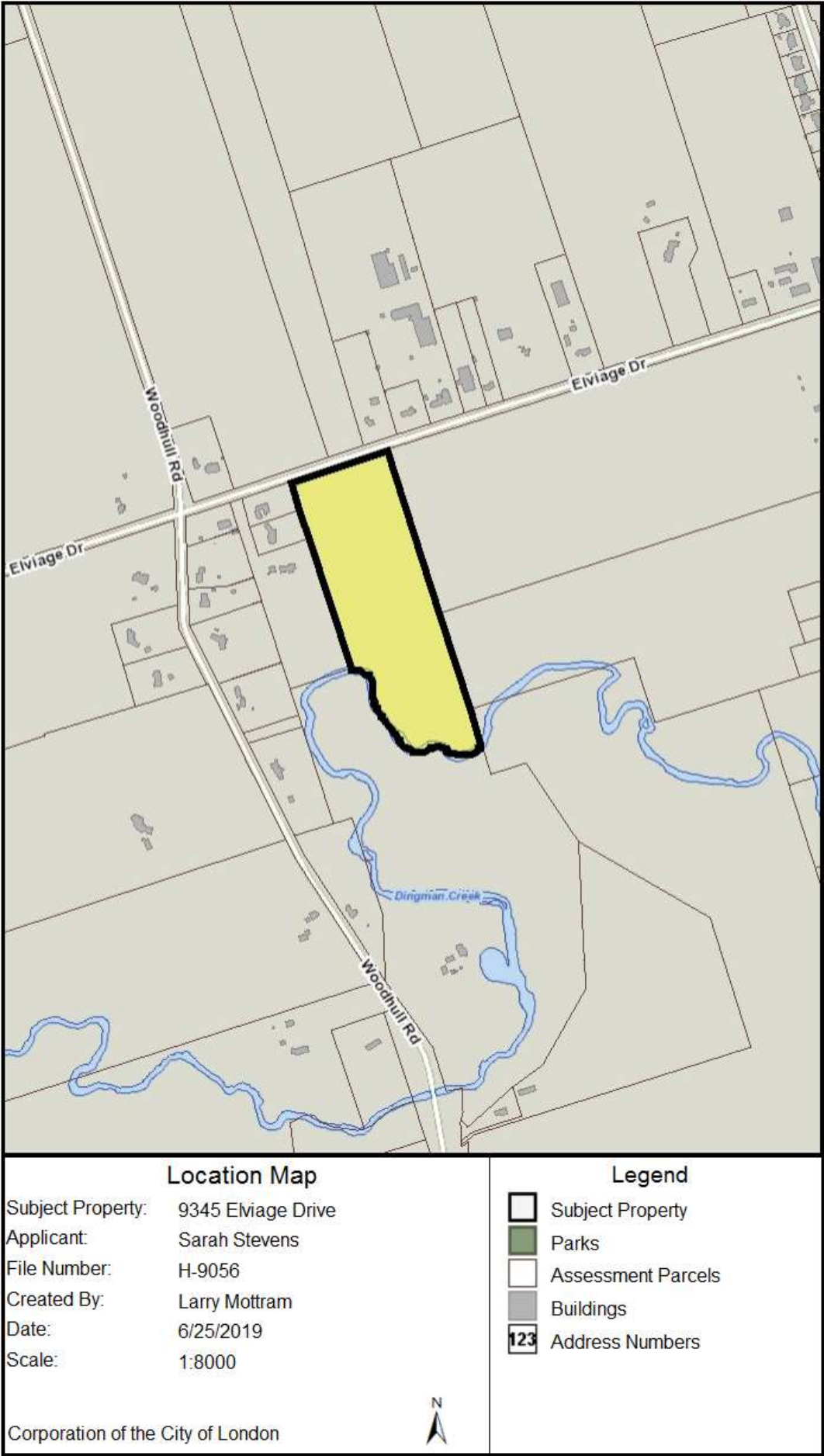
The purpose and effect is to remove the holding (h-2) provision from the zoning over part of an existing lot located at 9345 Elviage Drive to allow development of a proposed farm dwelling.

Rationale of Recommended Action

1. The conditions for removing the holding (h-2) provision have been met and the recommended amendment will allow development of a proposed farm dwelling in compliance with the Zoning By-law.
2. The holding (h-2) provision can be removed from the zoning as the limit of development for the proposed dwelling, together with sufficient buffer to protect the surrounding natural feature has been established to the satisfaction of the City, such that there will be no negative impact on the Natural Heritage System.
3. Appropriate conditions have been established through the Committee of Adjustment (A.134/18) decision to ensure, among other matters that a restoration plans for the 10 metre buffer area and an invasive species management plans be approved prior to the issuance of a building permit.

Analysis

1.1 Location Map

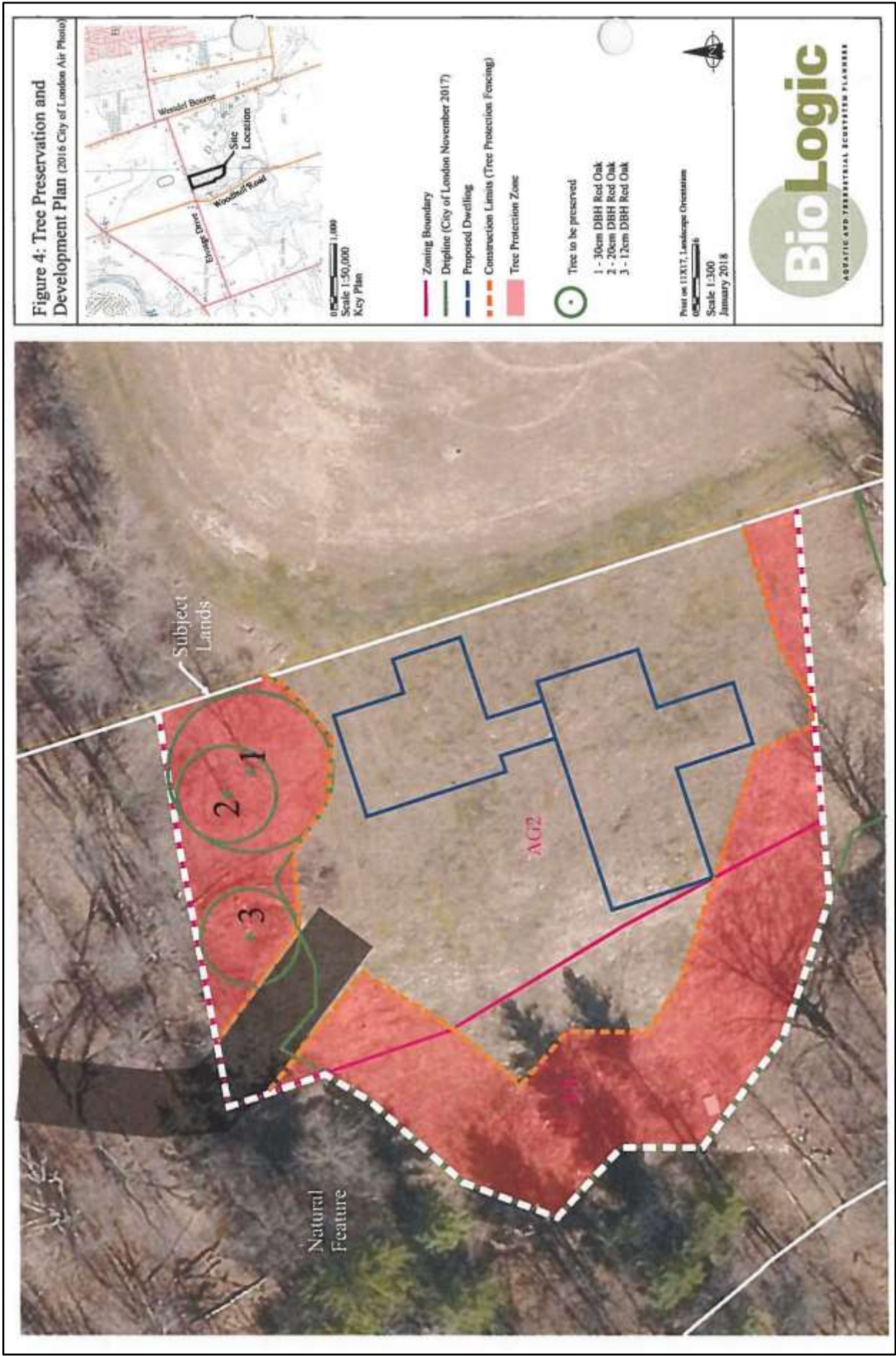


1.2 Site Location



(Excerpt Fig. 1 Tree Preservation Report – 9345 Elviage Drive - Biologic, January 25, 2018)

1.3 Tree Preservation and Development Plan



(Excerpt Fig. 4 Tree Preservation Report – 9345 Elviage Drive - Biologic, January 25, 2018)

2.0 Description of Proposal

The purpose and effect is to remove the holding h-2 provision from the zoning on a portion of the existing lot at 9345 Elviage Drive to allow development of a proposed farm dwelling.

3.0 Revelant Background

3.1 Planning History

On November 26, 2018, the Committee of Adjustment granted a minor variance for the purpose of constructing a farm dwelling on the property at 9345 Elviage Drive. The minor variance allows an interior side yard setback of 2.2m (7.2') from the easterly property line, whereas 30m (98.4') is the minimum required under the Agricultural AG2 Zone. The Committee's decision was granted conditionally, subject to the following:

1. A building permit is required.
2. A Section 28 Permit is required.
3. The proposed development shall meet the required odour setbacks in accordance with the provincial Minimum Distance Separation (MDS I) Implementation Guidelines and Formulae.
4. Prior to the issuance of a building permit for a new livestock facility, the City will require compliance with the provincial Minimum Distance Separation (MDS II) setbacks and compliance with the provisions of the Zoning By-law.
5. The applicant shall provide a plan, prepared by an ecological consultant, illustrating the established dripline with a 10 meter buffer and zone lines.
6. The applicant shall provide and implement a restoration plan, prepared by an ecological consultant, for the 10 meter buffer lands.
7. The applicant shall provide and implement an approved invasive species management plan, prepared by an ecological consultant, for the entire site focusing on the removal of buckthorn, garlic mustard and fragmites.
8. Parkland dedication has not been collected for the subject lands. Consistent with the regulations of the Ontario Planning Act, the applicant shall provide land or cash-in-lieu of parkland equal to 5% of the value of the property assessed on the day before the day of issuance of a building permit.
9. The Owner shall carry out a Stage 1-2 Archaeological Assessment by a licensed archaeologist. Implementation recommendations as a result of the assessment must be addressed, to the satisfaction of Heritage Planning. No final approval shall be given, and no grading or other soil disturbance shall take place on the subject property prior to the owner providing confirmation that the Ministry of Tourism, Culture, and Sport has reviewed and accepted the Stage 1-2 Archaeological Assessment into the Ontario Public Register.

The above-noted conditions must be cleared by the City prior to issuance of a building permit. The purpose of the application for removal of holding provision is to facilitate the proposed farm dwelling which is a permitted use under the AG2 Zone.

4.0 Key Issues and Considerations

4.1 Has the condition for removal of the holding (h-2) provision been met?

The purpose of the holding ("h-2") provision in the zoning by-law is as follows:

"Purpose: To determine the extent to which development will be permitted and ensure that development will not have a negative impact on relevant components of the Natural Heritage System (identified on Schedule "B" of the Official Plan), an agreement shall be entered into specifying appropriate development conditions and boundaries, based on an Environmental Impact Study or Subject Lands Status

Report that has been prepared in accordance with the provisions of the Official Plan and to the satisfaction of the City of London, prior to removal of the "h-2" symbol."(Z.-1-051390)

Permitted Interim Uses: Existing uses

The portion of the property zoned h-2•AG2 is approximately 2100 square metres in area. It consists of a pocket of tableland surrounded by wooded ravine and open space lands to the north, south and west, and a cultivated farm field to the east. Based on previous discussions between the applicant and City staff, a 10 metre buffer from the drip line of the surrounding natural feature has been accepted in lieu of the requirement for a scoped EIS or Subject Lands Status Report. The drip line of the natural feature was surveyed in the field with the surveyor, proponent and City staff present, and a 10 metre setback established to define the primary development exclusion zone was accepted. The area for construction of the proposed dwelling is clear of vegetation with the exception of three trees located within the AG2 Zone on the northerly portion of the subject site. These trees were identified and recommended for preservation as part of a Tree Preservation Report (BioLogic January 25, 2018) prepared by a certified arborist and submitted as supporting documentation with the application.

The 10 metre setback plus drip line of the three trees to be preserved forms the Tree Protection Zone (TPZ). The building footprint for the proposed dwelling is outside of the drip line of the existing trees and Tree Protection Zone, as shown on Figure 4: Tree Preservation and Development Plan. The Tree Protection Zone is to be staked and demarcated by a 1.2 metre high protective fencing, together with standard tree protection measures to be undertaken during the excavation and building construction, as outlined in the Tree Preservation Report.

As noted in the report, the 10 metre buffer and Tree Protection Zone provides opportunities for re-naturalization with planting of native tree species such as Sugar Maple, Red Oak, White Oak, Basswood, and American Beech. Due to the close proximity of the natural feature, it is recommended that the development area be landscaped only with native plant species or ornamental plants that have proven to be non-invasive. In accordance with conditions attached to the previous Committee of Adjustment decision, the Owner is required to prepare and implement a restoration plan for the 10 metre buffer area, as well as an approved invasive species management plan. These conditions must be satisfied prior to issuance of a building permit.

Based on staff's review, the h-2 holding provision can be removed from the AG2 Zoned area of the property as a limit of development for the proposed dwelling, together with sufficient buffer to protect the surrounding natural feature has been established to the satisfaction of the City such that there will be no negative impact on the Natural Heritage System.

5.0 Conclusion

In the opinion of Staff, the holding zone requirement has been satisfied and it is appropriate to proceed to lift the holding (“h-2”) symbol from the zoning applied to this site.

Prepared by:	Larry Mottram, MCIP, RPP Senior Planner, 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
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.	

CC: Matt Feldberg, Manager, Development Services (Subdivisions)
Lou Pompillii, Manager, Development Services - Planning
Ismail Abushehada, Manager, Development Services - Engineering

July 15, 2019
GK/PY/LM/lm

Appendix A

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

By-law No. Z.-1-_____

A by-law to amend By-law No. Z.-1 to remove holding provision from the zoning for lands located at 9345 Elviage Drive.

WHEREAS Sarah Stevens has applied to remove the holding provision from the zoning over a portion of the lands located at 9345 Elviage Drive, as shown on the map attached to this by-law, as set out below;

AND WHEREAS it is deemed appropriate to remove the holding provision from the zoning of the said lands;

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

1. Schedule "A" to By-law No. Z.-1 is amended by changing the zoning applicable to the lands located at 9345 Elviage Drive, as shown on the attached map, to remove the h-2 holding provision so that the zoning of the lands as an Agricultural AG2 Zone comes into effect.
2. This By-law shall come into force and effect on the date of passage.

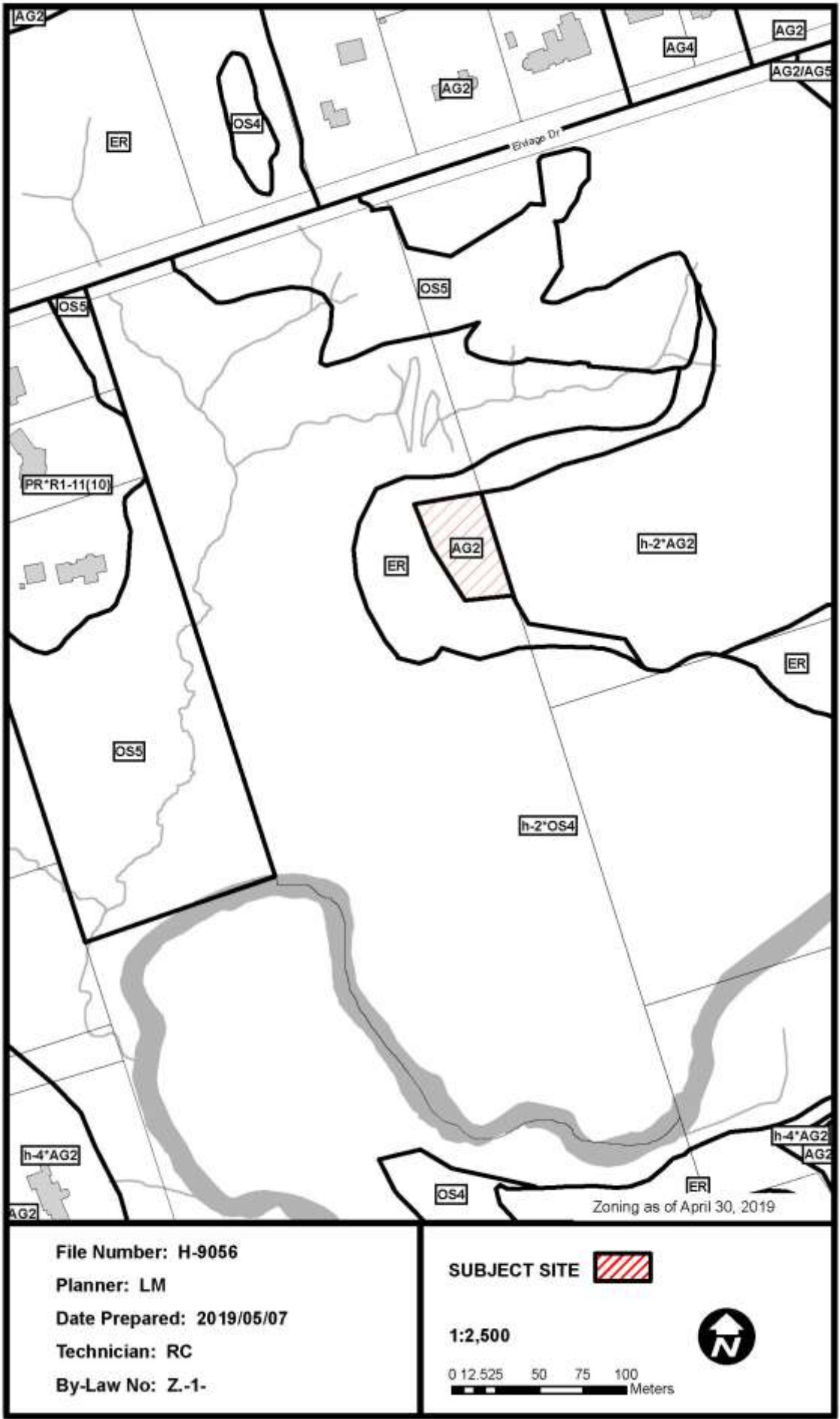
PASSED in Open Council on July 30, 2019.

Ed Holder
Mayor

Catharine Saunders
City Clerk

First Reading – July 30, 2019
Second Reading – July 30, 2019
Third Reading – July 30, 2019

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



Appendix B – Public Engagement

Community Engagement

Public liaison: Notice of the application was published in the *Public Notices and Bidding Opportunities* section of The Londoner on May 16, 2019.

0 replies were received

Nature of Liaison: 9345 Elviage Drive; located on the south side of Elviage Drive, between Westdel Bourne and Woodhull Road – City Council intends to consider removing the Holding (“h-2”) Provision from the zoning of the subject lands to allow a farm dwelling permitted under the Agriculture AG2 Zone. The purpose of the “h-2” provision is to determine the extent to which development will be permitted and ensure that development will not have a negative impact on relevant components of the Natural Heritage System (identified on Schedule “B” of the Official Plan), an agreement shall be entered into specifying appropriate development conditions and boundaries, based on an Environmental Impact Study or Subject Lands Status Report that has been prepared in accordance with the provisions of the Official Plan and to the satisfaction of the City of London, prior to removal of the “h-2” symbol. Council will consider removing the holding provisions as it applies to these lands no earlier than June 25, 2019.

Agency/Departmental Comments:

Upper Thames River Conservation Authority (UTRCA)

The subject lands are regulated by the UTRCA in accordance with Ontario Regulation 157/06 made pursuant to Section 28 of the *Conservation Authorities Act*. The Regulation Limit is comprised of riverine flooding and erosion hazards associated with the Dingman Creek, and an area of interference associated with on-site and adjacent Provincially Significant Wetlands. The UTRCA has jurisdiction over lands within the regulated area and requires that landowners obtain written approval from the Authority prior to undertaking any site alteration or development within this area including filling, grading, construction, alteration to a watercourse and/or interference with a wetland.

In March 2016, the UTRCA received a Section 28 Permit application to “construct a ravine crossing to access the agricultural component of the subject lands and allow for the long term cultivation of the agricultural areas”. In November of 2017, a permit was issued (#55/16) to undergo the completion of this work based on the conditions provided. The UTRCA is of the understanding that this work is now complete.

In late 2018, the UTRCA received a Section 28 Permit application regarding “Proposed Construction of Residential Dwelling and Septic System”. In April 2019, a permit was issued (#217/18) to undergo the works. We remind the applicant to contact the UTRCA regarding project commencement and completion dates as a follow-up inspection may be required.

As indicated, the subject lands are regulated by the UTRCA and are located within the Dingman Subwatershed Screening Area. A Section 28 Permit (#217/18) has been issued for the proposed works. Please ensure all works are carried out in accordance with the conditions of the permit, and notify the UTRCA of the commencement and completion of the project. The UTRCA has no objections to this application.

Appendix C – Relevant Background

Existing Zoning Map

