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File No.: OMB-OZ-8055
Planner: C Smith

TO:	CHAIR AND MEMBERS PLANNING & ENVIRONMENT COMMITTEE
FROM:	JOHN M. FLEMING MANAGING DIRECTOR, PLANNING AND CITY PLANNER
SUBJECT:	APPLICATION BY: 1841577 ONTARIO INC. C/O LISA LANSINK 8 FAIRVIEW COURT AND 770 WHETTER AVENUE NOTICE OF APPEAL TO THE ONTARIO MUNICIPAL BOARD MEETING ON JANUARY 22, 2013

RECOMMENDATION

That, on the recommendation of the Managing Director, Planning and City Planner, in response to the letter of appeal to the Ontario Municipal Board, dated December 3, 2012 and submitted by Robert and Carolann Seguin relating to Zoning By-law application No. OZ-8055 concerning 8 Fairview Court and 770 Whetter Avenue, the Ontario Municipal Board **BE ADVISED** that the Municipal Council has reviewed its decision relating to this matter and sees no reason to alter it.

PREVIOUS REPORTS PERTINENT TO THIS MATTER
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September 4, 2012- Planning and Environment Committee.

September 18, 2012 Council Resolution referring matter for a further public participation meeting on October 15, 2012.

October 15, 2012- Planning and Environment Committee.

October 30, 2012- Council resolution to amend the Official Plan and Zoning By-law to allow a 3 storey, 54 unit (75units/ha) apartment building.

PURPOSE AND EFFECT OF RECOMMENDED ACTION

The recommended action would advise the OMB that Municipal Council is in agreement with their previous decision on October 30, 2012 to amend the Zoning By-law to allow a 3 storey, 54 unit (75units/ha) apartment building to be constructed on the property.

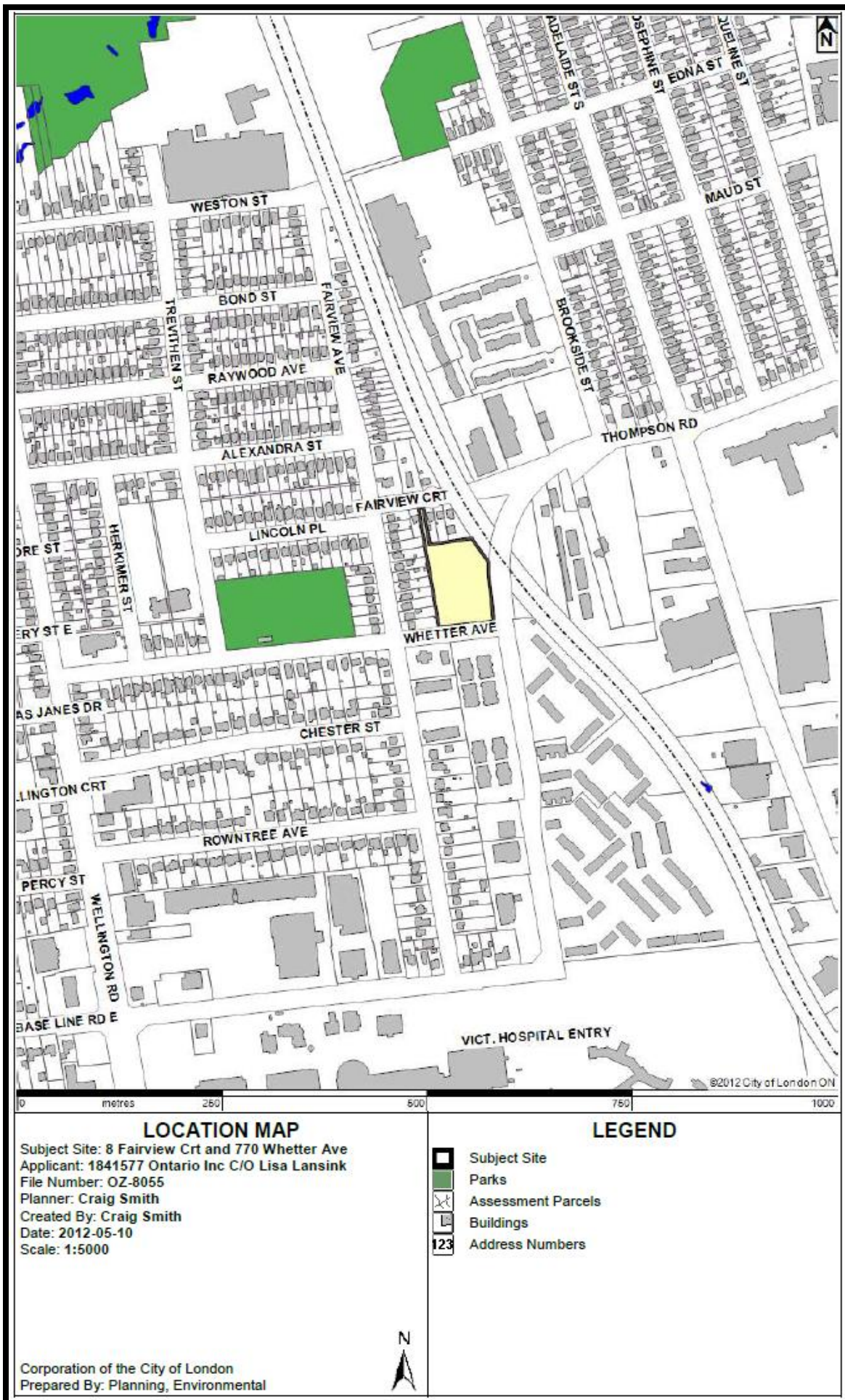
BACKGROUND

On October 30, 2012 Municipal Council resolved:

That, on the recommendation of the Managing Director, Planning and City Planner, the following actions be taken with respect to the application of 1841577 Ontario Inc., relating to the properties located at 8 Fairview Court and 770 Whetter Avenue:

- *the proposed by-law **BE INTRODUCED** at the Municipal Council meeting to be held on October 30, 2012, to amend the Official Plan to change the designation of the subject lands **FROM** a Low Density Residential designation **TO** a Multi Family Medium Density Residential designation, to permit apartment buildings with a maximum density of 75 units per hectare;*
- *the proposed by-law **BE INTRODUCED** at the Municipal Council meeting to be held on October 30, 2012, to amend Zoning By-law No. Z.-1, (in conformity with the Official Plan,*

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as amended in part a), above), to change the zoning of the subject property FROM Residential R2 (R2-2) Zone and a Residential R1 Special Provision /Residential R2 Special Provision (R1-1 (4)/R2-1 (7)) Zone, which permits single, semi, duplex and converted dwelling maximum two units with a 15m setback from the CN railway right-of-way **TO** a Holding Residential R9 Special Provision (h-h-5-h-18-h-65-R9-1 ()*H15) Zone, which permits apartment buildings with a maximum height of 15m, density of 75 units/ha, a minimum setback of 15m from the CN railway right-of-way, a 0.0m sight triangle setback from the point of intersection of the centre line of both the railway and the road, subject to holding provisions to ensure adequate provision of municipal servicing, noise and vibration mitigation measures, archaeological evaluation be completed and a development agreement, be entered into with the City, to the satisfaction of the Municipal Council and to ensure that urban design matters are addressed following public site plan review;

- a public participation meeting of the Planning and Environment Committee **BE HELD** for consideration of the site plan required for this development prior to the removal of the "h-5" symbol;
- the site plan approval authority **BE REQUESTED** to consider the following items through the site plan approval process:
 - provide landscaping which:
 - provides for the preservation of the existing mature vegetation along westerly and northerly property line for the purpose of providing a privacy buffer to abutting properties;
 - enhances street based landscaping along existing easterly berming;
 - defines the pedestrian realm, highlights the street edge and provides a prominent pedestrian entrance off of Westminster Avenue;
 - includes plant/tree species and landscaping techniques tolerant of minimal watering; and,
 - preserves the heritage tree currently existing on the property;
 - provide a building which:
 - clearly expresses a base, middle, and top (roof) on all elevations, predominantly using masonry materials;
 - uses variations in massing, materials, scaling and architectural features to identify the east façade and entrance as the front of the building and the south façade and entrance as a service egress;
 - location of 47 underground parking spaces;
 - location of the garbage storage be located within the building;
 - all lighting be oriented and its intensity controlled so as to prevent glare on adjacent residential properties and roadways;
 - addresses drainage issues on the property;
- a development agreement **BE ENTERED** into with the City of London prior to the removal of the "h" symbol;
- the proponent **BE DIRECTED** to carry out an archaeological resource assessment of the subject site and mitigate, through avoidance or documentation, adverse impacts to any significant archaeological resources found, to the satisfaction of the Ministry of Citizenship, Culture and Recreation, and the City of London, to ensure that lands are assessed for the presence of archaeological resources prior to development, prior to the removal of the h-18 symbol; it being noted that no grading or other soil disturbance shall take place on the subject property prior to the issuance of a letter of clearance by the City of London Planning Division; and,
- the owner **BE DIRECTED** to implement all noise and vibration attenuation measures, recommended in noise and vibration assessment reports, acceptable to the City of

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London, to ensure there are no land use conflicts between the adjacent arterial roads and/or rail line and the proposed residential uses, prior to the removal of the "h-65" symbol;

On December 3, 2012, an appeal was submitted by Robert and Carolann Seguin the owners of 4 Fairview Court, in opposition to Council's recommendation to adopt the requested Zoning By-law amendment. In the reason for the appeal of Council's decision, the appellant indicates:

- Insufficient surface water management planning for stormwater and existing water balance;
- No model for pre and post development predicted infiltration volumes;
- Effect of stormwater flows on Dayus Creek;
- Resolution of existing flows from site to Dayus Creek;
- Need for the completion of the Dayus Creek EA; and
- Medium Density is incongruent with abutting single detached dwellings.

Copies of the appeal from Robert and Carolann Seguin, and the reasons for the appeal, are attached as appendix "A" to this report. A date for the Ontario Municipal Board hearing has not yet been scheduled. Planning staff have reviewed the appeal letter and see no reason for Council to alter its decision relating to this matter.

PREPARED BY:	SUBMITTED BY:
C SMITH, COMMUNITY PLANNING AND DESIGN	JIM YANCHULA, MCIP, RPP MANAGER, COMMUNITY PLANNING AND DESIGN
RECOMMENDED BY:	
JOHN M. FLEMING, MCIP, RPP MANAGING DIRECTOR, PLANNING AND CITY PLANNER	

January 2, 2013

CS/

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APPENDIX "A"

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Environment and Land Tribunals Ontario
Ontario Municipal Board
655 Bay Street, Suite 1500 Toronto, Ontario M5G 1E5
TEL: (416) 212-6349 or Toll Free: 1-866-448-2248
FAX: (416) 326-5370
www.elt.o.gov.on.ca

**APPELLANT FORM (A1)
PLANNING ACT**

**SUBMIT COMPLETED FORM
TO MUNICIPALITY/APPROVAL AUTHORITY**

Date Stamp - Appeal Received by Municipality

RECEIVED

DEC 03 2012

Receipt Number (OMB Office Use Only)

Part 1: Appeal Type (Please check only one box)

SUBJECT OF APPEAL	TYPE OF APPEAL	PLANNING ACT REFERENCE (SECTION)
Minor Variance	<input type="checkbox"/> Appeal a decision	45(12)
Consent/Severance	<input type="checkbox"/> Appeal a decision	53(19)
	<input type="checkbox"/> Appeal conditions imposed	
	<input type="checkbox"/> Appeal changed conditions	53(27)
	<input type="checkbox"/> Failed to make a decision on the application within 90 days	53(14)
Zoning By-law or Zoning By-law Amendment	<input checked="" type="checkbox"/> Appeal the passing of a Zoning By-law	34(19)
	<input type="checkbox"/> Application for an amendment to the Zoning By-law – failed to make a decision on the application within 120 days	34(11)
	<input type="checkbox"/> Application for an amendment to the Zoning By-law – refused by the municipality	
Interim Control By-law	<input type="checkbox"/> Appeal the passing of an Interim Control By-law	38(4)
Official Plan or Official Plan Amendment	<input type="checkbox"/> Appeal a decision	17(24) or 17(36)
	<input type="checkbox"/> Failed to make a decision on the plan within 180 days	17(40)
	<input type="checkbox"/> Application for an amendment to the Official Plan – failed to make a decision on the application within 180 days	22(7)
	<input type="checkbox"/> Application for an amendment to the Official Plan – refused by the municipality	
Plan of Subdivision	<input type="checkbox"/> Appeal a decision	51(39)
	<input type="checkbox"/> Appeal conditions imposed	51(43) or 51(48)
	<input type="checkbox"/> Failed to make a decision on the application within 180 days	51(34)

Part 2: Location Information

Address and/or Legal Description of property subject to the appeal: 8 Fairview Court and 770 Whetter Avenue (see attached map) *Also indicates existing underground creek.*

Municipality/Upper tier: City of London

Part 3: Appellant Information

First Name: Robert and Carolann Last Name: Séguin
N/A

Company Name or Association Name (Association must be incorporated – include copy of letter of incorporation)

Professional Title (if applicable): MR. Robert Séguin PhD (candidate) Carolann Séguin Administrative Assistant (Retired)

E-mail Address: [REDACTED] National Defence
By providing an e-mail address you agree to receive communications from the OMB by e-mail.

Daytime Telephone #: [REDACTED] Alternate Telephone #: [REDACTED]

Fax #: N/A

Mailing Address: 4 Fairview Court London
Street Address Apt/Suite/Unit# City/Town
Ontario Canada N6C 2C6
Province Country (if not Canada) Postal Code

Signature of Appellant: Robert Séguin & Carolann Séguin Date: 03 December 2012
(Signature not required if the appeal is submitted by a law office.)

Please note: You must notify the Ontario Municipal Board of any change of address or telephone number in writing. Please quote your OMB Reference Number(s) after they have been assigned.

Personal information requested on this form is collected under the provisions of the *Planning Act*, R.S.O. 1990, c. P. 13, as amended, and the *Ontario Municipal Board Act*, R.S.O. 1990, c. O. 28 as amended. After an appeal is filed, all information relating to this appeal may become available to the public.

Part 4: Representative Information (if applicable)

I hereby authorize the named company and/or individual(s) to represent me:

First Name: _____ Last Name: _____

Company Name: _____

Professional Title: _____

E-mail Address: _____
By providing an e-mail address you agree to receive communications from the OMB by e-mail.

Daytime Telephone #: _____ Alternate Telephone #: _____

Fax #: _____

Mailing Address: _____
Street Address Apt/Suite/Unit# City/Town

Province Country (if not Canada) Postal Code

Signature of Appellant: _____ Date: _____

Please note: If you are representing the appellant and are NOT a solicitor, please confirm that you have written authorization, as required by the Board's Rules of Practice and Procedure, to act on behalf of the appellant. Please confirm this by checking the box below.

I certify that I have written authorization from the appellant to act as a representative with respect to this appeal on his or her behalf and I understand that I may be asked to produce this authorization at any time.

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Part 5: Language and Accessibility

Please choose preferred language: English French

We are committed to providing services as set out in the *Accessibility for Ontarians with Disabilities Act, 2005*. If you have any accessibility needs, please contact our Accessibility Coordinator as soon as possible.

Part 6: Appeal Specific Information

1. Provide specific information about what you are appealing. For example: Municipal File Number(s), By-law Number(s), Official Plan Number(s) or Subdivision Number(s):

(Please print) London City File # OZ-8055/Applicant 1841577 Ontario Inc. % Lisa Lansiuk
Amendment to Zoning By-law No. Z-1, Schedule A' of the Official Plan FROM Low Density Residential
TO Multi Family Medium Density Residential. This amendment was passed at the Municipal
Council Mtg on October 30, 2012. The address of the development site is 8 Fairview Court
and 770 Whetter Avenue. Plse see copy of Notice of Passing of A Zoning By-Law
of the Corporation of the City of London Z. = 1-122144

2. Outline the nature of your appeal and the reasons for your appeal. Be specific and provide land-use planning reasons (for example: the specific provisions, sections and/or policies of the Official Plan or By-law which are the subject of your appeal - if applicable). **If more space is required, please continue in Part 9 or attach a separate page.

(Please print) insufficient surface water management planning for storm water and existing water
balance. Specifically Section 6.4 SWM planning parameters and design criteria for:
6.4.2.1 water quality storage; 6.4.2.2 erosion control storage; 6.4.3 no or insufficient
hydrologic modeling specifically 6.4.3.1 Imperviousness > 75% of affected land.
continued

THE FOLLOWING SECTIONS (a&b) APPLY ONLY TO APPEALS OF ZONING BY-LAW AMENDMENTS UNDER SECTION 34(11) OF THE PLANNING ACT.

a) **DATE APPLICATION SUBMITTED TO MUNICIPALITY:** _____
(If application submitted before January 1, 2007 please use the O1 'pre-Bill 51' form.)

b) Provide a brief explanatory note regarding the proposal, which includes the existing zoning category, desired zoning category, the purpose of the desired zoning by-law change, and a description of the lands under appeal.
**If more space is required, please continue in Part 9 or attach a separate page.

Medium density residential with 17 small family homes some block, and insufficient surface
water management planning issues. Revert to low density for more appropriate development
8 Fairview Court and 770 Whetter Ave.

Part 7: Related Matters (if known)

Are there other appeals not yet filed with the Municipality? YES NO

Are there other planning matters related to this appeal? YES NO
(For example: A consent application connected to a variance application)

If yes, please provide OMB Reference Number(s) and/or Municipal File Number(s) in the box below:

(Please print)

Part 8: Scheduling Information

How many days do you estimate are needed for hearing this appeal? half day 1 day 2 days 3 days
 4 days 1 week More than 1 week – please specify number of days: uncertain

How many expert witnesses and other witnesses do you expect to have at the hearing providing evidence/testimony?
2

Describe expert witness(es)' area of expertise (For example: land use planner, architect, engineer, etc.):
Civil Engineers

Do you believe this matter would benefit from mediation? YES NO
(Mediation is generally scheduled only when all parties agree to participate)

Do you believe this matter would benefit from a prehearing conference? YES NO
(Prehearing conferences are generally not scheduled for variances or consents)

If yes, why? uncertain

Part 9: Other Applicable Information **Attach a separate page if more space is required.

continued - imperviousness of surface of building + parking lot, road > 75% breaches spirit and letter of surface water management guidelines. No sediment control or peak runoff control, → zoning bylaw city planning committee meeting 04/24 + 15/oct. near addressed water issues. → residents asked, not addressed or answered
- No model for pre-development + post development predicted infiltration volume from total rainfall volume that impervious structures will shunt immediately to Dayus Creek, without private perment storage and sedimentation control as proposed by. Municipal Class Environmental Assessment Study for Storm/Drainage and Stormwater Management Remediation + Servicing Works for Dayus Creek Drainage Area
- a drainage line for Dayus Creek runs through property - not addressed. ^{present} From Public Presentation 2/Nov. B. Haklander

Part 10: Required Fee

Total Fee Submitted: \$ 125.00 *- see reverse page.*

Payment Method: Certified cheque Money Order Solicitor's general or trust account cheque

- The payment must be in Canadian funds, payable to the Minister of Finance.
- Do not send cash.
- PLEASE ATTACH THE CERTIFIED CHEQUE/MONEY ORDER TO THE FRONT OF THIS FORM.

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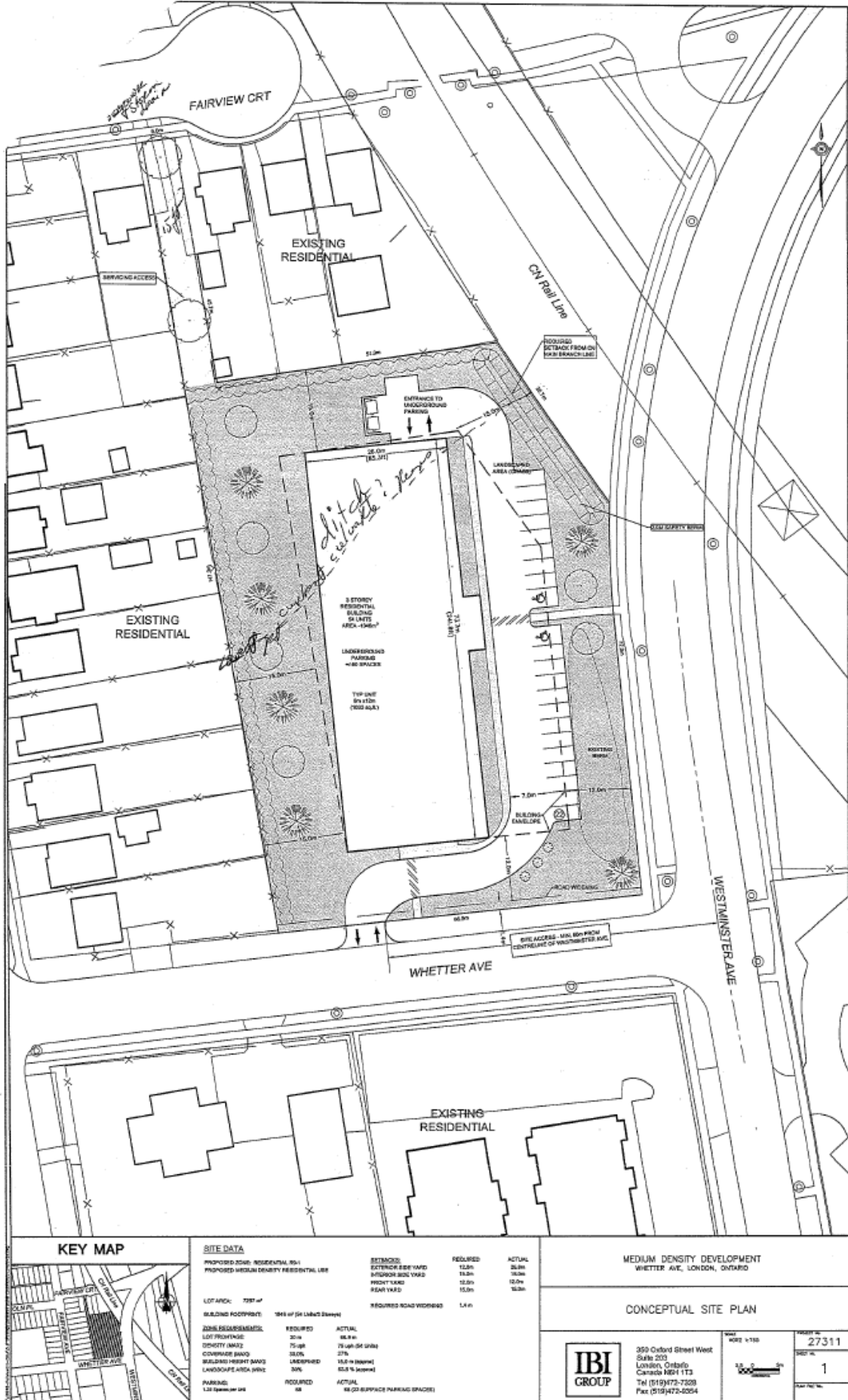
Desired outcome.

- ① overturn bylaw allowing Medium density, large property next to 17 single small family houses.
- ② - hold on development till site plan addresses water use continued. if not overturned bylaw.

~~Private Permanent Storage for sediment storage and peak flow restrictions into Daynes Creek as proposed in public meeting Nov 21/2012.~~

" Restrictions of flows to Daynes Creek Trunk Storm Sewer from development in northern areas and incorporation of best water management practices in northern areas of Daynes Creek Drainage area.

- existing berm that reverses water balance flow and returns any impervious run off to neighbors yards and basement needs remediation to prevent water balance before property development.
- inlet restriction, and on site storage of run off and quality control of development around Commission.
- without onsite storage water in first 2 hours of a storm immediately shunted to neighbors + storm sewage.



SITE DATA		ESTIMATED	REQUIRED	ACTUAL
PROPOSED ZONING: RESIDENTIAL M5-1		EXTERIOR SIDE YARD	12.0m	26.0m
PROPOSED MEDIUM DENSITY RESIDENTIAL USE		INTERIOR SIDE YARD	12.0m	10.0m
		FRONT YARD	12.0m	12.0m
		REAR YARD	15.0m	15.0m
LOT AREA: 7597 sq ft		REQUIRED ROAD WIDTH	14 m	
BUILDING FOOTPRINT: 1943 sq ft (26 Units @ 74 sq ft)				
ZONING REQUIREMENTS:	REQUIRED	ACTUAL		
LOT FRONTAGE:	20 m	68 m		
DENSITY (MAX):	75 UPG	75 UPG (54 UPG)		
COVERAGE (MAX):	33.0%	27%		
BUILDING HEIGHT (MAX):	UNRESTRIC	15.0 m (5 STORIES)		
LANDSCAPE AREA (REQ):	30%	82% (5 STORIES)		
PARKING: 1.22 Spaces per Unit	REQUIRED	ACTUAL		
	18	68 (22 SURFACE PARKING SPACES)		

MEDIUM DENSITY DEVELOPMENT
WHETTER AVE, LONDON, ONTARIO

CONCEPTUAL SITE PLAN

IBI GROUP

350 Oxford Street West
Suite 203
London, Ontario
Canada M6H 1T3
Tel: (519) 472-2328
Fax: (519) 472-8254

DATE: 1-13-10
PROJECT NO: 27311
SHEET NO: 1
PLAN TITLE: N/A



**Municipal Class Environmental Assessment (EA) Study
for Storm/Drainage and Stormwater Management Remediation
and Servicing Works For the Dayus Creek Drainage Area**
Public Meeting November 21, 2012

Information Bulletin

OVERVIEW

This urban subwatershed drains approximately 450 hectares of mostly developed land as shown below. The focus of this study will be to identify and evaluate the range of proposed storm/drainage and stormwater management (SWM) remediation and servicing works for the Dayus Creek Study Area.

STUDY PROCESS

The Dayus Creek subwatershed SWM and servicing works is subject to the requirements of the Ontario Environmental Assessment Act and is being conducted in accordance with Phases 1 and 2 of the Municipal Class Environmental Assessment (EA) process. These phases include Existing Conditions, Alternative Solutions, and Impact Assessment.



PROBLEM / OPPORTUNITY

Existing Condition

- Dayus Creek is a developed urban watershed with a complex drainage system
- This subwatershed has not been studied in a holistic manner prior to this Study
- There are vacant lands remaining in the subwatershed that may be developed in the future
- There are capacity constraints in the Dayus Creek Trunk Storm Sewer

Problem

- Without an understanding of the water resources system, impacts on the system as a whole cannot be identified
- Without a systems based approach to determining the required stormwater management controls, there may

be impacts on the water resource system beyond the properties that are developed

Opportunity

- A systems-based approach can identify solutions to relieve the existing capacity constraints in the system
- The performance of the major (overland) and minor (storm sewer) systems can be optimized

EXISTING ENVIRONMENTAL CONDITIONS

The existing environmental conditions were characterized to determine sensitivities and provide a baseline against which to assess the effects of each of the alternatives.

Social Conditions

- | | |
|--------------------------------------|----------------------------|
| • Official Plan Land Use Designation | • Archaeological Potential |
| • Zoning | • Closed Landfills |
| • Municipal Ownership | |

Ecological Conditions

- Westminster Ponds ESA and PSW
- Species at Risk

Physical Conditions

- | | |
|---------------------|-------------------|
| • Bedrock Geology | • Natural Hazards |
| • Surficial Geology | |

Technical Conditions

Upstream, Dayus Creek is an open and meandering stream which flows through a series of culverts

Dayus Creek collects overland flow, road runoff and storm sewer discharge

Downstream, the Creek flows into an older storm sewer system with limited capacity, which outlets into the Thames River.

FUTURE LAND USE CHANGES

Various constraints have been identified to help determine areas with future land use changes:

- Vacant Lands ✓
- Setbacks from Provincially Significant Wetlands
- Setbacks from Environmentally Significant Areas
- Zoning and Official Plan Designations

ALTERNATIVE SOLUTIONS

Various categories of alternatives were developed that met all of the following design criteria:

- No exceedance of storm sewer capacities (where capacities are not exceeded in existing conditions)
- No increase in peak flows to sewers (where capacities are already exceeded in existing conditions)
- No increase in major system flows where they drain through private property
- Provision of water quality (sediment) control for future development to meet requirements of the Thames River

Alternative 1: Maintain Status Quo

- No controls for future development
- No additional stormwater management quality or quantity controls provided

Alternative 2: Private Permanent Systems

- Upgrade of the Dayus Creek Trunk Storm Sewer
- Restriction of flows to Dayus Creek Trunk Storm Sewer from development in northern areas and incorporation of Best Management Practices in northern areas
- Inlet restrictions, on-site storage of runoff and quality control of development around Commissioners Road
- Inlet restrictions, on-site storage of runoff and quality control of development on the hospital lands

Alternative 3: Wet Ponds

- Upgrade of the Dayus Creek Trunk Storm Sewer
- Restriction of flows to Dayus Creek Trunk Storm Sewer from development in northern areas and incorporation of Best Management Practices in northern areas
- Inlet restrictions, on-site storage of runoff and quality control of development around Commissioners Road
- Two stormwater management wet ponds serving the entire hospital lands development area and providing inlet restriction, storage of runoff and quality control

EVALUATION CRITERIA

Five criteria groups were established to evaluate the Alternative Solutions.

- Planning
- Natural Environment
- Technical
- Economic
- Social/ Cultural

EVALUATION OF ALTERNATIVES

Each alternative was ranked on a scale of first to third place ranks. The ranking considered the order of preference

amongst the alternatives. Alternative 2 was selected as the Draft preferred alternative based on the following evaluation:

- Supports planning policy and objectives
- Meets all technical and natural environment requirements
- Flexible phasing opportunities
- Minimizes land requirements
- Economically feasible



NEXT STEPS

Following this meeting, the study team will review comments and address concerns or questions that were raised. The next steps in the study process are to:

- Confirm the preferred alternative solution ✓
- Prepare the Environmental Assessment report ✓
- Once the report has been accepted by the City, it will be posted for 30 days for review by the public and a Notice of Completion will be issued
- Part II order requests must be made within 30 calendar days following the Notice of Completion in writing to the Minister of the Environment or Delegate

Please fill out a comment sheet to provide us with your input.

Questions or Comments?	
Billy Haklander, P.Eng. Environmental Services Engineer tel: 519.661.2500 ext.5862 e-mail: bhakland@london.ca	Hiran Sandanayake, P.Eng. Senior Water Resources Engineer, Principal tel : 519.681.8771 ext. 5536 e-mail: h.sandanayake@delcan.com

