



BAROUDI
LAW

January 17, 2020 via email pec@london.ca

Planning and Environment Committee
City of London, City Clerk's Office
300 Dufferin Ave
London ON N6A 4L9

Re: 1300 Fanshawe Park Road Draft Plan of Subdivision File #39T-04512

I am the Lawyer for 700531 Ontario Limited. I am writing with respect to the extension of the above-noted Draft Plan of Subdivision for the development at 1300 Fanshawe Park Road to be considered by the Planning and Environment Committee at its meeting on January 20, 2020.

My Client has been working extensively with Staff to arrive at satisfactory conditions of draft plan approval. There are outstanding issues with respect to conditions 2, 59 and 60. The City's proposed conditions are found at Appendix A to the Report of Nancy Pasato.

Conditions 59 and 60 require my Client to provide road widening dedications on Fanshawe Park Road East and Highbury Avenue North measured 24.0m from centre line at the time of registration of the plan. There is no basis for the City to require these conditions.

This project first received draft plan approval on October 18, 2006. At that time, conditions 29 and 30 required the owner to dedicate sufficient land to widen Fanshawe Park Road East and Highbury Avenue North to 18.0m from the center line of the road allowance. Draft plan approval was extended for a six month period on October 9, 2009.

On April 16, 2010 draft plan approval was extended for a three year period. At that time, conditions 81 and 82 required the Owner to dedicate sufficient land to widen Fanshawe Park Road East and Highbury Avenue North to 18.0m from the centre line of the original road allowance, or consistent with the approved EA, whichever is greater.

The City requested that the Owner comply with conditions 81 and 82 in 2010 in advance of registration of the draft plan. The reason for this request was to facilitate the City's road widening construction contract for the intersection improvements at Highbury Avenue and Fanshawe Park Road. The Owner agreed to this request.

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The approved Environmental Assessment reflected an 18.3m right of way from the centre line of Fanshawe Park Road and an 18m right of way from the centerline of Highbury Avenue. These measurements were confirmed in a letter from David Ailles of the City of London on November 23, 2010.

The Transfer for the road widening was registered on June 17, 2011. The agreement also included a payment from the City to the Owner in the amount of \$5,000.00, which was paid in full.

In 2016 the Subdivision Agreement was registered, being ER1066071. Schedule D to that Agreement confirmed that the required road widening is “NIL”.

On February 15, 2017, draft plan approval was extended for another 3 year period, expiring on February 20, 2020. There were no conditions to this draft plan extension related to road widening. This the current draft plan that is in effect.

The Owner is now seeking another extension of draft plan approval. Proposed Conditions 59 and 60 require the Owner to provide an additional road widening dedication on Fanshawe Park Road East and Highbury Avenue North both measured 24.0m from centre line at the time of registration of the plan. The Owner has already dedicated land to the City for this purpose in satisfaction of previous conditions. Furthermore, there is no in-force policy basis for this request. There has been no additional Environmental Assessment completed that would justify this request.

Policy 19.6.3 of the 1989 Official Plan provides as follows:

*“If an applicant has requested an extension to draft plan of subdivision approval the Approval Authority, in considering this request, may apply new conditions or amend existing conditions of draft approval based no new or updated **policies, guidelines and community standards**”*
(emphasis added).

As per the wording of the policy, any new or amended conditions must be based on updated “policies, guidelines and community standards”. The policies of the London plan that are currently under appeal do not qualify as “updated policies”.

It is the City’s position that the Complete Streets Design Manual is both an “updated guideline” and “updated community standard” and can therefore trigger new or amended conditions as per Policy 19.6.3 of the 1989 of the 1989 Official Plan. Even if that is the case, the Complete Streets Design Manual is predicated on the London Plan and specifically the street classifications established by Map 3, which remain under appeal on a city-wide basis. The Manual cannot be

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implemented to the extent that it relies on and seeks to implement aspects of the London Plan that remain under appeal. In relying on the Manual as the basis for conditions 59 and 60, the City is attempting to do indirectly what it cannot do directly.

In short, it is the Owner's position that conditions 59 and 60 should be deleted for the following reasons:

1. The Owner has already provided a significant land dedication for road widening in satisfaction of previous conditions;
2. The most recent extension of draft plan approval did not contain requirements for additional road widenings;
3. There have been no additional Environmental Assessments since 2014 when the width was determined to be 18m for Highbury Ave and 18.3m for Fanshawe Park Road;
4. There have been no updated "policies, guidelines and community standards" that would provide authority for these new conditions under section 19.6.3 of the 1989 Official Plan.

With respect to Condition 2, my Client would like the City to consider extending draft plan approval for a five year timeframe instead of a three year timeframe, given the history in this matter and the fact that the Owner has been accommodating in the past with respect to road dedications.

I can confirm that the remainder of the proposed conditions are satisfactory to the Owner.

Yours Truly,
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