Report to Planning and Environment Committee

To: Chair and Members

Planning & Environment Committee

From: G. 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: February 3, 2020

Recommendation

That, on the recommendation of the Director, Development Services the following action be taken with respect to the application of Joe Marche and Monique Rodriguez relating to the property located at 6682 Fisher Lane, the proposed by-law <u>attached</u> hereto as Appendix "A" **BE INTRODUCED** at the Municipal Council meeting on February 11, 2020 to amend Zoning By-law No. Z.-1, in conformity with the Official Plan, by extending the Temporary Use (T-77) Zone for a period of time not exceeding two (2) years.

Executive Summary

Summary of Request

The requested amendment would permit the continued use of two single detached dwellings on an existing lot of record for a temporary period of two (2) years.

Purpose and the Effect of Recommended Action

The purpose and effect of the recommendation is to extend the existing Temporary (T-77) Zone to permit the use of the land for two single detached dwellings and allow for an increase in lot coverage for a temporary period of time not exceeding two (2) years.

Rationale of Recommended Action

- 1. The recommended amendment is consistent with the PPS 2014.
- 2. The recommended amendment conforms to the in-force policies of The London Plan and the 1989 Official Plan.
- 3. The recommended amendment facilitates the continued use of an existing lot of record for a use contemplated by the Zoning By-law.
- 4. The recommended temporary use will not continue on a permanent 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 two single detached dwellings and a 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.



Figure 1. Subject Site (dated October 11, 2019)

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 Special Provision/Temporary (AG2(26)/T-77) Zone, and Environmental Review (ER) Zone

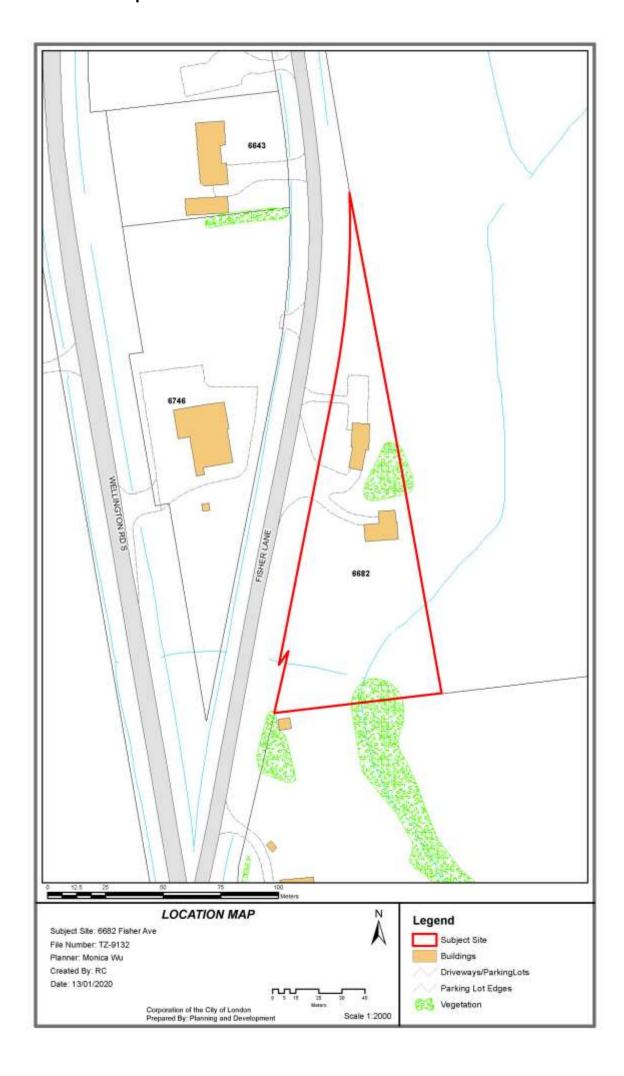
1.3 Site Characteristics

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

1.4 Surrounding Land Uses

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

1.6 Location Map



2.0 Description of Proposal

2.1 Development Proposal

No new development is being proposed as part of this amendment. The request is to temporarily permit the continued use of the lands for two (2) single detached dwellings while the new 1-storey single detached dwelling is under construction, and prior to the demolition of the existing 1-storey single detached dwelling, for an additional period of time not exceeding two (2) years. The applicant is requesting additional time for construction as a result of unforeseen damages incurred to the second dwelling.

3.0 Relevant Background

3.1 Planning History

The subject site was previously occupied by an existing single detached dwelling which was constructed in approximately 1890. On April 23, 2019, City Council adopted By-law No. Z.-1-192742 to rezone the subject site from an Agricultural AG (AG2) Zone and an Environmental Review (ER) Zone to an Agricultural Special Provision/Temporary (AG2(26)/T-77) Zone and Environmental Review (ER) Zone. The Temporary (T-77) Zone permits two (2) single detached dwellings on a portion of the lands located at 6672 Fisher Lane for a temporary period not exceeding six (6) months beginning April 23, 2019.

The owner is applying for an extension to the existing Temporary Use (T-77) Zone to allow for construction of the second detached dwelling prior to the demolition of the original detached dwelling existing on the subject site.

3.2 Requested Amendment

The requested amendment would permit the continued use of the property for two (2) single detached dwellings for two (2) years. Possible change to Zoning By-law Z.-1 **BY EXTENDING** the Temporary (T-77) Zone for an additional two (2) year period to permit the use of the lands for two (2) single detached dwellings.

3.3 Community Engagement (see more detail in Appendix B)

On November 13, 2019, Notice of Application was sent to all property owners within 120 metres of the subject site. No responses were received at the time this report was prepared. Notice of Application was published in The Londoner on November 14, 2019.

3.4 Policy Context (see more detail in Appendix C)

The subject site is currently located in the Agriculture and Open Space designations. The London Plan also identified 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 which 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, cultural heritage, and future development considerations with respect to the extension of the Temporary Use Zone, while maintaining the long-term use of the land, forms the basis for the recommendation. The long-term land use conflicts have been mitigated as there is no development proposed as part of this application, and the short-term temporary use may only be extended beyond two (2) years subject to Council approval.

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 permit 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 site is also located 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 traverses 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 as well as the Environmental and Parks Planning department 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.

Similar 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 8A.2.2, 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.

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 was one (1) response from the public in support of this application. The section below identifies key issues and considerations in detail.

4.1 Issue and Consideration # 1 – Extension of the Temporary Use By-law

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 and the context of the subject site, which in this instance includes the 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 extension of the existing use is consistent with the goals and intent of the PPS 2014 as it would permit the redevelopment of existing rural housing stock, is

appropriate for the existing infrastructure and service levels available to the site, and does not negatively impact the natural and cultural heritage resources on the subject site (1.1.3.2.) (1.1.5.2.). The Kettle Creek Conservation Authority (KCCA) has confirmed that there are no environmental issues associated with this amendment as no new development is proposed.

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 detached dwellings will not impact the character of the surrounding area, which is predominantly used for agricultural and residential uses, 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 site for a period of no more than two (2) years as the applicant may be granted a conditional occupancy permit which will require the existing dwelling to be demolished within three (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.

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 applicant has requested an extension of the Temporary Use (T-77) Zone to allow for additional construction time resulting from damages incurred to the second dwelling.

An extension to the temporary use by-law to facilitate this particular circumstance shall be limited to a period not exceeding two (2) years to reduce the potential long-term use of the temporary use, being two (2) single detached dwellings. Furthermore, occupancy of the proposed dwelling is conditional on the demolition of the existing dwelling within three (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 extension of the Temporary Use (T-77) Zone is to facilitate the unique situation of transporting and rebuilding an existing single detached dwelling from a site outside of the City while the property owner continues to live in the existing dwelling during construction. The applicant is requesting additional time as unforeseen damages were incurred to the second dwelling during the relocation process.

Residential uses are permitted on existing lots of record, including the subject site, and is permitted by the existing Agricultural Special Provision (AG2(26)) Zone. Impacts from any new or expanding non-agricultural uses on surrounding agricultural operations and lands are to be mitigated to the extent feasible. As such, it is recommended that the proposed extension of the temporary zone not exceed a period of two (2) years.

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

5.0 Conclusion

The requested amendment to change the zoning on the subject site to allow for the continuation of the temporary use of the lands being two (2) single detached dwellings for an additional two (2) years is consistent with the PPS 2014 and with The London Plan and the City of London 1989 Official Plan.

Prepared by: Monica Wu, Planner I, 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		
Planner I, Development Services Paul Yeoman, RPP, PLE Director, Development Services Submitted by: George Kotsifas, P.ENG Managing Director, Development and Compliance	Prepared by:	
Recommended by: Paul Yeoman, RPP, PLE Director, Development Services Submitted by: George Kotsifas, P.ENG Managing Director, Development and Compliance		•
Paul Yeoman, RPP, PLE Director, Development Services Submitted by: George Kotsifas, P.ENG Managing Director, Development and Compliance		Planner I, Development Services
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Submitted by: George Kotsifas, P.ENG Managing Director, Development and Compliance		Director, Development Services
Managing Director, Development and Compliance	Submitted by:	
		George Kotsifas, P.ENG
·		Managing Director, Development and Compliance
Note: The opinions contained herein are offered by a person or persons	Note: The opinions cont	tained herein are offered by a person or persons

qualified to provide expert opinion. Further detail with respect to qualifications

January 28, 2020

cc: Michael Tomazincic, Manager, Current Planning, Development Services

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can be obtained from Development Services.

Appendix A

Bill No.(number to be inserted by Clerk's Office) 2020

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

A by-law to amend By-law No. Z.-1 to rezone a portion of an area of land located at 6682 Fisher Lane.

WHEREAS Joe Marche and Monique Rodriguez have applied to extend the Temporary Use (T-77) Zone as it applies to a portion of the property located at 6682 Fisher Lane for a period not exceeding two (2) years as shown on the map <u>attached</u> as Schedule "A" to this by-law, as set out below;

AND WHEREAS the Municipal Council of the Corporation of the City of London, by By-law No. Z.-1-192742 approved the Temporary Use for 6682 Fisher Lane for a period not exceeding six (6) months beginning April 23, 2019;

AND WHEREAS the Municipal Council of the Corporation of the City of London deems it advisable to extend the Temporary Use for the said property for a period not exceeding two (2) years;

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. Section Number 50.2(77) of the Temporary (T) Zone is amended by adding the following subsection for a portion of lands known municipally as 6682 Fisher Lane:
 - 77) T-77 6682 Fisher Lane

This Temporary Use is hereby extended for an additional two (2) years beginning February 11, 2020.

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.

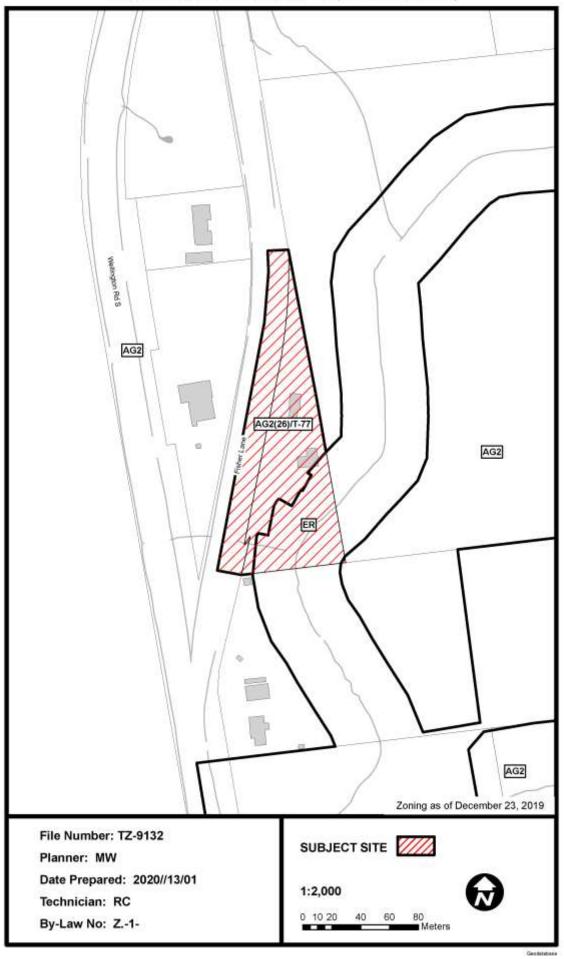
PASSED in Open Council on February 11, 2020.

Ed Holder Mayor

Catharine Saunders City Clerk

First Reading – February 11, 2020 Second Reading – February 11, 2020 Third Reading – February 11, 2020

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



Appendix B – Public Engagement

Community Engagement

Public liaison: On November 13, 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 November 14, 2019. A "Planning Application" sign was also posted on the site.

Nature of Liaison: The purpose and effect of this zoning change is to permit the continued use of two dwellings on the subject property. Possible change to Zoning Bylaw Z.-1 BY EXTENDING the Temporary (T-77) Zone for an additional two (2) year period to permit the use of the lands for two (2) single detached dwellings.

Responses: One (1) reply was received on January 21, 2020 from a neighbouring property owner in support of the application.

Responses to Public Liaison Letter and Publication in "The Londoner"

Telephone	Written
Emil Kellenberger	

Agency/Departmental Comments

Kettle Creek Conservation Authority

Staff of Kettle Creek Conservation Authority (KCCA) has reviewed the Notice of Planning Application, File No. TZ-9132 affecting 6682 Fisher Lane and based on our mandate and policies, we have no objection to its approval.

Development Services - Engineering

Engineering has no further comments for this re-zoning.

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, bylaws, 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

