

Report to Planning and Environment Committee

To: Chair and Members
Planning & Environment Committee

From: Gregg Barrett
Director, City Planning and City Planner

Subject: London Plan Appeals Update – Results of April 15, 2021 Local Planning Appeal Tribunal (LPAT) Decision

Date: May 10, 2021

Recommendation

That, on the recommendation of the Director, City Planning and City Planner, the following report **BE RECEIVED** for information.

Executive Summary

The London Plan was adopted by Municipal Council on June 23, 2016 and was approved by the Province on December 28, 2016. The Plan was appealed to the Local Planning Appeal Tribunal (“LPAT”). The LPAT ordered the issues of the city-wide general policy appeals be heard in four (4) phases of hearings. The hearing for phase one was held from September 23 to October 8, 2020.

The next scheduled hearings was set to begin on September 14, 2021 for four weeks. City Staff and the appellants have spent several months in discussions and settlement meetings to scope the issues in the second and third phases of the appeal. The results of the settlement discussions were brought to a Case Management Conference of the LPAT on April 15, 2021. All Phase 2 and Phase 3 hearing matters were resolved through the settlement process, so a hearing is no longer required for those issues. This report summarizes the results of the April 15, 2021 LPAT decision.

Linkage to the Corporate Strategic Plan

This report is consistent with the Strategic Plan, including the Strategic Area of Focus of “Building a Sustainable City”. Building a Sustainable City requires that “London’s growth and development is well planned and sustainable over the long term”, and that the City improves its resiliency to respond to potential future challenges, as well as directs future growth and intensification to strategic locations.

London Plan Status Update – April 15, 2021

1.0 Background

1.1 Background Leading to April 15, 2021 LPAT Decision

As noted in previous reports to Council, Staff have worked with appellants to scope the London Plan policies and issues that are under appeal before the Local Planning Appeal Tribunal (LPAT). On December 19, 2019 the LPAT provided an order that identified the issues of the general policy appeals. Hearings of issues were to be phased as follows:

- Phase 1A: Growth Management and Implementation;
- Phase 1B: Intensity, Bonusing, and High Density Residential Overlay;
- Phase 2: Natural Heritage; and
- Phase 3: Design and Mobility.

The Phase 1 hearing occurred from September 23 to October 8, 2020. That hearing block addressed all Phase 1A matters and certain Phase 1B matters, as some of the issues related to bonus zoning were deferred to a future hearing due to recent

legislation changes. A report to Planning and Environment Committee on November 30, 2020 identified the results of that hearing, including policies and portions of maps that were brought into force.

Since last reporting to Council, Staff and appellants have continued to scope the issues under appeal. Staff and appellants worked extensively to seek settlement on appeals of Phase 2 (Natural Heritage) and Phase 3 (Design and Mobility) issues. This process included extensive review of alternative policy language and mapping proposed by the appellants, followed by four weeks of settlement meetings that began in January 2021. Planners, lawyers, ecologists, urban designers, and transportation engineers representing both parties reviewed alternative language and attended settlement meetings. The result of the resolution exercise was a series of recommended resolutions for consideration by the parties.

A partial approval motion was initiated by City Staff, on consent of the parties, for approval by the LPAT. The motion included the recommended alternative policy language and map modifications agreed to by the parties. The motion was reflective of the City and appellants' collaborative approach towards the settlement process. It also identified that the intent of the proposed alternative language is to clarify policy intent, align policies with provincial legislation and regulations, and ensure accurate mapping.

On April 15, 2021 a Case Management Conference of the LPAT was held. The LPAT issued an oral decision which approved the motion, including the alternative language and map changes for Phase 2 and 3 issues.

The result of the April 15, 2021 LPAT decision is that Phase 2 (Natural Heritage and Environmental policies) and Phase 3 (Mobility and City Building and Design policies) are completely resolved on a City-wide basis, with the exception of site-specific appeals.

The sections below summarize the London Plan changes that are now in force, as well as what remains under appeal, and next steps in the London Plan appeals process. A list of the policy and mapping changes resulting from the April 15, 2021 LPAT decision is attached to this report as Appendix 'A'. A copy of Map 1 (Place Types) is attached as Appendix 'B', and a copy of Map 5 (Natural Heritage) is attached as Appendix 'C'.

2.0 Policies Now in Force and Remaining Under Appeal

2.1 Policies that are now approved and in force

As noted above, the April 15, 2021 decision resolved the entirety of Phases 2 and 3 of hearings as well as bringing certain maps and portions of maps into force. In doing so, significant sections of the London Plan were brought into force by the decision. Such sections include:

- Character policies for new neighbourhoods;
- Street Network and conditions for configuration of street blocks in grid (or modified grid) patterns for new neighbourhoods;
- Parking policies for large developments and surface parking, including bicycle parking and relationship to site layout;
- Building design and materials policies;
- Active mobility policies and sidewalk requirements;
- Streets policies and public realm design features based on street classification, consistent with the principles of Complete Streets;
- Right-of-way widths, conditions for road widenings, and associated land acquisitions for the mobility network and mobility infrastructure;
- Urban Forest policies, consistent with the Urban Forest Strategy;
- The components of the Natural Heritage System (features and areas);

- Evaluation criteria and identification requirements for component features of the Natural Heritage System, such as Significant Woodlands, Woodlands, Significant Valleylands and Valleylands;
- Mitigation of impacts, compensation approaches and conditions for potential relocation of certain wetland features;
- Identification and location of Upland Corridors;
- Ecological buffers and “trigger distances” within which Environmental Study may be required;

As a result of this recent decision and previous LPAT decisions regarding the London Plan, over 97% of London Plan policies are now in force.

2.2 Policies that remain under appeal

Certain Parts of the London Plan continue to have one or more policies that remain under general appeal. Those appeals can be categorized as relating to:

- A Place Type’s Use, Height and/or Intensity policies (or associated Tables);
- Bonus Zoning policies;
- High Density Residential (HDR) Overlay (from the 1989 Official Plan) and Map 2; and/or
- Specific Area Policies within a Place Type.

The above list of height, intensity, HDR Overlay, and bonusing policies were deferred from the Phase 1B hearings held in September and October 2020. These matters were deferred because of changes to Provincial legislation associated with *Planning Act* section 37 and “Bonus Zoning”. The *More Homes, More Choice Act, 2019*, eliminated the *Planning Act* provisions that permitted Bonus Zoning (transition policies include a sunset date of September 2022 for the use of Bonus Zoning). Bonus Zoning is an increase in the height or density of development in exchange for public benefits known as “facilities, services or matters”. Since the London Plan includes a framework of heights that is related to Bonus Zoning, a London Plan Amendment will be required to address the change in legislation.

In addition to these general policy appeals, there also continue to be site-specific appeals over certain policies as they apply to a specific property or area.

2.3 Maps: Partial and Full Approval

Consistent with the policies that are now approved and the matters that remain under general policy appeals, the April 15, 2021 decision by the LPAT included partial and full approval of certain London Plan maps. The LPAT decision included partial approval of Map 1 (Place Types), and full approval of Map 5 (Natural Heritage), excepting site-specific appeals. Appeals over Map 4 (Active Mobility Network) and Map 6 (Hazards and Natural Resources) were withdrawn by the appellants, so Map 4 and Map 6 are in force in their entirety.

Map 1 is shown in Appendix ‘B’ to this report. The portions of Map 1 (Place Types) that are in force and force as of April 15, 2021 are:

- Green Space Place Type;
- Environmental Review Place Type;
- Farmland Place Type;
- Rural Neighbourhoods Place Type;
- Future Community Growth Place Type;
- Future Industrial Growth Place Type;
- Light Industrial Place Type;
- Heavy Industrial Place Type;
- Commercial Industrial Place Type;
- Institutional Place Type;
- Downtown Place Type;

- Rapid Transit Corridor Place Type;
- Transit Village Place Type;
- Certain portions of the Urban Corridor Place Type (e.g. in Old East Village and Richmond Street north of University Drive);
- Certain sites within the Neighbourhoods Place Type (e.g. where a recent decision was made by the LPAT).

Note that appeals of specific area policies or site-specific appeals may remain within any of these Place Types and property-specific inquiries should be verified with Staff.

Map 5 was also brought into force through the April 15, 2021 decision, notwithstanding certain properties or areas where a site-specific issue remains. Changes to certain natural heritage features or locations of features on Map 5 were a result of a detailed mapping review that was undertaken as part of the settlement discussion process. Map 1 was modified in certain locations to correspond to the changes to the natural heritage features or locations of features shown on Map 5.

Conclusion and Next Steps

On April 15, 2021, the Local Planning Appeal Tribunal approved a motion filed by the City's Legal Services. This motion identified that the appellants and City had undertaken several months of extensive settlement meetings, and as a result agreed to the settlement of all Phase 2 and Phase 3 appealed matters. Some London Plan policies were settled with changes to policy language or maps, and others with the original London Plan wording or mapping. Modifications intend to clarify policy intent, align with provincial legislation, and ensure accuracy of mapping.

This approval of Phase 2 and Phase 3 matters brings into force London Plan policies regarding: city design, building design, site layout, active mobility and sidewalks, street networks and blocks for new neighbourhoods, environmental policies, components of the Natural Heritage System, evaluation criteria for some Natural Heritage System components, mapping of those features and areas, and ecological buffering around features. Maps 1 and 5 received partial approval and Maps 4 and 6 were approved in their entirety. Over 97% of London Plan policies are now in force.

Consistent with the April 15, 2021 LPAT decision, Staff are preparing a consolidated version of the London Plan. This updated version of the London Plan will be published on the City's website shortly.

City Staff and appellants will continue to work to scope and explore potential resolution of the remaining general policy appeals and site-specific appeals. These remaining appeals relate to issues with land use, intensity, height, Bonus Zoning, High Density Residential Overlay, and/or specific area policies. The Local Planning Appeal Tribunal has scheduled its next Case Management Conference in October 2021, at which time it will consider any procedural matters or further modifications proposed by the parties.

Prepared by:	Travis Macbeth, MCIP, RPP, Senior Planner, Planning Policy
Submitted by:	Justin Adema, MCIP, RPP, Manager, Planning Policy
Concurred by:	Aynsley Anderson, Solicitor II, City Solicitor's Office
Recommended by:	Gregg Barrett, AICP, Director, City Planning and City Planner