

Report to Planning and Environment Committee

To: Chair and Members
Planning & Environment Committee

From: George Kotsifas, P. Eng.
Deputy City Manager, Planning and Economic Development

Subject: Application by Kape Developments Ltd.
2258 to 2334 Wickerson Road
Removal of Holding Provision

Date: May 10, 2021

Recommendation

That, on the recommendation of the Director, Development Services, based on the application by Kape Developments Ltd., relating to lands located at 2258 to 2334 Wickerson Road, legally described as Lots 4 to 11 Plan 33M-713 and Lots 1 to 12 Plan 33M-714, the proposed by-law attached hereto as Appendix "A" **BE INTRODUCED** at the Municipal Council meeting to be held on May 25, 2021 to amend Zoning By-law No. Z.-1, in conformity with the Official Plan, to change the zoning of the subject lands **FROM** a Holding Residential R1 Special Provision (h-37•R1-3(7)) Zone **TO** a Residential R1 Special Provision (R1-3(7)) Zone, and **FROM** Holding Residential R1 (h-37•R1-4) Zone **TO** a Residential R1 (R1-4) Zone to remove the h-37 holding provision.

Executive Summary

Purpose and the Effect of Recommended Action

The purpose and effect of this zoning change is to remove the h-37 holding symbol to permit the development of twenty (20) single detached dwelling lots within a registered plan of subdivision.

Rationale of Recommended Action

1. The conditions for removing the holding (h-37) provision have been met and the recommended amendment will allow development of single detached dwellings in compliance with the Zoning By-law.
2. The recommended amendment is consistent with the Minimum Distance Separation (MDS) Document guidelines. MDS1 setbacks are not required for proposed land use changes within approved settlement areas.
3. The subject lots are part of a registered plan of subdivision within the City's Urban Growth Boundary, on lands that have been designated over the long term for future residential development.

Linkage to the Corporate Strategic Plan

Building a Sustainable City – London's growth and development is well planned and sustainable over the long term.

Analysis

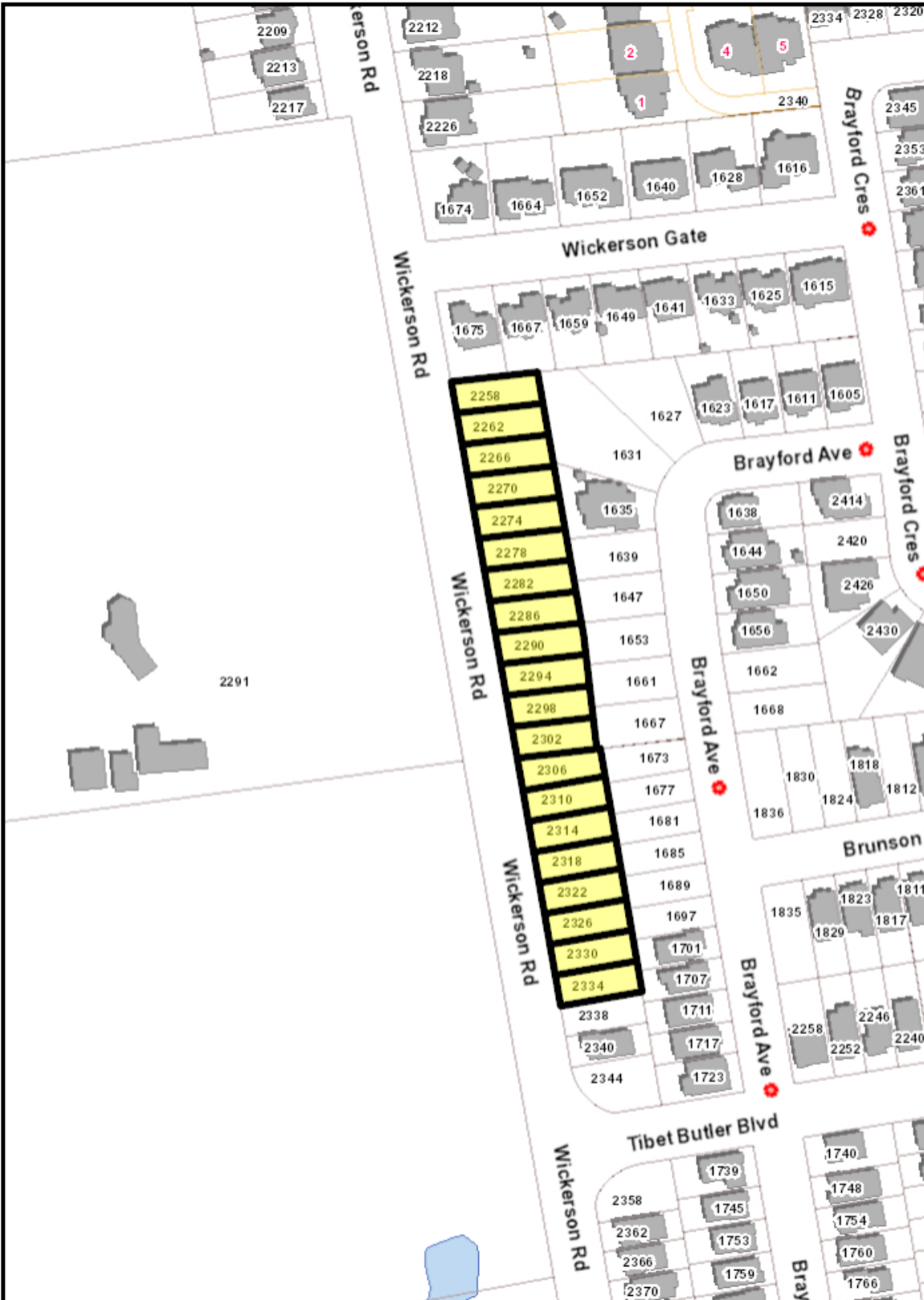
1.0 Background Information

1.1 Previous Reports Related to this Matter

October 23, 2017 – Report to Planning and Environment Committee – 1635 Brayford Avenue – Application for Removal of Holding Provision – Nicola Vecchio (File No. H-8832).

2.0 Discussion and Considerations

2.1 Location Map



Location Map

Project Title: H-9337
 Description: 2258 - 2334 Wickerson Road
 Created By: Larry Mottram
 Date: 4/11/2021
 Scale: 1:2000

Legend

- Subject Site
- Parks
- Assessment Parcels
- Buildings
- 123 Address Numbers



2.2 Description of Proposal

This proposal is for consideration of a request to remove the holding provision from Lots 4 to 11 Plan 33M-713 and Lots 1 to 12 Plan 33M-714 to permit development of single detached dwellings.

2.3 Planning History

The lots on Wickerson Road were created from adjoining plans of subdivision on two adjacent parcels of land that were draft approved in October 2002 (Kape Developments Ltd. – File No. 39T-00519) and June 2004 (911578 Ontario Ltd. (Mike Meddaoui)) – File No. 39T-03508). Both plans were subsequently granted final approval and registered on the May 1, 2017.

At the time draft approval was issued there was an empty livestock facility existing on lands located at 2291 Wickerson Road, to the west of the subject parcels. A holding (h-37) provision was applied to the zoning over the lots within the westerly portion of the draft plan to recognize the presence of the facility and to implement the Provincial Minimum Distance Separation (MDS1) setback requirements that were in effect at that time. The intent of the holding provision was to preclude sensitive land uses from being constructed until the adjacent livestock facility located at 2291 Wickerson Road ceased to exist.

The City's Urban Growth Boundary (UGB) corresponds with Wickerson Road in this area. Lands to the west of the UGB are designated "Agriculture", and lands to the east were designated for "Urban Reserve – Community Growth" and then redesignated to "Low Density Residential" in conjunction with the application for approval of draft plan of subdivision. The application of a holding provision was consistent with City's Official Plan policies under Section 9.2.10, where livestock operations existing within the "Agriculture" designation shall be protected from encroachment of new development within the "Urban Reserve" designations through the application of the MDS1 requirements. However, under the policy, a limited amount of development could be permitted, such as municipal infrastructure that did not allow for passive/active recreation uses; and draft approved plans of subdivision or condominium only where a holding zone or draft plan conditions requiring phasing were applied to preclude development until such time as the subject livestock facility is removed.

In 2017 the Ministry of Agriculture, Food and Rural Affairs (OMAFRA) released a new Minimum Distance Separation (MDS) Document which applies to all Planning Act applications submitted on or after March 1, 2017. The new MDS guidelines are clear as to the non-application of MDS within approved settlement areas that includes lands which have been designated in an Official Plan for development over the long-term planning horizon. Whereas the previous MDS Implementation Guidelines gave municipalities the option to apply MDS1 from livestock facilities within a settlement area designation, the new MDS document replaces all previous versions of the MDS Formulae and Implementation Guidelines.

The London Plan policies regarding Minimum Distance Separation are consistent with the Minimum Distance Separation (MDS) Document requirements in that MDS1 will apply only to proposed planning and development applications for lands outside of the UGB, and any proposals to expand the UGB.

2.4 Community Engagement (see more detail in Appendix B)

There was one response received to the Notice of Application.

3.0 Financial Impact/Considerations

Through the completion of the works associated with this application fees, development charges and taxes will be collected. There are no direct financial expenditures associated with this application.

4.0 Key Issues and Conclusions

4.1 Have the conditions for removal of the holding (h-37) provision been met?

The purpose of the holding (“h-37”) provision in the Zoning By-law is as follows:

Purpose: To implement the Provincial Minimum Distance Separation (MDS) regulations the "h-37" holding provision will not be deleted until the existing livestock facility has been removed or, through removal of building infrastructure, is no longer capable of housing livestock.

Permitted Interim Use: Existing uses

The property at 2291 Wickerson Road consists of a single detached dwelling and accessory buildings consisting of two drive sheds and a barn. The barn being a one storey structure with metal clad siding approximately 325 square metres (3,500 sq.ft.) in area which has not housed livestock in many years. In 2002, Municipal Council adopted the Zoning By-law Amendment with the h-37 holding provision to apply to the subject lots on the east side of Wickerson Road and lots on Brayford Avenue. According to the Council Resolution, the owner of the property at 2291 Wickerson Road at the time (Bill Young) indicated that he had suspended farming operations on the property temporarily but intended to resume farming activities in the future. The City's property data base indicates that ownership has changed several times over the years, and during that time there have been no signs of livestock being housed on the property. The applicant's agent advises that all internal equipment has been removed rendering the building incapable of housing livestock.

The Minimum Distance Separation (MDS) Formulae and Guidelines for Livestock Facility and Anaerobic Digester Odour Setbacks released by OMAFRA in 2017 provide direction with respect to the application of MDS, and for what and when an MDS setback is required. Guideline #36 addresses the non-application of MDS within approved settlement areas as follows:

#36. Non-Application of MDS Within Settlement Areas

MDS1 setbacks are NOT required for proposed land use changes (e.g., consents, rezonings, redesignations, etc.) within approved settlement areas, as it is generally understood that the long-term use of the land is intended to be for non-agricultural purposes.

MDS1 under *The London Plan* applies only to lands outside of the Urban Growth Boundary, and to any proposals to expand the Urban Growth Boundary. The London Plan policy reads as follows:

1773_ Any proposed planning and development applications for lands outside of the Urban Growth Boundary, and any proposals to expand the Urban Growth Boundary, shall meet the required odour setbacks in accordance with the provincial Minimum Distance Separation (MDS1) Implementation Guidelines and Formulae, as amended by the Province from time to time.

It is noted that the subject lots are part of a plan of subdivision within the City's Urban Growth Boundary, on lands that have been designated over the long term for future residential development in conformity with the Official Plan and Zoning By-law, and therefore meets the definition of “settlement areas” as defined in the Minimum Distance

Separation (MDS) Document and Provincial Policy Statement, 2020.

The attached letter of objection received from the owners of the property at 2291 Wickerson Road includes a request for inclusion of the front portion of their property within the Urban Growth Boundary. The requested boundary adjustment would mirror the lot depth of homes that have been developed along the west side of Wickerson Road immediately to the north of their property boundary. The owner's letter argues that a site-specific boundary adjustment in this case is warranted and that creating residential lots on both sides of Wickerson Road would establish a compatible land use frontage and represents a logical continuation of the existing low density residential built fabric. Regardless of the reasons stated in their letter, the appropriate channel for considering requests by property owners for inclusion of their lands within the Urban Growth Boundary is through The London Plan comprehensive review process. Therefore, staff would advise that this request be directed through that channel consistent with the City Structure Plan policies with respect to the Urban Growth Boundary, and specifically Policy 73 which states:

73_ During every comprehensive review of this Plan, which will be conducted consistent with the Provincial Policy Statement, the need for expansion of the Urban Growth Boundary will be evaluated to ensure there is sufficient land available, through intensification, redevelopment, and on vacant lands, to accommodate an appropriate range and mix of employment opportunities, housing, and other land uses to meet projected needs and to satisfy market demands for up to 20 years.

Conclusion

In the opinion of Staff, the holding zone requirements have been satisfied and it is appropriate to proceed to lift the holding symbol from the zoning map.

Prepared by: Larry Mottram, MCIP, RPP
Senior Planner, Development Services

Recommended by: Paul Yeoman, RPP, PLE
Director, Development Services

Submitted by: George Kotsifas, P. Eng.
Deputy City Manager, Planning and Economic
Development

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)
Bruce Page, Manager, Development Planning
Peter Kavcic, Manager, Development Engineering

May 3, 2021
GK/PY/LM/lm

Appendix A

Bill No. (Number to be inserted by
Clerk's Office)
2021

By-law No. Z.-1-_____

A by-law to amend By-law No. Z.-1 to
remove holding provisions from the
zoning for lands located at 2258 to 2334
Wickerson Road, legally described as
Lots 4 to 11 Plan 33M-713 and Lots 1 to
12 Plan 33M-714.

WHEREAS Kape Developments Ltd. has applied to remove the holding provision from the zoning on lands located at 2258 to 2334 Wickerson Road, legally described as Lots 4 to 11 Plan 33M-713 and Lots 1 to 12 Plan 33M-714, as shown on the map attached to this by-law, as set out below;

AND WHEREAS it is deemed appropriate to remove the holding provisions 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 lands located at 2258 to 2334 Wickerson Road, legally described as Lots 4 to 11 Plan 33M-713 and Lots 1 to 12 Plan 33M-714, as shown on the attached map, to remove the h-37 holding provision so that the zoning of the lands as a Residential R1 Special Provision (R1-3(7)) Zone and a Residential R1 (R1-4) Zone comes into effect.
2. This By-law shall come into force and effect on the date of passage.

PASSED in Open Council on May 25, 2021.

Ed Holder
Mayor

Catharine Saunders
City Clerk

First Reading – May 25, 2021
Second Reading – May 25, 2021
Third Reading – May 25, 2021

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



File Number: H-9337

Planner: LM

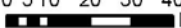
Date Prepared: 2021/04/21

Technician: rc

By-Law No: Z.-1-

SUBJECT SITE 

1:1,500

0 5 10 20 30 40
 Meters



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 April 22, 2021.

Responses: 1 reply

Nature of Liaison: 2258 - 2334 Wickerson Road; Lots 4 to 11 Plan 33M-713 and Lots 1 to 12 Plan 33M-714 – City Council intends to consider removing the Holding (“h-37”) Provision from the zoning of the subject lands. The purpose and effect is to allow development of the lands for residential uses permitted under the Residential R1 Special Provision (R1-3(7)) Zone and Residential R1 (R1-4) Zone. The purpose of the “h-37” provision is to implement the Provincial Minimum Distance Separation (MDS) regulations the “h-37” holding provision will not be deleted until the existing livestock facility has been removed or, through removal of building infrastructure, is no longer capable of housing livestock. Permitted Interim Use: Existing Uses. Council will consider removing the holding provision as it applies to these lands no earlier than May 25, 2021.

Response to Notice of Application and Publication in “The Londoner”

Telephone:
None

Written:
2090864 Ontario Inc.
2291 Wickerson Road

Significant Agency/Departmental Comments:

None

Dated: April 19, 2021

City of London
Development Services
300 Dufferin Avenue, 6th Floor
London ON PO BOX 5035
N6A 4L9

Attention: Mr. Larry Mottram
Planner

Hi Mr. Mottram:

**Subject: Letter of Objection. Your File: H-9337 Notice of Application
2258-2334 Wickerson Road - Kape Developments Ltd.**

Please consider this communication as our objection to the proposed "Possible change to Zoning By-law Z.-1 by deleting the Holding (h-37) Provision from the subject lands to allow development of single detached dwellings permitted under the Residential R1 Special Provision (R1-3(7)) Zone and Residential R1 (R1-4) Zone".

We are the property owners of 2291 Wickerson Road (2090864 Ontario Inc.). Our property is zoned to permit its current land use, which allows the housing of livestock operations, until it is included in the Urban Growth Boundary (UGB) (i.e., this has been a longstanding condition, as part of the initial approval of the original plan of subdivision). Our property is directly opposite the subject application (i.e., the west side of Wickerson Road). As a result, we recommend that the City of London not take any action towards the deletion or relaxation of the MDS requirements, contrary to the Provincially recommended guidelines to allow residential development, which will adversely affect the currently allowed land use on our property.

We are however willing to consider the potential removal of the Holding (h-37) Provision from our property, should there be a City Council commitment to concurrently include our full frontage within the UGB, as a site specific (minor) boundary adjustment, by-way-of an area specific Official Plan Amendment application. Moreover, our unique (special case) inclusion within the UGB would mirror the scope and depth of the then also special case UGB adjusted and now developed low-density residential building lots, along the same side (frontage) of Wickerson Road, note attached aerial map.

We are not against the Applicant seeking their desired approval, per se. However, there should be regard made to our request to be adopted, as outlined above. Furthermore, the removal of the Holding (h-37) Provision, which appears solely on Applicant's property, directly impacts us because it would cease to maintain a true and effective separation distance. Above all, we would lose our position to have our property included in the UGB. On the other hand, if the intent is to remove the Minimum Distance Separation (MDS) entirely, we are strongly objecting to that undertaking, without our property being part of a minor UGB inclusion.

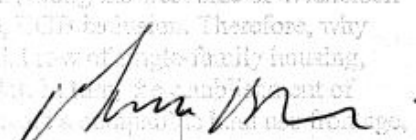
From a land use planning perspective, our requested condition for the potential removal of the holding provision is that our property's northerly boundary directly abuts the southerly limit of the existing row of single-family homes; thus, our property is both ideally and strategically positioned to warrant a minor southerly UGB extension, which would both mirror and/or establish a logical continuation of the existing low-density residential built fabric. It should be noted that the original row of now established housing lots, along the west side of Wickerson Road, were originally approved as a separate special case, UGB inclusion. Therefore, why should there be any argument against completing this initial row of single-family housing, southward to the development barrier, which is the woodlot. In turn, the establishment of residential lots on both sides of Wickerson Road would create a compatible land use frontage, which could not be replicated as a UGB inclusion request along any other roadways across the City. It should also be noted that the immediately abutting southerly lands (along this same frontage) face development constraints because they possess a sizable woodlot and grade change, should one choose to request a further UGB extension. Lastly, the subject UGB extension request would result in the balance of our overall 20-acre land area remaining outside of the UGB and cease possessing any MDS separation (setback) condition, given that we intend to utilize our existing barn for storage; thus cease its use for livestock purposes.

Sincerely,

From a land use planning perspective, our requested condition for the potential removal of the holding provision is that our property's northerly boundary directly abuts the southerly limit of the existing row of single-family homes; thus, our property is both ideally and strategically positioned to warrant a minor southerly UGB extension, which would both mirror and/or establish a logical continuation of the existing low-density residential built fabric. It should be noted that the original row of now established housing lots, along the west side of Wickerson Road, were originally approved as a separate special case, UGB inclusion. Therefore, why should there be any argument against completing this initial row of single-family housing, southward to the development barrier, which is the woodlot. In turn, the establishment of residential lots on both sides of Wickerson Road would create a compatible land use frontage, which could not be replicated as a UGB inclusion request along any other roadways across the City. It should also be noted that the immediately abutting southerly lands (along this same frontage) face development constraints because they possess a sizable woodlot and grade change, should one choose to request a further UGB extension. Lastly, the subject UGB extension request would result in the balance of our overall 20-acre land area remaining outside of the UGB and cease possessing any MDS separation (setback) condition, given that we intend to utilize our existing barn for storage; thus cease its use for livestock purposes.

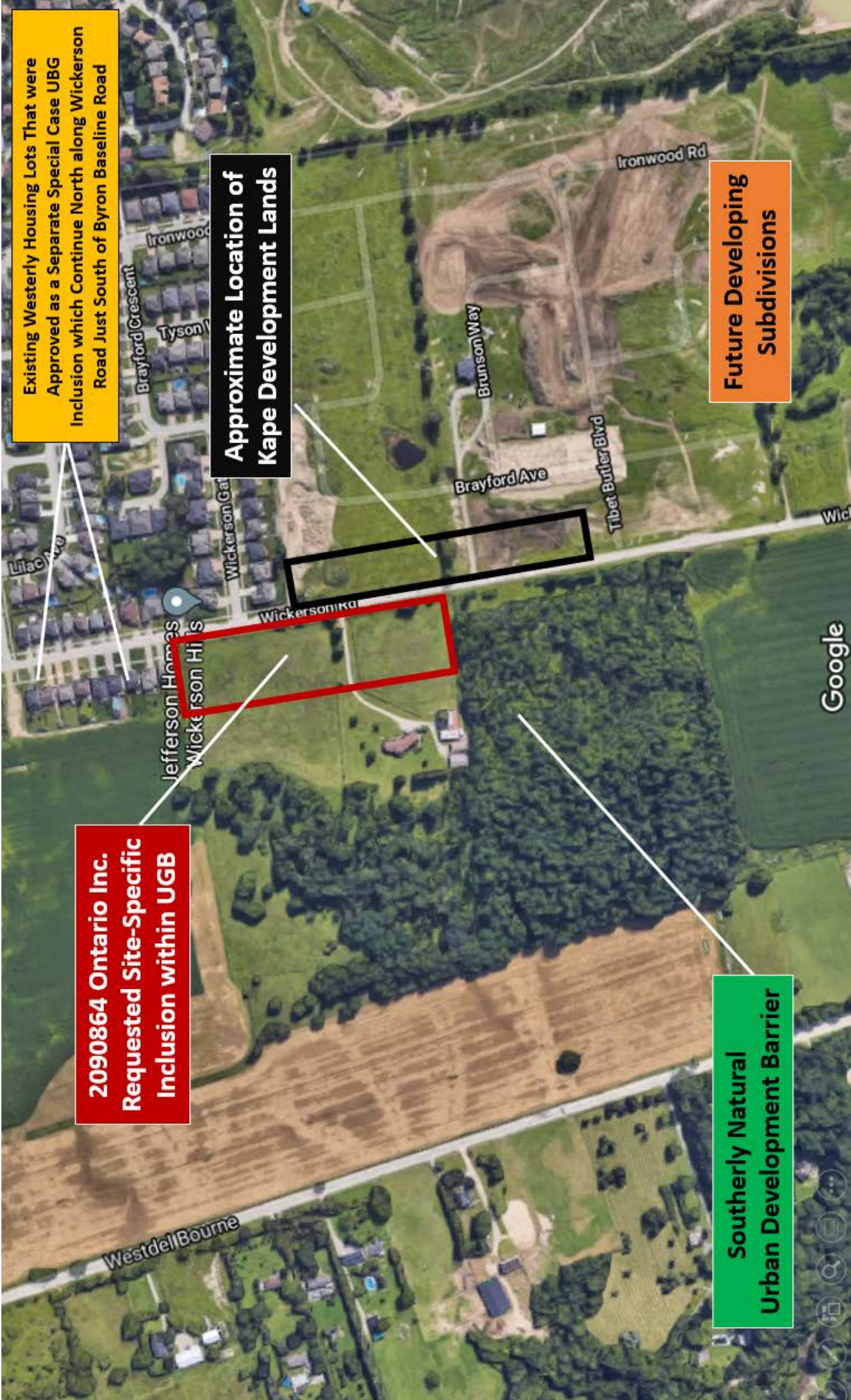
Fernando Di Cola

Marcello Di Marcelli



**President
2090864 Ontario Inc.**

**Secretary Treasurer
2090864 Ontario Inc.**



Existing Westerly Housing Lots That were Approved as a Separate Special Case UBG Inclusion which Continue North along Wickerson Road Just South of Byron Baseline Road

Approximate Location of Kape Development Lands

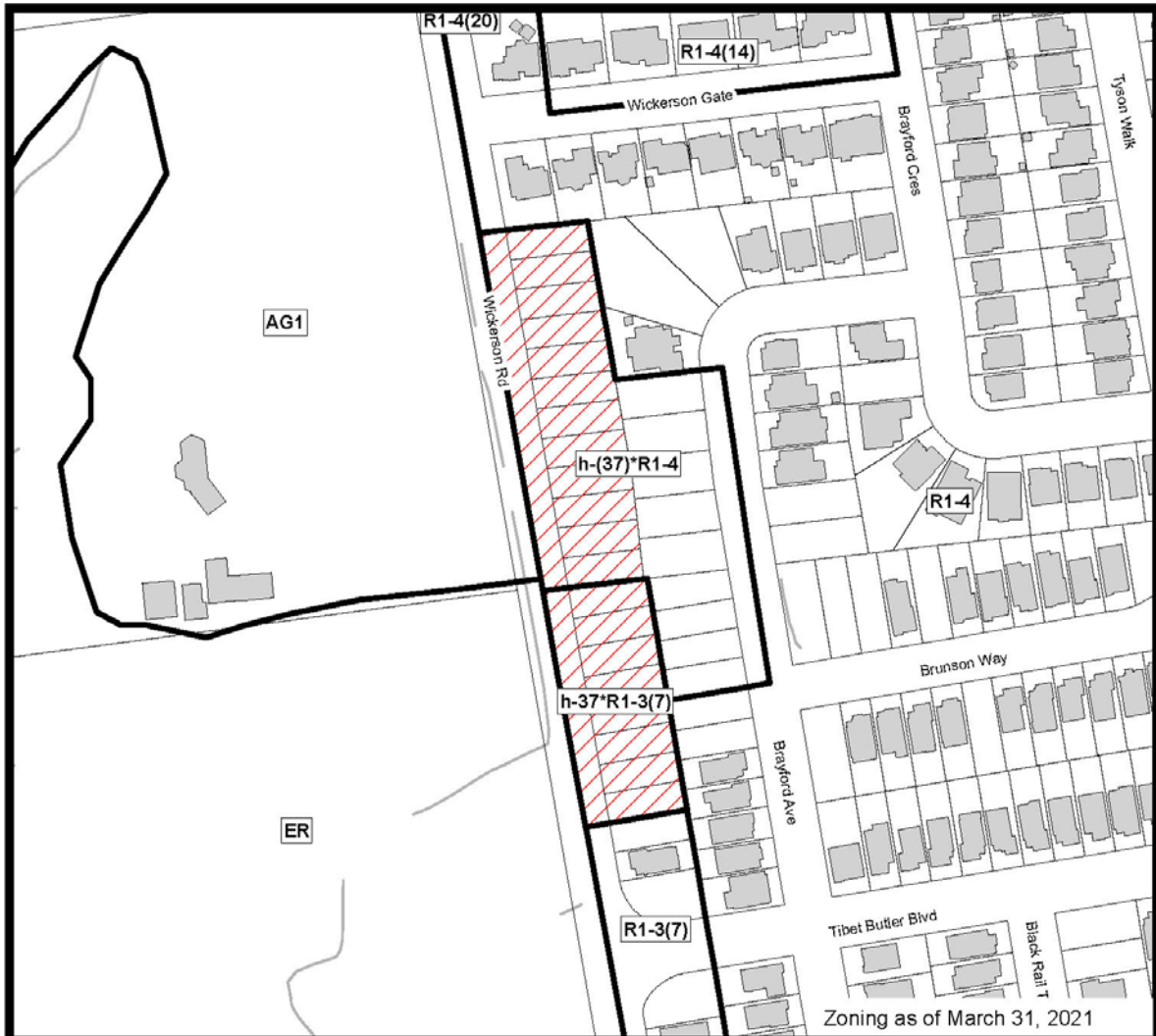
Future Developing Subdivisions

2090864 Ontario Inc. Requested Site-Specific Inclusion within UBG

Southerly Natural Urban Development Barrier

Appendix C – Relevant Background

Existing Zoning Map



COUNCIL APPROVED ZONING FOR THE SUBJECT SITE:

1) LEGEND FOR ZONING BY-LAW Z-1

- R1 - SINGLE DETACHED DWELLINGS
- R2 - SINGLE AND TWO UNIT DWELLINGS
- R3 - SINGLE TO FOUR UNIT DWELLINGS
- R4 - STREET TOWNHOUSE
- R5 - CLUSTER TOWNHOUSE
- R6 - CLUSTER HOUSING ALL FORMS
- R7 - SENIOR'S HOUSING
- R8 - MEDIUM DENSITY/LOW RISE APTS.
- R9 - MEDIUM TO HIGH DENSITY APTS.
- R10 - HIGH DENSITY APARTMENTS
- R11 - LODGING HOUSE

- DA - DOWNTOWN AREA
- RSA - REGIONAL SHOPPING AREA
- CSA - COMMUNITY SHOPPING AREA
- NSA - NEIGHBOURHOOD SHOPPING AREA
- BDC - BUSINESS DISTRICT COMMERCIAL
- AC - ARTERIAL COMMERCIAL
- HS - HIGHWAY SERVICE COMMERCIAL
- RSC - RESTRICTED SERVICE COMMERCIAL
- CC - CONVENIENCE COMMERCIAL
- SS - AUTOMOBILE SERVICE STATION
- ASA - ASSOCIATED SHOPPING AREA COMMERCIAL

- OR - OFFICE/RESIDENTIAL
- OC - OFFICE CONVERSION
- RO - RESTRICTED OFFICE
- OF - OFFICE

- RF - REGIONAL FACILITY
- CF - COMMUNITY FACILITY
- NF - NEIGHBOURHOOD FACILITY
- HER - HERITAGE
- DC - DAY CARE

- OS - OPEN SPACE
- CR - COMMERCIAL RECREATION
- ER - ENVIRONMENTAL REVIEW

- OB - OFFICE BUSINESS PARK
- LI - LIGHT INDUSTRIAL
- GI - GENERAL INDUSTRIAL
- HI - HEAVY INDUSTRIAL
- EX - RESOURCE EXTRACTIVE
- UR - URBAN RESERVE

- AG - AGRICULTURAL
- AGC - AGRICULTURAL COMMERCIAL
- RRC - RURAL SETTLEMENT COMMERCIAL
- TGS - TEMPORARY GARDEN SUITE
- RT - RAIL TRANSPORTATION

- "h" - HOLDING SYMBOL
- "d" - DENSITY SYMBOL
- "H" - HEIGHT SYMBOL
- "B" - BONUS SYMBOL
- "T" - TEMPORARY USE SYMBOL

CITY OF LONDON

PLANNING SERVICES / DEVELOPMENT SERVICES

ZONING BY-LAW NO. Z-1 SCHEDULE A



THIS MAP IS AN UNOFFICIAL EXTRACT FROM THE ZONING BY-LAW WITH ADDED NOTATIONS

FILE NO:

H-9337

LM

MAP PREPARED:

2021/04/20

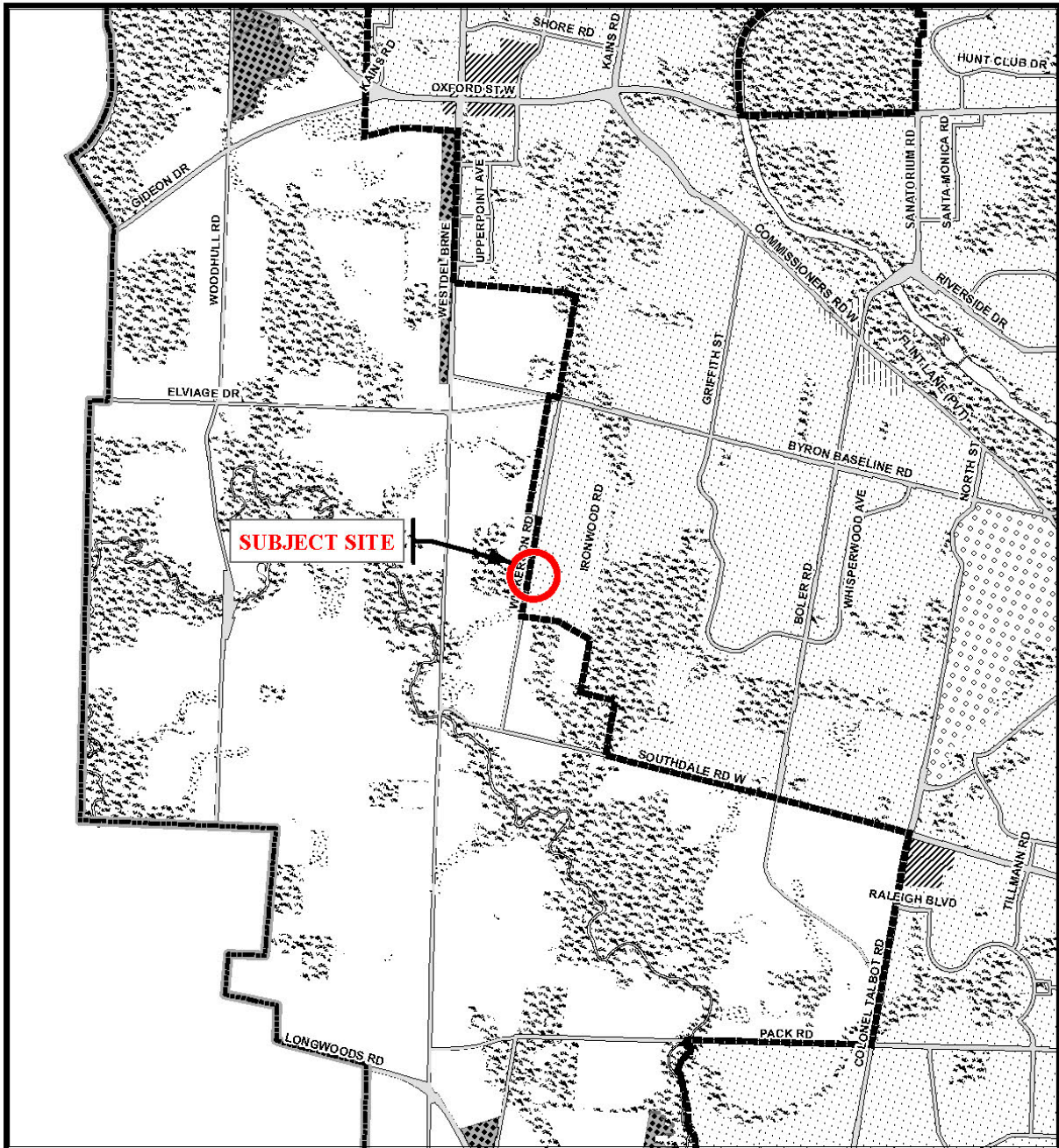
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Meters

The London Plan Map Excerpt



Legend

Downtown	Future Community Growth	Environmental Review
Transit Village	Heavy Industrial	Farmland
Shopping Area	Light Industrial	Rural Neighbourhood
Rapid Transit Corridor	Future Industrial Growth	Waste Management Resource Recovery Area
Urban Corridor	Commercial Industrial	Urban Growth Boundary
Main Street	Institutional	
Neighbourhood	Green Space	

This is an excerpt from the Planning Division's working consolidation of Map 1 - Place Types of the London Plan, with added notations.

At the time of the printing of this map, the Rapid Transit EA is in progress. This map shows the Rapid Transit Corridors and Urban Corridors to recognize potential alignments. These Place Types will be modified to align with the results of the EA process for the final version of The London Plan.

CITY OF LONDON
 Planning Services /
 Development Services

LONDON PLAN MAP 1
- PLACE TYPES -

PREPARED BY: Planning Services

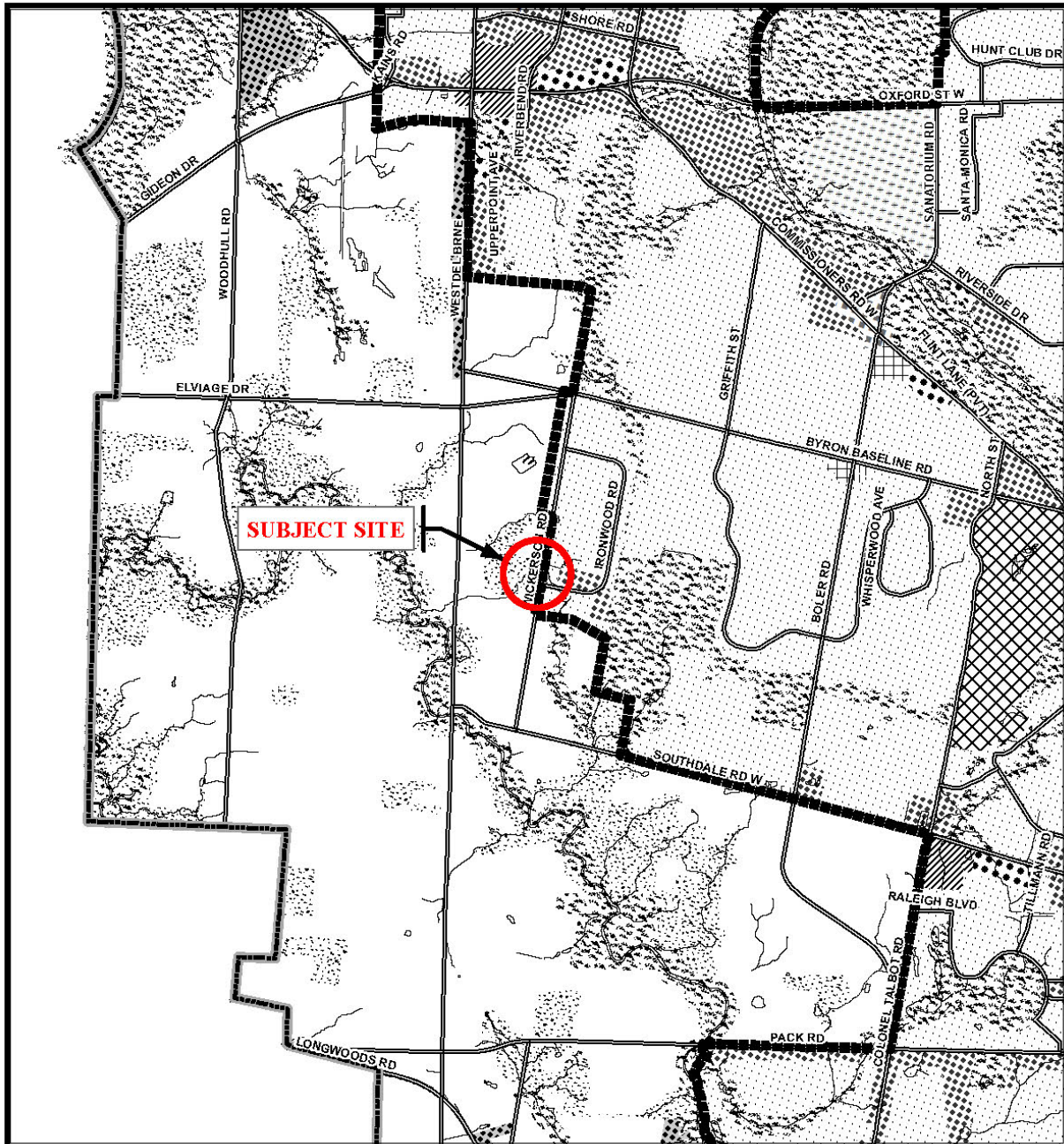


Scale 1:30,000



File Number: H-9337
Planner: LM
Technician: RC
Date: April 21, 2021

Official Plan Map Excerpt



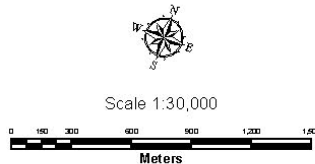
Legend

- | | |
|--|-----------------------------------|
| Downtown | Office Business Park |
| Enclosed Regional Commercial Node | General Industrial |
| New Format Regional Commercial Node | Light Industrial |
| Community Commercial Node | Regional Facility |
| Neighbourhood Commercial Node | Community Facility |
| Main Street Commercial Corridor | Open Space |
| Auto-Oriented Commercial Corridor | Urban Reserve - Community Growth |
| Multi-Family, High Density Residential | Urban Reserve - Industrial Growth |
| Multi-Family, Medium Density Residential | Rural Settlement |
| Low Density Residential | Environmental Review |
| Office Area | Agriculture |
| Office/Residential | Urban Growth Boundary |
| | Enterprise |

CITY OF LONDON
 Department of
 Planning and Development

OFFICIAL PLAN SCHEDULE A
 - LANDUSE -

PREPARED BY: Graphics and Information Services



FILE NUMBER: H-9337

PLANNER: LM

TECHNICIAN: RC

DATE: 2021/04/21