

Report to Planning and Environment Committee

To: Chair and Members
Planning & Environment Committee

From: George Kotsifas, P. Eng.
Managing Director, Development & Compliance Services
and Chief Building Official

Subject: Application By: Harasym Homes Inc.
1900 Kilgorman Way

Meeting on: June 18, 2018

Recommendation

That, on the recommendation of the Senior Planner, Development Services, on the application by Harasym Homes Inc. relating to lands located at 1900 Kilgorman Way, comprising Lot 9 Registered Plan No. 33M-682, the request to amend Zoning By-law Z.-1 to change the zoning of the lands FROM a Holding Residential R1 (h-37•R1-14) Zone TO a Residential R1 (R1-14), **BE REFUSED** for the following reasons:

- i) based upon further review of the Minimum Distance Separation requirements, and in consultation with the Ministry of Agriculture, Food and Rural Affairs, the application to remove the holding “h-37” provision would not be appropriate or consistent with the Provincial Policy Statement, and policies of The London Plan and the Official Plan; and,
- ii) the condition for removing the holding provision has not been met as the subject lot is within the Minimum Distance Separation MDS1 setback of a neighbouring livestock facility.

Executive Summary

Summary of Request

The applicant has requested the removal a holding provision from the zoning on a vacant lot at 1900 Kilgorman Way.

Purpose and the Effect of Recommended Action

The purpose and effect is to recommend refusal of the application to remove the holding (“h-37”) symbol from the zoning to permit construction of a single detached dwelling permitted under the Residential R1 (R1-14) Zone.

Rationale of Recommended Action

Pursuant to the March 6, 2018 resolution of Municipal Council, a further review of the existing livestock facility and updated calculations were undertaken to confirm the subject lot is constrained by the Minimum Distance Separation MDS1 setback requirements.

Analysis

1.0 Background

Municipal Council, at its meeting held on March 6, 2018 resolved:

15. *That, the application by Harasym Homes Inc., relating to lands located at 1900 Kilgorman Way, comprising Lot 9 Registered Plan No. 33M-682, BE REFERRED back to the Managing Director, Development and Compliance*

Services and Chief Building Official to undertake a further Minimum Distance Separation (MDS) calculation in accordance with the 2017 MDS and to report back at the next Planning and Environment Committee meeting; it being noted that M. Moussa provided a delegation to the Planning and Environment Committee with respect to these matters. (2018-D09) (15/4/PEC)

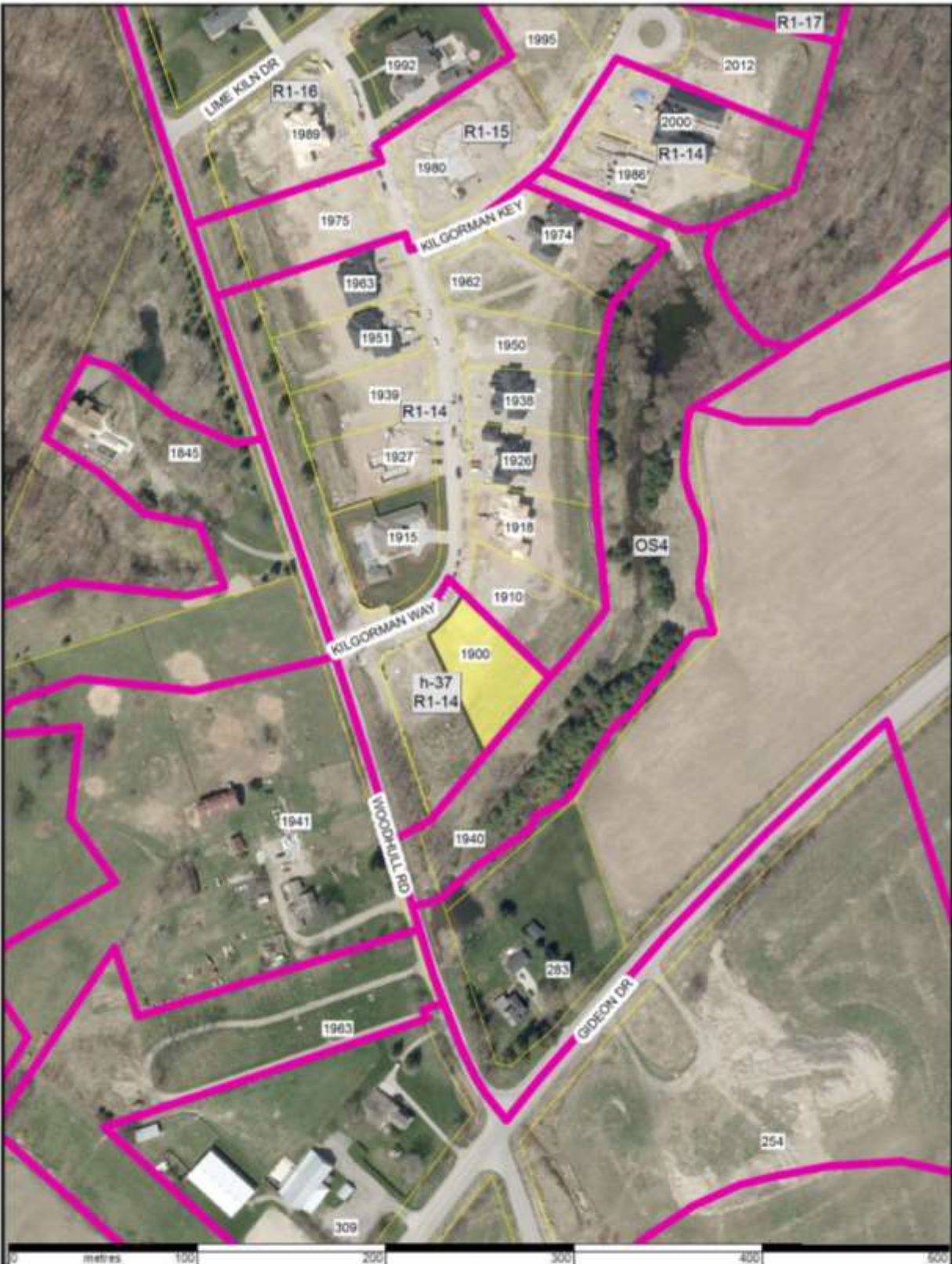
Development Services staff subsequently met with Mr. Moussa, owner of the livestock facility at 1941 Woodhull Road, the applicant's agent, and staff from the Ministry of Agriculture, Food and Rural Affairs (OMAFRA). Further information and clarification was provided regarding the housing capacity of the existing barn, and the number and type of livestock, namely horses and beef cattle. Although the facility is presently used for stabling horses, Mr. Moussa indicated there is the potential for beef cattle as well. The existing livestock barn has a floor area of approximately 210 square metres and could potentially house 9 horses or 22 beef cows, including calves. There is no manure storage facility present on the site.

With assistance from OMAFRA staff, Minimum Distance Separation (MDS) calculations were undertaken based on the current Provincial MDS Formulae and Guidelines, and information provided by the owner. This resulted in minimum separation distances (MDS1) measured from the barn of 176 metres based on housing capacity for horses, and 220 metres based on a capacity for beef cattle. The updated calculations confirm the subject lot at 1900 Kilgorman Way lies within the MDS1 setback.

Minimum Distance Separation (MDS) calculations undertaken at the time the subdivision application was being considered for draft approval identified two livestock operations within the immediate area having separation setbacks overlapping the southerly portion of the subdivision. A large livestock facility located at 254 Gideon Drive has since been removed and there are no longer any buildings or structures on the site. A smaller livestock facility was identified at 1941 Woodhull Road, the property presently owned by Mr. Moussa. The MDS calculations prepared under the Provincial MDS Guidelines in effect at the time the application was under review, in 2004, resulted in a separation distance of 133 metres based on an estimated housing capacity of 13 livestock units (type of livestock being horses). The results of the MDS1 calculations were summarized in a report from the General Manager of Planning and Development to Planning Committee at a public meeting held December 13, 2004.

With respect to the current application to remove the "h-37" provision, it was noted in the previous staff report that the 133 metre separation distance extended from the existing barn to approximately 2 - 3 metres inside the westerly lot line of the vacant building lot at 1900 Kilgorman Way. As this subdivision consists of large residential estate lots, it was staff's opinion that the subject lot had sufficient area outside of the MDS arc of influence and was not significantly impacted in terms of its ability to provide a building footprint for a home and outdoor living area. It was for this reason, in addition to the fact that the large livestock facility located at 254 Gideon Drive had been removed, that staff felt the condition for removing the h-37 symbol from the zoning for this lot had been met. It was also felt that the holding provision should continue to be maintained on the remaining building lot (1890 Kilgorman Way) closest to the livestock facility at 1941 Woodhull Road.

Location Map



| LOCATION MAP | LEGEND |
|---|--|
| Subject Site: 1900 Kilgorman Way Applicant: Harasym Homes Inc File Number: H-8854 Planner: L. Mottram Created By: LM Date: 2017-11-23 Scale: 1:2500 | <ul style="list-style-type: none"> Subject Site Parks Assessment Parcels Buildings Address Numbers |
| Corporation of the City of London Prepared By: Planning and Development | |

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. Existing uses may be permitted on an interim basis. Staff have had an opportunity to follow-up on the Municipal Council direction to undertake a further Minimum Distance Separation (MDS) calculation in accordance with the 2017 MDS Formulae and Guidelines. Based on further clarification and information provided regarding the existing livestock facility and the updated MDS1 calculations, staff are not in a position to recommend removal of the “h-37” provision at this time as the calculations confirm the subject lot is constrained by the MDS1 setback requirements.

The existing livestock operation can continue to operate as it has been, regardless of whether the requested holding provision is removed or retained. However, any proposal for expansion would be required to meet MDS II separation setbacks away from sensitive land uses. The livestock facility at 1941 Woodhull Road is constrained by the presence of an adjacent cemetery to the south (Woodhull Cemetery), as well as the residential subdivision and other non-farm uses in the immediate area. Cemeteries are normally considered under the MDS Guidelines as a Type B Land Use as they are considered an institutional use (i.e. more sensitive). Therefore, a proposal for expansion or alteration of the existing livestock facility currently on the property would be severely constrained.

The Provincial Policy Statement 2014 contains policies with respect to the application of Provincial Minimum Distance Separation formulae intended to separate sensitive land uses so as to reduce incompatibility concerns about odour from livestock facilities. The The London Plan and Official Plan also contain policies with respect to the implementation of the Minimum Distance Separation (MDS1 and MDSII) guidelines and setback requirements (specific policy references found in Appendix A). Based upon further review of the MDS guidelines and requirements, the recommendation to refuse the application to remove the holding “h-37” provision at this time is considered appropriate and consistent with the PPS and policies of The London Plan and the Official Plan.

5.0 Conclusion

Pursuant to the March 6, 2018 Municipal Council resolution to undertake further MDS calculations in accordance with the 2017 guideline document, and upon receiving further information and clarification regarding the existing livestock facility, staff are of the opinion that it would not be appropriate to recommend removal of the “h-37” provision at this time as updated calculations confirm that the subject lot is located within the MDS1 required setback.

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| Recommended by: | Larry Mottram, MCIP, RPP Senior Planner - Development Services |
| Reviewed by: | Lou Pompilli, MPA, RPP Manager, Development Planning |
| Concurred In by: | Paul Yeoman, RPP, PLE Director, Development Services |
| Submitted by: | George Kotsifas, P. Eng Managing Director, Development and Compliance Services and Chief Building Official |
| 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. | |

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May 22, 2018

CC: Matt Feldberg, Manager Development Services (Subdivisions) - electronic only

Appendix A – 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, by-laws, and legislation are identified as follows:

Provincial Policy Statement, 2014

2.3.3.3 New land uses, including the creation of lots, and new or expanding livestock facilities shall comply with the *minimum distance separation formulae*.

Official Plan

9.2.10 Minimum Distance Separation Requirements - The creation or expansion of any livestock operation within the Agriculture, Rural Settlement and Urban Reserve designation will be required to comply with the Minimum Distance Separation (MDSII Formula) requirements established by the Ontario Ministry of Agriculture, Food and Rural Affairs.

Livestock operations that exist within the Agriculture or Rural Settlement designation will be provided protection from the encroachment of all new development including all applications for Official Plan Amendments, Zoning By-law Amendments, Plans of Subdivision or Condominiums, or land severances; through the application of Minimum Distance Separation (MDS I Formula) requirements.

The London Plan

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 (MDS I) Implementation Guidelines and Formulae, as amended by the Province from time to time.

1774_ Prior to the issuance of any building permit for any new or altered livestock facility, including manure storages, the City will require compliance with the provincial Minimum Distance Separation (MDS II) setbacks and compliance with the provisions of the Zoning By-law.

Appendix B – Relevant Background

Zoning Map



COUNCIL APPROVED ZONING FOR THE SUBJECT SITE:

1) **LEGEND FOR ZONING BY-LAW Z-1**

- | | |
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| <ul style="list-style-type: none"> 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 | <ul style="list-style-type: none"> 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 |
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CITY OF LONDON

PLANNING SERVICES / DEVELOPMENT SERVICES

**ZONING
 BY-LAW NO. Z-1
 SCHEDULE A**



FILE NO:

H-8854

LM

MAP PREPARED:

2018/01/25

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

Additional Reports

File No. H-8854 – Planning and Environment Committee Meeting on February 20, 2018 – Report from the Managing Director, Development & Compliance Services and Chief Building Official on an application by Harasym Homes Inc. to remove the holding “h-37” provision from the zoning on lands located at 1900 Kilgorman Way; comprising Lot 9 Registered Plan 33M-682.