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: Draft Plan of Vacant Land Condominium on the Submission

by Southside Construction Management Ltd. for 704-706

Boler Road

Public Participation Meeting: November 1, 2021

Recommendation

That, on the recommendation of the Deputy City Manager, Planning and Economic Development, based on the application of Southside Construction Management Ltd. relating to the property located at 704-706 Boler Road:

- (a) the Planning and Environment Committee **ADVISE** the Approval Authority the issues, if any, raised at the public meeting with respect to the application for Draft Plan of Vacant Land Condominium relating to the property located at 704-706 Boler Road; and,
- (b) the Planning and Environment Committee **ADVISE** the Approval Authority the issues, if any, raised at the public meeting with respect to the Site Plan Approval application relating to the property located at 704-706 Boler Road.

Executive Summary

Summary of Request

This is a request by Southside Construction Management Ltd. to consider a proposed Draft Plan of Vacant Land Condominium. The proposed Plan of Condominium is being reviewed concurrently with an application for Site Plan Approval. The plan consists of 13 single detached dwelling units with access via a common element private street from Apricot Drive. The applicant's intent is to register the development as one Condominium Corporation.

Purpose and the Effect of Recommended Action

The purpose and effect are to report to the Approval Authority any issues or concerns raised at the public meeting with respect to the application for Draft Plan of Vacant Land Condominium and application for Site Plan Approval.

Rationale of Recommended Action

- The proposed Vacant Land Condominium is consistent with the Provincial Policy Statement, which directs new development to designated growth areas and areas adjacent to existing development;
- ii) The proposed Vacant Land Condominium conforms to the in-force policies of The London Plan including but not limited to Our Tools, Key Directions, and the Neighbourhoods Place Type policies;
- iii) The proposed Vacant Land Condominium conforms to the in-force policies of the 1989 Official Plan, including but not limited to the Low Density Residential Designation and will implement an appropriate form of residential development for the site.

Linkage to the Corporate Strategic Plan

This application supports the Building a Sustainable City area of focus in the Corporate Strategic Plan by ensuring that the City of 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

June 20, 2016 - Report to Planning and Environment Committee to regarding appeals to the Ontario Municipal Board (39T-15503/Z-8505).

May 31, 2021 - Report to Planning and Environment Committee on Special Provisions for the Subdivision Agreement (39T-15503).

July 26, 2021 - Report to Planning and Environment Committee on the removal of the 'h' holding provision (H-9352).

1.2 Planning History

The subject site is part of the Boler Heights Subdivision located at 704 and 706 Boler Road (39T-15503). The subdivision was draft approved on August 21, 2020 based on a decision by the Local Planning Appeal Tribunal (LPAT) which ordered the Approval Authority to issue draft approval for the proposed subdivision and approve the zoning on the site.

On June 15, 2021 Council endorsed the special provisions and recommended that a subdivision agreement be entered into between the City of London and Southside Construction Management Ltd. The Owner and the City have signed the subdivision agreement and securities have been posted. Final registration of the subdivision is imminent.

On July 26, 2021 the 'h' holding provision was lifted from the subject lands once the development agreement and securities had been submitted for the larger subdivision.

1.3 Property Description

The subject lands consist of a block in the southeast corner of the Boler Heights Subdivision (Block 101 in 39T-15503 with an area of 1.37 ha (3.4 acres). The block is irregularly shaped and is located to the south of an open space block which includes wetlands and the extension of Longview Park. The eastern limit of the block borders a walkway between Longview Park and the residential neighbourhood to the east. Existing low density residential uses are located to the south and future low density residential uses are planned for the west side of Apricot Drive.

1.4 Current Planning Information (see more detail in Appendix B)

- The London Plan Place Type Neighbourhoods
- (1989) Official Plan Designation Low Density Residential
- Existing Zoning –Residential R6 Special Provision (R6-1(18)) Zone

1.5 Site Characteristics

- Current Land Use Vacant
- Frontage 12.4m on Apricot Dr. (Neighbourhood Street)
- Area approx. 1.37 ha (3.4 acres)
- Shape Irregular

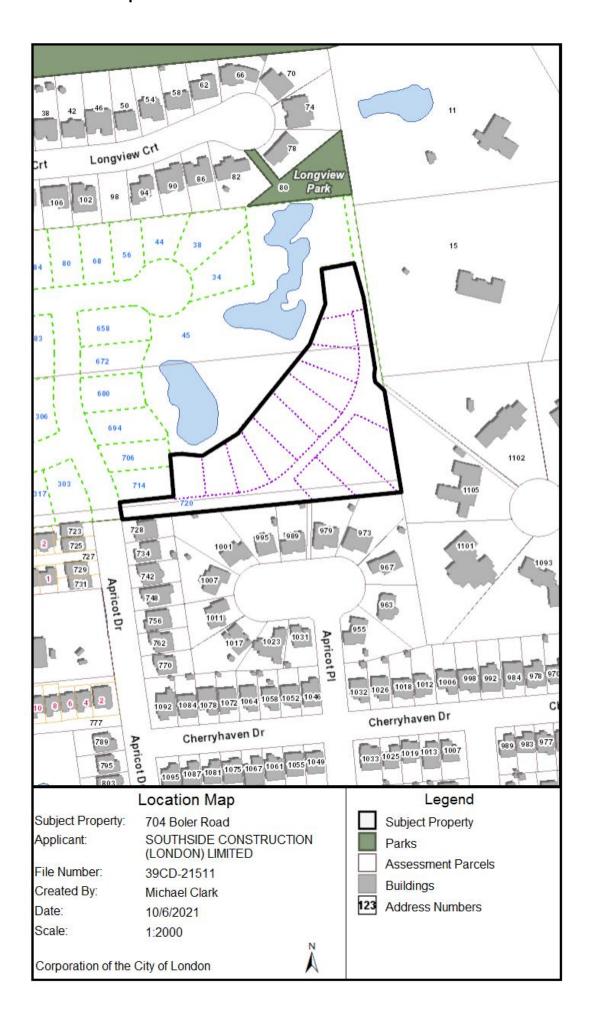
1.6 Surrounding Land Uses

- East low density residential, pedestrian pathway
- South existing low density residential
- West future low density residential
- North open space, municipal park

1.7 Intensification

 The 13-unit, single detached dwelling development is located outside the Primary Transit Area and inside the Urban Growth Boundary.

1.8 Location Map



2.0 Discussion and Considerations

2.1 Development Proposal

The proposed Vacant Land Condominium consists of 13 single detached dwellings served by a private road in a common elements easement.

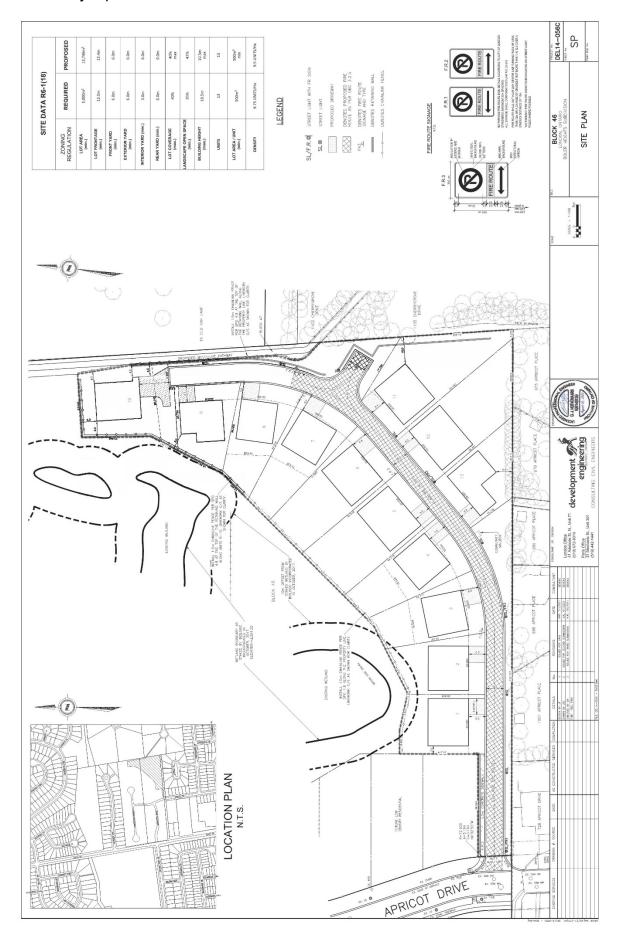


Figure 1 – Site Plan

An application for Site Plan Approval (SPA21-029) has also been made in conjunction with the application for Draft Plan of Vacant Land Condominium. The site plan

submission, including servicing, grading, and landscaping plans are under review and will be informed by any comments received through the Vacant Land Condominium Public Participation Meeting.

2.2 Community Engagement (see more detail in Appendix A)

Public Circulation

The original application was circulated on August 18, 2021. Through the public circulation process three (3) comments were received from the public. The concerns from the public related to the status of and impact that the proposed development would have on the walkway to the east, and existing parking issues near other condominium developments in the area. Detailed comments can be found in Appendix "A".

Notice for the Public Participation Meeting was circulated on October 14, 2021.

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 Considerations

4.1 Policy Review

Provincial Policy Statement, 2020

The proposed development achieves objectives for efficient development and land use patterns. It represents new development taking place within the City's built-area boundary, and within an area of the City that is currently building out. It also achieves objectives for compact form, mix of uses, and densities that allow for the efficient use of land, infrastructure and public service facilities, and maintains appropriate levels of public health and safety.

The subject lands were created through a plan of subdivision process and were zoned and designated for low density residential uses over the long term. The natural heritage features north of the site are protected through plantings and fencing, and Provincial concerns for archaeological resource assessment and cultural heritage have been addressed through the subdivision review process. The proposed Draft Plan of Vacant Land Condominium is found to be consistent with the Provincial Policy Statement.

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. 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.

These lands are within the "Neighbourhoods" Place Type with frontage on a neighbourhood street which permits a range of low-density residential uses from single detached dwellings to townhouses. The proposed cluster development of single detached dwellings at is in keeping with the permitted uses and intensity of the Neighbourhood Place Type.

In the Our Tools section of The London Plan, Vacant Land Condominiums are considered based on the following (1709):

1) The same considerations and requirements for the evaluation of draft plans of subdivision shall apply to draft plans of vacant land condominium;

The proposed draft plan of vacant land condominium has been evaluated with regards to the review criteria for plans of subdivision. The proposed single detached dwelling units conform to the Official Plan and The London Plan policies and have access to municipal services. The access and residential uses proposed are appropriate for the site, and the natural features and hazards north of the site are protected by plantings and fencing. There is sufficient open space/park space within the neighbourhood, and existing commercial uses in close proximity. Any outstanding grading and drainage issues that were not addressed through the plan of subdivision process have been addressed by the applicant's consulting engineer to the satisfaction of the City through the accepted engineering and servicing drawings, Development Agreement and Site Plan Approval process.

2) The applicant may be required to provide site development concepts and meet design requirement consistent with the Site Plan Control By-law as part of the consideration of a draft plan of vacant land condominium;

The draft plan of Vacant Land Condominium has been reviewed through the Site Plan approval process ensuring that the proposed site development concept meets the design requirements consistent with the Site Plan Control By-law. The various requirements of the Site Plan Control By-law will be implemented through a Development Agreement for the lands.

3) Proposals for vacant land condominiums which will result in units above or below any other unit will not be supported;

The proposed single detached dwelling units do not result in units below or above other units.

4) Only one dwelling will be permitted per unit;

There is only one single detached dwelling proposed per unit.

5) At the time of registration, structures cannot cross unit boundaries;

A signed Development Agreement will be required prior to the final approval of the Vacant Land Condominium that will confirm both the location of structures and unit boundaries.

6) The registration of a proposed development as more than one vacant land condominium corporation may be permitted if the proposal is supportive of comprehensive development and planning goals. The minimum number of units to be included in each condominium corporation will be adequate to allow for the reasonable independent operation of the condominium corporation.

The proposed cluster single detached dwelling development is to be developed as one condominium corporation.

1989 Official Plan

The 1989 Official Plan designation for these lands is Low Density Residential (LDR). The Low Density Residential designation is intended to accommodate low-rise, low density housing forms which includes single detached; semi-detached; and duplex dwellings. Multiple-attached dwellings, such as row houses or cluster housing may also be permitted subject to the policies of this Plan (3.2.1. Permitted Uses). The proposed vacant land condominium is in keeping with the range of permitted uses.

Development within areas designated Low Density Residential shall have a low-rise, low coverage form that minimizes problems of shadowing, view obstruction and loss of privacy. The development of low density residential uses shall be subject to appropriate site area and frontage requirements in the Zoning By-law. These requirements may vary in areas of new development according to the characteristics of existing or proposed residential uses and shall result in net densities that range to an approximate upper limit

of 30 units per hectare (12 units per acre) (3.2.2. Scale of Development). The development also provides a density of 9.5 uph which is less the maximum of 30 uph permitted in the LDR designation (3.2.2. Scale of Development).

Vacant Land Condominium Application

The City of London Condominium Guidelines have been considered for the proposed Vacant Land Condominium which is comprised of various units and common elements. The City may require applicants to satisfy reasonable conditions prior to Final Approval and registration of the plan of condominium, as authorized under the provisions of subsection 51(25) of the *Planning Act*. In order to ensure that this Vacant Land Condominium development functions properly, the following may be required as conditions of draft approval:

- That site plan approval has been given and a Development Agreement has been entered into;
- Completion of site works in the common elements and the posting of security in addition to that held under the Development Agreement (if applicable), in the event these works are not completed prior to registration of the plan of condominium;
- Confirmation of addressing information and door point numbers;
- Payment of outstanding taxes or local improvement charges, if any;
- Provision of servicing easements for utility providers (such as London Hydro, Union Gas, Bell, etc.);
- The maintenance of any stormwater servicing works including on-site works;
- Arrangements be made dealing with rights of access to and use of joint facilities, and responsibility for and distribution of costs for maintenance of joint facilities; and,
- Ensuring that the Condominium Declaration to be registered on title adequately addresses the distribution of responsibilities between the unit owners and the condominium corporation for the maintenance of services, the internal driveway, amenity areas, and any other structures in the common elements.

Z.-1 Zoning By-Law

The lands are currently zoned Residential 6 Special Provision (R6-1(18)). The R6 Zone provides for and regulates cluster housing developments. The R6 Zone Variation 1, permits single detached dwellings, and a maximum height of 10.5m. The site-specific policies includes a number of regulations including a reduced minimum frontage of 12m; a reduced maximum number of units of 13; a reduced maximum density of 9.75 units per hectare; a reduced amount of landscape open space of 35%. The proposed vacant land condominium and site plan will be implemented in conformity with the existing zoning.

Public Concern

Through the review process three members of the public provided comments. One of the concerns related to the status of walkway that is planned to connect from Cherrygrove Drive to Longview Park. Another member of the public expressed some concern regarding parking issues in the neighbourhood following the development of other nearby condominium developments.

Through conditions in the draft plan of condominium, the condominium corporation will be required to construct and maintain a retaining wall along the planned walkway to the east of the condominium.

Consistent with the zoning by-law, the proposed condominium units will be required to have at least 2 parking spaces per dwelling units. This is the same as single detached dwellings on freehold lots in a plan of subdivision. It is anticipated that condominium units will likely be able to accommodate more than two vehicles between their driveways and attached garages and that there should not be an impact on street parking in the adjacent neighbourhoods.

A third member of the public inquired regarding the nature of the proposed application to ensure that it complied with a previous Ontario Municipal Board (OMB) settlement related to the zoning on the property. This settlement included special zoning regulations related to the setbacks and number of units permitted in the southeast corner of the property. Through discussions with Site Plan staff and the adjacent property owner it was confirmed that the proposed development complies with the zoning on the property, including the regulations added as a result of the previous OMB settlement.

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

Adjacent Walkway and Associated Retaining Wall

A public walkway is located adjacent to east of the proposed condominium. There is a significant grade difference between the planned pathway and the condominium and a retaining wall within the subject lands is required. The conditions of the draft plan of vacant land condominium will require the retaining wall and other associated works to be included in the description of common elements of the condominium, and that they will be owned and maintained by the condominium corporation. The draft conditions to this effect have been shared with and agreed upon with the proponent.

Conclusion

The proposed Draft Plan of Vacant Land Condominium is consistent with the Provincial Policy Statement, and in conformity with The London Plan and the 1989 Official Plan. The proposed cluster single detached dwelling units are appropriate for the site and permitted under the existing zoning. An application for Site Plan Approval has also been submitted and reviewed in conjunction with the application for Vacant Land Condominium.

Prepared by: Michael Clark, MA

Planner I, Subdivision Planning

Reviewed by: Bruce Page, MCIP, RPP

Manager, Subdivision Planning

Recommended by: Gregg Barrett, AICP

Director, Planning and Development

Submitted by: George Kotsifas, P. Eng.

Deputy City Manager,

Planning and Economic Development

cc: Matt Feldberg, Manager, Subdivisions and Development Inspections

cc: Bruce Page, Manager, Subdivision Planning

cc: Peter Kavcic, Manager, Subdivision Engineering

cc: Michael Pease, Manager, Site Plans

BP/mc

Appendix A – Community Engagement

Public liaison: On August 18, 2021, Notice of Application was sent to 74 property owners in the surrounding area. Notice of Application was also published in the *Public Notices* and *Bidding Opportunities* section of *The Londoner* on August 19, 2021.

Nature of Liaison: The purpose and effect of this application is to approve a Draft Plan of Vacant Land Condominium within a block of an existing plan of subdivision (39T-15503) consisting of 13 single detached dwellings. Common elements will be provided for private access driveway and services to be registered as one Condominium Corporation. File: 39CD-21511 Planner: M. Clark (City Hall).

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

From: Bernie Bierbaum

 bbierbaum@bluestoneprop.com>

Sent: Thursday, August 26, 2021 11:41 AM

To: Clark, Michael

Subject: [EXTERNAL] File: 39CD-21511 704 Boler Road

Good morning Michael.

We have lived at 11 Old oak Lane since 1985.

I just have 2 questions regarding public access in the neighborhood.

We have used the Cherrygrove Drive walkway to the west for years and now that it is excavated with a substantial grade drop, will it be closed in the future?

Will a new fence be installed on the east side of the condo property and on the north side of the entire development bordering on Longview Court?

Cheers,

Bernie

From: Tammy Sanders

Sent: Monday, August 30, 2021 9:40 AM

To: Clark, Michael

Subject: [EXTERNAL] 704-706 Boler rd.

Hello Michael Clark

I received a letter in the mail today notice of application draft plan for vacant land condominiums. I would like to address the fact that it indicates that there is a shared common elements. visitor parking and landscaping when I am reviewing the draft plan it does not indicate where the parking is, we currently have condos that were built across the street from us that did not include parking and everyone parks on the street it causes problems every winter and I do not want to see a repeat of this happen so if this could be addressed I would greatly appreciate it.

Thank you

Tammy Sanders

From: Richard Sheppard

Sent: Monday, August 23, 2021 8:04 PM

To: Clark, Michael

Subject: [EXTERNAL] RE: File: 39CD-21511, 704 - 706 Boler Road

Attachments: RS 20210823 01 of 01.pdf

RE: File: 39CD-21511, 704 - 706 Boler Road

Dear Michael Clark,

I received the "Notice of Planning Application," File: 39CD-21511, 704 - 706 Boler Road, dated August 19, 2021 on August 23, 2021. In order to provide comments, I will need some additional information which I believe is usually posted to the application specific page at London.ca/planapps. However, there is nothing their to review and I could not find any application or information contained there. Could you kindly post the details or provide the details to me directly, please?

Sincerely,

Richard Sheppard and Jacqueline Roussy Sheppard

Agency & Department Comments

Internal departments and external agencies were circulated for comment on August 18th, 2021 for a 13 unit draft plan of vacant land condominium. Comments received are identified below:

Enbridge Gas - August 18, 2021

Thank you for your correspondence with regards to draft plan of approval for the above noted project.

It is Enbridge Gas Inc.'s (operating as Union Gas) request that as a condition of final approval that the owner/developer provide to Union the necessary easements and/or agreements required by Union for the provision of gas services for this project, in a form satisfactory to Enbridge.

London Hydro – August 18, 2021

Servicing the above proposal should present no foreseeable problems. Any new and/or relocation of existing infrastructure will be at the applicant's expense, maintaining safe clearances from L.H. infrastructure is mandatory. A blanket easement will be required. Note: Transformation lead times are minimum 16 weeks. Contact Engineering Dept. to confirm requirements & availability.

London Hydro has no objection to this proposal or possible official plan and/or zoning amendment. However, London Hydro will require a blanket easement.

Hyrdo One - August 20, 2021

We are in receipt of Application 39CD-21511 dated August 18, 2021. We have reviewed the documents concerning the noted Plan and have no comments or concerns at this time. Our preliminary review considers issues affecting Hydro One's 'High Voltage Facilities and Corridor Lands' only.

Water Engineering Division – August 27, 2021

Water Engineering have no comments for the notice of application noted above. Water servicing shall be in accordance with the approved site plan drawings.

Bell Canada - September 1, 2021

Dear Sir/Madam,

We have reviewed the circulation regarding the above noted application. The following paragraphs are to be included as a condition of approval:

"The Owner acknowledges and agrees to convey any easement(s) as deemed necessary by Bell Canada to service this new development. The Owner further agrees and acknowledges to convey such easements at no cost to Bell Canada.

The Owner agrees that should any conflict arise with existing Bell Canada facilities where a current and valid easement exists within the subject area, the Owner shall be responsible for the relocation of any such facilities or easements at their own cost."

The Owner is advised to contact Bell Canada at planninganddevelopment@bell.ca during the detailed utility design stage to confirm the provision of communication/ telecommunication infrastructure needed to service the development.

It shall be noted that it is the responsibility of the Owner to provide entrance/service duct(s) from Bell Canada's existing network infrastructure to service this development. In the event that no such network infrastructure exists, in accordance with the Bell Canada Act, the Owner may be required to pay for the extension of such network infrastructure.

If the Owner elects not to pay for the above noted connection, Bell Canada may decide not to provide service to this development.

To ensure that we are able to continue to actively participate in the planning process and provide detailed provisioning comments, we note that we would be pleased to receive circulations on all applications received by the Municipality and/or recirculations.

Please note that WSP operates Bell's development tracking system, which includes the intake of municipal circulations.

WSP is mandated to notify Bell when a municipal request for comments or for information, such as a request for clearance, has been received. All responses to these municipal circulations are generated by Bell, but submitted by WSP on Bell's behalf. WSP is not responsible for Bell's responses and for any of the content herein.

<u>Urban Design – September 17, 2021</u>

There are no UD Concerns for Application (Draft plan of Vacant Land Condominium) related to 704- 706 Boler Road.

Parks and Site Plan – October 4 & 7, 2021

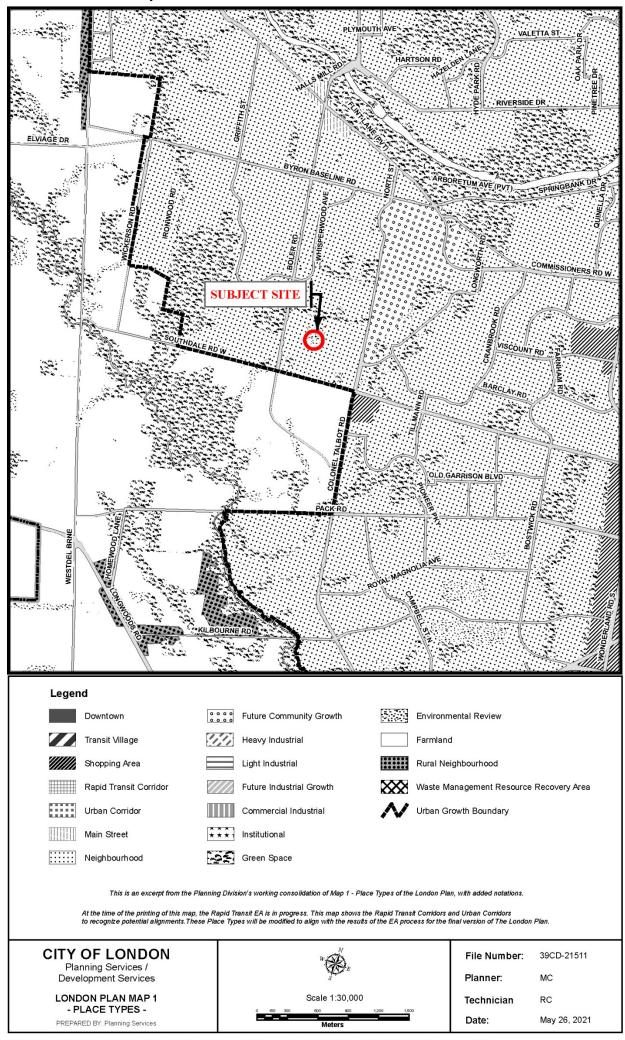
The SPA application is still under active review. I expect the main point will be for the condo to maintain the retaining wall and associated guard rail, drainage, etc. but it's on private condo land and the site plan team will probably flag that separately from Parks.

In speaking with Parks, please include the following condition (feel free to massage it if needed).

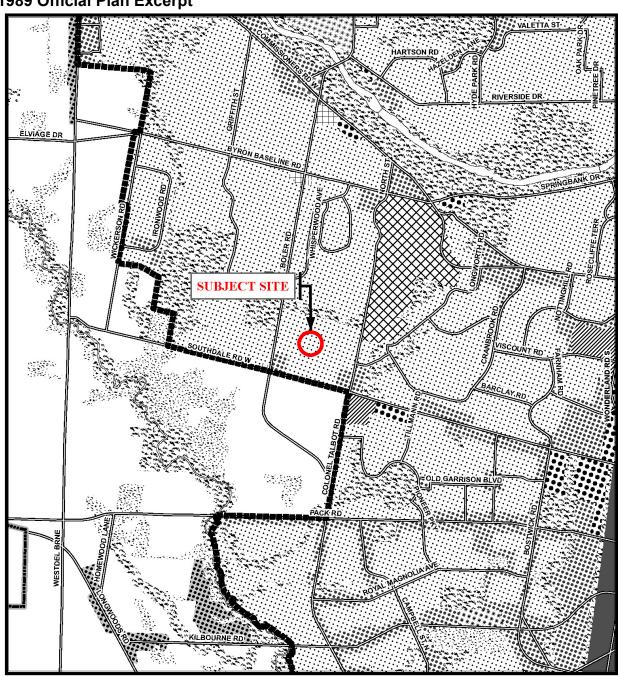
1. A clause shall be included in the Condominium Declaration which indicates that the retaining wall on the lands is to be a common element which shall be fully owned and maintained by the Condominium.

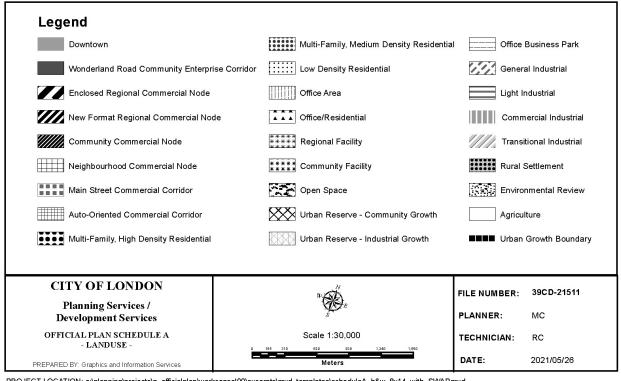
Appendix B – Relevant Background

London Plan Excerpt

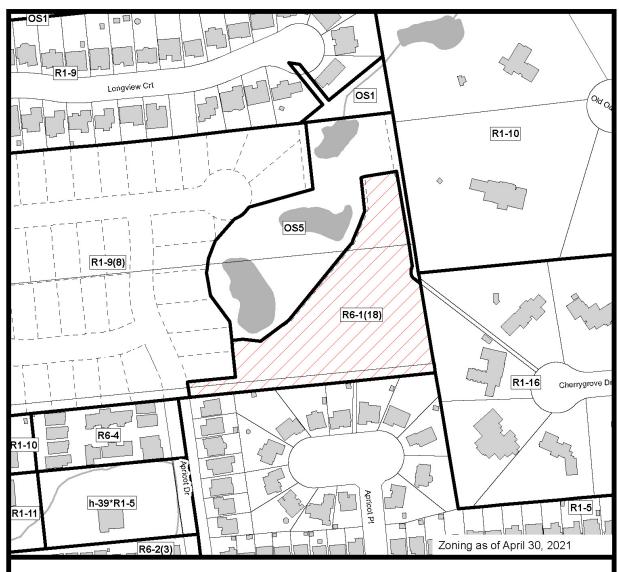


1989 Official Plan Excerpt





Existing Zoning Map



COUNCIL APPROVED ZONING FOR THE SUBJECT SITE:

LEGEND FOR ZONING BY-LAW Z-1 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

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 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
- OFFICE CONVERSION RESTRICTED OFFICE 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

- 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

FILE NO:

"" - DEUSITY 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**



39CD-21511 MAP PREPARED: 2021/05/26 CK 1:2,500 0 12.525 50 75 100

MC

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