

October 5, 2021

Peter Gross
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VIA EMAIL

File 22236.00001

Julie Woodyer
Campaigns Director
Zoocheck Canada Incorporated
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Rob Laidlaw
Executive Director
Zoocheck Canada Incorporated
rob@zoocheck.com

Dear Julie and Rob:

Re: Opinion on permissibility of Reptilia Zoo's facility in the City of London

A. OVERVIEW

You have asked for a legal opinion related to a zoo-like facility that Reptilia Zoo ("**Reptilia**") is preparing to open in the Westmount Mall in the City of London (the "**City**"). Reptilia also intends to take animals hosted at the facility into numerous offsite venues, including schools, nursing homes, and daycares to provide mobile live animal programs ("**MLAPs**").

First, you would like to know whether, under section 3.6 of the City's [Animal Control By-law – PH – 3](#) (the "**Animal By-law**"), Reptilia is exempted from regulation by virtue of its provincial licence in respect of its other zoo locations in Ontario.

Second, you would like to know whether the City's Chief Building Official ("**CBO**") erred in issuing a building permit to Reptilia based on an unreasonable interpretation of the City's [Zoning By-law](#).

From our review, Reptilia cannot rely on the exemption in the By-law to operate this type of zoo facility in London. Reptilia's provincial licence for its facilities only applies to native wildlife species identified in the provincial regulations under the *Fish and Wildlife Conservation Act, 1997*.¹ It is clear from Reptilia's website, that its zoos showcase mainly exotic animals, which are not licenced

¹ SO 1997, c 41 ("**FWCA**").

by the province and would, therefore, not be exempt from regulation under section 3.6 of the Animal By-law.

Regarding the second issue, our review shows that in 2011, the City removed private zoos as a permitted use from its Zoning By-law. It is clear from a 2011 staff report that Council, through the recommendation of the Animal Welfare Advisory Committee, concluded that a private zoo use in the City of London was not appropriate. Further, Council previously considered and rejected a proposal by Reptilia to establish a zoo in the City in 2018 by declining to amend the [Business Licensing By-law-L-131-16](#) to regulate zoos and mobile zoos. The CBO's recent issuance of the building permit was based on an unreasonable interpretation of the Zoning By-law that classified Reptilia's proposed facility as a place of entertainment.

B. DISCUSSION

1. Reptilia Cannot Rely on the Exemption in section 3.6 of the Animal By-law

We understand that Reptilia currently holds a licence to keep or propagate game wildlife and specially protected wildlife² issued by the Ontario Ministry of Northern Development, Mines, Natural Resources and Forestry ("**NDMNRF**").³ It is our further understanding that Reptilia relies on its licence with NDMNRF to claim that its proposed facility in London falls within the exemption in section 3.6 of the City's Animal By-law.

The full provision of the City's Animal By-law reads as follows:

3.6 Public park - zoo - fair - exhibition - circus - licensed

This by-law shall not apply to animals maintained in a public park, zoo, fair, exhibition or circus operated or **licensed by a municipal or other governmental authority**. [emphasis added]

² Ontario Regulation 668/98 ("Wildlife in Captivity") s. 3(1)(a).

³ See Appendix "A" for relevant provisions under Ontario Regulation 668/98 and 669/98. The Regulations include Schedules of specifically regulated reptiles. See *FWCA* s. 40(1) and Ontario Regulation 668/98 ("Wildlife in Captivity") s. 3(1).

Licences to keep game wildlife and specially protected wildlife in a zoo issued by NDMNRF are guided by the *FWCA* and its Regulations and are only valid in respect of native species prescribed in the Regulations.⁴ In contrast, Reptilia self-describes as follows on its [website](#):

Reptilia Zoo is a collection of Canada's largest reptile zoos and conservation centers. We focus on animal representation, conservation, education, and magical Guest experiences.

Our unique facilities host over 250 species of reptiles, amphibians, and arachnids from all around the world, representing animals that cannot be found in other Canadian Zoos.

It is clear from this description, and the activities advertised on its website, that Reptilia showcases mainly non-native animals. These species are beyond the jurisdiction of the *FWCA* and are currently not regulated by the province.

We have contacted multiple NDMNRF offices to obtain clarification about whether a licence can apply to multiple locations. NDMNRF staff at the Parry Sound District advised that licences are specific to a location and must list each species on the licence for that location. However, staff at the Aylmer District, the local office for London, advised that multiple locations may be covered under one licence. We are, therefore, unable to confirm whether NDMNRF would permit Reptilia to rely on its existing native wildlife licence to operate its London facility or would be required to submit a new application for another native wildlife licence. In any event, this would not impact the fact that the licence would only apply to prescribed native species.

The plain wording of the section 3.6 exemption suggests that it would only apply to native animals in Ontario, since NDMNRF is only authorized to issue licences in respect of these species. Reptilia cannot rely on its possession of a licence in respect of prescribed wildlife to claim that its animals not covered by the licence are nevertheless also exempt because they are housed at the same facility. The animals contemplated by the exemption must be duly licenced; such licences only exist for native species in Ontario.

In our opinion, because Reptilia's zoo facility will house non-native species which are not licensed under any municipal or provincial authority, it is not exempt under section 3.6 of the Animal By-law.

⁴ Given that Reptilia boasts about its facilities hosting "over 250 species of reptiles, amphibians, and arachnids from all around the world", it is unclear whether it actually hosts native wildlife.

2. The Chief Building Official Erred in Issuing a Building Permit

Under the *Building Code Act, 1992*⁵ the CBO must not issue a building permit, if doing so would contravene applicable law. Under the Building Code⁶ the Zoning By-law is considered applicable law.

In this case, the permission for a private zoo was removed from the Zoning By-law by Council in 2011. According to the staff report received by Council at the time,⁷ the definition of a private zoo was adopted by Council in 1995 to allow for a specific zoo use located at 1292 Scotland Drive. Staff noted that there were no other private zoos in London at the time and that no other zoning designations allowed such a use. Based on the recommendation of the Animal Welfare Advisory Committee, Council concluded that a private zoo was not an appropriate use for the City. Staff further advised that any application for a zoo use in London in the future would be evaluated by Council at that time.

In addition, Council already considered and rejected a proposal by Reptilia to establish a reptile zoo in 2018.⁸ At the time, the Deputy City Manager of Planning and Economic Development, Mr. George Kotsifas, indicated that City staff had interpreted the Animal By-law such that a licence would be required but since there is no licensing ability for zoos through the City's [Business Licensing By-law L-131-16](#), Reptilia could not operate in the City.⁹ Council ultimately rejected amending the Business Licensing By-law to regulate zoos and mobile zoos, in effect, rejecting Reptilia's proposal.

Notwithstanding the 2011 staff report, Council passing a zoning by-law amendment to remove all private zoo permissions from the Zoning By-law, and Council's 2018 rejection of a proposal by Reptilia to establish a zoo in the City, in January 2021 the CBO issued a building permit for the proposed zoo facility at the Westmount Mall in London. In our opinion, the permit was issued in error based on an unreasonable interpretation of the Zoning By-law that classified the proposed Reptilia facility as a place of entertainment. In light of the 2011 staff report, Reptilia should have been required to file an application for a zoning by-law amendment which ultimately would have

⁵ SO 1992, c 23.

⁶ O Reg. 332/12.

⁷ The staff report is attached hereto as Appendix "B".

⁸ Minutes from the December 18, 2018 Council Meeting are publicly available and can be found [here](#).

⁹ See comments in response to Councilor Squire's question at 00:53:27 in the [meeting](#).

come before either Council or the Ontario Land Tribunal for full consideration of the planning merits.

Under the circumstances, the CBO should rely on sections 8(10)(a) and (d) of the *Building Code Act* and immediately revoke Reptilia's building permit for the London facility.

C. CONCLUSION

Based on the foregoing, it is our opinion that Reptilia cannot rely on its existing NDMNRF licence to keep or propagate game wildlife and specially protected wildlife (or for that matter, any newly issued NDMNRF licence) to bring the London facility within the exemption provided in s. 3.6 of the Animal By-law. Further, the building permit for the London facility issued by the CBO contravenes applicable law because it was issued in error based on an unreasonable interpretation of the Zoning By-law and should be immediately revoked.

Ultimately, the facility envisioned by Reptilia is not permitted under the City's Animal By-law, the provincial regime for issuing licences to keep native wildlife in zoos, and the City's Zoning By-law.

Yours truly,

WeirFoulds LLP



Peter Gross
Partner

PG/AC/lb

APPENDIX “A” – RELEVANT LEGISLATION & REGULATIONS**[Fish and Wildlife Conservation Act, 1997, S.O. 1997, c. 41](#)****PART III
LIVE WILDLIFE AND FISH****Wildlife in captivity**

40 (1) A person shall not keep live game wildlife or live specially protected wildlife in captivity except under the authority of a licence and in accordance with the regulations.

[Wildlife in Captivity - ONTARIO REGULATION 668/98](#)**PART I
ZOOS**

1. In this Part,

“zoo” means a place where game wildlife or specially protected wildlife is kept in captivity for display to the public and for conservation, educational or scientific purposes. O. Reg. 668/98, s. 1.

3. (1) A person who owns or operates a zoo may, in accordance with a licence issued under the Act,

- (a) keep or propagate game wildlife and specially protected wildlife; and
- (b) buy or sell game wildlife and specially protected wildlife.

[Wildlife Schedules - ONTARIO REGULATION 669/98](#)

Schedules 4 and 9 of the Wildlife Schedules refer to prescribed game reptiles and specifically protected reptiles respectively:

SCHEDULE 4: GAME REPTILES

Common Name	Scientific Name
Snapping Turtle	<i>Chelydra serpentina</i>

SCHEDULE 9: SPECIALLY PROTECTED REPTILES

Common Name	Scientific Name
Blanding’s Turtle	<i>Emydoidea blandingii</i>
Blue Racer	<i>Coluber constrictor foxii</i>
Butler’s Gartersnake	<i>Thamnophis butleri</i>
Common Five-lined Skink	<i>Plestiodon fasciatus</i>
Eastern Foxsnake	<i>Pantherophis vulpinus</i>

Eastern Hog-nosed Snake	<i>Heterodon platirhinos</i>
Eastern Milksnake	<i>Lampropeltis triangulum</i>
Eastern Musk Turtle	<i>Sternotherus odoratus</i>
Gray Ratsnake	<i>Pantherophis spiloides</i>
Lake Erie Watersnake	<i>Nerodia sipedon insularum</i>
Massasauga	<i>Sistrurus catenatus</i>
Midland Painted Turtle	<i>Chrysemys picta marginata</i>
Northern Map Turtle	<i>Graptemys geographica</i>
Northern Watersnake	<i>Nerodia sipedon sipedon</i>
Queensnake	<i>Regina septemvittata</i>
Smooth Greensnake	<i>Opheodrys vernalis</i>
Spiny Softshell	<i>Apalone spinifera</i>
Spotted Turtle	<i>Clemmys guttata</i>
Western Painted Turtle	<i>Chrysemys picta bellii</i>
Wood Turtle	<i>Glyptemys insculpta</i>

APPENDIX "B" – 2011 STAFF REPORT

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File No: Z-7822
Planner: Craig Smith

TO:	CHAIR AND MEMBERS BUILT AND NATURAL ENVIRONMENT COMMITTEE
FROM:	JOHN M. FLEMING CITY PLANNER
SUBJECT:	APPLICATION BY: CITY OF LONDON 1292 SCOTLAND DRIVE AND PRIVATE ZOO USE PUBLIC PARTICIPATION MEETING ON MARCH 28, 2011 AT 4:30 P.M.

RECOMMENDATION

That, on the recommendation of the City Planner, based on the application of the City of London, relating to the property located at 1292 Scotland Drive:

- a) the attached proposed by-law **BE INTRODUCED** at the Municipal Council meeting on April 4, 2011 to amend Zoning By-law No. Z.-1 in conformity with the Official Plan to change the zoning of the subject lands **FROM** an Agricultural Special Provision (AG2 (1)) Zone which permits farm uses, uses in association with a farm and allows for a private zoo **TO** an Agricultural (AG2) Zone to permit farms and uses associated with farming;

- b) Amend Section 2, Definitions, of the Zoning By-law, Z.-1, by **DELETING** the following definition:

"PRIVATE ZOO" means a collection of animals confined within appropriate animal enclosures, privately owned and operated on a commercial basis to provide viewing to the public for a fee.

PREVIOUS REPORTS PERTINENT TO THIS MATTER
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March 22, 2010- Environment and Transportation Committee- Item #4
September 8, 2008- Environment and Transportation Committee- Item #11
January 30, 1995- Z-4956- Planning Committee

PURPOSE AND EFFECT OF RECOMMENDED ACTION

To remove the private zoo use from the property at 1292 Scotland Drive and to remove private zoo use as a permitted use in the City of London.

RATIONALE

1. The recommended amendment will allow for the removal of a permitted land use from the City of London Zoning By-law Z.-1 and from the property located at 1292 Scotland Drive in conformity with Section 34 (1) of the *Planning Act*.

2. The recommended amendments will allow for the removal of a land use from the Zoning By-law and from the property located at 1292 Scotland Drive in conformity with Section 19 of the City of London Official Plan.

WESTMINSTER DR

Agenda Item # Page #

22

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OLD VICTORIA RD








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LOCATION MAP

Subject Site: 1292 Scotland Dr
Applicant: City Of London
File Number: Z-7822
Planner: Craig Smith
Created By: Craig Smith
Date: 2010-10-22
Scale: 1:10100

LEGEND

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



22 246

File No: Z-7822
Planner: Craig Smith

BACKGROUND

1292 Scotland Drive was located in the former Township of Westminster which was annexed to the City of London in 1993. A zoo use existed on the site at this time. On January 30, 1995 the City of London Municipal Council amended the Township of Westminster TWP-2000 By-law on the front 4 hectares of the property that abuts Scotland Drive. The lands were amended from a General Agricultural (A1) Zone which permitted farm uses to a General Agricultural Special Provision (A1-16) Zone which permitted a private zoo. Section 4 of the Township of Westminster TWP-2000 By-law was amended to add the definition "Private Zoo" which means a collection of animals confined within appropriate animal enclosures, privately owned and operated on a commercial basis.

In 2005 the City of London adopted By-law Z.-1-051390 which amended all annexed area by-laws and consolidated them into one comprehensive City of London Zoning By-law (Z.-1051390). Zoning amendment Z.-1-051390 designated the lands Agricultural Special Provision (AG2 (1) in the City of London Zoning By-law Z.-1. The amended zone was intended to permit the same range of uses which were previously permitted by the Township of Westminster TWP 2000 By-law. The Agricultural Special Provision (AG2 (1)) Zone allows for farm uses and also allows a private zoo use.

In 2007 and 2008 conditions on the property specifically the keeping of a kangaroo were scrutinized by the Ontario Society for the Prevention of Cruelty to Animals and the public resulting in international media coverage. The Ministry of Natural Resources investigated the property which resulted in the issuance of a fine in 2008 under the *Fish and Wildlife Conservation Act* for failing to renew the required zoo licence. The property is not open to the public at this time for a private zoo use.

Date Application Accepted: September 1, 2010	Agent: City of London
<p>REQUESTED ACTION: The purpose and effect of this zoning change is to remove the private zoo use from the list of permitted uses on the property located at 1292 Scotland Drive and to review Zoning By-law Z.-1 regarding private zoo use in the City of London.</p> <p>Change Zoning By-law Z.-1 from a Agricultural Special Provision (AG2 (1)) Zone which permits agricultural uses and private zoo uses to a Agricultural (AG2) Zone which permits agricultural uses.</p>	

<p>SITE CHARACTERISTICS:</p> <ul style="list-style-type: none"> • Current Land Use – Agricultural • Frontage – 260 metres • Depth – 145 metres • Area – 4 ha • Shape – rectangular

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File No: Z-7822
Planner: Craig Smith

SURROUNDING LAND USES:
<ul style="list-style-type: none"> • North – Agricultural • South – Agricultural • East - Agricultural • West - Agricultural

OFFICIAL PLAN DESIGNATION: (refer to map on page 5)
<ul style="list-style-type: none"> • Agricultural
EXISTING ZONING: (refer to map on page 6)
<ul style="list-style-type: none"> • Agricultural Special Provision (AG2 (1))

PLANNING HISTORY

On September 15, 2008 Municipal Council resolved:

*That clause 1 as amended, of the 6th Report of the Animal Welfare Advisory Committee (AWAC) **BE REFERRED** to the City Solicitor's Office and the Planning Department to report back at a future meeting of the Environment and Transportation Committee (ETC) with respect to what actions can be taken within legal parameters and how the City can ensure that this does not occur again; it being noted that the ETC deleted the words "wild and exotic" in part (a) of Clause 1 of the 6th Report of the AWAC and replaced them with the word "native". Clause 1 reads as follows:*

"That the following actions be taken with respect to the former Lickety Split Ranch and Zoo:

- a) *the by-law which allows the former Lickety Split Ranch and Zoo to be zoned as a zoo **BE REPEALED** as the Lickety Split Ranch and Zoo has not been operating for two years, the Ministry of Natural Resources has seized a number of native animals from the property and the owners of the property have been charged with having native animals without a licence; and*
- b) *the remaining animals on the property **BE RELOCATED** to more suitable locations."*

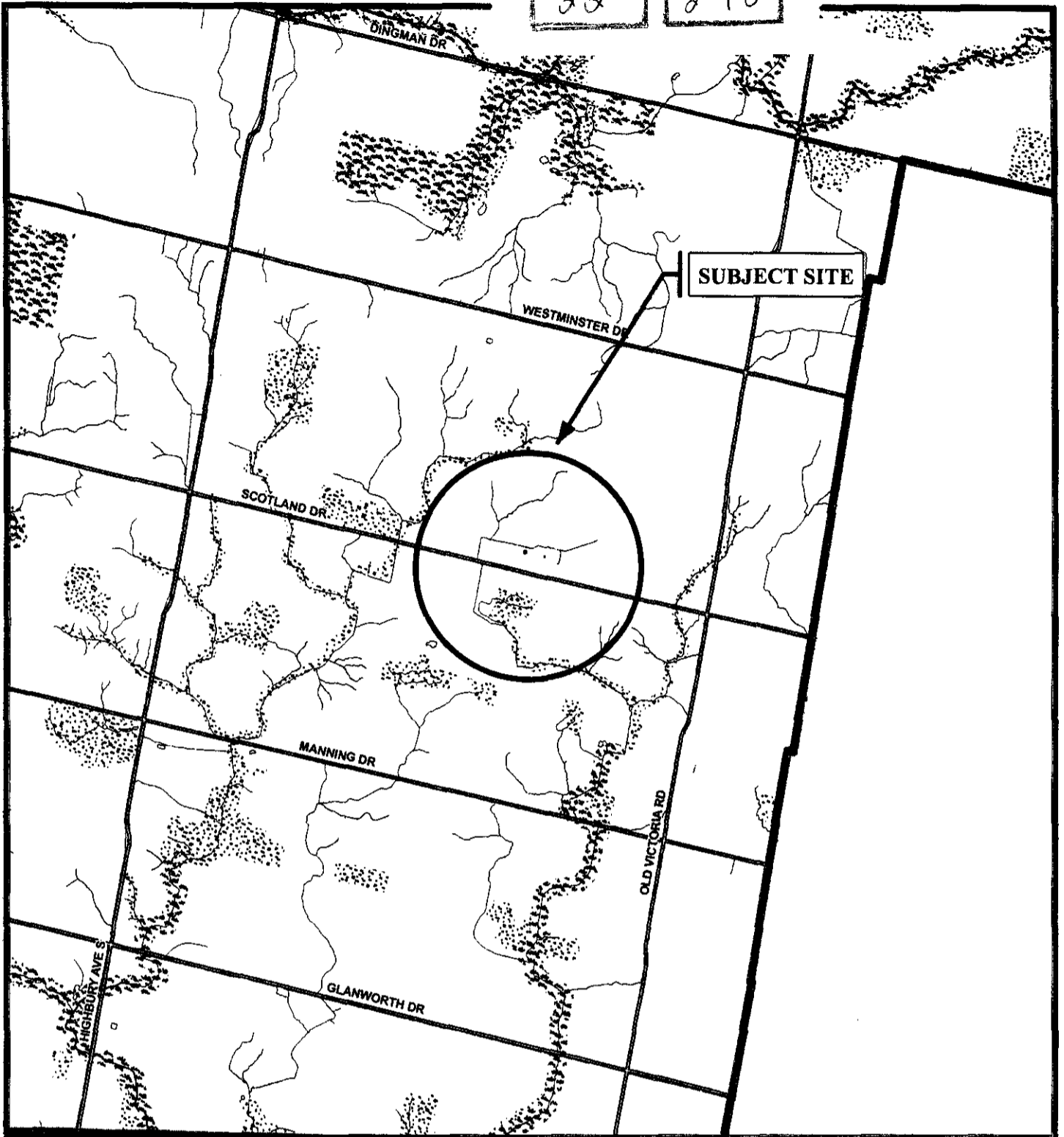
it being noted that a communication dated August 28, 2008 from K. and K. Lomack and verbal presentations from J. Foster, Executive Director, London Humane Society and M. Blosch, Chair, Animal Welfare Advisory Committee, were received with respect to this matter. (7/14/ETC)

The Municipal Council, at its session held on March 29, 2010 resolved:

*That, on the recommendation of the General Manager of Planning and Development and the General Manager of Environmental and Engineering Services & City Engineer, the Planning and Development Department **BE INSTRUCTED** to report to the Planning Committee with respect to a potential Zoning By-law amendment to amend the existing zone at 1292 Scotland Drive, to remove the 'private zoo" use and to report on the associated provisions in the Zoning By-law pertaining to private zoo uses.*

SIGNIFICANT DEPARTMENT/AGENCY COMMENTS

The City of London's Environmental and Engineering Services Department has no objection to the proposed Zoning By-law Amendment



Legend

- | | |
|--|-----------------------------------|
| Downtown Area | 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 |
| | Areas Under Appeal |

CITY OF LONDON
 Department of
 Planning and Development
 OFFICIAL PLAN SCHEDULE A
 - LANDUSE -

PREPARED BY: Graphics and Information Services



Scale 1:30,000

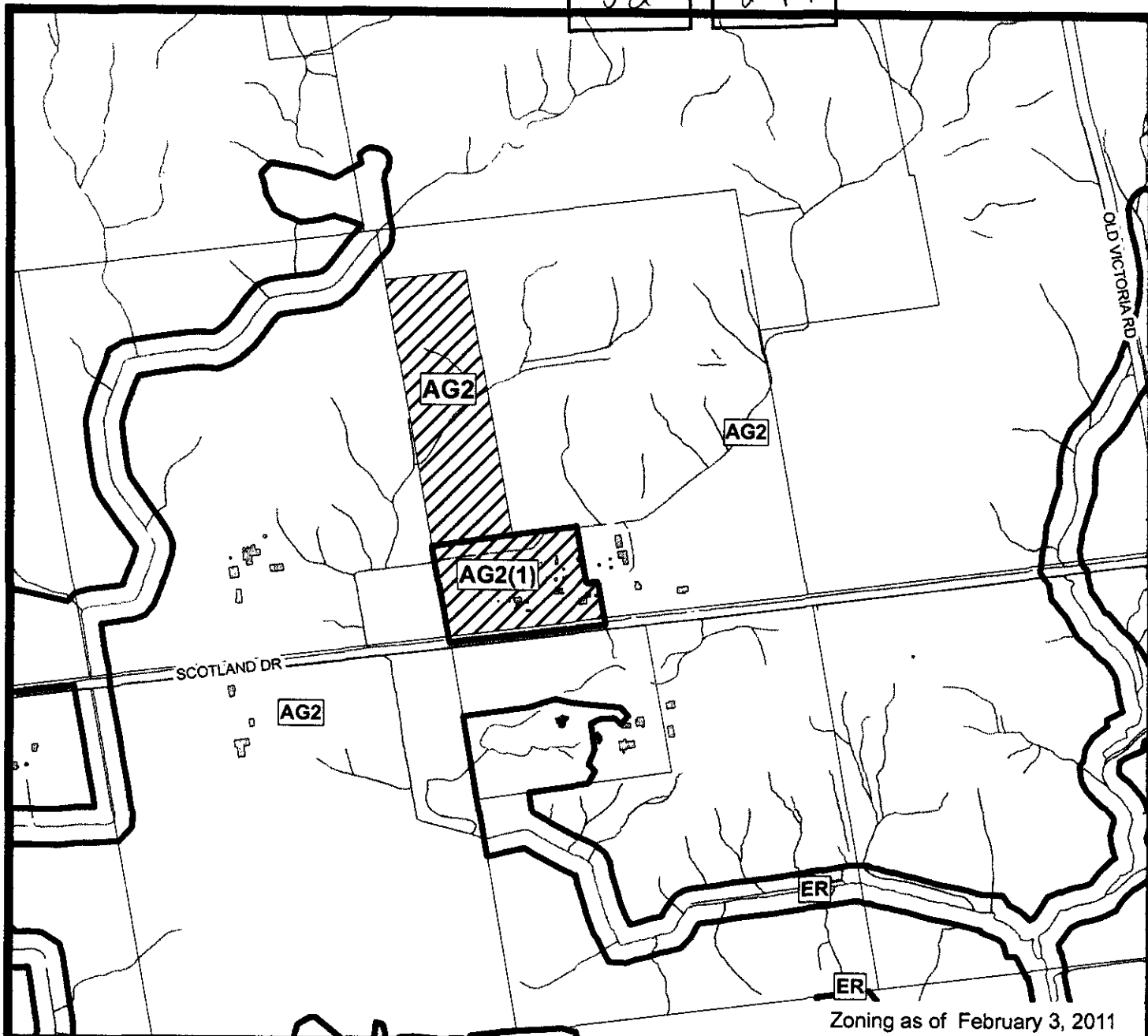


FILE NUMBER: Z-7822

PLANNER: CS

TECHNICIAN: CK

DATE: 2011 Feb 08



Zoning as of February 3, 2011



COUNCIL APPROVED ZONING FOR THE SUBJECT SITE: AG2 & AG2(1)

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

2)  **ANNEXED AREA APPEALED AREAS**

CITY OF LONDON

DEPARTMENT OF PLANNING AND DEVELOPMENT

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



FILE NO:

Z-7822

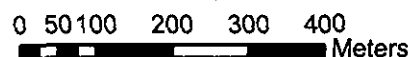
CS

MAP PREPARED:

2011/02/08

CK

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File No: Z-7822
Planner: Craig Smith

PUBLIC LIAISON:	On October 25, 2010, Notice of Application was sent to 8 landowners in the area. On October 30, 2010, notice of application was published in the Living in the City section of the London Free Press.	There were no replies to the application.
<p>Nature of Liaison: The purpose and effect of this zoning change is to remove the private zoo use from the list of permitted uses on the property located at 1292 Scotland Drive and to review Zoning By-law Z.-1 regarding private zoo use in the City of London.</p> <p>Change Zoning By-law Z.-1 from an Agricultural Special Provision (AG2 (1)) Zone which permits agricultural uses and private zoo uses to a Agricultural (AG2) Zone which permits agricultural uses.</p>		
<p>Responses: None</p>		

ANALYSIS

Subject Site

1292 Scotland Drive is located on the north side of Scotland Drive approximately half way between Highbury Avenue and Old Victoria Road. The property is 10 hectares in size and is zoned Agricultural (AG2) which permits farm uses. The front 4 ha of the property that abuts Scotland Drive is zoned Agricultural Special Provision (AG2 (1)) which permits farm uses and allows for the private zoo use.

Nature of the Application

The application is to amend the Agricultural Special Provision (AG2 (1)) zone to remove the special provision on 1292 Scotland Drive that allows for the private zoo use. Further the proposed amendment will remove private zoo definition from Zoning By-law Z.-1 as a permitted land use in the City of London.

Provincial Policy Statement

Section 2.3.1 states: *Prime agricultural areas shall be protected for long-term use for agriculture.*

Prime agricultural areas are areas where prime agricultural lands predominate. Specialty crop areas shall be given the highest priority for protection, followed by Classes 1, 2 and 3 soils, in this order of priority.

Official Plan

The lands are designated Agricultural. The agriculturally designated lands are intended to protect the long term use of agriculture. The designation does permit secondary uses that are agriculturally-related commercial and industrial uses.

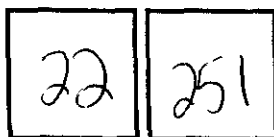
Zoning Background

1292 Scotland Drive is currently zoned Agricultural Special Provision (AG2 (1)) which permits a range of agricultural uses including livestock facilities, green houses, farm market and also allows for a private zoo use. A private zoo is defined as: *a collection of animals confined within appropriate animal enclosures, privately owned and operated on a commercial basis to provide viewing to the public for a fee.*

The private zoo use at 1292 Scotland Drive was permitted by the City of London Municipal Council in 1995. Council amended the former Township of Westminster By-law TWP-2000 from a General Agricultural (A1) Zone to a defined area General Agricultural (A1-16) Zone. The General Agricultural (A1-16) zone variation specifically permitted:

Permitted Uses:

- a) uses permitted under Section 8.1.1- private zoo accessory use
- b) Minimum Lot Frontage: 30 metres
- c) Minimum Lot Depth: 40 metres



- d) *Maximum Coverage:* *Twenty percent (20%)*
- e) *Minimum Setback:* *20 metres*
- f) *Minimum Side Yards:* *7.5 metres*
- g) *Minimum Rear Yard:* *10 metres*
- h) *Minimum Landscaped Open Space:* *Twenty percent (20%)*

Municipal Council of the City of London amended all annexed area Zoning By-laws in the City of London through the comprehensive zoning amendment Z.-1-051390 in 2005. It was at this time the Agricultural Special Provision (AG2 (1)) Zone was added to this property. The Agricultural Special Provision (AG2 (1)) Zone permits a private zoo use on this property.

According to the Animal Welfare Advisory Committee the zoo has ceased to operate at this location for approximately four years.

Zoo Uses in the City of London

Currently there is no other zone or property in the City of London which permits a private zoo use.

The City of London's Storybook Gardens currently keeps and displays animals at 1958 Storybook Lane. Storybook Gardens is zoned Open Space (OS2). The Open Space zone allows for a Park use which is described as: *an area of land, consisting primarily of landscaped open space, used primarily for active or passive recreational purposes or as a conservation area, with or without related recreational buildings, structures or facilities including, but not necessarily restricted to, a recreational playground, a golf course, a driving range, a ski hill, a play area, a bandstand, a skating rink, a horticultural greenhouse, a zoological garden, an historical establishment, a bowling green, a tennis or badminton court, a playfield, a running track, a swimming area, a wading pool, a boating pond or lake, a watercourse, a refreshment booth, a picnic area, or an auditorium or place of assembly.*

The animals on display in Storybrook Gardens are part of a zoological garden and permitted by the zone.

Regulation of Animals - By-laws and Provincial Legislation

The City of London's Animal Control By-law, which regulates the kinds of animals that may be kept, does not apply to "premises and land zoned for agricultural uses", nor does it apply to "animals maintained in a public park, zoo, fair, exhibition or circus operated or licensed by a municipal or other governmental authority". Therefore the Animal Control By-law does not apply to the keeping of animals at 1292 Scotland Drive since it is zoned for agricultural uses. The Animal Control By-law could be amended to apply to land zoned for agricultural uses, and we understand that such a report from Civic Administration is forthcoming.

The *Ontario Society for the Prevention of Cruelty to Animals Act* establishes the requirements and standards with respect to the care of animals (including captive wildlife). Inspectors and agents of the OSPCA are authorized to exercise enforcement powers with respect to that Act. Inspectors and agents of the OSPCA (and the London Humane Society) would have the authority to inspect to determine whether prescribed standards of care are complied with, and to determine whether there are any animals in distress.

Under provincial legislation, a person who owns or operates a "zoo" may keep live game wildlife or live specially protected wildlife in captivity, if the person has obtained a license to do so from the Ministry of Natural Resources pursuant to the *Fish and Wildlife Conservation Act, 1997*. "Zoo" is defined in Ontario Regulation 668/98 of that Act to mean "a place where game wildlife or specially protected wildlife is kept in captivity for display to the public and for conservation, educational or scientific purposes".

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File No: Z-7822
Planner: Craig Smith

Is it Appropriate to Amend the Zoning at 1292 Scotland Drive?

Yes. The City of London annexed the former Township of Westminster in 1993. Municipal Council amended the former Township By-law to specifically recognize the existing zoo use on this site in 1995. Municipal Council also recommended that a specific private zoo definition be adopted to specifically address the use at this location. There are not any other sites in the City of London zoned to permit a private zoo use. In 2008 the Ministry of Natural Resources issued a fine to the property owners at 1292 Scotland Drive for not renewing the zoo licence granted by the Ministry under *Fish and Wildlife Conservation Act, 1997*. The private zoo use located at 1292 Scotland Drive was reviewed by the City of London Animal and Welfare Advisory Committee in 2008. AWAC recommended to Council at that time that City Staff be directed to review the Zoning By-law and recommend "what actions can be taken within legal parameters and how the City can ensure that this does not occur again"

The property is designated Agricultural. The amendment will remove a commercial use that is considered secondary to the primary farming use. The proposed amendment will allow for the whole of 1292 Scotland Drive (10ha) to be used for agricultural uses which meet the intent of the City of London Official Plan and the Provincial Policy Statement.

City Staff met with the property owner and Ward Councillor at 1292 Scotland Drive on November 2, 2010. The owner expressed concerns regarding the removal of the existing zoning from the property. Section 34 of the *Planning Act* allows Municipalities to regulate the use of land through Zoning By-laws. Council through the recommendation from the Animal Welfare Advisory Committee has concluded that a private zoo use at this location is not an appropriate use of land. The proposed amendment will remove the use.

Is it Appropriate to Amend the Zoning By-law to Remove Private Zoo Use?

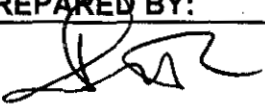


Yes. The definition of a private zoo use was adopted by Municipal Council in 1995 to specifically allow for the use at 1292 Scotland Drive. There are no other private zoo uses in the City of London and no other zoning designations that allow for the use. Council through the recommendation of the Animal Welfare Advisory Committee has concluded that a private zoo use in the City of London is not an appropriate use. Any application in the future to allow for a zoo use in the City of London can be evaluated by Council at that time. The removal of the definition from Zoning By-law Z.-1 does not affect the City's zoological garden use at Storeybrook Gardens and does not impact any other properties in the City.

CONCLUSION

The proposed amendment to amend Zoning By-law Z.-1 on 1292 Scotland Drive and to remove the private zoo use definition from the Zoning By-law Z.-1 is appropriate. The proposed amendments implement Council's recommendation that City Staff review the Zoning By-law and make recommendations to ensure that "this does not occur again".

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File No: Z-7822
Planner: Craig Smith

PREPARED BY: 	SUBMITTED BY: 
CRAIG SMITH – PLANNER COMMUNITY PLANNING AND URBAN DESIGN	JIM YANCHULA, MCIP, RPP MANAGER OF COMMUNITY PLANNING AND URBAN DESIGN
RECOMMENDED BY: 	
JOHN M. FLEMING, MCIP, RPP CITY PLANNER	

CS/
March 16, 2011
CS/

22	254
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**Bibliography of Information and Materials
Z-7822**

Reference Documents

Ontario. Ministry of Municipal Affairs and Housing. *Provincial Policy Statement*, March 1, 2005

City of London. *Official Plan*, June 19, 1989, as amended

City of London. *Zoning By-law No. Z.-1*, May 21, 1991, as amended

Agency Review and Public Responses: (located in City of London File No. Z-7822 unless otherwise stated)

City of London

Burgess L., Environmental and Engineering Services Department. Memo to C. Smith, January 21, 2011

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File No: Z-7822
Planner: Craig Smith

Bill No. (number to be inserted by Clerk's Office)
2011

By-law No. Z.-1-_____

A by-law to amend By-law No. Z.-1 to rezone an area of land located at 1292 Scotland Drive.

WHEREAS City of London has applied to rezone an area of land located at 1292 Scotland Drive, as shown on the map attached to this by-law, as set out below;

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. Schedule "A" to By-law No. Z.-1 is amended by changing the zoning applicable to lands located at 1292 Scotland Drive, as shown on the attached map comprising part of Key Map No.180, from a Agricultural Special Provision (AG2 (1)) Zone to a Agricultural (AG2) Zone.
2. Section 2, Definitions, of the Zoning By-law, Z.-1, is hereby amended by deleting the following definition.

"PRIVATE ZOO" means a collection of animals confined within appropriate animal enclosures, privately owned and operated on a commercial basis to provide viewing to the public for a fee.

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. P.13*, either upon the date of the passage of this by-law or as otherwise provided by the said section.

PASSED in Open Council on April 4, 2011.

Joe Fontana
Mayor

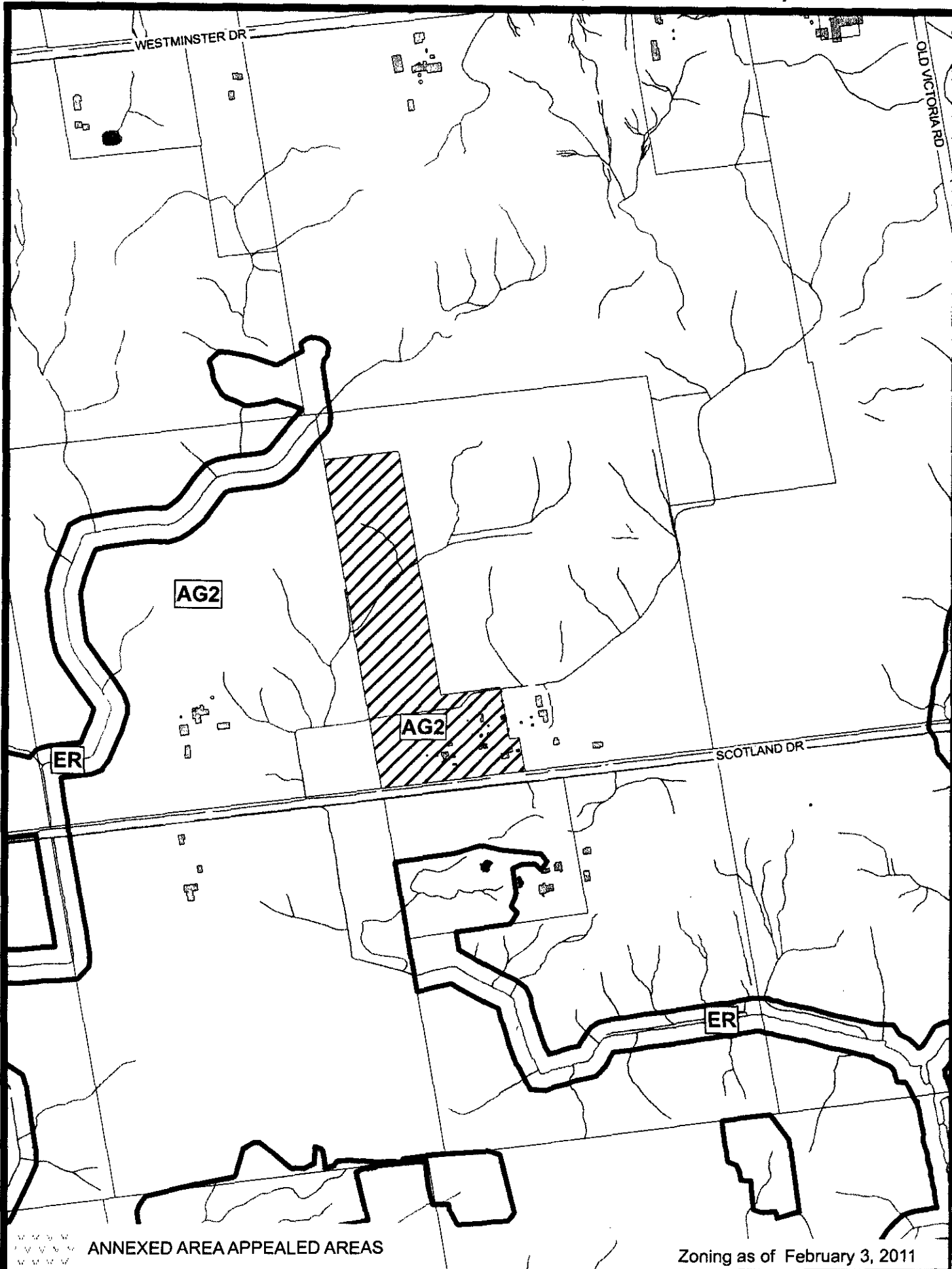
Catharine Saunders
City Clerk

First Reading - April 4, 2011
Second Reading - April 4, 2011
Third Reading - April 4, 2011

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



ANNEXED AREA APPEALED AREAS

Zoning as of February 3, 2011

File Number: Z-7822

Planner: CS

Date Prepared: 2011/02/08

Technician: CK

By-Law No: Z.-1-

SUBJECT SITE 

1:9,000

0 50 100 200 300 400 Meters

