

Hello,

We had sent the following email on April 3, 2022, to Mayor Holder and each of the City Councillors, as well Ms Pasato, Mr. Corby, Mr. Barrett, and Mr. Mathers of the Planning Department. We had attached 2 documents.

"Honourable Mayor Holder and Respective Councillors,

*Please find attached, 2 documents regarding **File: 09426/Z-9427, 517 – 525 Fanshawe Park Road**, which will come before City Council on April 12, 2022.*

*The first document is regarding **serious concerns** about information that Ms. Pasato presented at the PEC Meeting on March 28, 2022.*

*The second document is a Supplemental Report to the March 18, 2022 Analytical Report, that was provided by the **"no2gearystoneybrookdev"** Group.*

Sincerely,

Greg and Anna Ackland

(1532 Geary Avenue)/ Members of: no2gearystoneybrookdev@gmail.com"

We note on the Council Agenda for April 12, 2022, 4 pm, that Section #6 Communications and Petitions, item 6.2 517, 521, and 525 Fanshawe Park Road East, notes communication from the Public.

We assumed that our email and attachments would have been noted on the Agenda for the Public and the Public Record, however, we do not see our names noted on the Agenda in this section.

Could you please add our names and attach the documents to ensure that this information is provided to the Public and noted in the Public Record. WE CONSENT TO THE ADDITION OF OUR COVER EMAIL AND THE ATTACHED 2 DOCUMENTS!!!!!!!!!!!!!!!!!!!!!!!!!!!!!!!!!!!!

Are members of the Public allowed to speak before the Council in this meeting? If so we would like to exercise our rights to speak on this matter.

Thank you very much,

Greg and Anna Ackland

(1532 Geary Avenue)/ Member of: no2gearystoneybrookdev@gmail.com

April 3, 2022

Honourable Mayor Holder and Respective Councillors,

This communication is to request your assistance regarding **File: 09426/Z-9427**, which will come before City Council on April 12, 2022. There are significant concerns regarding information that was provided by Ms. Pasato, City Planner, at the PEC Meeting, March 28, 2022.

1. Non-compliance to the Planning Act Legislation
2. Violation of Public trust

"no2gearystoneybrookdev" is an organized Group of Stoneybrook area residents that have come together to present a case in opposition of the proposed development. The Group supports appropriate intensification with a driveway exiting/entering off Fanshawe Park Road. Please refer to the Group's Analytical Report of March 18, 2022 (<https://pub-london.escribemeetings.com/filestream.ashx?DocumentId=90807>), as Ms. Pasato did not include this information in her Report.

Relevant information, in the video link for the March 28, 2022 PEC meeting, will be referenced by time stamp (<https://pub-london.escribemeetings.com/Meeting.aspx?id=82ddbba3-1fef-4061-889e-c8de582795d8&Agenda=Merged&lang=English>).

Time stamp 2:16:00 - Councillor Cassidy asked Ms. Pasato regarding "why" the size of the proposed build at the Subject Lots, as compared to the size of current developments at 420 Fanshawe Park Road East and 307 Fanshawe Park Road East. Ms. Pasato cited that per the London Plan Policy, Bonus Zoning, 6 storeys is permitted at each location. Ms. Pasato omits stating that other relevant London Plan Policy should be considered, and that the tables in the London Plan specifying the range of permitted heights in the Neighbourhood Place Types remain under appeal.

Time stamp 4:05:25 - The Public Participant provided examples of omitted London Plan policy, that Ms. Pasato has not considered, such as: **"Genuinely engage public in all planning processes, meaningfully use that input to inform planning decisions. Explore new ways to inform the public and make their participation in the planning process easier."**

"Intensification promoted in **appropriate** locations, sensitive, respectful to existing neighbourhood character, representing a good fit." "All planning/ development proposals be required to articulate the neighbourhood's character" "buildings designed to **minimize: massing, shadowing, visual impact, the obstruction of view from the street, public spaces and neighbouring properties.**" "Design measures relating to building height, scale and massing must provide a transition between development of significantly different intensities." "A Planning Design Report be submitted for all intensification proposals, **clearly demonstrating** that the proposed intensification project is **sensitive to, compatible with, and fits within the existing and planned neighbourhood context** and will be evaluated regarding driveways, character and features of the neighbourhood, height transitions with adjacent development, massing appropriate to the scale of the surrounding neighbourhood." Ms. Pasato's recommendation is one-sided, Developer-focused, and not in keeping with The London Plan Policy. **The London Plan does not state to allow intensification at all costs.** The Public Participant has not received a response to the question asked regarding what Appendix A & B mean, "PASSED in Open Council on April 12, 2022".

The Public Participants provided feedback about the proposed development negatively impacting upon the character and safety of the Stoneybrook Community: intensity, massive form, shadowing, traffic concerns, and impact on a congested school zone to name a few. The outcome of the meeting was no decision / no vote.

Time stamp 2:55:10 – The Public Participant spoke about false information provided in both the Consultant’s Report and Ms. Pasato’s Report.

Time stamp 3:41:46 -The Public Participant stated, “the City is supposed to protect us”.

Time stamp 3:44:40 - The Public Participant provided information from the Analytical Report as well as a review of “Bonus Zoning”, which appears to be basic, good development neighbourhood planning, per the London Plan.

Time stamp 2:36:06 - Councillor Hopkins informed all attendees that “Bonusing” will not be allowed later this year by the Province.

Time stamp 2:38:45 - Ms. Cassidy asked Ms. Pasato regarding Statutory time frame requirements for a decision to be rendered on any application, from the time the Developer has submitted a completed application: 90 days for By-Law amendment and 120 days for official plan amendment, and where things are at for this file. Ms. Pasato stated that the application was made at the end of October, and she would do a “rough calculation”. She informed that the process is into “almost” the “5th month”, “we are past the 120-day mark”. She stated, “this could potentially open up the City to appeals based on the lack of decision if the Applicant so chose to go that route”. (Relevant Legislation Review: see Appendix A below)

Information was requested from Ms. Pasato as per the following email trail (**There has been no reply from Ms. Pasato to the second email**):

*Fri, Apr 1 at 8:42 a.m.
Hello Nancy,*

Thank you for the information.

Could you please provide your rationale/justification, citing relevant Policy, as to why this application has been permitted to progress past key deadlines, that has allowed the Applicant to be in a position to have the right to file an appeal to the LPT for reason of Non-Decision.

Thank you,

Anna Ackland

On Friday, April 1, 2022, 08:29:55 a.m. EDT, Pasato, Nancy <npasato@london.ca> wrote:

Hello Ms. Ackland – October 28, 2021.

From: Anna Ackland

Sent: Friday, April 1, 2022, 7:31 AM

To: Pasato, Nancy <npasato@london.ca>

Subject: [EXTERNAL] Fille: 0-9426/Z-9427 517-525 Fanshawe Park Road East

Hello Nancy,

Please provide the date that the application for File: 0-9426/Z-9427 517-525 Fanshawe Park Road East was deemed to be complete.

Thank you,

Anna Ackland

Summary of Facts:

Ms. Pasato has failed to administer this file within the timelines specified by the Planning Act Legislation. She provided a “rough calculation” during the Public Meeting, instead of providing actual dates for the 90 day and 120-day timelines. Ms. Pasato did not provide rationale/justification for her non-compliance to administer this file within the legislated timeframes. She simply informed Ms. Cassidy that “this could potentially open up the City to appeals based on the lack of decision if the Applicant so chose to go that route”.

Ms. Pasato’s report was “reviewed” by a Manager, then “recommended” by a Director, and then “submitted” to the PEC by the Deputy City Manger, Planning and Economic Development. **This Department has failed to administer this file in compliance with Planning Act Legislation.**

Given that City of London employees’ salaries are paid by municipal taxpayer dollars, it is an expectation of the Public that Planning Department staff are competent in their performance of duties: providing correct information in their reports, accepting only correct applications from Developers, including Public input to make fair decisions and recommendations, valuing both the Developer and the Public in the planning process, and **complying to the statutory Provincial Planning Act Decision Timelines.**

Future Steps

Ms. Pasato’s non-compliance to meet statutory deadlines for this File has impacted the progression of this file into a concerning direction: the Applicant can appeal to the Land Planning Tribunal (LPT) for Non-Decision. Ms. Pasato’s Manager, Director, and Deputy City Manager of Planning and Economic Development, share in this non-compliance as they are the department Leadership staff.

This incompetence has violated the Public’s right and trust to engage in a planning process that is ethical and compliant within prescribed Planning Act legislation.

Please provide direction/advisement regarding what recourse the Public has with respect to Ms. Pasato’s and the Leadership Planning Department’s non-compliance with Statutory deadlines. Specifically, are you the governing body, as the Mayor and Councillors, that the Public can turn to regarding action against this incompetence? Is the LPT the correct governing body that the Public should appeal to?

It must be ensured that the community's written and verbal concerns regarding the municipal planning process and the proposed development are being heard, respected, and addressed!

Please reply by email to:

no2gearystoneybrookdev@gmail.com

aackland@rogers.com

gackland@rogers.com

Thank you in advance for your reply,

Anna and Greg Ackland (1532 Geary Avenue)/ Members of:
no2gearystoneybrookdev@gmail.com

Appendix A: Relevant Legislation Review:

<https://www.ontario.ca/page/applying-changes-land-use> :“The Planning Act sets out timelines for approval authorities to make decisions: 120 days for official plans and official plan amendments, 90 days for zoning by-law amendments”. Planning Act:
<https://www.ontario.ca/laws/regulation/060545>]

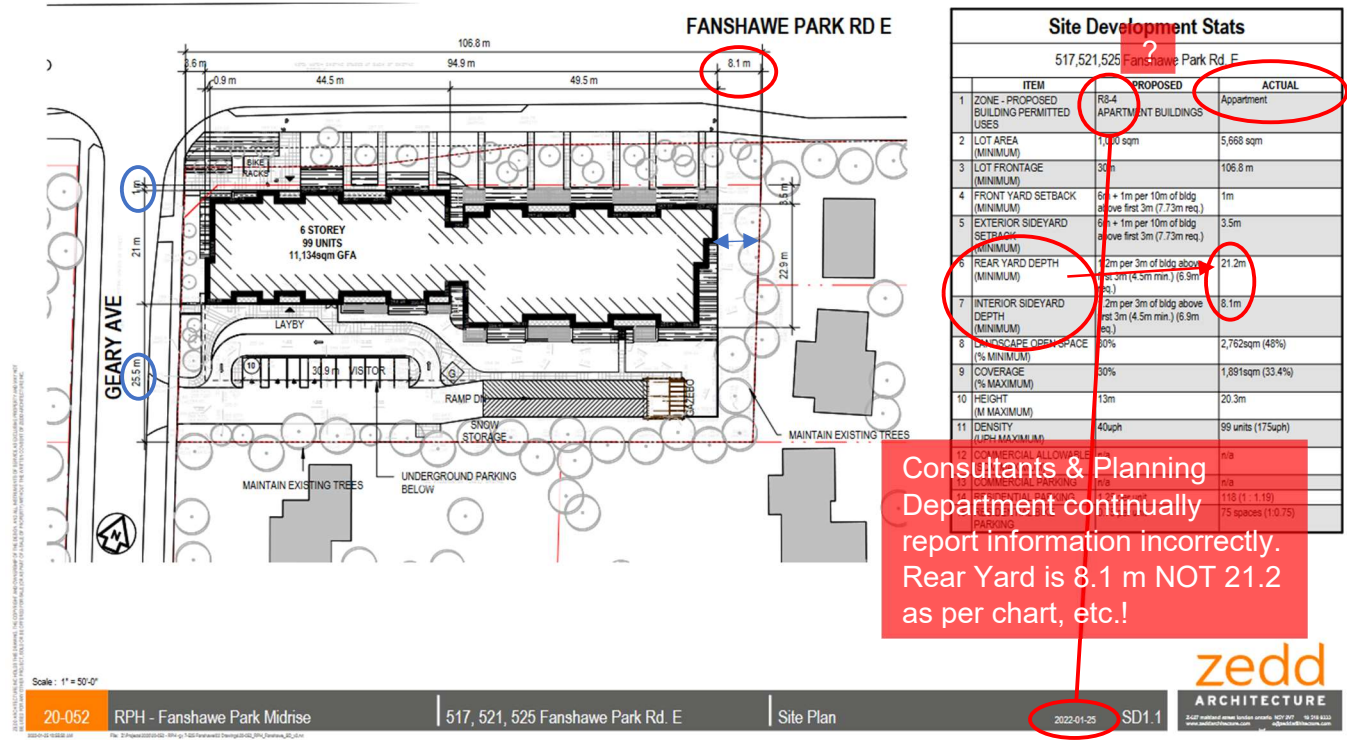
<https://www.ontario.ca/document/citizens-guide-land-use-planning/zoning-bylaw> This documents states: “If local council refuses your zoning application, or if it does not make a decision within 90 days of the receipt of the complete application and fee, you may be able to appeal to the [Ontario Land Tribunal](#) (OLT). Note that council has 120, not 90, days to make a decision on a zoning application if it was submitted to the municipality on the same day as a request for a related official plan amendment.” “Before council passes a zoning bylaw, **it must first give as much information as possible to the public. “The *Planning Act* encourages early involvement and the use of mediation techniques to resolve any conflicts.** Share your views early in the planning process by making a verbal presentation at the public meeting or a written submission to council before it passes the bylaw. If you don't, you are not entitled to appeal the bylaw after it is passed.”

Supplemental Report – April 3, 2022, to the Primary Analytical Report March 18, 2022
File: O-9426/Z-9427
517-525 Fanshawe Park Road East

There are further issues with the Application for Amendments to the Official Plan and Zoning By-Law that were queried at the March 28, 2022, PEC Meeting.

1.0 - Yard Rear Depth

On the Site Plan drawing SD1.1 below, that was part of the application by Zedd Architecture, the east yard setback is clearly dimensioned as 8.1 metres from the northeast corner of the lot boundary. The 8.1 metres setback corresponds with that specified on page 1 of the Public Meeting Notice, as the **rear yard depth**. The **rear yard depth** is further clarified under the “Application Details” and “Requested Zoning” where it states: “a reduced minimum **rear yard depth of 8.1 m**, whereas 20.3 m is required”. The rear depth is further collaborated in the Report to the Planning & Environment Committee (PEC), March 28, 2022. In the PEC Meeting Ms. Pasato, at time stamp 2:20 to 2:22, confirmed this **rear yard depth is 8.1 m**.



It is noted that the east property limit geodetic bearing is not parallel to the building and the **rear yard depth** narrows along the building heading south. At the first jog in the building heading south (location of the blue arrows above) the required side yard set back will in fact be **less than the required 8.1 m**. The building length east to west will have to be **redesigned to be shorter**.

Note for reference:

The 1.0 m minimum exterior side yard is noted on the site plan above, revised from the previous revision specifying 0.4 m.

If this proposed development were to proceed, the building and underground parking garage will need be reconfigured to provide the mandated 8.1 m rear yard depth across the full extent of the east property line as defined and established in the Zoning Amendment. In addition, the 0.4 m exterior side yard setback would need to be adjusted to 1.0 m.

2.0 - Yard Interior Side

Consistent with the site orientation defined by City Planning Staff, the rear yard is located **east** of the building. The yard area immediately south of the building, and abutting the south property limit, is defined as the “Yard Interior Side”.

- 1 The Interior Side Yard per the current R2-4 Zoning By-Law (<https://london.ca/sites/default/files/2022-01/CHAPTR06.pdf>) Table 6.3 (page 17) refers R2-4 for Single Detached Dwellings to Sections 6.3 (2)(a) or 6.3 (2)(e) for details of the minimum interior side yard depth for various conditions as:
 - a) *Single Detached Dwelling 1.2 metres (3.9 feet) plus, for any portion of the side yard adjacent to a part of the building exceeding one storey in height, 0.6 metres (2.0 feet) for each storey or part thereof above one storey; except that where no private garage is attached to the dwelling, one side shall be 3.0 metres (9.8 feet).*
 - e) *Zero Lot Line 1.6 metres (5.2 feet) on one side plus 0.6 metres (2.0 feet) for each storey or part thereof above one storey on one side, and no interior side yard shall be required on one side of a single detached dwelling if no doors, windows or other openings are provided on that side of the building where the side yard is not provided; all roof drainage from the building is directed onto the site by eavestroughs and downspouts; and the owner grants a private maintenance easement for the entire length of the property having a width of not less than the minimum side yard requirement which shall:
 - i. *be registered by caveat against the title of the site proposed for development and the adjacent site; and,*
 - ii. *include a 0.6 metre (1.97 feet) eave and footing encroachment easement. The interior side yard for zero lot line dwellings where no garage is provided in 3.2 metres (10.5 feet).*
(Z.-1-00761)*

Per the original application’s Zoning Data Sheet (**original with errors**) available from the City of London website (December 6, 2021), and inserted on the following page, the Interior Yard Depth (minimum) was “N/A” (not applicable).

- 2 In the PEC Public Meeting on March 28, 2022, Ms. Pasato comments, at time stamp 2:21:00 to 2:22:15, that buffering and setback is 21 metres south from the building to the Geary Avenue properties. Further in the PEC Meeting, at time stamp 4:12:00, Ms. Pasato recognized the conflict between the London Plan, and the Zoning By-Law, and that for the purposes of the Zoning By-Law, the frontage and how it is currently written, the Z1 frontage is onto Geary Avenue for this development. Ms. Pasato went on to say, “so there is a little bit of a discrepancy between the two documents”.
- 3 In the Report to PEC (March 28, 2022), **Appendix B, The Official Plan Amendment**, states the conditions to rezone an area of land located at 517, 521, 525 Fanshawe Park Road East from R2-4 to R8-4 () with Special Provision Bonus stipulates under section (2)(a), as follows:

The following special regulations apply within the bonus zone upon the execution and registration of the required development agreement(s):

a. Regulations

iii. Interior Side Yard Depth (Minimum) 21.2 meters (69.6 feet)

As highlighted on the Site Plan Drawing SD1.1 (Figure 1), that was part of the application documented by Zedd Architecture, the dimension from the south property line to the 6-storey apartment building is specified as 25.5 m.

As highlighted on the Parking Level Floor Plan Drawing SD2.1 (Figure 2), that was part of the application by Zedd Architecture, the dimension from the south property line to south wall / limits of the underground parking ramp access and underground parking structure is 4.4 m.

Again, while this portion of the building structure is underground parking, it is considered part of the main building, exposed above grade. The required interior yard depth must be maintained as defined under the City of London Zoning By-law No. Z.-1, Section 2 – Definitions.

<https://london.ca/sites/default/files/2022-01/CHAPTR02.pdf>.

Note for reference:

“YARD, SIDE means a yard extending from the front yard to the rear yard of a lot and between a side lot line and the nearest main wall of any building or structure on the lot. (See Figure 5 at the end of this Section)”

“YARD, INTERIOR SIDE means any side yard other than an exterior side yard. (See Figure 5 at the end of this Section)”

Per Figure 5 illustrates / clarifies that **there should be no building or structure within the interior side yard.**

With similar logical analysis in Supplemental Report Item 1, how is the underground parking structure and access permitted to be a structure within the required interior side yard; *similar to a side yard also noted above for reference?*

Based on the aforementioned municipally specified interior side yard depth of 21.2 m, it is **not permissible** for the applicant to propose and construct an underground parking structure and ramp / access structure within the required interior side yard, in accordance with definitions & other stipulations within the Zoning By-Law and other Planner documentation.

Question for the City Planner: Why was this application approved even with consideration of the customized zoning that was recommended?

ZONING DATA SHEET – ZONING BY-LAW AMENDMENT

To be completed by Applicant as part of Complete Application

File No.

Description of Land	
Municipal street address:	517,521,525 Fanshawe Park Road East
Legal Description:	PLAN 704 PT LOTS 3 & 4 RP 33RS425 PT PART 1, PLAN 704 PT LOT 4 PT LOT 5, PLAN 704 PT LOTS 5,6,7
Street Frontage / Street Flankage (name):	Fanshawe Park Road East
Existing Zone(s) in Z-1 Zoning By-law:	R9-7(L) Proposed Zone(s) in Zoning By-law: R9-7(L)

BY-LAW RESTRICTIONS	REQUIRED (PROPOSED ZONE)	AS SHOWN ON PLAN
(a) Use	See Section 13.2	Apartment Building
(b) Lot Area (m ²) Min	1,000 sq. m	5,668.0 sq. m.
(c) Lot Frontage (m) Min	30.0	106.8 m
(d) Front Yard Depth (m) Main Building/ Garage (m) Min	10.0 m	0.4 m
(e) Rear Yard Depth (m) Min	21.0 m	21.2 m
(f) Interior Yard Depth (m) Min	3.0 m	3.1 m
(g) Interior Yard Depth (m) Min	N/A	N/A
(h) Exterior Yard Depth (m) Min	3.0 m	3.5 m
(i) Lot Coverage (%) Max	30 %	33.4 %
(j) Landscaped Open Space (%) Min	30 %	48 %
(k) Height (m) Max	See Zone Map	21 m
(l) Off-street Parking Min (rate/number)	1:1.25 (124 spaces)	1:1.19 (118 spaces)
(m) Bicycle Parking Min (rate/number)		1:0.75 (75 spaces)
(n) Parking Area Coverage (%) Max	N/A	N/A
(o) Parking Set Back Min	3.0 m	> 3.0 m
(p) Gross Floor Area (m ²) Max	N/A	11,124 sq. m
(q) Gross Floor Area For Specific Uses (m ²) Max	N/A	N/A
(r) Yard Encroachments (if applicable)	N/A	N/A
(s) Density Max (rate/number) (see Section 3.4.1) for mixed-use)	150	175
(t) Special Provisions	See Planning and Design Report	See Planning and Design Report
(u) Other By-law Regulations	N/A	N/A

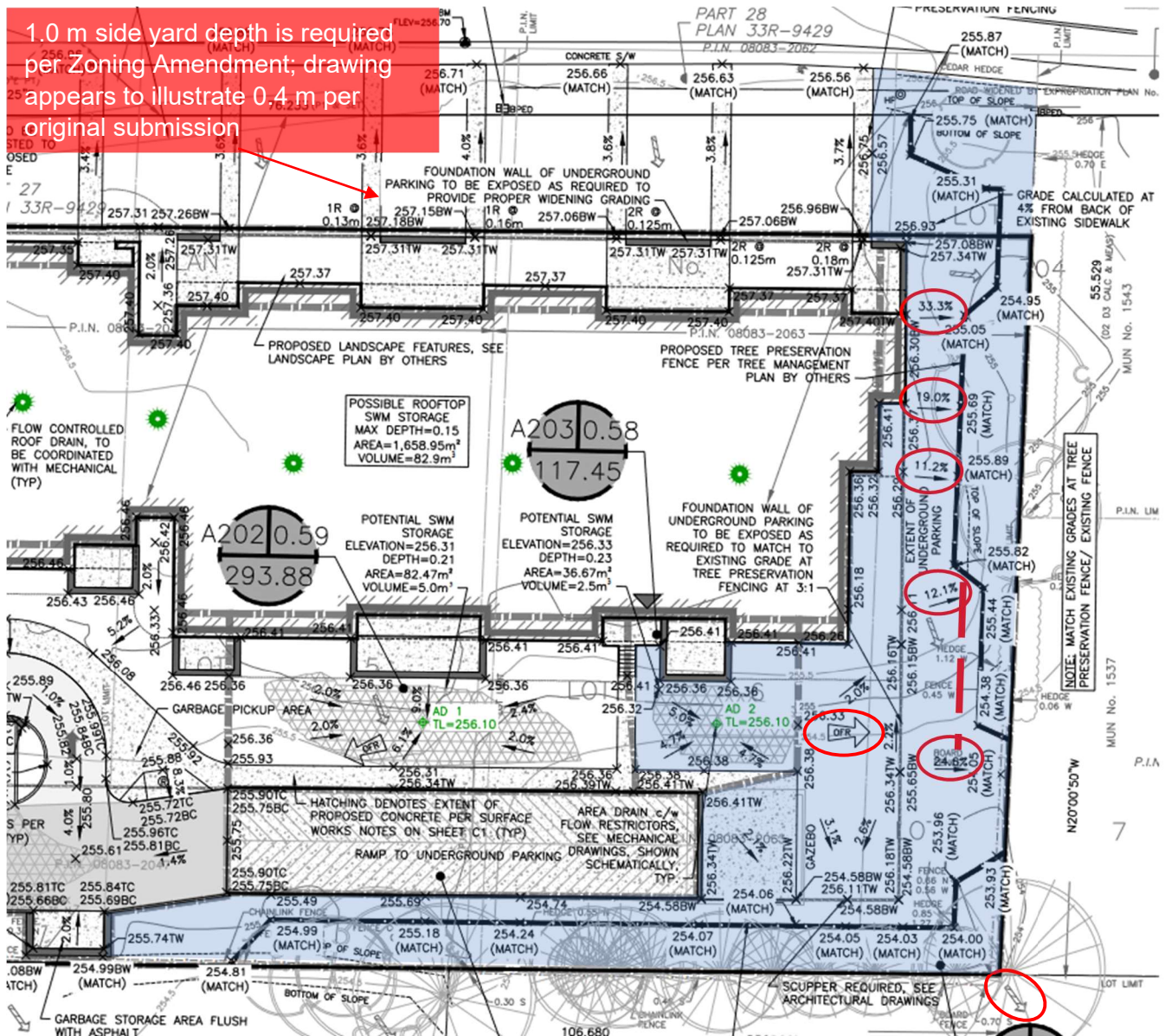
COMMENTS
<p>NOTE:</p> <ul style="list-style-type: none"> Please be sure to carefully review and include data / details related to: <ul style="list-style-type: none"> - General Provisions (Section 4) of the Zoning By-law - Zones and Zone Symbols (Section 3) of the Zoning By-law - Regulations Section and Table for Proposed Zone - Zoning By-law Definitions The Applicant is responsible for submitting complete & accurate information on the Zoning Data Sheet and associated plans. Failure to provide complete & accurate information on the Zoning Data Sheet and associated plans will result in processing delays, and may require the submission of a revised Zoning By-law amendment application.

Version 2 – November 2020

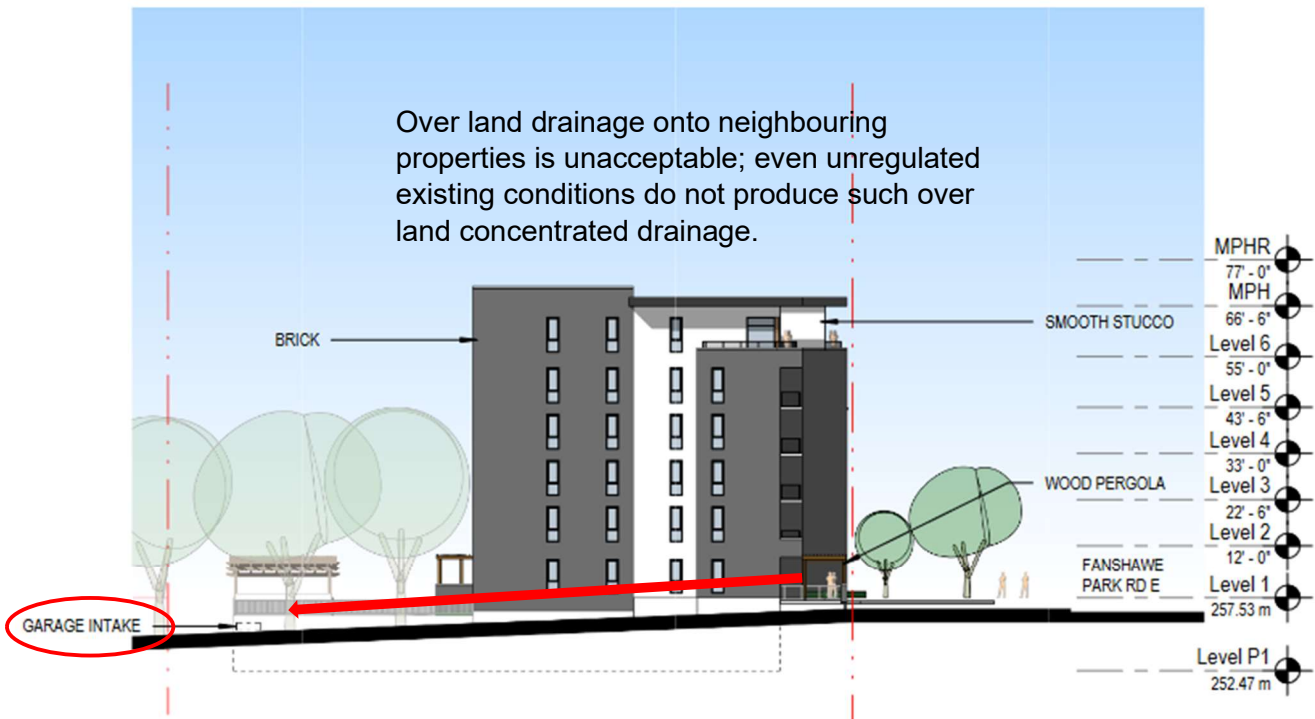
3.0 – Stormwater Management

Based on limited information provided on Building Elevation Report drawings by Zedd Architecture, and the Preliminary Site Grading Plan by Strik Baldinelli Moniz consulting engineers, there is an extreme concern with regards to excessive overland stormwater runoff from the rear yard / east yard, and along the interior side yard / south yard of the proposed development. The concentration of the overland flow from these yards to an apparent on-grade outlet in the southeast corner, will be deleterious to neighbouring properties. The gradients along the east side of the building range from 33.3% to 11.2% are extreme and may have deleterious effects on abutting properties. While the area may be small relative to the

overall site, the existing neighbouring yard conditions cannot support the potential volume of stormwater from the concentrated overland flow and the proposed outlet in the southeast corner. With implementation of modern-day stormwater management, combined within an established area with a built environment pre-dating grading plans, alterations of neighbouring properties over the years that may adversely affect the grades, and stormwater runoff patterns, the design of the stormwater management for this proposed development should be to manage all stormwater within the site and through the stormwater sewer system. With consideration of potential climate change and the frequency of 100-year storm events becoming more prevalent, well engineered storm water management is critical. Retaining walls may have to be considered to contour the site inward to retain and manage the stormwater through an engineered restricted out flow or other. Neighbouring properties should not be the dumping ground for this property's stormwater and snow melt. This concern is further addressed / supported by SWED in the Report to the Planning & Environment Committee.



Part of Strik Baldinelli Moniz Preliminary Site Grading Plan SBM-21-0466, Sheet C-4



SOUTH ELEVATION

Part of Zedd Architecture EAST Elevation drawing SD4.4, 2021-03-01
(not South as titled – this is no longer tolerable nor acceptable, but these incorrect drawings were accepted by the Planning Department)

Conclusion

Given the analysis and documentation noted within the previous 6 pages, while trying to identify what is correct information, what is false information, and what is misconstrued information, the only valid conclusion is that this proposal will not work within Ms. Pasato's recommendation, per the March 28, 2022, Report. It appears that the current proposal is null and void, and must return to the drawing board.

End of Supplemental Report