



August 29, 2022

**London City Council
City of London
300 Dufferin Avenue
PO Box 5035
London, ON
N6A 4L9**

Re: 1737 Richmond Street (Z-9470)

The following memorandum pertains to specific matters of the draft bonus zone for our proposed residential and commercial tower at 1737 Richmond Street, owned by Richmond Hyland Centre Inc., wholly owned by Westdell Development Corp. At its meeting on August 22, 2022, the Planning and Environment Committee (PEC) recommended approval of the draft zoning by-law attached to the staff report from the Director, Planning and Development. Although we appreciate the general support of the project, we continue to have concerns with some aspects of the draft zoning by-law.

Background

We are proposing a 22-storey mixed-use building at 1737 Richmond Street with 276 residential units, 2,107 m² of commercial/office space and 326 vehicle parking spaces (the "Proposal"). The purpose of this memo is to specifically address the draft amending Zoning By-law being recommended and attached to the staff report from the Director, Planning and Development. Although City of London Planning and Development Services staff advise they generally support the Proposal and are recommending approval, we (i.e., the Applicant and Agent) have concerns about some aspects of the City's proposed Amending Zoning By-law (the "City ZBA"). These concerns will be addressed below in order of appearance.

City ZBA Preamble

The City ZBA preamble correctly asserts that a bonus zone is being requested to implement the Proposal. Under the *Planning Act*, a municipality may pass a by-law, known as a bonus zone, to authorize increases in the height and density of development beyond what is otherwise permitted by the Zoning By-Law, in return for the provision of such facilities, services, or matters as outlined in the bonus zone. In accordance with provincial legislation, bonus zoning will be phased out as of September 18, 2022.

Additional Building and Site Design Requirements

This section of the City ZBA lists “outstanding” building and design requirements, as follows:

- 1) Additional Building and Site Design Requirements
 - i) Reduce the high-rise portion (above 8 stories) as a slender tower (maximum floor plate size of up to 1000 square meters within a 1.5:1 length: width ratio) in order to reduce any possible "slab-like" appearance, shadow impacts, obstruction of sky views and to be less imposing on neighbouring properties and public spaces.
 - ii) Articulate the podium facades particularly on the east and west facades with recesses, projections, balconies and terraces, alternating brick tones, fenestration to provide depth and variation in the built form and to enhance the pedestrian environment and break up the massing.
 - iii) Reduce the blank wall facades on the west elevation ground level facing North Centre Road. Increase visual interest through the use of increased glazing, public wall art, or additional door access. Provide windows for clear sight lines facing North Centre Road from the section of abutting parking garage where the accessibility parking space is located.
 - iv) Provide a separate key access door to the bike storage room facing North Centre Rd for improved bicycle accessibility in and out of the building and improved streetscape activity.
 - v) Connect this separate bike storage entrance to the public sidewalk.
 - vi) Utilize a decorative or public art wall feature and treatment to address the southwest corner and provide visual interest while breaking up the podium massing and establishing a sense of place through this unique feature.

The Proposal is a revision representing the architectural drawings submitted to the City as part of the second submission. In response to first submission comments received from Development Services staff, as well as from Urban Design Peer Review Panel members, we have made substantial changes and believe that we have proposed a project that is in alignment with the applicable policy framework, particularly *The London Plan* and the Transit Village Place Type policies.

The general purpose of an amending zoning-by-law is to clearly outline specific requirements for a development site that are legally enforceable. This is usually accomplished through numerical requirements that outline general and major aspects of a development such as building height and setbacks, not details such as the bike storage room entrance, as required by 1) iv) and v).

We believe that some of the comments, particularly 1), ii) and iii), are general design comments that have no objective or quantitative way of being satisfied or demonstrating compliance. In other words, under what circumstances would these comments be satisfied and who decides that? As such, they are not appropriate to be included in the City ZBA.

Although requirement 1) i) is quantitative, it is also problematic as it refers to policy 6.2 v) from the Masonville Secondary Plan, which is still under appeal and cannot be determinative and act as the authority for the City ZBA. Regardless, we acknowledge this policy is informative since it is included in a Council-approved document and believe the proposed building conforms to this policy even if it doesn't exactly comply. For example, the floor plates above the 8th storey between the 9th and 20th storey are approximately 1,044 m². Policy conformance does not require compliance.

Provision of Affordable Housing

The City ZBA requires 22 affordable housing units, as outlined in the following extract:

- 2) Provision of Affordable Housing
 - i) A total of 22 units based on 10% of the “lift” of the number of units beyond 150 units per hectare (based on 297 total units) be dedicated to affordable rental housing in exchange for the granting of increased height and density. The mix of the dedicated affordable rental units should be reflective of the unit mix for the 22-storey apartment building.
 - ii) The affordable housing units should be evenly distributed throughout the individual buildings to the greatest extent possible.
 - iii) Rents not exceeding 80% of the Average Market Rent (AMR) for the London Census Metropolitan Area as determined by the CMHC at the time of building occupancy.
 - iv) The duration of affordability set at 50 years from the point of initial occupancy.
 - v) The proponent enter into a Tenant Placement Agreement (TPA) with the City of London to align the affordable units with priority populations.

City staff used the 1989 Official Plan as the policy framework and completed the bonusing calculation as follows. The 0.52 hectares (i.e., development area) X 150 units per hectare (i.e., standard density for high rise as per Section 3.4.3. of the 1989 Official Plan) = 78 units permitted. Since we’re proposing 297 total units (i.e., 276 residential units and 21 commercial/office units), the difference between the permitted and the proposed is 219 (i.e., $297-78=219$). So the “lift” or the difference between the permitted and the proposed density is 219 units. Staff then apply 10% to the 219 units to arrive at 22 units.

Our initial submission was for a mixed-use 22-storey building with 226 residential units and 26 commercial units for a total of 252 units. Our submission was based on preliminary communication with City staff as part of the pre-application consultation process, where the requirement for bonus zoning was discussed. The proposed 22-storey height selected for the building is the maximum height permitted under *The London Plan* Transit Village Place Type 2 Bonus Zone.

As outlined in the Planning Justification Report submitted in support of the Zoning By-law Amendment application, our initial submission proposed 7 affordable rental units using *The London Plan* as the policy framework and was calculated as follows. The “lift” or bonusable intensity is based on the number of storeys between the proposed height of 22 storeys and the standard height of 15 storeys, which is 7 storeys. This works out to 66 units – these are the “bonus units”. We also applied the 10% applied by staff to arrive at a rounded number of 7 affordable units, which was the basis of our first submission. Since we increased the total number of units as part of our second submission, we also decided to increase the total number of proposed affordable housing units to 10 units – these are proposed to be rental units.

Therefore, the difference in the number of affordable housing units proposed by us and recommended by staff results from the “lift” being calculated using two different policy frameworks. It is important to note that neither the 1989 Official Plan nor *The London Plan* clearly identify how to calculate the provision of affordable housing units. As a result, the affordable housing calculations described above are the result of a combination of policy interpretation, negotiation, and past practices.

Although *The London Plan* is now in full force and effect, City staff have justified their use of the 1989 Official Plan as the policy framework for the affordable housing calculation by saying that our planning application was submitted when the general policies of *The London Plan*, including the bonusing provisions, were still under appeal at the Ontario Land Tribunal. If this is a legally correct argument, City staff should have clearly advised all stakeholders, including the London Housing Development Corporation, at the beginning of the process (i.e., during the pre-application consultation meeting). They did not do this and only informed us about the policy framework they would be applying on July 6, 2022. Furthermore, the pre-application consultation comments provided by City staff outlined in a document dated July 13, 2021 refer to the bonusing provisions of *The London Plan* (e.g., Type 2 Bonus Zone).

Although we believe *The London Plan* should be the applicable policy framework for calculating the number of appropriate affordable housing units, we also believe that the proposed 10 affordable housing units would conform to the bonus zoning provisions of the 1989 Official Plan (policy 19.4.4.), which state that “[t]he *facilities, services or matters that would be provided in consideration of a height or density bonus should be reasonable, in terms of their cost/benefit implications, for both the City and the developer and must result in a benefit to the general public.*”

Finally, while deliberating the subject application at its meeting on September 6, 2022, we would also like Council to consider PEC’s August 22, 2022 approval recommendation for item OZ-9263/Z-9264 (1067, 1069, and 1071 Wellington Road). This application for an Official Plan and Zoning By-law amendment was deliberated by PEC on July 25, 2022, and by Council on August 2, 2022. Council referred the item back to staff and requested that it be brought forward to the August 22, 2022 PEC meeting. The number of affordable housing units recommended by staff was significantly higher than the number of units proposed by the applicant. At its meeting, PEC recommended approval of 65 affordable housing units - with the concurrence of the applicant - whereas the staff report presented at the July 25, 2022 PEC meeting recommended approval of 93 affordable housing units.

Prohibited Uses

The City ZBA also lists certain prohibited uses, as follows:

a) Prohibited Uses:

- i) **Commercial parking lots and structures and accessory parking lots;**
- ii) **Uses with drive-through facilities.**

The parking associated with the Proposal is intended to be accessory and to support the principal commercial/office and residential uses. We are not proposing stand-alone parking lots or structures. Our concern with the proposed outright prohibition of “commercial parking structures” and “accessory parking lots” is that, based on the definition of these terms in the existing City of London Zoning By-law, it may prohibit any future monetization of vehicle parking spaces, such as charging customers and residents modest parking fees to offset operating costs.

In conclusion, we respectfully request that London Council members approve a revised version of the zoning by-law amendment that considers the above-noted concerns of the Applicant and Agent.

Respectfully submitted,



Simona Rasanu, RPP, MCIP
Planner
Agent



David Traher
Westdell Development Corp.
Applicant