

Dear CPSC:

This email is my formal request to make a delegation at the upcoming CPSC meeting on Tuesday November 29, 2022 regarding the Reptilia request for amendments to City of London Animal Control By-law PH 3 and the Reptilia operation in London. If you require additional information, please let me know.

Thank you.

Rob Laidlaw
Executive Director
Zoocheck Inc.

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October 5, 2021

Peter Gross
Partner
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VIA EMAIL

File 22236.00001

Julie Woodyer
Campaigns Director
Zoocheck Canada Incorporated
julie@zoocheck.com

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 ("NDMNR").³ It is our further understanding that Reptilia relies on its licence with NDMNR 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

Agenda Item # Page #

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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

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.



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
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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

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.

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.

SITE CHARACTERISTICS:

- **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:

- North – Agricultural
- South – Agricultural
- East - Agricultural
- West - Agricultural

OFFICIAL PLAN DESIGNATION: (refer to map on page 5)

- Agricultural

EXISTING ZONING: (refer to map on page 6)

- 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."*

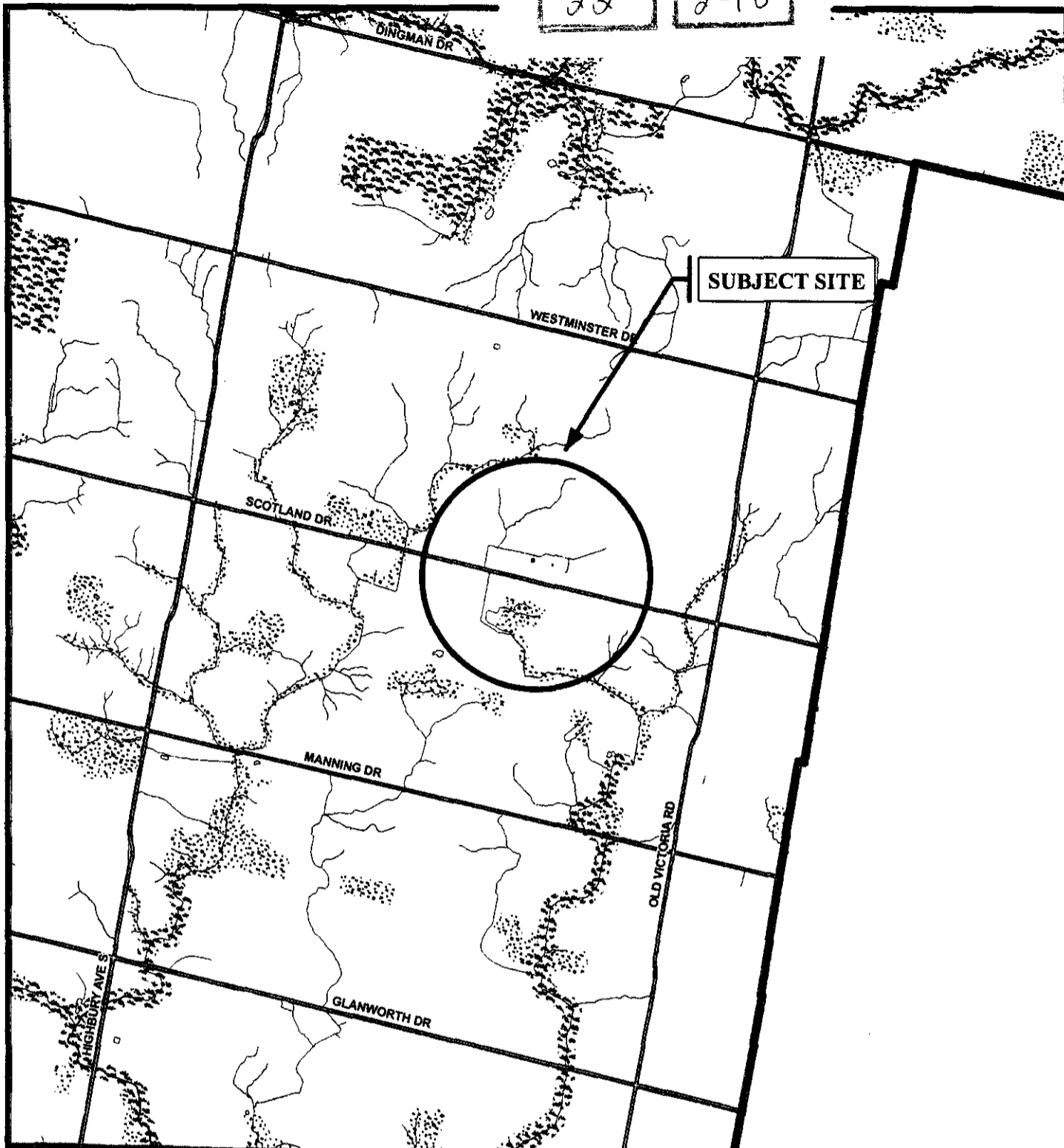
it being noted that a communication dated August 28, 2008 from K. and K. Lomack and verbal presentations from J. Foster, Executive Director, London Humane Society and M. Blosh, Chair, Animal Welfare Advisory Committee, were received with respect to this matter. (7/14/ETC)

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
- Enclosed Regional Commercial Node
- New Format Regional Commercial Node
- Community Commercial Node
- Neighbourhood Commercial Node
- Main Street Commercial Corridor
- Auto-Oriented Commercial Corridor
- Multi-Family, High Density Residential
- Multi-Family, Medium Density Residential
- Low Density Residential
- Office Area
- Office/Residential

- Office Business Park
- General Industrial
- Light Industrial
- Regional Facility
- Community Facility
- Open Space
- Urban Reserve - Community Growth
- Urban Reserve - Industrial Growth
- Rural Settlement
- Environmental Review
- Agriculture
- 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

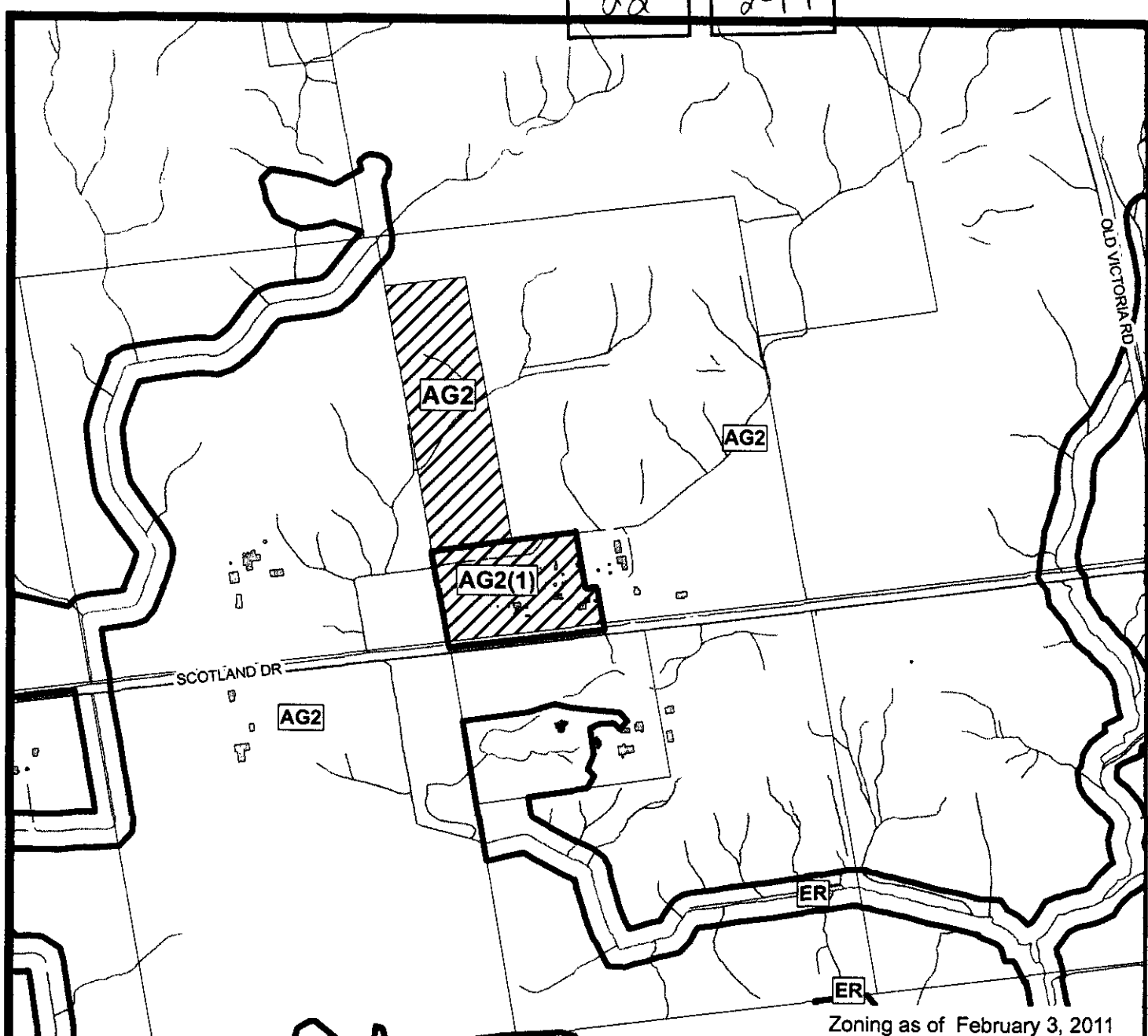


FILE NUMBER: Z-7822

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



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

FILE NO:

Z-7822

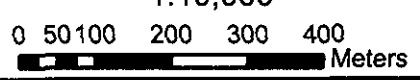
CS

MAP PREPARED:

2011/02/08

CK

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22 250

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.
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. 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.		
Responses: None		

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.

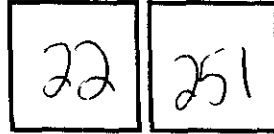
Zoning Background

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



File No: Z-7822
Planner: Craig Smith

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

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.*

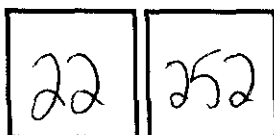
The animals on display in Storybrook Gardens are part of a zoological garden and permitted by the zone.

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".



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?

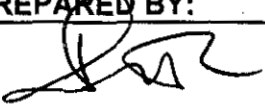


Yes. The definition of a private zoo use was adopted by Municipal Council in 1995 to specifically allow for the use at 1292 Scotland Drive. There are no other private zoo uses in the City of London and no other zoning designations that allow for the use. Council through the recommendation of the Animal 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".

22 253

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/

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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

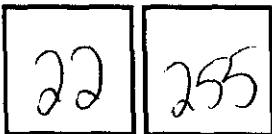
City of London. *Official Plan*, June 19, 1989, as amended

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



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

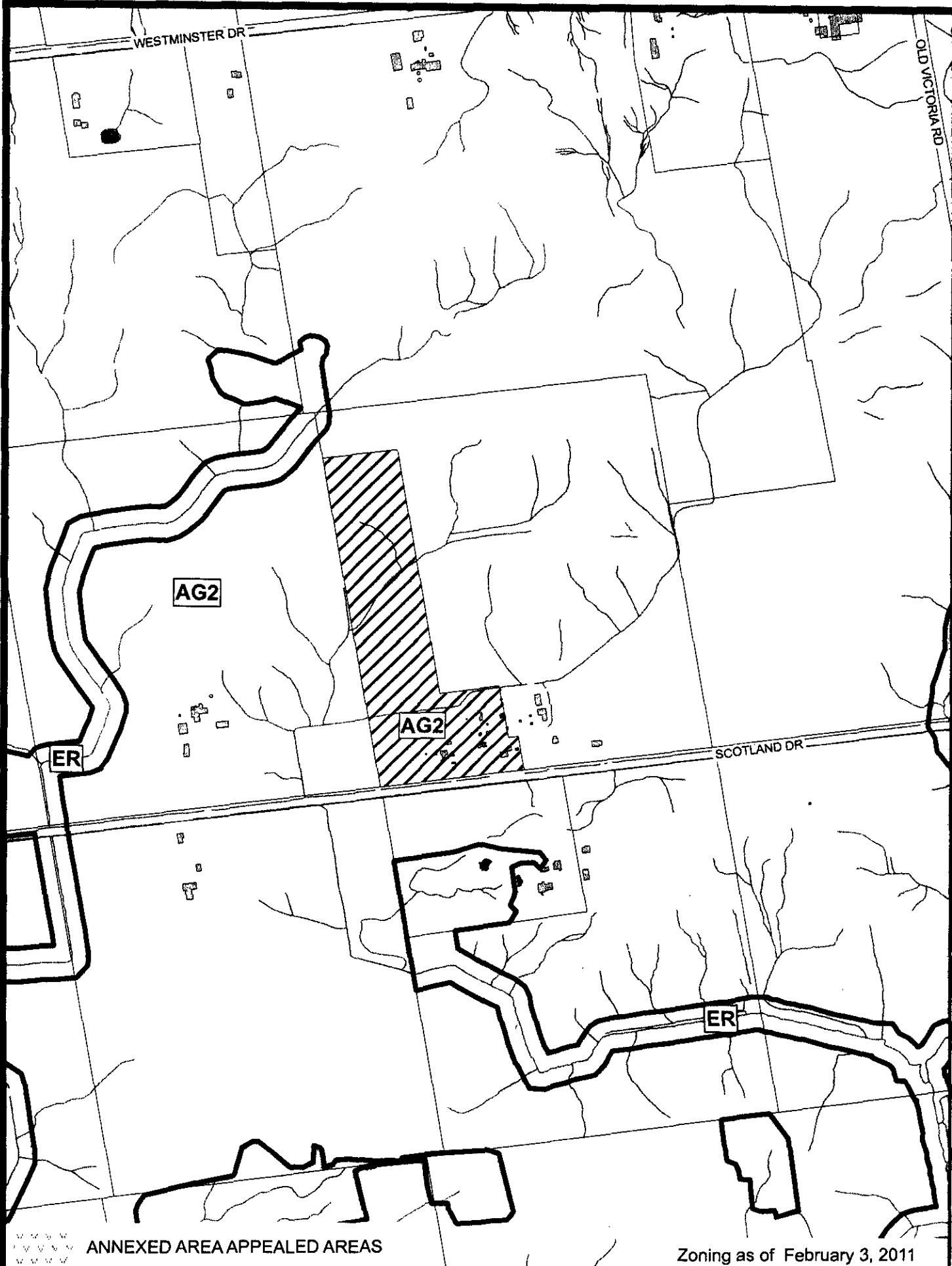
Catharine Saunders
City Clerk

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

22

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



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



Request to review Chapter 349, Animals exception for Reptilia Zoo

Date: November 17, 2021

To: Economic and Community Development Committee

From: Executive Director, Municipal Licensing and Standards

Wards: Spadina-Fort York

SUMMARY

This report responds to the Economic and Community Development Committee (ECDC)'s request to explore a site-specific exception in Chapter 349, Animals to permit the operations of Reptilia Zoo at 245 Queens Quay West (Harbourfront Centre).

Reptilia is a reptile zoo with locations in Vaughan and Whitby. Their operations include a self-guided visitation centre with exhibits that house numerous reptiles, as well as both on-site and off-site shows for education and entertainment. Reptilia's existing locations also have ancillary business functions such as adopting out reptiles, and the retail sale of food and equipment for keeping reptiles as pets.

The company has been in discussions with Harbourfront Centre as a prospective tenant. Reptilia's proposed program includes animals that fall under the Prohibited Animals list in Toronto Municipal Code Chapter 349, Animals. ECDC has requested that staff consider the specific species that would be permitted if the Animals Bylaw was amended to provide a site-specific exception for Reptilia's operations, and the health and safety implications associated with City Council granting an exception.

To respond to this request, staff undertook targeted stakeholder consultation and research on the implications of such an exception, including those related to health and safety, animal welfare, and economic development. Based on the findings of this work, staff do not recommend amending the bylaw to grant a site-specific exception to the Animals Bylaw. While this report recommends against an exception, staff note that the company can still pursue its operations without housing species listed in the Prohibited Animals list.

This report was written in consultation with Economic Development and Culture, Toronto Public Health, and Corporate Real Estate Management.

RECOMMENDATIONS

The Executive Director, Municipal Licensing and Standards recommends that:

1. City Council not grant a site-specific exception for Reptilia Zoo, at 245 Queens Quay West, under Section 349-4 of City of Toronto Municipal Code Chapter 349, Animals.

FINANCIAL IMPACT

There are no current or known future year financial impacts arising from the recommendation contained in this report.

The Chief Financial Officer and Treasurer has reviewed this report and agrees with the financial implications as identified in the Financial Impact section.

DECISION HISTORY

On June 30, 2021, the Economic and Community Development Committee adopted Item EC23.8 Request for Review of City of Toronto Municipal Code Chapter 349, Animals Regarding Exemption for Reptilia Facility at 245 Queens Quay West, requesting the Executive Director, Municipal Licensing and Standards to report by the end of the fourth quarter of 2021 on the proposed Reptilia facility at 245 Queens Quay West, including a recommendation on whether or not to include the facility under the Prohibited Animals exceptions; the specific prohibited animal species that would be permitted if City Council grants the exception; and health and safety considerations for staff and the public, including access to antivenin and consultation with local hospitals. <http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2021.EC23.8>

COMMENTS

This report responds to the Economic and Community Development Committee's request for staff to explore the implications of a site-specific exception to the Prohibited Animals restrictions in Toronto Municipal Code Chapter 349, Animals, to permit the operations of Reptilia at 245 Queens Quay West (Harbourfront Centre).

Reptilia is a reptile zoo and visitation centre with locations in Vaughan and Whitby. Reptilia's operations include a self-guided visitation centre with exhibits that house numerous reptiles, as well as both on-site shows and mobile live animal programs (MLAPs), which are off-site shows that attend schools and events. Reptilia's existing locations also have ancillary business functions such as adopting out reptiles, and the retail of food and equipment for keeping reptiles as pets.

The company has been in discussions with Harbourfront Centre as a prospective tenant for the north building located at 245 Queens Quay West. Reptilia's proposed program

includes animals that fall under the Prohibited Animals list in the Toronto Municipal Code Chapter 349, Animals. The Committee has requested that staff consider the specific species that would be permitted if the Animals Bylaw was amended to provide a site-specific exception for Reptilia, and the health and safety implications associated with City Council granting an exception.

To respond to this request, staff undertook targeted stakeholder consultation and research related to health and safety, animal welfare and economic development. Staff did not undertake broad public consultation, but rather engaged the experts necessary to inform the recommendation.

This report recommends that City Council not amend the Animals Bylaw to provide a site-specific exception at 245 Queens Quay West. The following sections will outline the findings that informed this recommendation, including the historical context of the existing Prohibited Animals exceptions; and considerations related to health and safety, animal welfare, and economic development.

Background

The Animals Bylaw prohibits the keeping of certain animals in the City of Toronto, as identified in Schedule A of Chapter 349, Animals. The Prohibited Animals list was developed in order to protect public health and safety, address concerns around animal care, and to restrict animals that may result in significant public nuisance problems such as noise and/or odour for neighbouring residents. The list includes animals such as some mammals (tigers, kangaroos, non-human primates, bears, elephants, etc.), birds (flightless birds such as ostriches and emus, geese, etc.), reptiles such as alligators and crocodiles, snakes that reach an adult length of greater than three metres, lizards that reach an adult length of greater than two metres, and all venomous and poisonous animals.

When this bylaw was enacted in 1999, it included a number of exceptions to the prohibition on keeping those prohibited animals in the City, such as exceptions for the premises of a City animal centre, an accredited veterinary hospital under the care of a licensed veterinarian, the Toronto Zoo, Riverdale Farm, Sunnybrook Stables and the High Park Zoo. It also included the premises of facilities with accreditation from the Canadian Association of Zoos and Aquariums (CAZA), as well as those used for education programs.

In 2016, City Council adopted LS15.2 Chapter 349, Animals: Exceptions for Prohibited Animals, which changed the way that the City regulates prohibited animals in Toronto. This report removed the provisions that allowed both the "blanket" exception for facilities that were accredited by CAZA and those used for education programs. Deleting these exceptions aimed to ensure that the City would be notified and become aware of any organization or facility interested in keeping prohibited animals in the City. It also provided the City with the opportunity to review an interested organization to determine if it can properly care for the prohibited animals and reduce the health and safety risk to the public before an exemption could be granted.

Removing those blanket requirements also meant that there would be no further exceptions granted for any organization or facility interested in keeping prohibited animals in Toronto, unless granted by a bylaw amendment adopted by City Council. Since the changes were made in 2016, the City has denied a number of businesses requesting an exception to the bylaw, including temporary exceptions for events.

The 2016 report did not introduce a process for staff to review and approve applications for organizations to become exempt from the Prohibited Animals restrictions. At the time, Ripley's Aquarium of Canada was added to the listed exceptions in the bylaw. This was necessary as it had been previously granted an exception on the basis of its CAZA accreditation, and had been operating since 2013.

Reptilia Zoo is requesting a similar exception as its proposed operations at the Harbourfront Centre would include animals that are prohibited under the bylaw. Specifically, a total of 39 species of crocodilians, non-venomous and rear-fanged venomous (non-medically significant) snakes, lizards and venomous species would be included. The majority of these species (23) are venomous. As part of this request, staff discussed the specific species with Reptilia and reviewed a number of submitted documents including corporate health and safety protocols.

Toronto Animal Services continues to have significant concerns about prohibited animals in the City of Toronto, including the health and safety risk they pose to residents, the ability to properly care for the animals, and the nuisance to neighbourhoods that they may pose. The City does not have a role in accrediting such facilities, and staff do not recommend introducing a delegated process to review and approve individual facilities interested in keeping prohibited animals.

Staff recommend maintaining the current approach and intention of the bylaw to ensure that prohibited animals are not kept in Toronto unless granted by City Council, following consideration of unique circumstances on a case-by-case basis. Staff note that while this report recommends against an exception, Reptilia can still pursue its operations without a bylaw amendment if it does not house species listed in the Prohibited Animals section of the Chapter 349, Animals. Depending on the nature of the operations pursued otherwise, the company may be subject to other regulations, such as obtaining a pet shop licence under Chapter 545, Licensing.

Health and Safety Considerations

The Committee requested that staff consider access to antivenin and consult with local hospitals. Reptilia has confirmed that its corporate protocol is to store antivenin on-site. In the event of an emergency, Reptilia staff accompany the injured person to the hospital with the appropriate antivenin in the event that antivenin will be required. Each antivenin dose must include detailed instructions on administration to accompany the injured person and the antivenin. This protocol is similar to what is carried out at other facilities, including the Toronto Zoo.

In consultation with Toronto Public Health (TPH), staff engaged local hospitals and heard that emergency departments generally do not have the capacity to manage

antivenins. The facility must ensure that an adequate supply of the appropriate types of antivenin is maintained at all times. For CAZA accreditation, there must be adequate antivenin to treat one severely poisoned patient should an envenomation occur. This is different for each animal and antivenin.

If antivenin is not within the facility, as it has been sent to a hospital with an injured person and/or has been used for that person, the Facility must have taken the venomous animal/animals off display until further replacement antivenin can be sourced.

Many antivenins are developed to support envenomation for only one species. Reptilia would therefore need to determine the most appropriate antivenin for each of the proposed species (23 venomous), and source them accordingly. The company needs a sponsoring physician to sign off on each antivenin that is applied for through Health Canada. Once secured, shipping conditions, storage requirements and transport modalities for each antivenin must be considered, as some have specific storage and temperature requirements in order for them to be active when brought to the hospital for administration. Antivenins are often expensive and tend to expire after 3-4 years, so these must also be kept up to date and be replaced after their shelf life.

Hospitals highlighted that the facility must have adequate oversight and qualified staff who can monitor antivenin supply, partner with external stakeholders including hospitals, and be on call to identify products to be used in the event of an emergency. Education and awareness efforts must also be undertaken to ensure that all partners understand the processes to follow in the event of an emergency. This includes detailed protocols with information for clinicians on the signs and symptoms indicating when antivenin is required for each species, the potential for anaphylaxis of each antivenin, as well as educational sessions for emergency departments. Engaging with Ontario Poison Centre is recommended. This resource will be contacted by a receiving hospital in the event of a bite as the average Emergency Physician/Intensivist will not be familiar with or comfortable caring for an envenomated patient.

Use of other resources including Toronto EMS may be impacted should an injured person incident occur.

Staff reviewed all existing relevant documentation related to Reptilia's operations, including health and safety protocols. Staff found that the training requirements, emergency procedures and facility security standards are reasonable and sufficient to keep facility staff and the public safe.

However, staff do have concerns with the handling of reptiles in general. In consultation with TPH, staff note that there are potential health risks associated with handling reptiles, including exposure to infectious diseases, injuries, and allergies.

Vulnerable populations, such as children, those with compromised immune systems, and the elderly are more vulnerable and susceptible to disease transmission, including zoonotic diseases transmitted from animals. Children are more vulnerable than adults to acquiring infections from animals, as a result of several factors such as a general lack of awareness of the risk of disease transmission, less than optimal hygiene practices,

propensity to put their fingers in their mouths, increased risk of developing disease after exposure to a pathogen and their natural curiosity and attraction to animals. Young children and infants also have an increased risk of infection and complications from such infections that can result in serious illness because their immune systems are not fully developed. Accordingly, there are certain animals that are considered too high risk for children under 5 years of age to interact with, including exotic animals, reptiles, amphibians, and live poultry.

Infectious diseases passed on from animals to humans occur through direct and indirect contact with animals. Examples of direct contact include petting an animal, while indirect contact can include touching an animal's environment (e.g. cage, terrarium). There are several diseases that reptiles and amphibians can transmit to humans. For example, since almost all reptiles and amphibians can carry *Salmonella* bacteria, this pathogen can be transmitted to both children and adults. Studies suggest that approximately half of reptiles carry the disease. Reptiles and amphibians can also carry *Salmonella* bacteria without being sick. Staff note that the rodents used to feed some reptiles can also carry *Salmonella* bacteria or other germs that can make people sick.

Staff also note particular concern regarding mobile live animal programs and other activities that take place off-site, which are key components of Reptilia's operations in other jurisdictions. Bringing exotic and potentially dangerous animals offsite can pose significant health and safety risks such as the potential for an animal to escape, increased incidence of handling the animals and exposure to infectious disease, and a lack of oversight and other safety features that are contained in the facility itself. Concerns regarding MLAPs were also raised from animal welfare experts and residents in the surrounding community.

Concerns regarding MLAPs were one of the key reasons for amending the bylaw in 2016 to prevent further exceptions and ensure that Animal Services has sufficient oversight of the keeping of prohibited animals in the City. Furthermore, TPH has advised that if such mobile activities were permitted, there would need to be strict documentation and trace-back protocols for public health officials to use in order to protect the public from outbreaks.

Animal Welfare Considerations

As part of this review, staff requested information from the Ontario Ministry of the Solicitor General's Provincial Animal Welfare Services (PAWS) regarding any animal welfare concerns associated with Reptilia's operations in other jurisdictions. Based on the information received, staff have significant concerns regarding the outcomes of past investigation and inspections by PAWS. While the company quickly came into compliance following these inspections, there are concerns regarding the adequacy of care provided to the animals, as well as poor record-keeping of critical information.

Staff also heard from experts in animal welfare. These stakeholders have outlined a number of concerns and recommended that the City does not grant a bylaw exception to permit Reptilia's operations.

Stakeholders are concerned that an exception establishes a precedent that will create a case for other exotic animal businesses and institutions to seek exceptions moving forward, and could result in an expansion the number of animals and various species that are kept in Toronto. Stakeholders have also raised concerns about Reptilia as a commercial zoo with many ancillary businesses, including the retail of reptiles and supplies. In particular, stakeholders are concerned that Reptilia's operations will result in an increase in MLAPs in the City.

Stakeholders are also concerned that accreditation or association memberships (for example, CAZA) do not guarantee optimal animal welfare and public safety standards. The commercialization of wildlife supports the continued expansion of reptile pet keeping and trade, which can have negative impacts related to public health and safety, as well as threats to native wildlife. Finally, stakeholders raise that such an exception is a substantial departure to Council's previous direction to remove blanket exceptions to the bylaw, which could undermine deliberate past improvements to animal welfare and undermine the City's reputation as a national leader in this space.

Many of the concerns raised are shared by City staff, particularly regarding a potential increase in MLAPs across the city that may pose health and safety risks to the public and the environment. Staff are also concerned about the potential increase in exotic animal businesses seeking exceptions and expansion in the number of these animals kept in the City. Staff continue to have concerns regarding the ability to properly care for such animals, and believe that the intention of the bylaw as currently drafted is supportive of animal welfare and contributes to the City's leadership in this space.

Staff recommended removing the blanket CAZA exception in 2016 to ensure due diligence and oversight of prohibited animals in the City. CAZA is a national not-for-profit organization that works to standardize professional conduct and care of animals through its accreditation program, which includes the inspection of its accredited facilities. As part of this review, staff consulted with CAZA to understand whether there were existing concerns related to the facility's ability to care for its animals. CAZA confirmed that Reptilia is in good standing with its accreditation in its existing facilities.

Staff also met with community leaders and residents from the surrounding Harbourfront neighbourhood. While there is interest among residents in seeing a new family-friendly business on the waterfront, concerns were raised about whether the animals would be adequately cared for, and the risk of exotic animals entering the City and threatening native species.

Economic Development Considerations

While the mandate of Toronto Animal Services is to focus on public health and safety and animal welfare, staff acknowledge that there may be potential economic benefits to the City with the introduction of a facility such as Reptilia's.

Harbourfront Centre, who would be the property manager facilitating the lease with Reptilia Zoo, is supportive of the proposed facility. Harbourfront Centre highlighted the economic benefits of introducing a facility such as Reptilia Zoo by bringing tourism and

economic activity to the waterfront area, particularly since this location has been vacant since 2017. The proposed facility would bring visitors to the area year-round, including during the winter months when the area would otherwise be less active, which would also bring benefits to the surrounding community and businesses.

Harbourfront Centre believes that the proposed facility is a natural fit for tourism and family businesses in the surrounding area, and also fits within their mandate promoting the local economy and strong ties to education. Staff confirmed that the Harbourfront Centre is satisfied with the information Reptilia has provided them regarding their health and safety protocols.

Community leaders and residents from the surrounding neighbourhood expressed some support for the proposed facility. Residents are supportive of the Harbourfront Centre and would like to see the space occupied by a family-friendly business with daytime hours and limited nuisance. However, residents also noted longer-term implications on the surrounding area that must be considered, such as the potential for increased noise, nuisance lighting and traffic. They also expressed concern regarding the lack of parking in the area, and that the company may expand the size of their operations in the future if an exception is granted for this site.

Other considerations

Since Chapter 349, Animals, was last amended with respect to prohibited animals in 2016, the City has denied a number of requests from business operators seeking exceptions to the Prohibited Animals restrictions, including temporary exceptions for events.

Staff are concerned that pursuing an exception for Reptilia's operations may set a precedent for exceptions becoming more frequent in the future. Such exceptions are not aligned with previous City Council direction and staff recommendations, and pose a number of challenges related to health and safety and animal welfare, as described in this report.

While this report recommends that the Animals Bylaw should not be amended to grant a site-specific exception at 245 Queens Quay West, staff note that this does not mean that Reptilia cannot establish a facility in this location. Without a bylaw exception, the company can still pursue its operations without housing species listed in the Prohibited Animals list.

Staff note that if the proposed facility includes a retail component that sells animals or offers adoption services, the company would be required to obtain a pet shop licence under Chapter 545, Licensing. Pet shops that sell and/or keep animals for sale must meet requirements to ensure that the facility is kept in a sanitary, well-ventilated, and clean condition, and that animals are safely housed, cared for, and provided adequate food and water.

CONTACT

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SIGNATURE

Carleton Grant
Executive Director, Municipal Licensing and Standards

C O M M E N T A R Y

The Case Against Captive Reptiles and Amphibians

Ann-Elizabeth (Ae) Nash, Director

Colorado Reptile Humane Society (CoRHS)
(www.corhs.org)

Photographs by the author.

Keeping animals as pets is an accepted facet of American society. Domestic cats hold the number one spot followed by dogs, rodents and rabbits, birds, and finally, reptiles. Approximately 10% of the US population keeps reptiles and amphibians as pets: 3 million ‘herps’ are in private ownership. What is the state of affairs for captive reptiles and amphibians? How are reptiles and amphibians like other pet animals and how are they different? Are necessary resources available? These include veterinary attention, knowledgeable husbandry practitioners, nutritious foods, and useful supplies for owners to care for their pets properly. Simply stated, can we do a good job for a captive herp? If not, why? What are the consequences of our failures?

Ray Ashton’s “Commentary from an Old Naturalist About Exotic Species and a New Herpetocultural Ethic,” (*Iguana* 12(1), March 2005) inspired me to think anew about reptile- and amphibian-related animal welfare and conservation issues. While we warrant a new ethic toward this group of animals, my

conclusions start and end at a very different spot: I am a “new herper” who hopes to end the practice of keeping reptiles and amphibians in captivity.

Ashton referred to himself as an ‘old naturalist’ interested in reptiles and amphibians since childhood, and one of a small minority whose curiosity had been piqued by these animals. Conversely, ‘new herpers’ may come later to such interests and are more easily able to join study societies, interest groups, and have other resources available that simply didn’t exist a generation ago.

In his commentary, Ashton ostensibly offers seven useful and logical steps toward responsible reptile and amphibian ownership. These ideas are often repeated in hobby journals, internet groups, and countless herpetological societies. Using the Green Iguana (*Iguana iguana*), a very common and most neglected, discarded, unwanted, and abused reptilian pet for the basis of my discussion, we can see that Ashton’s set of rules is difficult to follow or achieve.



Pablo is a recent arrival at Colorado Reptile Humane Society (CoRHS). Even among the few Green Iguanas that survive captivity, few live out their entire natural lifespan of 20–30 years in the care of a single owner.

1. **Learn about your pet.** Purchasing and reading a book about the common Green Iguana won’t necessarily provide an owner with correct, up-to-date husbandry information. Some publishers are unscrupulous about their editions, updating a photo here and there so a new copyright date hides gross inaccuracies. New books can also be poorly written and edited, directing a motivated owner toward a potentially fatal husbandry mistake. Few single sources provide all the knowledge we need about any one species.
2. **Only purchase captive bred animals.** Discussions regarding Captive Bred (CB) versus Wild Caught (WC) are largely rhetorical. Removing wild animals for introduction into the pet trade will negatively effect a wild population. Yet, we rarely consider the fate of CB reptiles and amphibians. Questions remain — how well can we care for a CB reptile or amphibian? Is our care humane? Potential suffering of a CB animal must be considered of equal importance to that of a wild-caught animal.
3. **Provide secure caging and lighting.** We can build escape-proof cages and provide UVB lighting — but we do not yet

Opinions expressed are those of the author and may or may not reflect those of the IRCE.

know how much UVB lighting is enough or too much. Many other habitat elements also need consideration: climate, seasonal weather, visual breaks, height versus area, etc.

4. **Provide appropriate food.** Nutritional research focused on longevity versus breeding is scarce, as are commercially available diets based on such research. Most owners cannot offer natural foods for *I. iguana* in captivity. It is time-consuming and tiresome to prepare fresh foods daily.
5. **Consider habitat size.** What percentage reduction in space is tolerable when housing a lizard that typically roams an acre of area in its natural habitat? If we house a single adult *I. iguana* in a bedroom (10 x 12' = 120 sq. ft.), we've removed more than 99.7% of its normal home range. Is this acceptable? Even a 2000 sq. ft. house represents only 5% of a normal habitat.
6. **When you need to 'get rid of' your pet.** No animal should be sent to an uncertain fate, released in a park, a stream, from a moving car, or any other cruel method that causes unnecessary stress, injury, or death. Animal welfare thinking encourages pet ownership *for the life of the pet*, not the fluctuating interest of the owner. Is a profit-motivated pet store a good avenue for an unwanted animal? Shelters and rescuers are unable to re-home all Green Iguanas that come through their doors. No one wants another iguana. Euthanasia is often the outcome when an owner "exit strategy" is implemented.
7. **Avoid confrontations with non-herpers.** Respecting your neighbors always makes sense when you house any animal. No one likes a barking dog, bird killing 'barn cat,' or other at-large pet. Fear of snakes is especially deeply felt, regardless of legitimate danger. However, negative reactions from individuals or politicians should not be seen as unthinking. Many concerns about keeping wild animals as pets are reasonable.

Reptiles and amphibians are readily available for sale or trade from outlets that include retail stores, internet sellers, and breeder's shows. In my home state of Colorado and other states in the US, certain species may be legally taken from their wild habitats and held in captivity. The average owner follows few of the points outlined in Mr. Ashton's list, purchasing whichever reptile or amphibian they desire with little or any research regarding care, longevity, and nutrition. However, even the most dedicated and educated owners, supporting the pet trade through the purchase of a CB reptile or amphibian, subject a wild animal to a life of imprisonment and often a reduced life span, even in the absence of predators. Why is this acceptable?

We have not truly domesticated any reptile or amphibian; I will therefore conclude that CB animals are as wild as their WC counterparts. CB reptiles and amphibians may be more or less acclimated to life near or with humans; they may or may not display aggressive behaviors to territorial intruders or other encounters and experiences. They may or may not make 'good' wild animals since, as often as not, breeders keep alive every hatchling regardless of fitness. To declare an animal unable to withstand the pressure of a life in its wild habitat does not make it any less wild. The individual animal would have simply met demise early in its natural life.



A malformed Three-toed Box Turtle (*Terrapene carolina triunguis*) suffered from an insufficient diet and a lack of ultraviolet light.

Moving from the difficulties of caring for reptiles and amphibians in captivity, a far more important question needs addressing: On what grounds do we humans have the right to impose captive conditions on wild animals? Combined with the problems of invasive exotic species, Mr. Ashton should not be surprised that some 'new herpers' wish to curtail reptile and amphibian ownership for both the wild animals themselves and for good stewardship of native populations. While we may possess a legal right to keep reptiles and amphibians in captivity, I suggest that we lack the moral right to keep a wild animal captive for our own personal benefit or other financial or emotional needs, whether it is captive bred or wild caught.

Much of my ethos regarding reptiles and amphibians stems from experiences as the founder and director of a small humane society in Colorado that is dedicated to this group of animals. Through my work, I have personally appreciated many reptiles and amphibians. From this familiarity has grown a profound sadness for these wild animals that are captive solely as a consequence of human folly.

The new generation of reptile and amphibian owners does not share any values beyond possession — any more than Ford automobile owners or ice cream purchasers constitute a distinct socio-economic, other demographic, or moral class. Old herpers, Mr. Ashton declares, were interested in learning about wild animals — "but were also excited about keeping them in captivity." I have no doubt that this is true. Keeping and breeding reptiles and amphibians generated great enthusiasm among pet owners — but at what cost to the animals? I am confident that a thorough investigation will clearly answer Mr. Ashton's shock toward those of us who would see the end of the worldwide trade in reptilian and amphibian pets:

- When the best and most resourceful owners cannot provide even a small percentage of the real estate a wild animal has in its natural habitat, we have failed that animal.
- When nutrition research focused on longevity (not breeding) is scarce, when the foremost veterinary medical text is a mere 512 pages for all species of reptiles and amphibians,

when we have no antibiotics or other drugs designed for even a single species, we have failed.

- When reptile and amphibian owners cause immense suffering and death to at least 500,000 Green Iguanas each year in the US alone — and who knows the numbers for other species — we have failed.
- When we refuse to recognize that most captive-breeding programs bring into existence wild animals doomed to a life in captivity, we have failed.

After seven years of sheltering and euthanizing unwanted reptiles and amphibians, I would suggest that the average individual with a typical amount of space, time, and funds is simply not equal to the responsibilities of owning a pet reptile or amphibian — even if it began as an appropriate endeavor. In fact, most reptile and amphibian owners surrendering their animals to the Colorado Reptile Humane Society can probably tell you more about the attributes of their cell phone and calling plan contract than the live animal of which they now wish to rid themselves. Like all bell curves, a few humans do a great job for their pets, a few would meet a legal definition as perpetrators of cruelty, and the great majority provide mediocre care. Mediocre care to millions of reptiles and amphibians seems to me something old naturalists and new herpers ought to oppose collectively. Does the fact that an amphibian or reptile was captive-bred really matter?

Can we learn from our myriad failures and experiences? Some will answer that better research will yield the knowledge we presently lack, that educated owners will improve husbandry issues, and that we can protect our native ecosystems from invasive species. My experiences tell me otherwise. On a typical afternoon at the Colorado Reptile Humane Society's shelter, one owner who 'got rid of' his Bearded Dragon (*Pogona vitticeps*) because she was 'too boring' was already planning the purchase

of a chameleon. Another owner brought forth an iguana with an advanced type of metabolic bone disease, misdiagnosed by a veterinarian. The owner had provided UVB lighting, but it was too far away from the lizard to be useful. Red-eared Sliders (*Trachemys scripta*) are dumped by the dozens after outgrowing aquaria that were never large enough. Who is going to house an unwanted (and unsocialized) 4.5' Black-throated Monitor (*Varanus albigularis* spp.)? He was surrendered because his fecal material "smelled bad." Owners do not often advance their own education beyond "Cool — a reptile!" These animals forfeit their natural lives on human whim.

A realistic accounting of how captive reptiles and amphibians endure our lack of largesse would convince most individuals that we only rarely meet the lowest bar of care standards — and that wild animals should remain wild animals. I often counsel would-be adopters of North American box turtles (*Terrapene* spp.) that these turtles roam about two football fields worth of habitat. Subjecting box turtles to life in a 55-gallon aquarium is equivalent to a human living out the rest of her life in a small bathroom — and without internet, cell phone, or other stimuli. As North American box turtles experience a near 70% predation rate on relocation, they cannot be released. However, for permanent captives, we can raise the standards we allow to pass for captive husbandry.

Let me propose a less than radical notion toward reptiles and amphibians: Acknowledge them as the wild animals they are and operate as their conservation advocates and wardens, keeping them and their needed ecosystems protected in our world — and out of all living rooms. Reptiles and amphibians are not appropriate personal pets, any more than we would reasonably consider mountain lions, hippos, or ostriches. If they were larger, vocal, and able to harm us more easily and more often, I suspect they would no longer be such a popular part of



Rosie, a Green Iguana (*Iguana iguana*), now a permanent resident of the Butterfly Pavilion (www.butterflies.org), is seen here atop her tree bower.



This Ornate Monitor (*Varanus ornatatus*) is now deceased. An animal that can attain a length of two meters, has a naturally aggressive disposition, and requires a largely aquatic habitat is a questionable choice as a pet for most people.

the pet trade. We can shut down the introduction of new individuals and new species of reptile and amphibians into the pet trade — and greatly reduce suffering and death. These ideals should inform a true conservation ethic.

A conservation ethic might include captive breeding to increase the chances for a species' survival — but wild animals that exist only as captive specimens are already lost to our natu-

ral world. We assure a species' survival when we realize the animal can function as a wild animal only in its natural habitat. Captive breeding for release must already encompass habitat preservation and management — without which release is impossible.

We need a conservation-focused ethic — for the reptiles and amphibians we hope to protect and not for the reason of continued ownership of wild animals in our homes. Conservation needs to occur because, as Mark Beckoff observed, the human race has already won the race — and included in our winner's 'spoils' could be a greater future for reptiles and amphibians than captive animals suffering and dying for short-term enjoyment. As winners, we could instead be generous toward these often-misunderstood animals, protecting them in the wild, while reducing and eliminating their human-imposed captivity.

As a model for enjoying reptiles and amphibians in the wild, we could duplicate many of the elements of bird watchers. Life-long species lists (without taking herps from the wild!), reptile-watching trips, photography contests, and reptile conservation societies could greatly contribute to the protection of these wonderful species — all without subjecting them to captivity or an early demise. Instead, land could be protected for habitat, and participants could help collect useful data and assist researchers and conservationists.

The natural world is a wonderful place and to rediscover, as most of us do, that it contains reptiles and amphibians, should be exciting. I can conceive of no better gift than to leave wild animals wild, hippo and herp alike.