

Bill No. 37
2023

By-law No. A.- _____ - ____

A by-law to approve a limiting distance agreement between the Corporation of the City of London and Southside Construction Management Limited for the property at 20-720 Apricot Drive and to delegate authority to the Deputy City Manager, Environment and Infrastructure, to execute the agreement on behalf of the City of London as the adjacent property owner.

WHEREAS section 5(3) of the *Municipal Act, 2001* S.O. 2001, c.25, as amended, provides that a municipal power shall be exercised by by-law;

AND WHEREAS section 9 of the *Municipal Act, 2001* provides that a municipality has the capacity, rights, powers and privileges of a natural person for the purpose of exercising its authority under this or any other Act;

AND WHEREAS it is deemed expedient for The Corporation of the City of London (the "City") to enter into a limiting distance agreement with Southside Construction Management Limited for the property at 20-720 Apricot Drive (the "Agreement");

AND WHEREAS it is appropriate to delegate authority to the Deputy City Manager, Environment and Infrastructure, to execute the agreement on behalf of the City of London as the adjacent property owner;

NOW THEREFORE the Municipal Council of The Corporation of the City of London enacts as follows:

1. The Agreement substantially in the form attached as Schedule "A" to this by-law and to the satisfaction of the Deputy City Manager, Legal Services, being limiting distance agreement between the Corporation of the City of London and Southside Construction Management Limited for the property at 20-720 Apricot Drive, is hereby APPROVED.
2. The Deputy City Manager, Environment and Infrastructure, is hereby authorized to execute the Agreement approved under section 1 of this by-law on behalf of the City of London as the adjacent property owner.
3. This by-law shall come into force and effect on the day it is passed.

PASSED in Open Council on January 24, 2023.

Josh Morgan
Mayor

Michael Schulthess
City Clerk

First reading – January 24, 2023
Second reading – January 24, 2023
Third reading – January 24, 2023

SCHEDULE "A"

THIS AGREEMENT made in duplicate this 31 day of October 2022

BETWEEN:

Southside Construction Management Limited (hereinafter called the "OWNER") of the FIRST PART

and

The Corporation of the City of London (hereinafter called the "CITY", in its capacity as a municipality and principal authority under the Building Code Act, 1992, S.O.1992, c.23, as amended) of the SECOND PART

and

The Corporation of the City of London (hereinafter called the "ADJACENT OWNER") of the THIRD PART.

WHEREAS the Owner is the registered owner of the lands also described in Schedule "A" (the "Owners' Lands");

AND WHEREAS the Adjacent Owner is the registered owner of lands also described in Schedule "A" (the "Adjacent Lands");

AND WHEREAS the west property line of the Owners' Lands abuts the Adjacent Lands;

AND WHEREAS the Owners have applied to the City for permission to be exempted from certain provisions of the Ontario Building Code pertaining to glazing and fire rating in the west facing wall of a house to be constructed on the Owners' Lands (the "Proposed Building");

AND WHEREAS Parties have agreed to enter into this agreement in accordance with Article 9.10.14.2(4) of the Ontario Building Code to facilitate same;

NOW THEREFORE THIS AGREEMENT WITNESSES that in consideration of the sum of TWO DOLLARS (\$2.00) and other good and valuable consideration now paid by each of the parties hereto to the other, the receipt and sufficiency of which is hereby acknowledged, the City, the Owner and Adjacent Owner hereby covenant and agree as follows:

1. The Adjacent Owner irrevocably agrees with the Owner not to construct any building or structure within 4.95 metres from the west property line of the Owners' Lands; failing which, the Adjacent Owner shall be fully liable for all costs of any work to be performed to rectify same on both the Owner's Lands and the Adjacent Lands, as required by the City or pursuant to the Ontario Building Code.
2. The Adjacent Owner acknowledges and agrees that, prior to the construction of any building on the Adjacent Lands, the "limiting distance" from an "exposing building face" facing the western property line of the Owners' Lands, shall be calculated by the City from a line located on the Adjacent Property 4.95 metres from the western property line of the Owner's lands.
3. The Owner acknowledges and agrees that, prior to the construction of any building on the Owners' Lands, the "limiting distance" from an "exposing building face" facing the western property line of the Owners' Lands shall be calculated by the City from a line located on the Adjacent Property 4.95 metres from the western property line of the Owner's lands.
4. The Parties acknowledge that the terms "limiting distance" and "exposing building face" as referenced in this Agreement shall have the meanings defined in Article 1.4.1.2. of the Ontario Building Code, as amended.

5. The burdens and benefits of this Agreement shall run with the Owners' Lands and the Adjacent Lands and shall ensure to the benefit of and be binding upon all Parties hereto, their respective heirs, executors, administrators, successors and assigns.

6. The Parties consent to the registration of this Agreement against title to the Owners' Lands and the Adjacent Lands and further agree to obtain and register any postponements required to ensure this Agreement is registered in priority to any existing or future encumbrances affecting the lands.

7. The Owners covenant and agree with the City that the Owners will forthwith bring the west wall of the proposed building into compliance, as is prescribed by the Ontario Building Code then in effect, coincidental with the construction of any building or structure upon the Adjacent Lands, which is located 4.95 metres from the west property line of the Owners' Lands

8. Amendment or removal of this agreement from the title of either property shall require the written agreement of all parties (or their heirs or assigns) to this agreement.

IN WITNESS WHEREOF the parties hereto have hereunto duly executed this agreement.

SIGNED AND DELIVERED in the presence of:

OWNERS

Southside Construction Management Limited

THE CORPORATION OF THE CITY OF LONDON

Per:

Peter Kokkoros, P.Eng. Director, Building and Chief Building Official
Authorized Officer

ADJACENT OWNER: THE CORPORATION OF THE CITY OF LONDON

Per:

Kelly Scherr, Deputy City Manager, Environment and Infrastructure
Authorized Officer

Schedule "A"

Owner's Lands: 20-720 Apricot Drive, London, ON, N6K 5A7; London

Adjacent Lands: Block 45, Plan 33M-811; London

APPENDIX 'A'

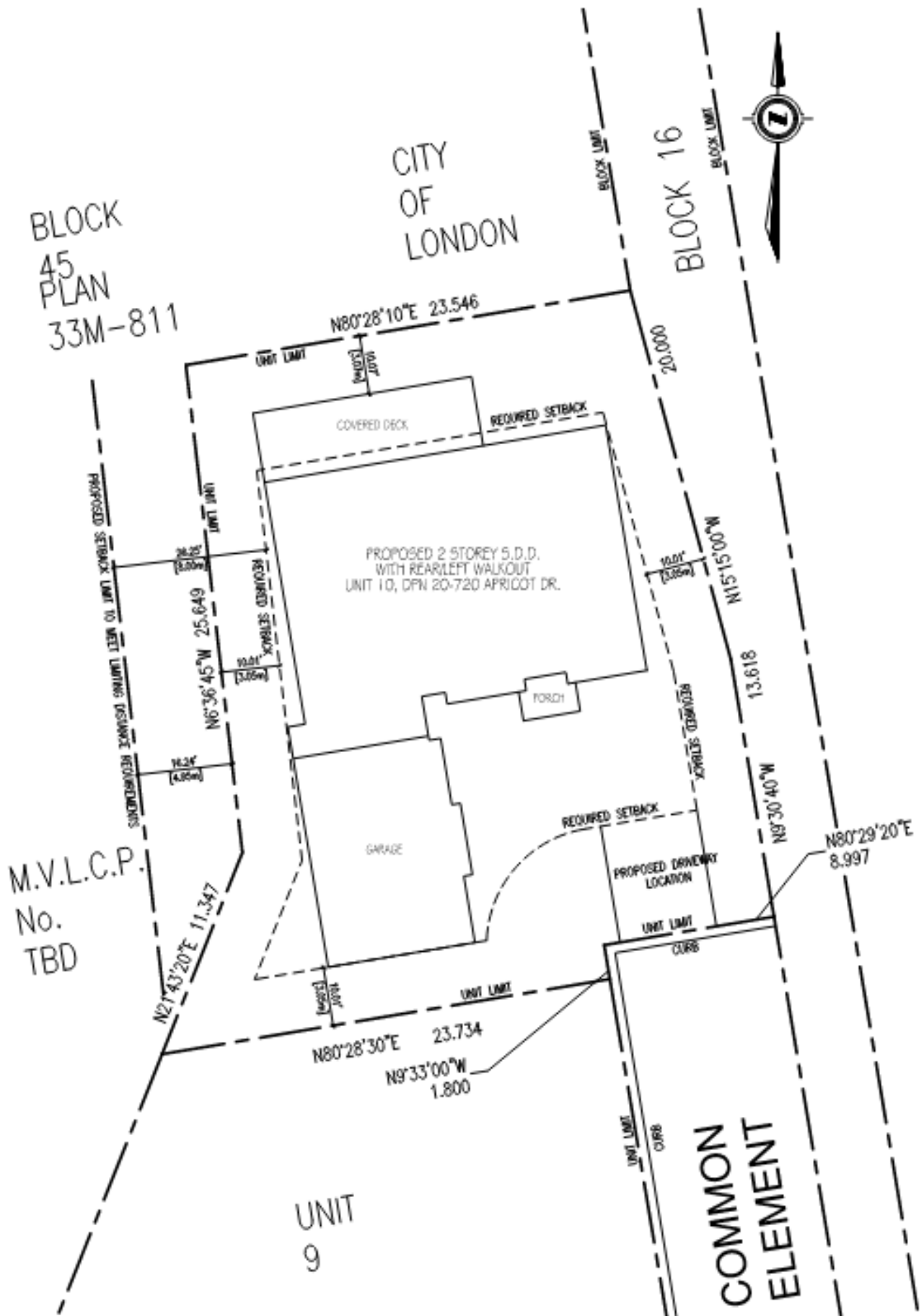


Figure No.1 Proposed Site Plan

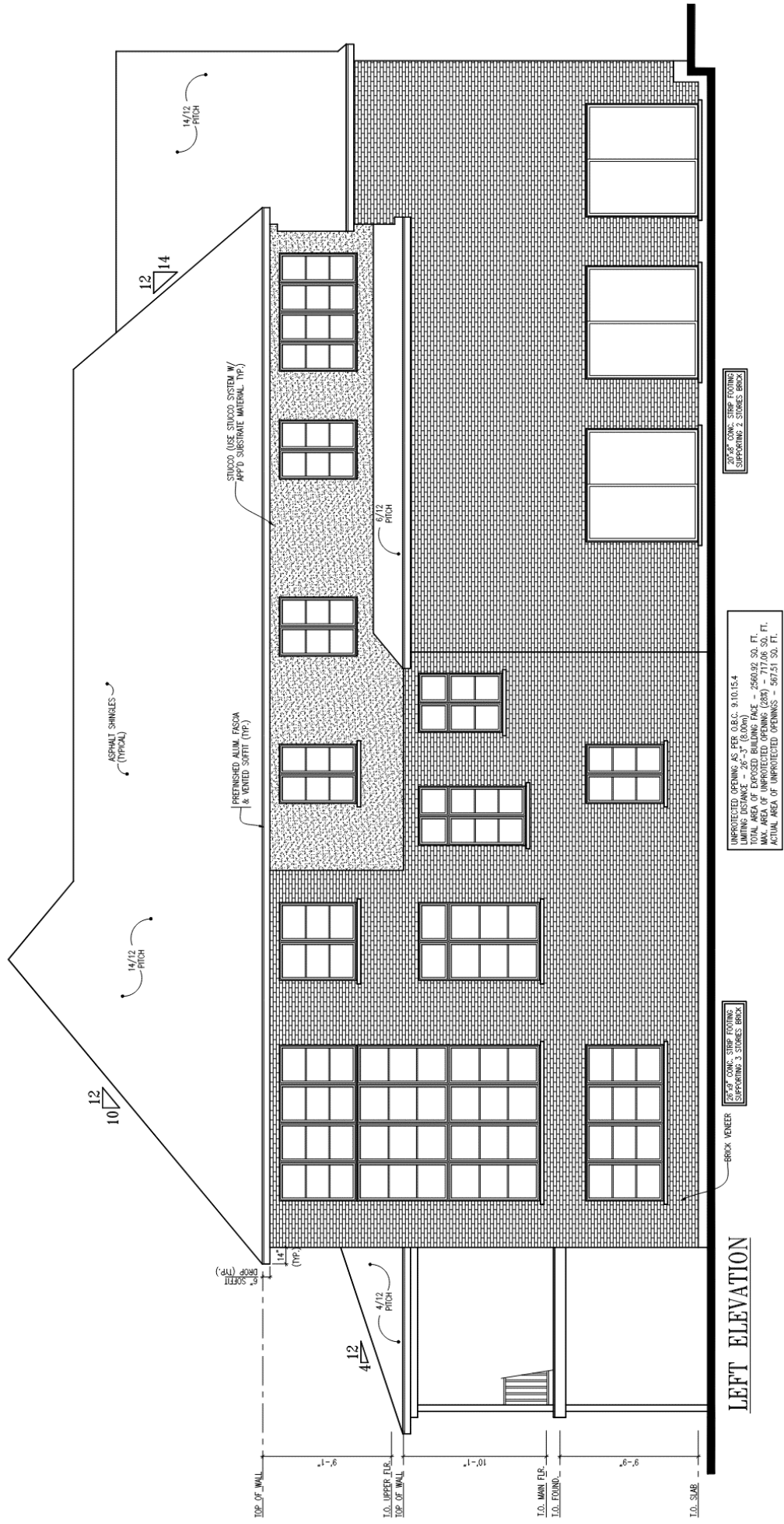


Figure 2. Proposed West Elevation