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File No: Z-7891  
Planner: C. Smith

<b>TO:</b>	<b>CHAIR AND MEMBERS BUILT AND NATURAL ENVIRONMENT COMMITTEE</b>
<b>FROM:</b>	<b>JOHN M. FLEMING DIRECTOR OF LAND USE PLANNING AND CITY PLANNER</b>
<b>SUBJECT:</b>	<b>APPLICATION BY: CITY OF LONDON CITY WIDE PUBLIC PARTICIPATION MEETING ON AUGUST 15, 2011 AT 4:40 P.M.</b>

<b>RECOMMENDATION</b>
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That, on the recommendation of the Director of Land Use Planning and City Planner, the attached proposed by-law **BE INTRODUCED** at the Municipal Council meeting on August 29, 2011 to amend Zoning By-law No. Z.-1 in conformity with the Official Plan to change Zoning By-law Z.-1 Section 4.14 by removing the words "has been" , "and the location of any permitted building or structure relative to the required side or rear yards",and to include the word and "density" in the last paragraph by:

- a) **DELETING** the last paragraph of Section 4.14; and
- b) **INSERTING** in its place "*In the case of a road widening dedication, the land that will be dedicated shall be included in any calculation for the purpose of determining lot area, coverage, height, parking, landscaped open space, floor area, floor area ratio and density provided any building or structure is located wholly within the boundary of the land remaining after the dedication*".

<b>PREVIOUS REPORTS PERTINENT TO THIS MATTER</b>
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N/A

<b>PURPOSE AND EFFECT OF RECOMMENDED ACTION</b>
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To clarify Zoning By-law Z.-1 Section 4.14 Lots Reduced by Public Acquisition by amending wording to the section which will allow for clarification of lands that are subject to the provisions of the section and to clarify the required setback backs form the ultimate road allowance.

The proposed amendment will offer an administrative improvement for certain planning applications, by making it clear for both applicants and City staff, that the "relief" from the provisions of the Zoning By-law is to include the dedicated lands when calculating lot coverage, size and density, and that this dedication is applied only once, when the dedication is taken at the time of the site plan process. Further by removing reference to setbacks, all yard setbacks, including front and exterior yard setbacks, must conform to the provisions stated in the Zoning By-law.

<b>RATIONALE</b>
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1. The recommended amendment will allow for clarification of the intent of the Section 18.2.5 of the City of London Official Plan regarding relief from the regulations of Zoning By-law Z.-1 for lots reduced as a result of a required road dedication.

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- The recommended amendment will allow for clarification of the intent of Section 18.2.5 of the City of London Official Plan regarding the intent to maintain setbacks from the ultimate road allowance for front and exterior side yards.

<b>BACKGROUND</b>
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<b>Date Application Accepted:</b> March 10, 2011	<b>Agent:</b> City of London
<b>REQUESTED ACTION:</b> Change Zoning By-law Z.-1 Section 4.14 by removing the words "has been" and to include the words "interior" and "density" in the policy <b>TO READ</b> <i>In the case of a road widening dedication, the land that will be dedicated shall be included in any calculation for the purpose of determining lot area, coverage, height, parking, landscaped open space, floor area, floor area ratio and density provided any building or structure is located wholly within the boundary of the land remaining after the dedication.</i>	

<b>SIGNIFICANT DEPARTMENT/AGENCY COMMENTS</b>
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No comments

<b>PUBLIC LIAISON:</b>	On July 12, 2011 letters were sent out to all internal and external agencies including the Urban League, the London Home Builders, London Development Institute and the London Planners Association. Living in the City Notice was published on March 26, 2011.	No replies were received.
<b>Nature of Liaison:</b> To clarify Zoning By-law Z.-1 Section 4.14 by changing wording of lands subject to the provision of the section.		
Change Zoning By-law Z.-1 Section 4.14 by removing the words "has been" and to include the words "interior" and "density" in the policy <b>TO READ</b> <i>In the case of a road widening dedication, the land that will be dedicated shall be included in any calculation for the purpose of determining lot area, coverage, height, parking, landscaped open space, floor area, floor area ratio and density provided any building or structure is located wholly within the boundary of the land remaining after the dedication.</i>		
<b>Responses:</b> None.		

<b>ANALYSIS</b>
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**Planning Act**

The *Planning Act* allows for the widening of highways that abut lands subject to development as set out in Section 41 of the Act, Site Plan Control Area, or for the widening of highways that abut lands subject to Subdivision as Section 51.

**Section 41 requires:**

*Widening must be described in official plan:*

*An owner may not be required to provide a highway widening under paragraph 1 of clause (7) (a) or under paragraph 1 of clause (8) (a) unless the highway to be widened is shown on or described in an official plan as a highway to be widened and the extent of the proposed widening is likewise shown or described*

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**City of London Official Plan**

Table 18.1 of the City of London Official Plan describes all road classification in the municipality and the required road allowances that are subject to highway widening as required by the Planning Act.

**18.2.5. Road Widening Policies**

*Council shall provide for the widening of existing road allowances to the road allowance requirements established under policy 18.2.4.*

*Privately owned land needed for road allowance widening may be acquired by the City through purchase; expropriation; dedication as a condition of subdivision, land severance or site plan approval; or other appropriate means.*

**Road Allowance Requirements**

*i) For the purposes of the Planning Act, dealing with road allowance widening as a condition to the approval site plans for development, any road that has less than the required road allowance established according to the provisions of policy 18.2.4. of this Plan shall be regarded as a road to be widened.*

**Setbacks**

*vii) The Zoning By-law shall provide for the measurement of setback requirements from the limit of the required road allowance.*

**Implementation**

*viii) The implementation of the road widening policies will also take into consideration matters such as the following:*

- a) where a parcel of land has been acquired by the City but the widening of the road is not imminent, Council may allow for the private interim use of the parcel; and*
- b) where, because of a road widening, the size of a property is reduced and the lot area or setbacks no longer conform to the Zoning By-law, Council may consider an amendment to the By-law to recognize the property reduced standard.*

Section 18.2.5 vii) b) allows the relief to the zoning by-law requirements to lots reduced by dedication for setbacks during the site plan approvals process as prescribed by Section 41 of the *Planning Act*.

**Zoning By-law Z-1**

**4.14 LOTS REDUCED BY PUBLIC ACQUISITION**

*Where the area of a lot is reduced by means of an acquisition of part of the lot by any authority having power of expropriation, and where such acquisition causes the lot as reduced, or any building or structure existing lawfully on the lot on the date of such acquisition, to have a lot area, lot frontage, lot coverage, parking, area of landscaped open space, setback, front yard depth, side yard depth or rear yard depth that does not conform to the requirements hereof for the zone in which such lot is located, then nothing in this By-Law shall apply to prevent the continued use of the lot as reduced as if no such acquisition had taken place, provided that:*

- 1. no further change is made in the dimensions, area or any other characteristics of the lot as reduced, subsequent to the date of such acquisition, that would increase the extent of the said non-conformity; and,*
- 2. no building or structure or addition thereto is erected on the lot as reduced, subsequent to the date of such acquisition, except in accordance with all the provisions hereof for the zone in which such lot is located.*

*In the case of a road widening dedication, the land that has been or will be dedicated shall be included in any calculation for the purpose of determining lot area, coverage, height, parking, landscaped open space, floor area, floor area ratio, and the location of any permitted building or structure relative to the required side or rear yards, provided any building or structure is located wholly within the boundary of the land remaining after the dedication.*

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Section 4.14 of the Zoning By-law implements the Official Plan policies by allowing for relief from the regulation of the zoning by-law by including lands that are dedicated for road widening to be included in the calculation of zoning regulations at the time of site plan approvals. The section also allows for the continued use of existing buildings and land to be deemed in conformity with the zoning by-law after the dedication of road allowance. By deleting the words has been, so that the sentence reads "*In the case of a road widening dedication, the land that will be dedicated shall be included in any calculation...*" clarifies that the inclusion of the dedicated lands as required by Section 41 of the *Planning Act* is for the site plan approval application which is subject to the provision of the *Planning Act* and is consistent with the City of London Official Plan policies.

Currently the dedicated lands for road widenings are included in the calculation for lot area. Lot area is used to calculate coverage, landscaped open space and floor area ratios which are specifically listed in the wording of the section. Density calculations also require the use of lot area. The insertion of the word density will allow the calculation of densities for new development to include the dedicated lands for road widenings which is consistent with the City of London Official Plan policies.

The section further states: "*the location of any permitted building or structure relative to the required side or rear yards...*" The section specifically does not list front yard setbacks to the lands dedicated for road widening. Setbacks from a required road allowance are specifically regulated by Section 4.21 of Zoning By-law Z.-1 (attached below).

**4.21 ROAD ALLOWANCE REQUIREMENTS - SPECIFIC ROADS**

*Notwithstanding any other provisions of this By-Law, yard requirements adjacent to the Arterial and Collector roads listed below shall be measured from the limit of the required or the existing road allowance, whichever is the greater.*

Zoning By-law Z.-1 defines front and exterior side yard setbacks as:

*YARD, FRONT" means a yard extending across the full width of a lot between the front lot line and the nearest main wall of any building or structure on the lot. Where the front yard depth required by a zone varies by street classification, such classification shall be as set out in Subsection 4.21.*

*"YARD, EXTERIOR SIDE" means a side yard immediately adjacent to a street.*

Section 4.21 specifically regulates the required setback from the City's listed road allowances. By removing the yard and rear yard setbacks in Section 4.14 clarifies that setbacks for front and exterior side yard are regulated by Section 4.21 which is consistent with the City of London Official Plan policies.



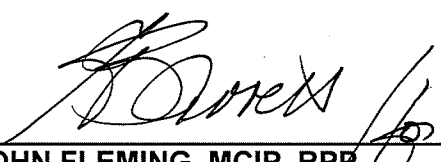
<b>CONCLUSION</b>
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The recommended amendment will allow for clarification of the intent of the Section 18.2.5 of the City of London Official Plan regarding a property's reduced standard as a result of dedication required through development and the intent to maintain setbacks from the ultimate road allowance for front and exterior side yards. The proposed amendments are consistent with the Official Plan.

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<b>PREPARED BY:</b> 	<b>SUBMITTED BY:</b> 
<b>C. SMITH PLANNER- COMMUNITY PLANNING &amp; URBAN DESIGN</b>	<b>JAMES YANCHULA, MCIP, RPP MANAGER OF COMMUNITY PLANNING AND URBAN DESIGN</b>
<b>RECOMMENDED BY:</b> 	
<b>JOHN FLEMING, MCIP, RPP DIRECTOR, LAND USE PLANNING AND CITY PLANNER</b>	

July 18, 2011  
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**Bibliography of Information and Material –Z-7891**

**Reference Documents**

Ontario. Ministry of Municipal Affairs and Housing. *Planning Act R.S.O. 1990*, as amended

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

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

By-law No. Z.-1-\_\_\_\_\_

A by-law to amend Section 4.14, the Lots Reduced by  
Public Acquisition of By-law No. Z.-1.

WHEREAS the City of London has applied to amend Section 4.14, last paragraph, of the Z.-1 Zoning 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) Section 4, General Provisions, to By-law No. Z.-1 is amended by removing the words "has been" and "the location of any permitted building or structure relative to the required side or rear yards" and to include the words "density" in the last paragraph Section 4.14 by:
  - a) **DELETING** the last paragraph of Section 4.14; and
  - b) **INSERTING** in its place "*In the case of a road widening dedication, the land that will be dedicated shall be included in any calculation for the purpose of determining lot area, coverage, height, parking, landscaped open space, floor area, floor area ratio and density provided any building or structure is located wholly within the boundary of the land remaining after the dedication*".

This By-law shall come into force and be deemed to come into force in accordance with subsection 34(21) 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 subsection.

PASSED in Open Council on August 29, 2011.

Joe Fontana  
Mayor

Catharine Saunders  
City Clerk

First Reading - August 29, 2011  
Second Reading - August 29, 2011  
Third Reading - August 29, 2011