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.
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.

**SITE CHARACTERISTICS:**
- Current Land Use – Agricultural
- Frontage – 260 metres
- Depth – 145 metres
- Area – 4 ha
- Shape – rectangular
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
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
- AG - ARTERIAL COMMERCIAL
- HS - HIGHWAY SERVICE COMMERCIAL
- RSC - RESTRICTED SERVICE COMMERCIAL
- CC - CONVENIENCE COMMERCIAL
- SS - AUTOMOBILE SERVICE STATION
- ASA - ASSOCIATED SHOPPING AREA COMMERCIAL

2) ANNEXED AREA APPEALED AREAS

CITY OF LONDON
DEPARTMENT OF PLANNING AND DEVELOPMENT

ZONING BY-LAW NO. Z.-1
SCHEDULE A

FILE NO:
Z-7822

MAP PREPARED:
2011/02/08

1:10,000

0 50 100 200 300 400 Meters
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 an Agricultural (AG2) Zone which permits agricultural uses.

Responses: None

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
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 688/98 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."
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".
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<tr>
<th>PREPARED BY:</th>
<th>SUBMITTED BY:</th>
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<tr>
<td>CRAIG SMITH - PLANNER COMMUNITY PLANNING AND URBAN DESIGN</td>
<td>JIM YANCHULA, MCIP, RPP MANAGER OF COMMUNITY PLANNING AND URBAN DESIGN</td>
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RECOMMENDED BY:

JOHN M. FLEMING, MCIP, RPP CITY PLANNER

March 16, 2011
CS/
Bibliography of Information and Materials

Reference Documents


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
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.73, 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
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-

Zoning as of February 3, 2011

ANNEXED AREA APPEALED AREAS

SUBJECT SITE

1:9,000

0 50 100 200 300 400 Meters

Geospatial