TO: CHAIR AND MEMBERS - PLANNING COMMITTEE
FROM: R. W. PANZER
GENERAL MANAGER OF PLANNING AND DEVELOPMENT
SUBJECT: APPLICATION BY: CROWN DEVELOPMENTS LTD.
1777 Highbury Avenue North
PUBLIC PARTICIPATION MEETING ON
MONDAY APRIL 24, 2006 @ 4:30 P.M.

RECOMMENDATION

That, on the recommendation of the General Manager of Planning and Development, the following actions be taken with respect to the application of Crown Developments Ltd. relating to the property located at 1777 Highbury Avenue North:

a) the attached proposed by-law BE INTRODUCED at the Municipal Council meeting on Monday May 1, 2006 to amend Zoning By-law No. Z-1 in conformity with the Official Plan to change the zoning of the subject lands FROM a Residential R2 (R2-3) Zone which permits single detached, semi-detached, duplex, and converted dwellings (2 units maximum) TO a holding Residential R6 Special Provision (h-56-R6-1) Zone to permit cluster housing in the form of single detached dwellings up to a maximum density of 15 units per hectare (6 units/acre) with a special provision for a minimum front and exterior side yard depth of 2.0 metres (6.56 ft.).

b) A public site plan meeting be held to address any neighbourhood concerns with the final grading and drainage plans associated with the proposed future development of this site.

PREVIOUS REPORTS PERTINENT TO THIS MATTER

None.

PURPOSE AND EFFECT OF RECOMMENDED AMENDMENTS

To permit development of cluster housing in the form of detached dwellings. This will facilitate a proposed vacant land condominium development consisting of 10 detached dwelling units.

RATIONALE

1. The recommended zoning conforms with the Official Plan and permits low density housing in the form of cluster detached dwellings. This form of housing is appropriate and will allow for intensification of a large estate lot in a form and scale that is compatible with existing residential uses on adjacent lands.

2. Because of the location adjacent an arterial road, the application has been reviewed against the noise policies in the Official Plan. The recommended zoning contains a holding (h-56) provision requiring a noise impact study be undertaken and that the recommended attenuation measures are appropriate and in keeping with these policies.

3. A holding provision is recommended to ensure future development incorporates proper engineering design and drainage works which adequately address potential impacts on neighbouring properties which are experiencing flooding and drainage problems. A site plan public meeting to address concerns of neighbouring property owners is also recommended.
4. The special provision for a reduced front yard setback from Highbury Avenue has been reviewed in the context of the current zone standards, and under the circumstances is considered warranted and appropriate.

<table>
<thead>
<tr>
<th>Date Application Accepted: January 30, 2006</th>
<th>Agent: n/a</th>
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REQUESTED ACTION: Amendment to Zoning By-law Z-1 to change the zoning of the subject property from "Residential R2 (R2-3)" to "Residential R6 Special Provision (R6-1( ))" to permit cluster single detached dwellings up to a maximum density of 15 units per hectare (6 units/acre). A special provision is requested for a reduced front yard setback of 2.0 metres in place of 8.0 metres set out in the Zoning By-law Z-1.

A separate application has been made for approval of a draft plan of Vacant Land Condominium - file #39CD-06505. The proposed plan consists of a 10 unit residential development including 1 existing dwelling plus 9 new single detached units registered as one Condominium Corporation.

SITE CHARACTERISTICS:
- Current Land Use – residential
- Frontage – 84.6 metres (277.6 ft.)
- Depth – 89.6 metres (294 ft.)
- Area – 0.77 hectares (1.9 acres)
- Shape – regular

SURROUNDING LAND USES:
- North - commercial
- South - residential
- East – vacant lands and residential dwelling
- West - residential

OFFICIAL PLAN DESIGNATION: (refer to map on page 4)
- Low Density Residential

EXISTING ZONING: (refer to map on page 5)
- Residential R2 (R2-3)
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 - SENIORS 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

- OR - OFFICE/RESIDENTIAL
- DC - 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
- OB - OFFICE BUSINESS PARK
- LI - LIGHT INDUSTRIAL
- GI - GENERAL INDUSTRIAL
- HI - HEAVY INDUSTRIAL
- EX - RESOURCE EXTRACTIVE
- UR - URBAN RESERVE
- "H" - HOLDING SYMBOL
- "O" - DENSITY SYMBOL
- "H" - HEIGHT SYMBOL
- "B" - BONUS SYMBOL
- "T" - TEMPORARY USE SYMBOL

2) FOR TOWNSHIP ZONES PLEASE SEE THE RELEVANT ZONING BY-LAW FOR A DESCRIPTION OF REGULATIONS

CITY OF LONDON
DEPARTMENT OF PLANNING AND DEVELOPMENT

ZONING BY-LAW NO. Z.-1

SCHEDULE A

FILE NO: Z-7094

MAP PREPARED: 2006 Mar 15

1:4000

0 100 Meters

FOR TOWNSHIP ZONES PLEASE SEE THE RELEVANT ZONING BY-LAW FOR A DESCRIPTION OF REGULATIONS
In 1990, Municipal Council considered an application by Zebro Development Limited for a 1.65 hectare (4 acre) parcel of land located immediately to the south of the Crown Development Ltd. property. Council approved an Official Plan Amendment, zoning by-law amendment, and a plan of subdivision for 24 single detached lots fronting on Killarney Court and Killarney Grove. These lands were previously annexed by the City of London from the Township of London in 1989. The single detached homes immediately to the west, fronting on Glenburnie Crescent, are part of the Northridge Subdivision registered in 1965 (R.P. 940) by Sunrise Development Ltd.

The most recent development in the area is the Petro-Canada service station at the southwest corner of Highbury Ave North and Fanshawe Park Road. In March 2001, Municipal Council approved an application by Petro-Canada, and Helen & Ann Van Meyl, to rezone two properties at 1791 and 1797 Highbury Avenue North from a Convenience Commercial/Automobile Service Station (CC/SS1) Zone and a Residential R2 (R2-3) Zone to a holding Convenience Commercial/Automobile Service Station (h-29-CC/SS2) Zone. At that time, the property at 1797 Highbury Ave N. was a former automobile service station owned by Petro-Canada, and the property at 1791 Highbury Ave. N. was a residential dwelling owned by Helen & Ann Van Meyl. This property was subsequently acquired by Petro-Canada in order to facilitate the development of a gas bar/convenience store and car wash. The holding h-29 symbol was later removed when the development agreement was entered into and municipal storm and sanitary services were made available to the site.

In November 2003, Municipal Council adopted the Kilally North Area Plan for approximately 125 hectares (309 acres) of land on the east side of Highbury Avenue, north of the Thames River, and north and south of Fanshawe Park Road. Approval of the area plan was followed by amendments to the City's Official Plan and the land use and transportation mapping for this area. The Multi-family, Medium Density Residential and Associated Shopping Area Commercial designations were applied to lands on the east side of Highbury Avenue directly opposite the subject property.

In February 2004, the Approval Authority for the City of London approved a draft plan of subdivision by Highbury Estates (Z Group) for a subdivision of 103 single detached lots, one stormwater management block, two open space blocks, one collector road, and six local streets. The site is located on the east side of Highbury Avenue, north of the river, and opposite the intersection of Killarney Road and Highbury Avenue. The future easterly extension of Killarney Road represents the main access road into the proposed subdivision.

**SIGNIFICANT DEPARTMENT/AGENCY COMMENTS**

The Environmental and Engineering Services Department reports:

- This property borders an area for which the City has received and responded to numerous flooding complaints (Killarney Crescent & Carmen Crescent). Soil conditions are not known at this site. Storm sewer capacity has not been assessed. It is important that development of this site does not aggravate the existing situation. A holding provision is recommended until the owners/developers professional engineer has submitted an engineered design that adequately addresses drainage impacts to the neighbouring lands to the west and south as a result of any new development on the subject site. This engineered design must be satisfactory to the City Engineer.

- A traffic Impact study conducted for other nearby residential subdivisions and commercial properties has indicated that the intersection of Fanshawe Park Road East and Highbury Avenue North will require significant upgrades to accommodate traffic volumes anticipated as a result of development of these subdivisions. Due to the number of northbound turning vehicles anticipated in the future, a dual left turn lane will be required on Highbury Avenue North. These lanes will extend beyond the southern limit of the proposed driveway location.
for this development and may include a raised median island to delineate these lanes. Access for this property may be restricted to rights in and rights out only as a result of this centre median.

These, among other engineering and transportation issues will be addressed in greater detail through the development application approval process.

<table>
<thead>
<tr>
<th>PUBLIC LIAISON:</th>
<th>Notice of application to amend the zoning by-law was sent to 73 surrounding property owners on February 24, 2006. A notice appeared in the “Living in the City” section of the London Free Press on Saturday March 4, 2006.</th>
<th>6 replies received</th>
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<tbody>
<tr>
<td>Nature of Liaison:</td>
<td>requested amendments</td>
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<td>Responses:</td>
<td>The Planning Division received two written responses and four telephone calls. The main concerns are summarized as follows:</td>
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<td>Drainage – properties on Carmen Crescent have experienced flooding problems and constant wet conditions in their back yards. Residents indicated these conditions have worsened since the Petro-Canada was built at Fanshawe Park Road and Highbury Avenue. They want assurances this won’t increase backyard flooding problems.</td>
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<tr>
<td>Traffic – traffic signals at the intersection of Highbury Avenue and Killarney Road are needed. You can’t get out across five lanes of traffic to turn north.</td>
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**ANALYSIS**

**Existing Situation**

The property at 1777 Highbury Avenue is a residential estate lot. A large home sits on high ground at the back of the lot, and is accessed by a long, curvilinear driveway from Highbury Avenue. There is a low lying spot or “bowl” in the front of the property which lies approximately 3-4 metres (10-13 ft.) below the grade of Highbury Avenue. Filling and grading in this area will be required to raise the grade to a level suitable for the proposed cluster housing development. There is an abrupt grade change also along the southerly property line adjacent the rear yards of the properties on Killarney Court. Substantial tree cover exists along the steeper sections of the slope.

Concurrent applications have been made for site plan approval and draft plan approval of a vacant land condominium development (file #38CD-06505). The proposed plan consists of a 10 unit residential development including 1 existing dwelling plus 9 new single detached units registered as one Condominium Corporation. The units, which will be sold to individual owners, include land holdings in addition to the traditional interior living space.

**Official Plan**

These lands are designated as Low Density Residential in the Official Plan, which permits low-rise, low density housing forms including detached, semi-detached, and duplex dwellings as the main uses. Multiple-attached dwellings, such as row houses or cluster houses may also be permitted subject to the policies of the Plan and provided they do not exceed the maximum density of development permitted under section 3.2.2. The goal of these policies is to maintain a low-rise and low coverage form of development, and minimize problems of shadowing, view obstruction, and loss of privacy. Generally, densities in the Low Density Residential designation can range to an approximate upper limit of 30 units per hectare. The zoning recommended here would permit clustered single detached dwellings up to a maximum density of 15 units per hectare (6 units/acre).
In March 2005, Municipal Council adopted new policies in the Official Plan to deal with applications for residential development adjacent to arterial roads and mitigation of noise impacts (OPA No. 348). Generally, the goal is to discourage the use of noise walls and to direct sensitive land uses away from arterial roads whenever possible. Alternative design measures that incorporate window streets and that avoid rear-lotting or side-lotting onto arterial streets is encouraged.

The evaluation criteria under Section 19.9.6 has been reviewed for this application and is summarized as follows:

1. **Less sensitive land uses**, such as commercial, institutional, open space or office uses, will, whenever practical and in conformity with the land use policies of the Official Plan, be sited adjacent to an arterial road to act as a buffer between arterial road noise and sensitive residential uses.

   The residential use proposed for the site conforms with the permitted uses of the Low Density Residential designation. It is acknowledged that certain non-residential secondary uses such institutional uses may be permitted that would be less sensitive than cluster detached housing. However, the site is limited by its size (0.77 hectares/1.9 acres) which limits its suitability for such uses as an elementary school or church which typically require a minimum of 2-3 hectares (or 5-7 acres). Commercial development has occurred recently on the properties to the north, functions as a buffer between the Highbury Ave/Panshawe Park Road intersection and existing residential uses to the west and south. The Petro-Canada development, which includes a car wash, has incorporated noise attenuation measures including 2.4 metre (8 ft.) high acoustical fencing along the southerly and westerly perimeter of the property.

2. **High Density Residential and Medium Density Residential uses** will, wherever practical, be sited adjacent to an arterial road. This form of development provides for greater flexibility in building orientation thereby allowing front facing buildings with amenity space in the rear.

   An Official Plan amendment would be required to redesignate the lands from Low Density Residential to Multi-family, Medium or High Density Residential, as well as a rezoning. Proposals for medium-rise or high-rise development it is expected would generate compatibility concerns for residents in the adjacent subdivision, particularly those whose backyards abut the subject site, regarding building height and privacy impacts. A low-rise building (3-4 storeys) may be an alternative; however, the building would probably have to be setback as far as possible to buffer the rear yards of the abutting residential properties to the south and west. Attached townhouse dwellings designed such that there is a row of front-facing units to Highbury Avenue is another alternative. The challenge will be designing the site, and locating the internal access driveways and parking areas, in a manner which has minimal impact on abutting residential rear yards. Clearly there are constraints to medium or high density residential development given the adjacent residential uses and limited site area to work with.

3. **If there is no practical land use alternative, and sensitive land uses must locate adjacent to an arterial road, then subdivision design measures will be encouraged to eliminate the need for noise walls.** These subdivision design measures could include, but are not limited to:

   a. subdivisions with window or lay-by streets or service roads
   b. subdivisions with rear lanes
   c. subdivisions on private service roads

   The main objective of these design measures is to ensure that residential development does not rear or side-lot onto the adjacent arterial roads.

If the zoning were not changed and the site were to be developed by plan of subdivision, the subdivision would be served by a short cul-de-sac street located in the middle of the site with access directly to Highbury Avenue. There is no other means of access and there doesn't
appear to be any way of avoiding side-lotting along Highbury Ave. Nor is there any opportunity to incorporate a window street design as there is not enough lot area or frontage.

4. If land use planning or alternative subdivision design cannot reasonably be utilized within the proposed residential subdivision then a noise impact study will be undertaken on behalf of the developer, by an accredited acoustical consultant, to determine:

   a. the appropriate noise attenuation mechanism based on future traffic volumes as established in the Transportation Master Plan and Schedule C of the Official Plan, expected road widening and the effect the expected road widening will have on the design of the required noise attenuation measure;

   b. the design specifics of the noise attenuation measure – such as height, density/width, location, benefiting lots, and building material.

It is recommended that a holding ("h-56") provision be applied to the zoning to ensure that a noise study will be undertaken and that the recommended attenuation measures are appropriate and in keeping with these policies. The holding provision is removed from the zoning through an application to City Council, and Council shall determine that the conditions for the purpose of applying a holding symbol on the zone maps have been satisfied. The h-56 holding provision in the zoning by-law reads as follows:

“To ensure there are no land use conflicts between arterial roads and the proposed residential uses, the h-56 symbol shall not be deleted until the owner agrees to implement all noise attenuation measures, recommended in noise assessment reports acceptable to the City of London.”

5. Where noise walls are determined to be the only practical noise attenuation measure, the following will be required:

   a. For Multi-Family, Medium and/or High Density Residential development — A common elements condominium corporation will be established for the noise wall. The condominium corporation will ensure that there are adequate funds to pay for the upkeep, maintenance and replacement costs of the noise wall. The requirements of the common elements condominium will be established as conditions of subdivision approval.

   b. For freehold residential development — (Not applicable - The recommended zoning change does not contemplate the development of freehold lots.)

The noise study recommendations may include a noise attenuation wall to protect the outdoor amenity areas of residential units adjacent Highbury Avenue. An application for approval of a vacant land condominium is being processed concurrently with the zoning amendment application. The above condition relating to the condominium corporation’s responsibility for the upkeep and maintenance of the wall as a common element feature will be applied through the conditions of draft approval. The study recommendations should address the following Official Plan criteria:

   c. The proposed size, height and location of the noise wall will need to address expected future traffic volumes as established in the Transportation Master Plan and Schedule C of the Official Plan;

   d. The proposed noise wall will be constructed of higher-quality materials that effectively mitigate noise, are durable and do not detract from the aesthetic of the community;
e. Where appropriate, the proposed noise wall will be compatible with and consistent with other noise walls along the same arterial road, except where existing noise walls are in conflict with the above criteria;

f. Landscaping will be encouraged on the road-side of noise walls to improve noise wall aesthetics and mitigate the canyon effect. Landscaping materials will be selected which can withstand the harsh growing conditions associated with road allowances flanked by noise walls.

Zoning By-law

A special zone provision is requested for a front yard setback of 2.0 metres (6.56 ft.). The minimum front and exterior yard depth under the R8-1 Zone is 8.0 metres (26.25 ft.) from an arterial road. The applicant's concept plans indicate the proposed condominium units will front onto a private access road with each unit having its own driveway and parking in front of the unit. Because of this orientation, the setback for the two dwelling units closest to Highbury Ave functions as a side yard rather than a front yard. The request for the reduced side yard is based on how the current zoning regulations would apply. If the site were to be developed by plan of subdivision on a public road, for example, these units would be treated as corner lots and the general provisions of the zoning by-law under Section 4.29 would apply with respect to yard requirements.

The provision under Section 4.29 reads as follows: "Notwithstanding the minimum exterior side yard requirement of this By-law, when a corner lot is sited so that its rear lot line abuts an adjacent interior side yard, the exterior side yard shall be subject to the regulations of a front yard. When a corner lot is sited so that its rear lot line abuts an adjacent rear lot line, the exterior side yard shall be subject to the regulations of an interior side yard." Using the subdivision example, the corner lot abutting the rear of the adjacent lots on Kilarney Court would only need a setback equal to the normal interior sideyard which is 1.2 metres (3.94 ft.) minimum for a one storey building and 1.8 metres (5.9 ft.) for a two storey building.

Another reason for the requested special provision is the wider road allowance. There were two previous expropriations by the County for road widening purposes which resulted in a road allowance that is wider than the standard arterial road width of 36 metres. The width of Highbury Avenue at this location is approximately 42 metres (137.8 ft.) at its narrowest point along the frontage of this property. The applicant indicated that the previous expropriations were for the purposes of banking the land to raise the grade of the road. Their development would provide for a higher grade on the property, thus reducing the differential between the road and the front of their property and the necessity of a wider road allowance.

This property borders an area for which the City has received and responded to numerous flooding complaints (Kilarney Crescent & Carmen Crescent). Based on the response to the public liaison notice and the departmental response from Engineering and Environmental Services, it is recommended that a holding provision be applied to the zoning to ensure that plans for future development include properly engineered site drainage works, that it does not aggravate existing problems, and that potential impacts on surrounding properties are adequately addressed. The suggested wording for the holding provision is as follows:

To ensure proper site drainage, the owner/developer's professional engineer shall submit an engineered design that adequately addresses drainage impacts on the neighbouring lands to the west and south as a result of any new development on the subject site, to the satisfaction of the City Engineer.

Until the holding provision has been removed, the zoning by-law would permit the existing use of the property as the interim use. In addition, it is recommended that a site plan public meeting be held to address any concerns of neighbouring property owners with the final grading and drainage plans.
CONCLUSION

The recommended RS-1 zone conforms with the Official Plan designation, and would permit low density housing in the form of cluster detached dwellings. This form of housing is appropriate for the development of the subject property and is compatible with existing residential development on adjacent lands. The property is located on an arterial road; therefore, this application has been reviewed with regard to the Official Plan noise impact policies. The recommended zoning contains a holding provision requiring a noise impact study be undertaken and that the attenuation measures are appropriate and in keeping with these policies. A holding provision is also recommended to ensure proper engineering and drainage works that takes into consideration potential impacts on neighbouring properties. The requested special provision for a reduced front yard setback from Highbury Avenue has been reviewed in the context of the current zone standards, and is also considered warranted and appropriate.

PREPARED BY:

LARRY MOTTRAM
PLANNER - IMPLEMENTATION

RECOMMENDED BY:

R. W. PANZER
GENERAL MANAGER OF PLANNING AND DEVELOPMENT

April 6, 2006
RWP/JMF/LM/Im

Y:\shared\implement\develop\7094Z - 1777 Highbury Ave North\PC.dot
Responses to Public Liaison Letter and Publication in "Living in the City"

**Telephone**
- Steve Ratz / 140 Killamey Crt.
- Claudio China / 148 Killamey Crt.
- Ed Lawson / 35 Carmen Cres.
- Ellen Mason / 43 Carmen Cres.

**Written**
- Don Heaman / 96 Glenburnie Cres.
- Ed & Denise Lawson / 35 Carmen Cres.
Bill No.
2006
By-law No. Z.-1-06

A by-law to amend By-law No. Z.-1 to rezone an area of land located at 1777 Highbury Avenue North.

WHEREAS Crown Developments Ltd. has applied to rezone an area of land located at 1777 Highbury Avenue North, 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:

Schedule "A" to By-law No. Z.-1 is amended by changing the zoning applicable to lands located at 1777 Highbury Avenue North, as shown on the attached map comprising part of Key Map No. 21, from a Residential R2 (R2-3) Zone to a holding Residential R6 Special Provision (h- *h-56* R6-I( ) ) Zone.

1) Section Number 10.4 of the Residential R6 Zone to By-law No. Z.-1 is amended by adding the following Special Provision:

Section No.10.4 (a) Zone R6-1( )

a) Regulations

i) Front and Exterior
Side Yard Depth
2.0 metres (6.56 ft.)
(minimum)

2) Section Number 3.8(2) of the Holding Zone Provisions Section to By-law No. Z.-1 is amended by adding the following holding provision:

h- Purpose: To ensure proper site drainage, the owner/developer's professional engineer shall submit an engineered design that adequately addresses drainage impacts on the neighbouring lands to the west and south as a result of any new development on the subject site, to the satisfaction of the City Engineer.

Permitted Interim Uses: Existing Uses

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 May 1, 2006.

Anne Marie DeCicco
Mayor

Kevin Bain
City Clerk

First Reading - May 1, 2006
Second Reading - May 1, 2006
Third Reading - May 1, 2006