

Statement of Anticipated Evidence

It is anticipated that Donald N. Leitch will provide the following evidence:

1. He is the Chief Administrative Officer and Clerk for the Municipality of Central Elgin, a position he has held since September, 2000. Prior to his current position, he served as Deputy-Clerk for the Village of Port Stanley (February, 1989 – August, 1989), Administrator and Clerk-Treasurer for the Village of Port Stanley (August 1989 – September, 2000), and Co-ordinator of Planning & Development for the Municipality of Central Elgin (January 1998 – September, 2000).
2. In the positions referred to above, he is aware of matters involving municipal interest and regulation, including various planning and development applications, within the territorial limits of Central Elgin, including the now Community of Port Stanley.
3. In late 2004, he learned that property at the intersection of William Street and Edith Cavell Boulevard had been purchased by Prespa Construction Limited ("Prespa"), who, at that time, contemplated residential development featuring both single detached dwellings and apartment-style units. He was aware that Prespa had held preliminary discussions with municipal planning representatives.
4. He subsequently attended in pre-consultation meetings amongst municipal and developer representatives on November 26, 2014 and February 3, 2015. The last development concept presented through the process involved a nine (9) storey apartment building fronting on William Street and three (3) detached condominium buildings fronting on Edith Cavell Boulevard.
5. After consideration by municipal representatives, correspondence dated March 3, 2015, was delivered to Prespa advising that the last-presented development proposal was considered premature.
6. A photocopy of correspondence to Prespa dated March 3, 2015, is attached as Schedule "A" to this Statement.
7. On October 18, 2015, he learned that a formal application for zoning by-law amendment, seeking approval of the development concept involving the nine (9) storey apartment building and associated three (3) single detached condominium units, had been received by Central Elgin Planning Office as planning consultants to Central Elgin.
8. A photocopy of the formal application for zoning by-law amendment is attached as Schedule "B" to this Statement.
9. It is noted that the attached application for zoning by-law amendment was not revised prior to commencement of appeal proceedings currently before the Tribunal.
10. On or about October 19, 2015, he received correspondence from its staff planner confirming receipt of the application for zoning by-law amendment on behalf of Prespa and seeking input as to completeness of the application.

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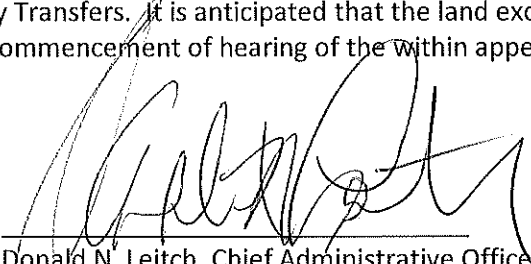
11. He is aware that, although originally deemed incomplete due to the absence of a supporting geotechnical report, the application was eventually deemed complete on December 1, 2015.
12. He received and approved a preliminary Planning Report, dated January 12, 2016, in respect of the Prespa application for zoning by-law amendment and for consideration by Central Elgin Council on January 18, 2016.
13. A photocopy of the text of the preliminary Planning Report, dated January 12, 2016, is attached as Schedule "C" to this Statement.
14. On January 18, 2016, Central Elgin Council received and considered the preliminary Planning Report and thereafter directed that a Public Meeting for the zoning by-law amendment application, including proposed development, be scheduled.
15. In accordance with the direction of Council, municipal staff scheduled a Public Meeting for March 1, 2016, and thereafter prepared, delivered, and published a Notice of such Public Meeting in accordance with the provisions of the Planning Act.
16. A photocopy of the said Notice of Public Meeting, including Affidavit of Service, is attached as Schedule "D" to this Statement.
17. The statutory Public Meeting was held, as scheduled, on March 1, 2016. The Meeting was well-attended, with most comments and/or presentations being made against the proposed development.
18. Shortly after the Public Meeting, I was approached by Prespa regarding possible revision of the proposed development and a request for deferral of Council decision on the application for zoning by-law amendment. On March 21, 2016, I received correspondence from Prespa confirming its consideration of re-design options and raising the prospect of a land exchange which would permit a re-design which would reconfigure and enlarge the public park at the northwest corner of William Street and Edith Cavell Boulevard.
19. A photocopy of the said correspondence from Prespa to Central Elgin is attached as Schedule "E" to this Statement.
20. On March 29, 2016, Central Elgin Council considered the letter from Prespa and authorized staff to pursue the land exchange and development re-design option with the developer. Prespa and its planning consultant was subsequently advised of the direction from Council.
21. As a result of the requests from Prespa and direction to municipal staff to pursue re-design of the proposed development and associated land exchange, Council consideration of the application for zoning by-law amendment was deferred, without complaint from Prespa.
22. On June 8, 2016, he received a revised site plan for the Prespa development, involving two (2), five (5) storey apartment buildings which presumed completion of the land exchange under discussion.

23. A photocopy of the revised site plan is attached as Schedule "F" to this Statement.
24. On June 21, 2016, he attended a meeting amongst municipal and developer representatives to receive details of the revised development concept and further discuss the proposed land exchange. The consensus from such meeting was to continue pursuit of possible re-design of the development concept and land exchange, but no support for any specific development or land exchange was given – indeed, it was made clear that the Municipality required final submission of any revised development concept through a new or revised application and scheduling of a further statutory Public Meeting.
25. A photocopy of his notes of such meeting are attached as Schedule "G" to this Statement.
26. On September 26, 2016, Council authorized the land exchange proposed by Prespa and directed preparation of legal documents to put that exchange into effect. The primary motivation for the Municipality to proceed with the exchange was not to facilitate any revised development concept but rather to acquire a strip of land along the north side of Edith Cavell Boulevard, west of William Street, to allow for road widening then being planned.
27. Shortly thereafter, he retained a local solicitor to effect the land exchange transfers on behalf of Central Elgin.
28. For a lengthy period thereafter and despite frequent contact with its principal, he had little communication with or on behalf of Prespa regarding the William Street/Edith Cavell Boulevard development. Most importantly, he received no request for Council consideration of the application for zoning by-law amendment. He does recall a request from Prespa to allow placement of a model depicting the revised development concept in the lobby of the Municipal Administration office – the request was refused.
29. He was aware that the local solicitor retained to pursue the land exchange had prepared a written agreement providing for all necessary transfers but that no response had been received from the local solicitor for Prespa.
30. With verbal permission from Prespa to do so, the road widening for Edith Cavell Boulevard, including the strip of land still held by Prespa, was substantially completed by May, 2017.
31. In October, 2017, he was advised by Planner Jim McCoomb that the planning consultant for Prespa had requested assistance in arranging a meeting with the Port Stanley Village Association to review details of the revised development proposal. Upon the advice of the Municipal Solicitor, he allowed Mr. McCoomb to facilitate the meeting but directed Mr. McCoomb to attend such meeting only to clarify factual issues.
32. In December, 2017, he was advised by Planner Jim McCoomb that the planning consultant from Prespa had advised that Prespa intended to file an appeal to the now Local Planning Appeal Tribunal, on grounds of the failure of the Municipal Council to make a decision on the appeal application for zoning by-law amendment. At no time had either the application been amended to reflect the revised development proposal, as had been required by the Municipality during

the meeting held June 21, 2016, or a request for Council consideration of the original application been made since the deferral request in March, 2016.

33. A Notice of Appeal was received by Central Elgin from Prespa, on January 2, 2018, being the first business day for Central Elgin since December 22, 2017.
34. In January, 2019, it came to his attention that the land exchange with Prespa, the completion of which is required to accommodate the current revised development proposal, had not been completed. With input from the Municipal Solicitor, Central Elgin Council has confirmed its commitment to such land exchange and authorized execution of the agreement prepared by its solicitor to provide for necessary Transfers. It is anticipated that the land exchange will be completed prior to the date of commencement of hearing of the within appeal.

Date: January²⁹, 2019



Donald N. Leitch, Chief Administrative Officer
Municipality of Central Elgin

SCHEDULE A

Central Elgin Planning Office

P.J.C. Keenan
Director of Planning

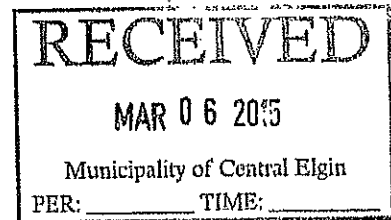
9 Mondamin Street
St. Thomas, Ontario
N5P 2T9

633-2560 or
631-1680, ext. 4186
633-6581 (fax)

March 3, 2015

Prespa Homes
8750 Centennial Road
St. Thomas, Ontario
N5P 3S6

Attention: Frank Sharifi:



**Re: Proposed Condominium Development
146-156 William Street, Port Stanley**

Further to our meeting of February 3rd, 2015 and the e-mail correspondence from Ron Delanghe dated February 12th, 2015, we have reviewed the concept plans for the proposed three additional lots fronting onto Edith Cavell Boulevard. Please be advised that we feel the proposal is premature and therefore cannot recommend that Council support it at this time. The reasons for this are as follows:

- i. The Stormwater Management policies contained within Subsection 3.3.2 of the Municipality of Central Elgin Official Plan require that a Stormwater Management Concept Plan be prepared where a subwatershed study or master drainage plan has not been completed (as is the case with the subject lands). Further, in order to demonstrate how the recommendations of the Stormwater Management Concept Plan will be implemented, a Stormwater Management Functional Report must also be completed. In relation to this proposal to develop three more lots on the southern portion of the property, the current proposed high rise and associated parking lot will add considerable impervious surface to the lands. Until an assessment of the stormwater management needs (quality and quantity) is complete, it may be premature to consider further development, and hardening, of additional lands on the site. It is noted that the subject lands fall within the Intake Protection Zone 2 (IPZ2) for the Lake Erie Primary Water Supply.

In addition to management of stormwater internally on the site, the Municipality will be seeking confirmation of the adequacy of the existing storm sewer infrastructure within the area to determine if it is suitable to accommodate anticipated flows from the site. The municipality has undertaken a stormwater study for the Erie, William and Edith Cavell Boulevard area. The proposed development is located within the study area. This study reviewed the sizing, condition and elevation of existing stormwater collection

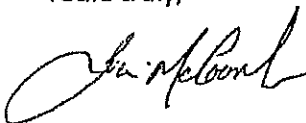
systems in the area. As a result of the study a final design has been completed and the implementation of the design will commence in the fall of 2015 subject to budget approval. We would note however, that design of the collection system was based on the existing conditions and did not anticipate any redevelopment of existing lands or increased runoff. Due to the foregoing, it is imperative that a Stormwater Management Concept Plan be undertaken to determine the quality and quantity control measures that will need to be implemented to support the proposed redevelopment of the subject lands.

- ii. It was noted at our February 3rd meeting that the Municipality may require that a parkland dedication be provided as a condition to this development for the purpose of enlarging Why Not Park, located adjacent to the subject lands. The Edith Cavell Boulevard/William Street intersection is a major transportation node within the community and focal point of tourist activity. The Municipality and the local Business Improvement Association are currently planning for improvements to Edith Cavell Boulevard and the intersection to improve traffic flow and the streetscape. Enhancement of Why Not Park is seen as means to further the Municipality's and community's interests in this regard.
- iii. The Official Plan also contains policies for Port Stanley dealing with mixed use development, which include the provision of open space amenities, landscaping and buffers. The proposed development of three additional lots could detract from the ability to meet these criteria, by removing land that could otherwise be used to provide outdoor amenity areas for the benefit of the future residents. The provision of outdoor amenity space could also help in meeting Healthy Communities goals and policies set out in Subsection 2.13 of the Plan.

It was noted during our last meetings that the proposed high-rise development has now reached a total of 9 stories. This will be significantly taller than all other development within Port Stanley, and in particular the existing development within the immediate area. In considering the future use of the lands adjacent to Edith Cavell Boulevard, you may wish to consider how further intensification of development on this site may impact on your ability to meet Official Plan policies for new medium or high density developments, particularly with respect to how the proposed design of the development is compatible in scale with the character of surrounding uses.

If there are any questions regarding any of the above, please do not hesitate to contact the undersigned.

Yours truly,



Jim McCoomb
Planner

cc. D. N. Leitch, CAO-Clerk, Municipality of Central Elgin
L. Perrin, Director of Physical Services, Municipality of Central Elgin
D. Lyle, CIDL Consulting Engineers
H. Froussios, Zelinka Priamo Limited
R. Delanghe, Lerner's LLP
S. Evans, County of Elgin

SCHEDULE B



The Corporation of the Municipality of
Central Elgin

Form ZBA-1/2014

ZONING BY-LAW AMENDMENT APPLICATION

REQUIREMENTS FOR A COMPLETE APPLICATION:

Note: Until the Municipality of Central Elgin has received the information and material requested herein (as required under subsections (10.1) and (10.2) of Section 34 and any fee under Section 69(1) of the *Planning Act*), the application will be deemed incomplete and the time periods referred to in sections 34(10.7) and 34(11) of the Act will not begin. Please ensure your submission includes:

OFFICE USE ONLY
Date Stamp – Date Received:

OCT 19 2015

Fee Paid: ☒ Yes ☐ No

- ☐ The completed application form and declarations as required under subsection 34 (10.1) (10.2) of the *Planning Act*.
- ☐ 1 copy of sketch/plan showing **EXISTING** and **PROPOSED** building(s) and structure(s) on subject lands, where applicable. Sketch is to include, for each existing and proposed building or structure, the location including setbacks from lot lines, height and dimensions (or floor areas) in metric units. See Section 22 of this application for more detail.
- ☐ Application Fee made payable to "The Municipality of Central Elgin".
- ☐ A Letter of Authorization from the Owner (with dated, original signature) **OR** completion of the Owner's Authorization on page 7, if the Owner is not filing the application.
- ☐ Other information identified through Pre-consultation.

PLEASE LIST THE REPORTS OR STUDIES THAT ACCOMPANY THIS APPLICATION (supply two copies of each):

Note: This section applies to all reports that may have been identified as a result of any pre-application consultation meeting as studies required for a complete application.

Shadow Study (renderings only)

Planning Justification Report - Zelinka Priamo Ltd. - William Haas Architects

Traffic Impact Statement - F.R. Berry & Associates

Functional Servicing Report - CJD L Consulting Engineers

About Pre-Consultation

Prior to submitting this application for a Zoning By-law Amendment to the Municipality of Central Elgin, a proponent is required to consult with relevant staff. Pre-application consultation is intended to facilitate early discussions between the proponent and staff pertaining to the application, and to allow staff to assist in determining the specific reports, studies and information that may be required to be submitted together with the application form as part of a complete application. Has pre-consultation occurred?: ☒ Yes ☐ No

Date of Pre-Consultation: Nov. 26, 2014

Staff Contact: Jim McCoomb

THIS APPLICATION PACKAGE MUST BE SUBMITTED TO:

Central Elgin Planning Office

9 Mondamin Street, St. Thomas, Ontario N5P 2T9

Telephone: 519-633-2560

Facsimile: 519-633-6581

Personal information is collected under the authority of the Planning Act and will be used only for the purposes of considering and reviewing your application.



The Corporation of the Municipality of

Central Elgin

ZONING BY-LAW AMENDMENT APPLICATION

I/We hereby apply, as outlined in this application, to the Council of the Corporation of the Municipality of Central Elgin pursuant to the provisions of the Planning Act, for an amendment to the Zoning By-law.

1. Name of applicant: Prespa Construction Limited
Address: 8750 Centennial Road, St. Thomas, Ontario N5P 3S6
Telephone (home): _____ (business) 519-631-1739
E-Mail: frank@prespahomes.com
2. Is the applicant the owner of the land? ☒ Yes ☐ No If no, please provide:
Name of owner: _____
Address: _____
Telephone (home): _____ (business) _____
E-Mail: _____
Date Lands Acquired: _____
3. Name of Agent (if any): Zelinka Priamo Ltd. c/o Harry Froussios
Address: 318 Wellington Road, London, Ontario N6C 4P4
Telephone (home): _____ (business) 519-474-7137
E-Mail: harry.f@zpplan.com
4. Location of Property ("subject lands"):
Registered Plan No.: 117 Lot No.(s): PART LOT 15
Concession No.: SOUTH OF ERIE ST Lot No.(s): 6-9
Reference Plan No.: _____ Part No.(s): _____
Municipal Address: N/A
5. Name and address of mortgagee, holders of charges, or other encumbrances:
N/A
6. Municipality of Central Elgin Official Plan:
Designation of the subject lands: Residential & Commercial
Explain how this application conforms to the Official Plan (add additional pages if necessary):
See Planning Justification Report

7. Current applicable Zoning By-law: Village of Port Stanley
Current applicable zone: R1, B1, OS3
8. What is the present use(s) of the subject lands? Vacant

How long has this use(s) continued on the subject lands? N/A
9. What is the proposed use(s) of the subject lands? 9-storey, 52-unit apartment building with ground floor commercial & 3 detached dwellings

Nature and extent of rezoning requested: See Planning Justification Report

Reason(s) for the requested rezoning: To permit the proposed development
10. Dimensions of the subject lands:
Frontage (m): 71.7m on William Street Street/Road/Highway
Depth (m): Irregular
Area (m²): 6,300 sq m
11. Access to the subject lands is provided by:
☒ A Provincial highway or municipal road that is maintained year-round or other public road;
☐ A right of way; or
☐ By water (Please provide a description of the parking/docking facilities to be used and the approximate distance of these facilities from the subject lands and the nearest public road):
12. Is the purpose of this application to implement an alteration to the boundary of an area of settlement or to implement a new area of settlement? : Yes ☒ No ☐ If Yes, please provide details of the official plan or official plan amendment that deals with the matter:
13. Is the purpose of this application to remove land from an area of employment? : Yes ☒ No ☐ If Yes, please provide details of the official plan or official plan amendment that deals with the matter:

14. Particulars of all existing and proposed structures on the subject lands (as applicable - add additional pages if necessary):

<u>EXISTING</u>	<u>BUILDING 1</u>	<u>BUILDING 2</u>	<u>BUILDING 3</u>
Building type:	N/A		
Length (m):			
Width (m):			
Height (m):			
No. of storeys:			
Ground floor area (m ²):			
Gross floor area (m ²):			
Parking area (m ²):			
Setback, front lot line (m):			
Setback, rear lot line (m):			
Setback, side lot line (m):			
Setback, side lot line (m):			
Date constructed:			

<u>PROPOSED</u>	<u>BUILDING 1</u>	<u>BUILDING 2</u>	<u>BUILDING 3</u>
Building type:	Apartment	3 detached dwellings	
Length (m):	~52.7m	see Site Plan	
Width (m):	~29m		
Height (m):	~29m		
No. of storeys:	9		
Ground floor area (m ²):	N/A		
Gross floor area (m ²):	N/A		
Parking area (m ²):	N/A		
Setback, front lot line (m):	0.4m		
Setback, rear lot line (m):	>20m		
Setback, side lot line (m):	10.6m		
Setback, side lot line (m):	8.1m		

15. Potable water will be supplied to the subject lands through:

- ☒ Publicly owned and operated piped water system.
☐ Privately owned and operated individual or communal well.
☐ Lake or other water body.
☐ Other means. Explain: _____

16. Sewage disposal will be supplied to the subject lands through:

- ☒ Publicly owned and operated sanitary sewage system.
☐ Privately owned and operated individual or communal septic system.
☐ A privy.
☐ Other means. Explain: _____

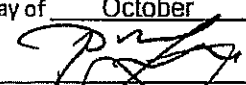
17. If sanitary sewage disposal is to be supplied through a privately owned and operated individual or communal septic system, and more than 4500 litres of effluent will be produced per day as a result, the following reports must be provided with this application:
- ☐ A servicing options report; and
 - ☐ A hydrogeological report.
18. Storm drainage will be supplied to the subject lands through:
- ☒ Publicly owned and operated storm sewer system.
 - ☐ Privately owned and operated storm sewer system.
 - ☐ Ditches and swales.
 - ☐ Other means. Explain: _____
19. Has the subject lands ever been the subject of any of the following matters under the Planning Act:
- (a) For approval of a plan of subdivision under Section 51. ☐ Yes ☒ No
File No.: _____ Status: _____
- (b) For approval of a consent under Section 53. ☐ Yes ☒ No
File No.: _____ Status: _____
- (c) For approval of zoning under Section 34. ☐ Yes ☒ No
File No.: _____ Status: _____
- (d) A Minister's Zoning Order under Section 47. ☐ Yes ☒ No
O. Reg. No.: _____ Status: _____
20. Is this application for a zoning by-law amendment consistent with policy statements issued under Section 3(1) of the Planning Act? ☒ Yes ☐ No Explain: See Planning Justification Report
21. Has there been an industrial or commercial use, or an orchard, on the subject land or adjacent lands?
☒ Yes ☐ No ☐ Unknown If yes, specify the use(s): Furniture repair establishment,
railway
- | | Yes | No | Unknown |
|---|-------------------------------------|-------------------------------------|-------------------------------------|
| Has the grading of the subject land been changed by adding earth or other material(s)? | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Has a gas station been located on the subject land or adjacent land at any time? | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| Has there been petroleum or other fuel stored on the subject land or adjacent land? | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| Is there reason to believe the subject land may have been contaminated by former uses on the site or adjacent site? | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
- What information did you use to determine the answers to the above questions on former uses? Phase II ESA
- (i) If Yes to any of the above, an inventory of previous uses of the subject land or, if appropriate, of the adjacent land(s), is needed. Is the inventory of previous uses attached? ☐ Yes ☒ No
If the inventory is not attached, why not? Land has been remediated
- (ii) If Yes to any of the above, was an Environmental Site Assessment (ESA) conducted under the *Environmental Assessment Act* or has a Record of Site Condition (RSC) been filed? ☒ Yes ☐ No
If no, why not? Explain on a separate page, if necessary. Phase II ESA was conducted and land has been remediated.

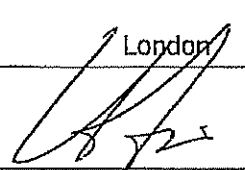
22. This application must be accompanied by a sketch, in metric, showing as applicable:
- ✓ The boundaries and dimensions of the subject lands;
 - ✓ The location, size and type of all existing and proposed buildings and structures on the subject land, indicating their distance from the front lot line, rear lot line and side lot lines;
 - ✓ The approximate location of all natural and artificial features (i.e. buildings, railways, roads, watercourses, drainage ditches, rivers or streams, wetlands, wooded areas, wells and septic tanks) that,
 - (i) are located on the subject land and on land that is adjacent to it; and
 - (ii) in the applicant's opinion, may affect the application.
 - ✓ The current uses of land that is adjacent to the subject land;
 - ✓ The location, width and name of any roads within or abutting the subject land, indicating whether it is an unopened road allowance, a public traveled road, a private road or a right of way;
 - ✓ If access to the subject lands will be by water only, the location of the parking and docking facilities to be used; and
 - ✓ The location and nature of any easement affecting the subject land.
23. This application must be filed with the **Central Elgin Planning Office, 9 Mondamin Street, St. Thomas, Ontario, N5P 2T9** and must be accompanied by the application fee of **\$750.00**. **Note:** If the application is being filed concurrent with an application for an official plan amendment, the fee for both applications together is **\$750.00**.

PLEASE MAKE CHEQUES PAYABLE TO "THE MUNICIPALITY OF CENTRAL ELGIN"

DECLARATION:

I, Harry Froussios of the City of London
do solemnly declare that all above statements contained in all of the exhibits transmitted herewith are true, and I make this solemn declaration conscientiously believing it to be true and knowing that it is of the same force and effect as if made under oath and by virtue of the Canada Evidence Act.

Declared before me at the _____ of _____
City _____ of _____
In the County of Middlesex
this 16th
day of October A.D. 2015

A Commissioner, etc.


Signature of Owner or Authorized Agent

RICHARD HENRY ZELINKA, a Commissioner, etc.,
County of Middlesex, for Zelinka Priamo Ltd.
Expires March 28, 2018.

OWNER'S AUTHORIZATION:

THIS MUST BE COMPLETED BY THE OWNER IF THE OWNER IS NOT FILING THE APPLICATION

Note: If there are multiple Owners, an authorization letter from each Owner (with dated, original signature) is required OR each Owner must sign the following authorization.

I, (we) See attached authorization letter, being the Applicant(s) and/or registered Owner(s) of the subject lands, hereby authorize _____ to prepare and submit an Application for a Zoning By-law Amendment.

Signature

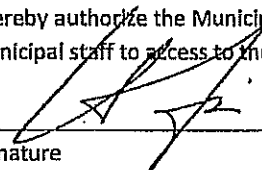
Day Month Year

Municipal Freedom of Information Declaration:

In accordance with the provisions of the Planning Act, it is the policy of the Municipality of Central Elgin to provide public access to all development applications and supporting documentation.

In submitting this development application and supporting documentation, I Harry Froussios (please print name) the ☐ Owner ☐ Applicant ☒ Authorized Agent, hereby acknowledge the above-noted policy and provide my consent, in accordance with the provisions of the Municipal Freedom of Information and Protection of Privacy Act, that the information on this application and any supporting documentation provided by myself, my agents, consultants and solicitors, will be part of the public record and will also be available to the general public.

I hereby authorize the Municipality of Central Elgin to post a "Possible Land Use Change" sign and allow municipal staff to access to the subject lands for purposes of evaluation of the subject application.



Signature

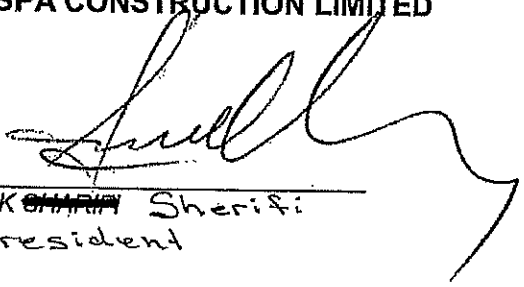
15 October 2015
Day Month Year

AUTHORIZATION AS AGENT

TO WHOM IT MAY CONCERN:

I/we hereby authorize Zelinka Priamo Ltd. as my/our agent in connection with all required municipal approvals associated with lands located at 146-156 William Street, Port Stanley, in the Municipality of Central Elgin.

PRESPA CONSTRUCTION LIMITED



FRANK ~~SHARIF~~ Sherifi
President

10 October 19, 2015
DATE

SCHEDULE C



The Corporation of the Municipality of
Central Elgin

REPORT

DATE: January 12th, 2016

REPORT: CEP.05.16
CEPO FILE: PS2-02-15

TO: His Worship the Mayor and Council

PREPARED BY: Jim McCoomb, Planner
Central Elgin Planning Department

SUBJECT: Application to Amend Village of Port Stanley By-law 1507 – Prespa Construction Limited, 146-156 William Street

ATTACHMENTS: Planning Justification Report; Preliminary Servicing Report; Traffic Report; Shadowing Study; Site Plan, Elevation Drawing

TO COUNCIL: January 18th, 2016

RECOMMENDATION:

THAT Report CEP.88.15 be received;

AND THAT direction be given by Council to prepare a site-specific draft amendment to the Zoning By-law to permit a mixed use development on lands located at 146-156 William Street, which may be legally described as Plan 117, Part of Lots 6-9, South Side of Erie Street geographic Village of port Stanley, now Municipality of Central Elgin;

AND FURTHER THAT a date for a public meeting be established in accordance with Ontario Regulation 545/06 as amended. (*Recommended Date: February 16th, 2016 @ 7:00 p.m.*)

ORIGIN:

- The applicant has approached the Municipality of Central Elgin with a proposal to construct a nine storey mixed use development on the west side of William Street, north of Edith Cavell Boulevard. The development proposes 52 residential units within the 9 storeys with ground floor commercial space and three detached dwellings fronting onto Edith Cavell Boulevard. It is proposed that the units on the site will be in condominium ownership.

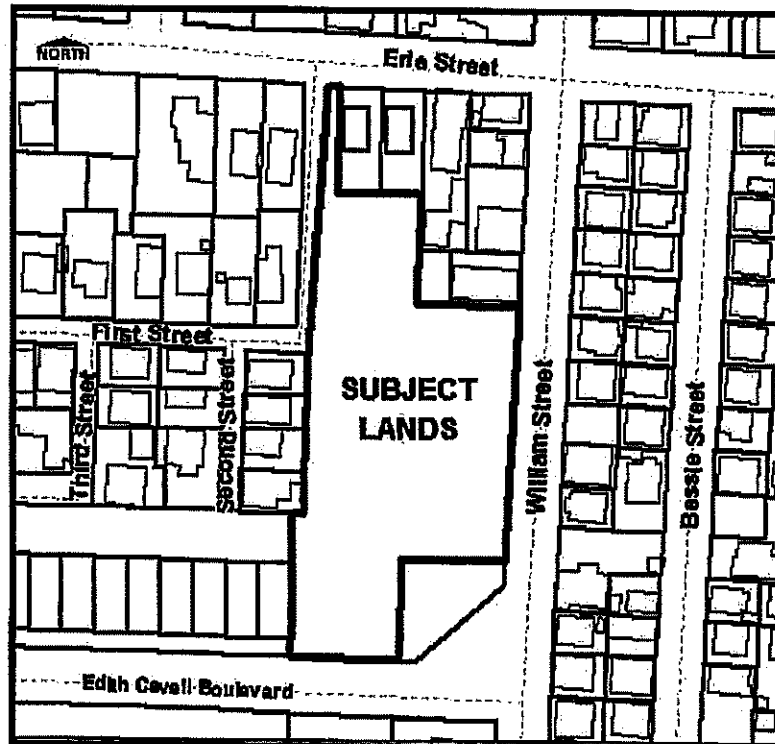
- Through the consultation process it was noted that documentation to support the proposed development would include planning justification (to address, among other things, land use compatibility), shadowing study, servicing study and traffic impact analysis. A geotechnical study to determine the suitability of the local soils to accommodate the proposed building was also requested.
- Staff have reviewed the application and documentation provided by the applicant and are satisfied that the application is complete relative to the requirements of Subsections 34(10.1) and 34(10.2) of the Planning Act, R.S.O., 1990 as amended. In accordance with Subsection 4.1(d) of By-law 1864, the applicant has been notified that the application is considered complete.

ANALYSIS:

1) Location:

The subject lands, which are located on the west side of William Street, north of Edith Cavell Boulevard, have approximately 71.7 metres of frontage on William Street and are approximately 6300m² (1.56 acres) in lot area (see Location Plan). Municipally known as 146-156 William Street, they may be legally described as being Plan 117, Part of Lots 6-9, South Side of Erie Street geographic Village of port Stanley, now Municipality of Central Elgin.

Location Plan:



2) Proposal:

The applicant is proposing to rezone the subject lands to permit a mixed use development consisting of 52 residential units in a nine storey apartment building with commercial space (2 units) on the main floor and three detached residential units fronting onto Edith Cavell Boulevard. It is proposed that all of the units will be in condominium ownership. A conceptual elevation drawing and preliminary site plan are attached.

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3) Existing Policies:

a) Official Plan Policies:

The subject lands are located within the "Residential" and "Commercial" designations in accordance with Schedule "G" – Community of Port Stanley Land Use Plan, to the Municipality of Central Elgin Official Plan. The Residential Policies of the Plan permit a full range of dwelling types including the proposed apartments and detached dwellings. A full range of density is permitted including low, medium and high density, subject to the policies of the Plan. The 55 residential units proposed for the subject lands equates to a density of 87 units per hectare, which falls within the high density definition. The proposal also meets the Plan's definition for residential intensification, which states that *"intensification means the development of a property, site or area at a higher density than currently exists through redevelopment (including the reuse of brownfield sites); the development of vacant and/or underutilized lots; infill development; and, the expansion or conversion of existing buildings."* Subsection 2.3.2.1 of the Plan contains the policies applicable to intensification proposals. They include:

- a) Residential intensification shall only be supported within the built up areas of the Urban Settlement Areas identified in Subsection 2.1.1 to the Plan.
- b) Residential intensification shall only be permitted where full municipal sewer and water services exist, and in accordance with the policies of Subsection 2.8 to the Plan.
- c) Residential intensification shall comply with the policies contained within Section 4.0 of the Plan.

Subsection 4.2.2(c) of the Plan contains policies specific to new medium or high density residential developments. Those policies require that:

- 1. The proposed design of the residential development is compatible in scale with the character of surrounding uses;
- 2. The site is physically suited to accommodate the proposed development;
- 3. The proposed site can be serviced with adequate water supply and sanitary sewage disposal in accordance with the policies contained in Section 2.8 of the Plan;
- 4. The property shall have direct access to an arterial or collector road maintained to a municipal standard with capacity to accommodate traffic generated from the site;
- 5. Sufficient off-street parking facilities are provided in accordance with the standards set out in the Zoning By-law; and
- 6. Consideration shall be given to matters related to land use compatibility, traffic impacts and proximity effects such as noise and visual impacts.

Subsection 4.2.2(d) of the Plan states that medium and high density residential projects shall be developed on the basis of comprehensive site plans, and that such projects shall require an amendment to the zoning by-law and site plan approval.

The commercial policies of the Plan permit a range of commercial uses including retail stores, personal and business services, offices, restaurants and other eating establishments, hotels, motels, places of entertainment and general assembly. A high standard of building and landscape design shall be applied to commercial development through the requirements of the implementing Zoning By-law and site plan approval, particularly where such developments are adjacent to residential uses or are located in a strategic location. Proposals for new commercial uses shall be reviewed on the basis of general conformity with the following:

1. The proposed development shall provide adequate buffering and landscape screening to ensure visual separation between the commercial use and adjacent land uses;
2. Landscape screening may include the provision of plantings, earthen berms, fences, trees; the construction of screen walls or a combination of the aforementioned techniques. The use of native species in landscaping shall be encouraged.;
3. Provision shall be made for parking, loading, vehicle circulation, garbage collection/storage, and other required facilities for the development;
4. The property shall have frontage on a public road maintained to a municipal standard;
5. The site shall be provided with full municipal services; and
6. Outside storage or display of merchandise shall be regulated through the implementing zoning by-law and through Site Plan Control pursuant to Section 41 of the Planning Act, R.S.O. 1990, as amended.

Subsection 4.6.6.6 of the Plan contains additional policies for commercial uses in Port Stanley. Many of the policies are general in nature and deal with matters of preserving and improving streetscapes, active transportation including access to the beach and harbourfront, and infilling. Subsection 4.6.6.6(i) provides additional policies specific to reviewing mixed use commercial/residential development in the commercial core. These include:

1. Compatibility with the general character of the area and, in particular, proximity effects upon adjacent uses, i.e. visual, shadowing;
2. Capacity of existing infrastructure services and roads to accommodate the proposed use(s);
3. Proximity to community services and facilities;
4. Availability of on-site or shared off-street parking;
5. Structural/physical character of a host building or site to accommodate intensification, re-use and/or redevelopment; and,
6. Provision of open space amenities, landscaping, buffers, etc.

b) Zoning By-law No. 1507:

The subject lands are located within the Residential Zone 1 (R1), Business Zone 1 (B1) and Open Space Zone 3 (OS3) of the Village of Port Stanley Zoning By-law No. 1507, as amended.

The R1 zone permits residential use, institutional uses lawfully existing on the day of passing of the by-law, home occupations and accessory uses. However, the only permitted dwelling types are single detached and semi-detached dwellings to a maximum density of one unit per lot.

The B1 zone permits retail store, restaurant, business office, personal service shop and dwelling units above the main or first storey. However, the B1 zone limits the height of buildings and structures to 10 metres.

The OS3 zone permits farm use, public, private and commercial recreational uses, summer cottages and residential uses that legally existed on the day of passing of the by-law.

A site specific zoning by-law amendment is required in order to support the proposed development on the subject lands, and establish site specific regulations to control the development.

Staff Comments:

The applicant retained the services of a planning consultant to prepare a Planning Justification Report for the proposed development (see attached). That report identifies many of the same policies noted in this staff report as being applicable to the proposal. While staff do not necessarily disagree with many of the conclusions drawn by the consultant as to compliance with Official Plan policies, there are some noted areas where staff do not agree with the interpretations provided. These include:

- (a) It is noted in Section 3.3 of the report (on page 10) that the proposed development straddles the boundary between the "Residential" and "Commercial" designations, however the commercial component occupies only a portion of the area designated "Commercial". The balance of the development in the "Commercial" designation consists of residential units above the parking lot. The report author is relying on the provisions of Subsection 5.1(a) and concludes that the land use boundaries are considered approximate and no amendment is required to make minor adjustments to a land use boundary.

Staff Comment: While it is true that Subsection 5.1(a) states that the boundaries of the land use designations as shown on the land use schedules to the Plan are approximate, it also states that they shall be considered absolute only where they coincide with roads, railway lines, lot lines or other clearly defined physical features. In the case of the "Commercial" designation affecting the subject lands, its westerly boundary does coincide with the westerly or rear lot lines of the majority of the lots fronting onto William Street. In that regard the policy states that the boundary shall be considered absolute where it coincides with a lot line.

Notwithstanding the above, it is staff's opinion that Council can consider the proposed development concept without requiring an amendment to the Plan. There are policies in Subsection 4.6.6.6(i) that specifically deal with mixed use

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commercial/residential developments in the commercial core. The very existence of these policies clearly indicates that mixed use development is anticipated in the commercial designation, subject to meeting the policies of the Plan.

- (b) It is noted in two sections of the Planning Justification report that no off street parking spaces are being provided for the commercial component of the development (see the last paragraphs on pages 12 and 13). The rationale provided is that the (unspecified) commercial uses are not intended to be destination uses attracting users from outside Port Stanley. Further, they are intended to take advantage of the passing pedestrian traffic and local population, and there is local municipal parking proximate to the subject lands to provide for the needs of the proposed commercial uses.

Staff Comment: *There are a very limited range of commercial uses in Port Stanley that are not dependent from one degree to another on users from outside of the Community. Further, this argument does not address the parking needs of employees of the commercial uses, who would be forced to seek parking opportunities on the street or in paid parking lots. Also, given the size of the subject lands it is not reasonable for the applicant to argue that they cannot provide off street parking to meet even the minimum requirements of the zoning by-law.*

- (c) In the discussion about Section 4.6.6.6(i) policies on mixed use developments, Item 6 (page 15) regarding provision of open space amenities, landscaping and buffers, the response provided by the consultant is that there are open space and parkland opportunities in locations in close proximity to the subject land, and that landscaping and buffering will be addressed at the site plan approval stage.

Staff Comment: *The intention of this policy is to encourage open space, landscape and urban design elements to be incorporated into mixed use developments as an integral component of the site plan. This would typically serve to soften the look of proposed development and avoid too much hardened surface. The proposed development leaves little opportunity for any on-site open space amenity as it is largely covered by buildings and paved surface. During the consultation process staff had suggested using the area close to Edith Cavell Boulevard as an opportunity for some on-site outdoor amenity area, but the applicant has chosen instead to seek a further three detached units in that location. Open space and landscaping opportunities are reduced to perimeter planting areas.*

Staff have advised the applicant that the Municipality may seek a parkland dedication rather than cash-in-lieu. It is considered an opportunity to enlarge Why Not Park, which will lose some area as a result of future road widening and intersection improvements. Staff would suggest that enlarging the park, which is located adjacent to the subject lands, would help in adding some more green space that the development is not providing.

Compatibility:

The consultants who prepared the applicant's Planning Justification Report attempt to demonstrate compatibility with the surrounding neighbourhood on six grounds, being abutting land uses; intensity of use; scale and massing; shadowing; pedestrian circulation; and traffic. The discussion within the report is not so much about how the proposed development is compatible with the surrounding land uses but how the

proposal attempts to mitigate against anticipated impacts associated with the recognition that it may not be viewed as compatible with the scale of surrounding uses. This is an important distinction because the report recognizes clearly that:

- "...the scale of the proposed development is larger than surrounding buildings..." (p.12)
- "...the proposed apartment building is larger than any other building in Port Stanley and, by virtue of its size, does not fall within the traditional built form character of the area." (p.16)
- "...the proposed apartment building represents a significant increase in massing, scale, and intensity in the area." (p.19)
- "...no existing building in Port Stanley contains this level of residential density..." (p.20)
- "The height of the proposed apartment building is an increase beyond the maximum building height that currently exists in Port Stanley." (p.20)

These statements from the report focus on the height and massing of the proposed apartment building more so than the proposed uses. This is likely coming from the reasonable expectation that if there will be objections to the proposal they will likely be with respect to the height/mass. However, if that aspect of the proposal is isolated from the discussion and the use itself is examined there is little argument that the use, being residential with a commercial component on the William Street frontage, is compatible with existing development in the area.

The height of the proposed apartment, at 9 storeys, would make it the tallest building in Port Stanley. To give it some perspective, according to existing contour information the bluff upon which the Mariner's Bluff condominium development was built is 30 metres (98.4 feet) high. The front elevation drawing provided with the application shows a height from grade level to the roof top recreation level of 25.36 metres. If the roof top recreation level has a height at least that of the first floor commercial (3.66 metres) that will make the overall height approximately 29 metres (95.14 feet). Therefore the proposed apartment will be almost as high as the nearby bluff to the northwest.

The difficulty with this proposed development is that there is no transition between the proposed 9 storey apartment and the surrounding neighbourhood, which is predominantly single and two storey buildings. Compatibility does not require that higher density development be identical to the surrounding neighbourhood, but it should complement the character of the neighbourhood. It should try and achieve a good fit with the surrounding neighbourhood in terms of architecture, built form, streetscape and land use. In staff's opinion the proposed development does not achieve this.

Staff Comment:

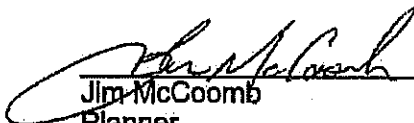
In addition to the planning justification report the applicant has submitted a preliminary servicing report, traffic impact study and a shadowing study to support the proposed development. The reports conclude that the proposed development can be adequately serviced and will have no impact on the traffic function and operation of local streets. The shadowing study indicates that there would be shadowing impacts to nearby properties during certain times of the day and of the year, however no property is subject to constant shadowing impacts.

Infilling in the form of higher density development has many advantages and is supported by Provincial and local planning policies. It can help municipalities to maximize the efficient use of existing serviced areas, increase assessment and bring larger numbers of residents into an area that will support local businesses and services. However, if not implemented properly it can have impacts on existing, established neighbourhoods.

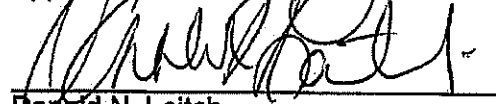
It is not being suggested by staff that higher density development could not work in Port Stanley, or that all new development should be limited in scale to match that of existing development. On the other hand Port Stanley has great potential for attracting development and investment, particularly in the harbor lands. There is a balance to be sought between preserving the charm of the quaint fishing village and yet demonstrating that the Community is open for business and investment. The Harbour Visioning exercise yielded possible development scenarios that promoted higher density residential development on both sides of the harbour.

Staff are not recommending that Council reject the application outright, but rather receive it and establish a public meeting date. That way public review and input into the proposal can be sought and considered by Council and the applicant before final decisions are made. The applicant has indicated in discussions with staff that a lower height design is possible, but would be more of a standard rectangular building, a block so to speak. Therefore there may be avenues for further negotiation with the developer on the overall design concept for the lands after input from the public and Council.

Respectfully submitted:


Jim McCoomb
Planner

Approved for submission:


Donald N. Leitch
CAO/Clerk

SCHEDULE D

**MUNICIPALITY OF CENTRAL ELGIN
PUBLIC MEETING CONCERNING A PROPOSED ZONING BY-LAW AMENDMENT**

**Lots 6-9, S/S Erie Street and Part of Lot 15, W/S Sydenham, Plan 117,
geographic Village of Port Stanley - 146-156 William Street**

TAKE NOTICE that pursuant to Section 34(10) of the Planning Act, R.S.O. 1990, c. P. 13, as amended, the Corporation of the Municipality of Central Elgin received an application from Prespa Construction Limited for an amendment to the Village of Port Stanley Zoning By-law No. 1507 (File No. PS2-02-15).

AND TAKE NOTICE that pursuant to Section 34(10.7) of the Planning Act, R.S.O. 1990, c. P. 13, as amended, the application was deemed complete by the Council of the Corporation of the Municipality of Central Elgin on January 13th, 2016 and the information and material provided under Subsections (10.1) and (10.2) is available to the public.

AND TAKE NOTICE that pursuant to Section 34(12) of the Planning Act, R.S.O. 1990, as amended, the Council of the Corporation of the Municipality of Central Elgin will hold a **Public Meeting** on the 1st day of March, 2016, at 7:00 P.M. in the **Port Stanley Arena and Community Centre**, located at 332 Carlow Road, Port Stanley to consider an amendment to the Village of Port Stanley Zoning By-Law 1507. The purpose of the Public Meeting is to afford any person that attends an opportunity to make representation with respect to the Zoning Proposal.

The subject lands, which are located on the west side of William Street, north of Edith Cavell Boulevard, have approximately 71.7 metres of frontage on William Street and are approximately 6300m² (1.56 acres) in lot area (see Key Map). Municipally known as 146-156 William Street, they may be legally described as being Plan 117, Part of Lots 6-9, S/S Erie Street, Part Lot 15, W/S Sydenham, geographic Village of Port Stanley, now Municipality of Central Elgin.

The applicant is proposing to rezone the subject lands to permit a mixed use development consisting of 52 residential units in a nine storey apartment building with commercial space (2 units) on the main floor and three detached residential units fronting onto Edith Cavell Boulevard. It is proposed that all of the units will be in condominium ownership.

The subject lands are located within the Residential Zone 1 (R1), Business Zone 1 (B1) and Open Space Zone 3 (OS3) of the Village of Port Stanley Zoning By-law No. 1507, as amended. The R1 zone permits residential use, institutional uses lawfully existing on the day of passing of the by-law, home occupations and accessory uses. The only permitted dwelling types are single detached and semi-detached dwellings to a maximum density of one unit per lot. The B1 zone permits retail store, restaurant, business office, personal service shop and dwelling units above the main or first storey. The B1 zone limits the height of buildings and structures to 10 metres. The OS3 zone permits farm use, public, private and commercial recreational uses, summer cottages and residential uses that legally existed on the day of passing of the by-law. A site specific zoning by-law amendment is required in order to support the proposed development on the subject lands, and establish site specific regulations to control the development.

ANY PERSON OR PUBLIC BODY may attend the Public Meeting and/or make written or verbal representation either in support of, or in opposition to the proposed Zoning By-law Amendment.

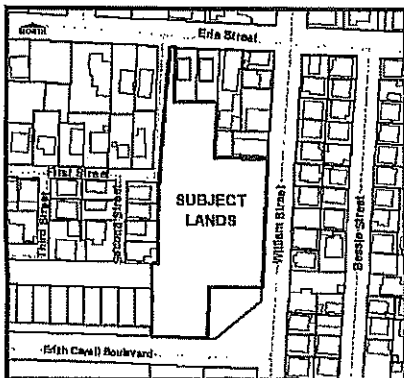
If a person or public body does not make oral submissions at a public meeting or make written submissions to the Municipality of Central Elgin before the by-law is passed, the person or public body is not entitled to appeal the decision of the Municipality of Central Elgin to the Ontario Municipal Board.

If a person or public body does not make oral submissions at a public meeting, or make written submissions to the Municipality of Central before the by-law is passed, the person or public body may not be added as a party to the hearing of an appeal before the Ontario Municipal Board unless, in the opinion of the Board, there are reasonable grounds to do so.

ADDITIONAL INFORMATION relating to the proposed Zoning By-law Amendment is available for inspection daily, Monday to Friday, 9:00 A.M. to 4:00 P.M. at the Municipal Offices and at the Central Elgin Planning Office, 9 Mondamin Street, St. Thomas.

DATED at the Municipality of Central Elgin, this 29th day of January, 2016.

Key Map:



Dianne Wilson, Deputy Clerk
Municipality of Central Elgin
450 Sunset Drive, 1st Floor
St. Thomas, Ontario
NSR 5V1
(519) 631-4860, Ext. 286

Certified a True Copy

Dianne Wilson
Administrator/Clerk-Deputy
Municipality of Central Elgin

AFFIDAVIT OR SWORN DECLARATION

Appeal: Zoning By-law Amendment
Prespa Construction Ltd., 146-156 William Street

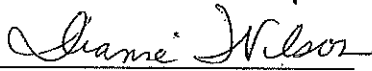
I, Dianne Lynn Wilson, Deputy Clerk of the Corporation of the Municipality of Central Elgin, in the County of Elgin


DO MAKE THIS SOLEMN OATH AND SAY:

1. Statutory requirements for the giving of notice and the holding of a public meeting were as follows:
 - (i) Pursuant to Section 34(13) of the Planning Act; Notice of a Public Meeting was given/mailed by Regular Post on January 29th, 2016 (copy of circulation list attached).
 - (ii) Pursuant to Section 34(14.1) of the Planning Act, a Public Meeting was held on Tuesday, March 1st, 2016.

SWORN before me at the
Municipality of Central Elgin in
the County of Elgin this 15th day
of January, 2018

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)
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)


Dianne Wilson, Deputy Clerk


(a commissioner of oath, etc.)
Mary Louise VanRooy, a Commissioner, etc.,
Province of Ontario, for the Corporation
of the Municipality of Central Elgin.
Expires October, 6, 2019.

SCHEDULE E



8750 Centennial Rd., St. Thomas, ON N5P 3S6
Ph: 519-631-1739 • Fax: 519-631-0111 • www.prespahomes.ca



March 21st, 2016

Municipality of Central Elgin
450 Sunset Drive
St. Thomas, ON
N5R 5V1

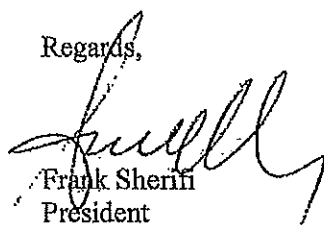
Attention: Mr. D.N. Leitch, Clerk/CAO

Dear Sir:

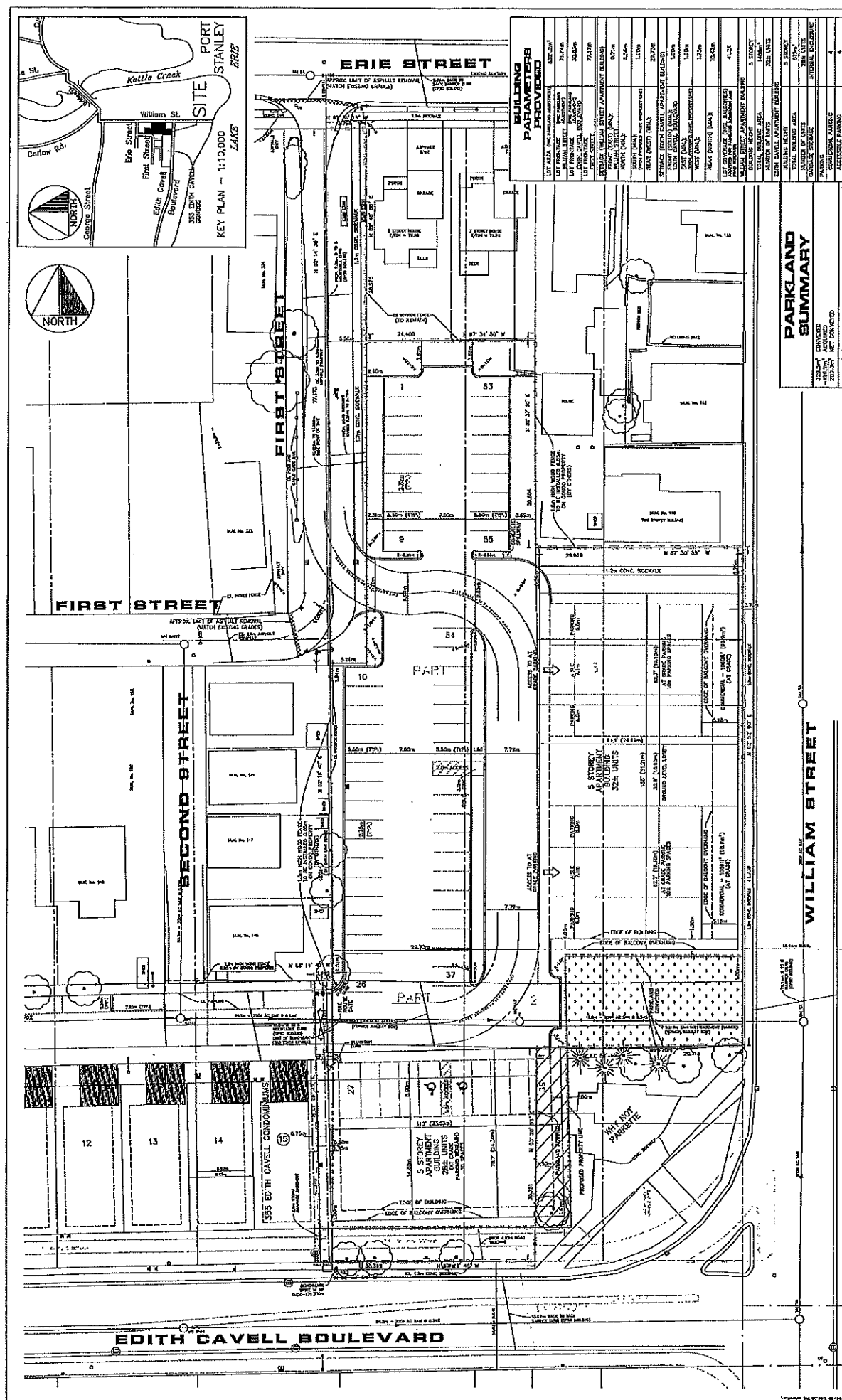
Further to the public meeting of March 1st, 2016 and our meeting of March 11th, 2016 Prespa Construction Limited has been considering options for re-design of its proposed development at 146-156 William Street. In this regard we are wondering if Council would be receptive to the idea of an exchange of part of Why Not Park to Prespa in return for lands from Prespa to expand and reconfigure the park boundary. We believe that this exchange would provide flexibility to Prespa for alternative designs to the proposed development and provide the Municipality with a larger park to provide passive recreational opportunities for residents of, and visitors to, Port Stanley.

Please inquire with Council and advise as to if there is any interest in having further dialogue on a possible exchange of lands to create a larger Why Not Park.

Regards,


Frank Sherin
President

SCHEDULE F



SCHEDULE G

Meeting with Frank Sharkey re

Date Feb. 21, 2016.

revised plan for Waller Street apt bldg.

- Architect - no name yet -

- discussed process. new public mtg. + possibility of additional open house.

- need to have architectural elevation - height reference point - trees, etc.