

Report to Planning and Environment Committee

To: Chair and Members
Planning & Environment Committee

From: George Kotsifas, P. Eng.
Managing Director, Development & Compliance Services and
Chief Building Official

Subject: Delegation Request By: Kirkness Consulting Inc.
894 Adelaide Street North
Obtain a Section 45(1.4) Council Resolution

Meeting on: February 19, 2019

Recommendation

That, on the recommendation of the Director, Development Services, the following information report regarding 894 Adelaide Street North, **BE RECEIVED** for information.

Executive Summary

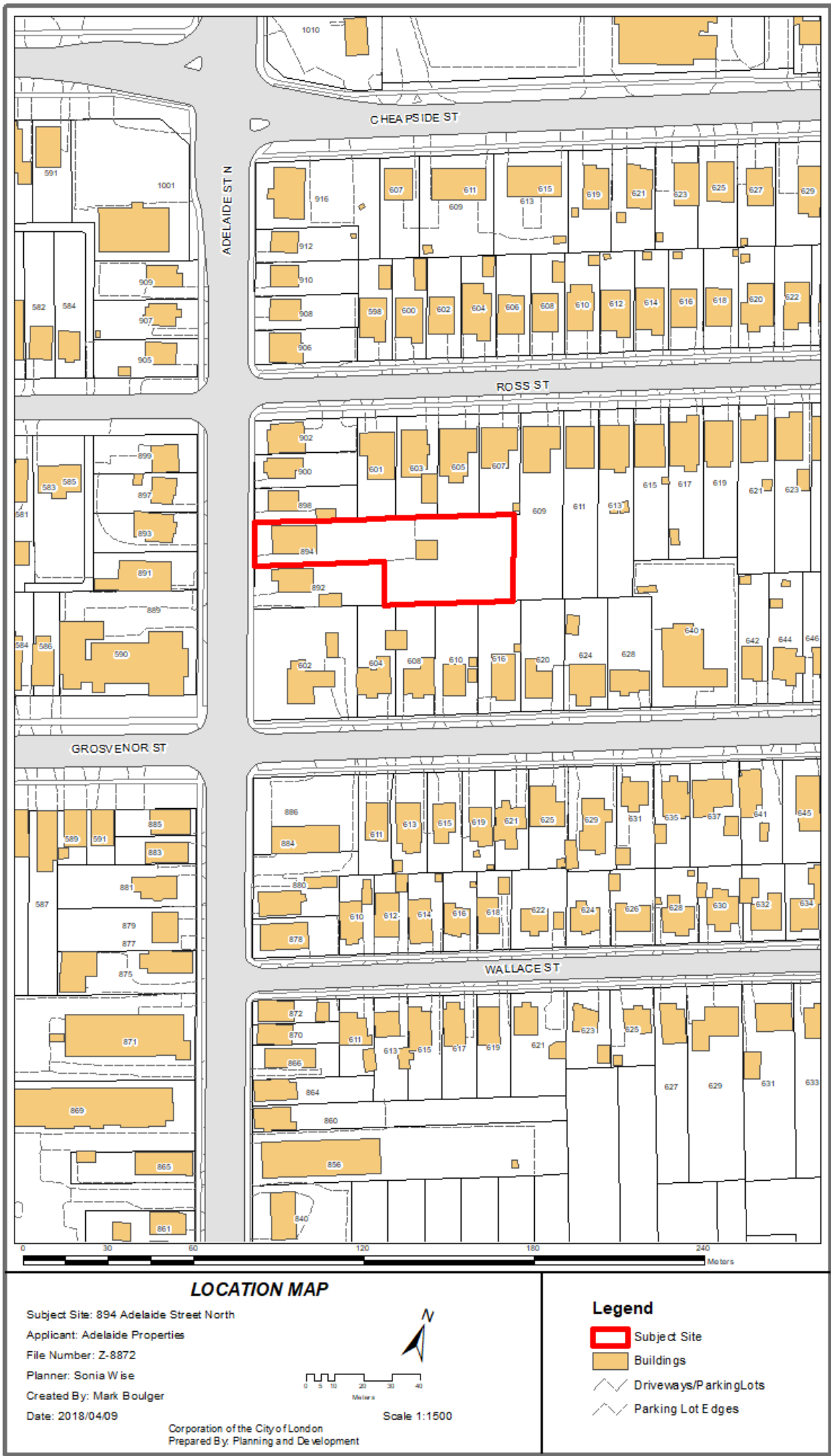
Purpose and the Effect

The purpose and effect of this report is to provide information to Municipal Council about the planning history and policy context for the subject site. This information is being provided in response to a delegation request (see Appendix A) from a potential applicant requesting approval to submit a Minor Variance Application to seek permission for relief to the Zoning By-law to assist with a proposed 9 unit apartment building at 894 Adelaide Street North. The *Planning Act* does not permit the consideration of Minor Variance for two years following the date of the adoption that the by-law was amended, unless otherwise permitted by Municipal Council.

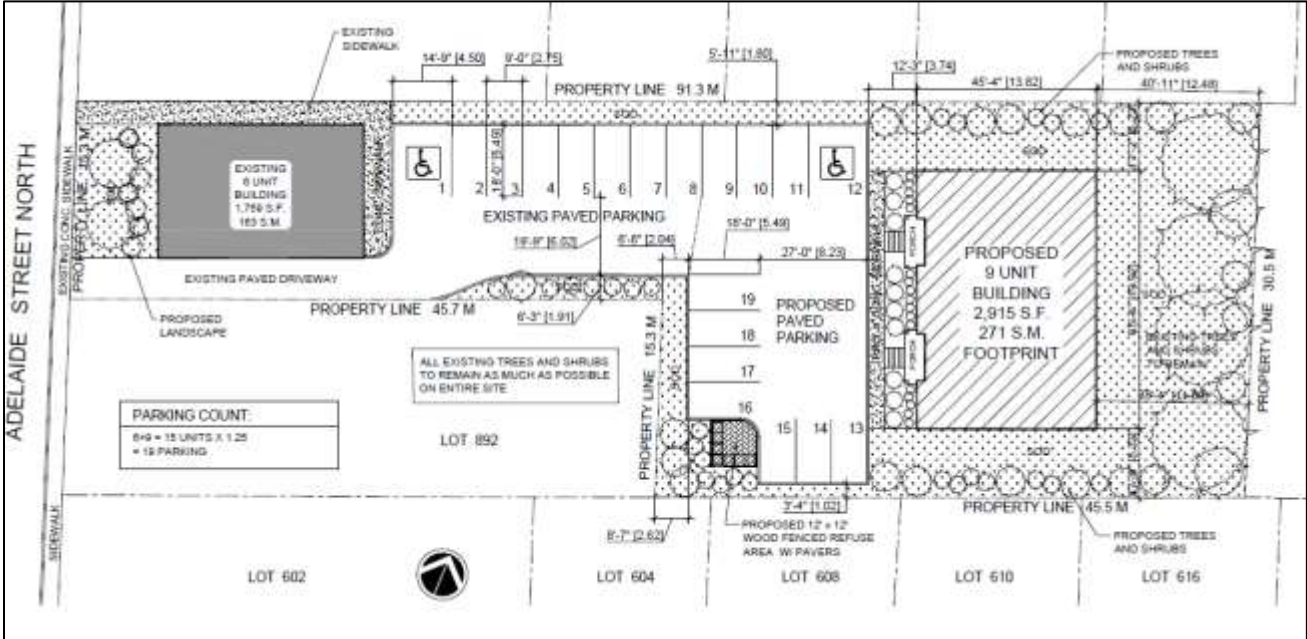
If Municipal Council resolves that the applicant is permitted to request an application to the Committee of Adjustment, the merits of the proposed application would be evaluated following the submission of a complete application to the Secretary-Treasurer, Committee of Adjustment.

Analysis

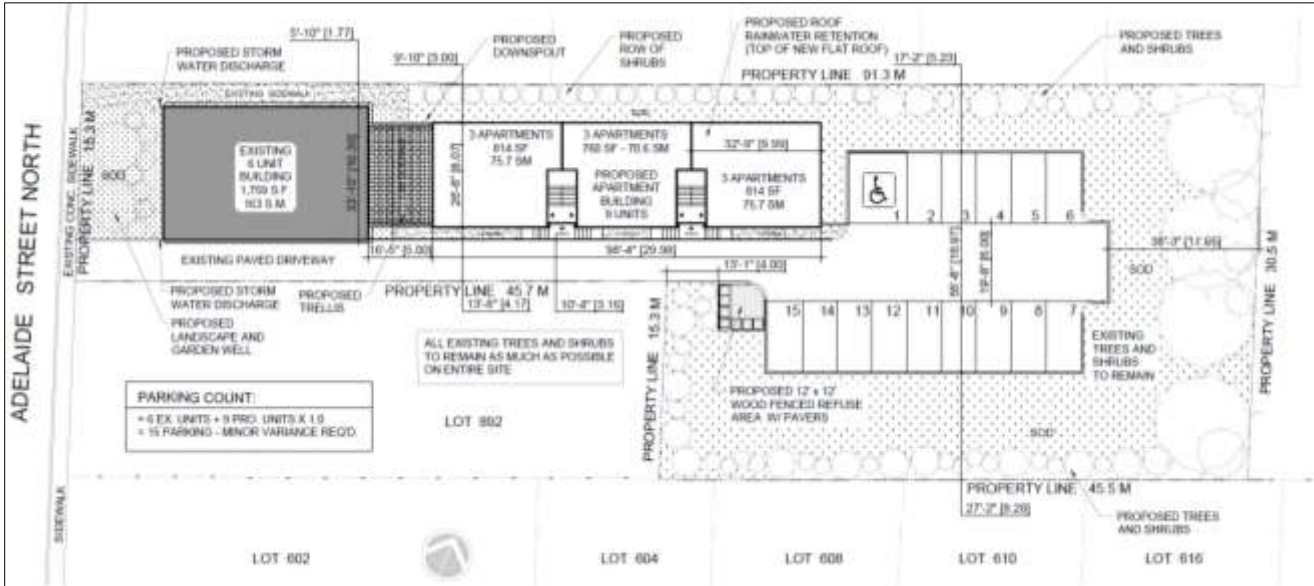
1.1 Location Map



1.2 Proposed Site Plan (as per Z-8992)



1.3 Proposed Revised Site Plan – 894 Adelaide Street North



2.0 Revelant Background

2.1 Previous Reports Pertinent To This Matter

Z – 8872 – 894 Adelaide Street North — Report to Planning and Environment Committee (May 14, 2018). City Staff submitted a planning report recommending approval of the requested application to amend the Zoning By-law to permit a nine (9) residential unit apartment building. Special provisions were included in the amendment to permit an interior side yard setback of 5m, a maximum height of 10m, and a maximum density of 72 units per hectare for the lands. An existing six (6) unit apartment building exists on the lands. The six unit apartment building was proposed to be independent of the nine (9) unit apartment building. Special provisions were also included in the amendment to recognize front and side yard setbacks for the existing building. Council approved the amendment at its meeting on May 22, 2018.

2.2 Planning History

There is an existing two storey, six-unit apartment building located on-site. The apartment was originally constructed as a fourplex in 1963 and was converted from four to six units between 1963 – 1987. There is an existing garage/carport located in the

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rear which was also constructed 1963. The garage was proposed to be demolished to allow for the development.

On January 25, 2019, Kirkness Consulting Inc. submitted a letter (Appendix A) to the Chair and Members of Planning and Environment Committee, requesting delegation status at an upcoming meeting of the committee. The request is being made to seek a resolution of the Planning and Environment Committee and Council to allow the applicant to proceed with a Minor Variance application for the proposed development. The Planning Act prohibits an Owner from making a minor variance application within two years of their zoning approval date, unless a resolution is passed by Council.

At the February 4, 2019, Planning and Environment Committee, It was resolved that staff prepare a report with respect to the request made by Kirkness Consulting Inc.

To-date an application for Site Plan Control approval has not been received by the City of London.

2.3 Delegation Request

The January 25, 2019 request from Kirkness Consulting sought a request to proceed with a Minor Variance application to the Committee of Adjustment. As indicated, the Planning Act does not permit an application for Minor Variance within two-years of the passing of a Zoning By-law amendment, unless a Council resolution is passed allowing them to do so. The applicant is requesting to further reduce the interior side yard setback, from five metres to three metres. In addition, the applicant is requesting a reduction in parking, from 1.25 parking spaces per unit, to 1.0 parking space per unit. No change to the number of approved units is being sought in association with the request.

Kirkness Consulting Inc. has stated that the detailed analysis of the storm water management system resulted in a change to the conceptual site layout. They further state that the changes do not significantly affect the overall size of the development (with some residents potentially finding the new layout more compatible), and that the Owner will be circulating correspondence to surrounding land owners with respect to the changes. The correspondence would be in addition to the statutory requirements for notice under the Planning Act, with respect to circulation of Minor Variance applications.

2.4 Pertinent Matters from the Staff Report – May 14, 2018 – Z-8872

Stormwater Management

As part of the Zoning By-law amendment application, staff identified that on-site stormwater management had been raised as an item of specific concern by residents and internal departments. The community had identified that flooding and pooling occurred during storm events. Staff had identified that the subject site does not have access to municipal stormwater infrastructure in this location and the alternative is for the site to manage stormwater through Low Impact Development (LID). A stormwater servicing report that may include geotechnical soil analysis would have to be required at the Site Plan Approval stage to ensure that the on-site management techniques proposed are feasible. A holding provision was added as part of the amendment to ensure that a stormwater management strategy was accepted by the City prior to development occurring.

Form and Site Layout

Further to concerns about stormwater management, residents in the area (12 responses provided to the Notice of Application), were concerned about a loss of privacy, loss of trees and open space, inappropriate garbage storage location, concern for safety and security in the neighbourhood, impact of light and noise and vehicular access and traffic.

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With respect to the staff report, it was articulated that the location of the proposed apartment, in the rear of the lot, was identified as taking advantage of under-utilized space in an urban environment. The proposed building was identified as being appropriately setback from the property boundaries and away from nearby dwellings (as all surrounding parcels were rear-lotted to the apartment building).

The building location at the time of the amendment was also said to be one which provides for opportunity to maintain some of the mature trees along the perimeter of the site, and opportunities to plant additional enhanced vegetation to improve the buffer from adjacent residential uses. To this end, the resolution of Council also provided direction to the Site Plan Approval Authority to consider the inclusion of board on-board fencing, tree preservation and enhanced landscaping, and interior garbage storage.

3.0 Policy Context

3.1 Planning Act

The Planning Act provides the basis for the establishment of a Committee Adjustment to evaluate requests for relief from regulations of a Zoning By-law.

Powers of Committee

45 (1) The committee of adjustment, upon the application of the owner of any land, building or structure affected by any by-law that is passed under section 34 or 38, or a predecessor of such sections, or any person authorized in writing by the owner, may, despite any other Act, authorize such minor variance from the provisions of the by-law, in respect of the land, building or structure or the use thereof, as in its opinion is desirable for the appropriate development or use of the land, building or structure, if in the opinion of the committee the general intent and purpose of the by-law and of the official plan, if any, are maintained. R.S.O. 1990, c. P.13, s. 45 (1); 2006, c. 23, s. 18 (1); 2009, c. 33, Sched. 21, s. 10 (11).

On July 1, 2016, Bill 73 came into effect and implemented a number of legislative changes to the Planning Act. As part of Bill 73, Section 45 of the Planning Act was amended (45 (1.3)) by putting in place a two-year moratorium for minor variance applications within two years of the date of passing of a zoning by-law amendment. The intent of the changes to the Planning Act were to give greater control to Municipalities to prevent the reversal of zoning provisions that council determined to be important through the by-law amendment processes. It was also recognized that there may be instances where material changes to development proposals are necessary and that minor relief from regulations are required to permit the development. To address this, provisions were further included in the Planning Act (45 (1.4)) to allow, by Council resolution, the opportunity to submit an application for a Minor Variance.

Two-year period, no application for minor variance

45 (1.3) Subject to subsection (1.4), no person shall apply for a minor variance from the provisions of the by-law in respect of the land, building or structure before the second anniversary of the day on which the by-law was amended. 2015, c. 26, s. 29 (2).

Exception

45 (1.4) Subsection (1.3) does not apply in respect of an application if the council has declared by resolution that such an application is permitted, which resolution may be made in respect of a specific application, a class of applications or in respect of such applications generally. 2015, c. 26, s. 29 (2).

The applicant has made a request of Council by way of the Planning and Environment Committee in accordance with Section 45 (1.4), to permit such a resolution to be passed.

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It should be noted that minor variances are deliberated by the Committee of Adjustment and that public notice to neighbouring properties would be provided should the application be permitted to be made.

4.0 Conclusion

This report is to be read in conjunction with the delegation provided by the applicant for the property at 894 Adelaide Street North.

Should Municipal Council resolve to allow the applicant to submit a Minor Variance application to provide relief to the interior side yard setback and parking, Staff will present recommendations to the Committee of Adjustment with regard to the merits of the application.

Prepared by:	Michael Pease, MCIP RPP Manager, Development Planning
Recommended by:	Paul Yeoman, RPP, PLE Director, Development Services
Submitted by:	George Kotsifas, P. Eng. Managing Director, Development and Compliance Services and Chief Building Official
Note: The opinions contained herein are offered by a person or persons qualified to provide expert opinion. Further detail with respect to qualifications can be obtained from Development Services.	

CC: Michael Tomazincic, Manager, Current Planning
Aisling Laverty, Minor Variance Coordinator
Vanessa Santos, Site Development Planner, Development Services

APPENDIX A



Kirkness
Consulting
inc
Urban and
Rural Planning



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January 25, 2019

Chair and Members
Planning and Environment Committee
City Hall
300 Dufferin Avenue,
London, ON N6A 4L9

Re: REQUEST FOR DELEGATION STATUS for ADELAIDE PROPERTIES at 894 Adelaide Street North, London ON.

Dear Chair and Members:

As you are aware, the Civic Administration is unable to accept a Minor Variance application that affect the City's Comprehensive Zoning Bylaw Z-1 for two years. Council adopted the site specific amending Bylaw Z-1-182670 on May 31, 2018. I respectfully request delegation status at the February 4, 2019 Planning and Environment Committee to request that the Civic Administration accept the applications relating to the property located at 894 Adelaide Street North for a 9 unit 2 1/2 storey residential apartment building.

The property was zoned for 9 units (in addition to the 6 existing dwelling units) but storm water management discussion outcomes with City staff have caused the apartment building to be in a different location on the site. The purpose of the Minor Variance application is to consider decreasing the required 5 m interior side yard to 3 m and to decrease the parking from 1.25 per dwelling unit to 1 space per dwelling unit.

The reasons that we believe that the applications should be accepted by the Civic Administration are:

- a) Detailed examination of the Storm Water system has caused the site design to change. There is a Storm Water holding provision in the current zoning;
- b) The changes do not significantly affect the overall size of the development and some of the abutting residents may find the new site design more compatible;
- c) The client has instructed the team to send a letter to all abutting neighbours to inform them of these changes (which would be in addition to the Minor Variance Notices).

Kirkness Consulting Inc., Urban and Rural Planning

Per: Laverne Kirkness BES.RPP.MCIP

cc. Michael Pease – Manager of Site Plan Approvals

cc. Michael Tomazincic, MCIP, RPP Manager, Planning Review