

Report to Planning and Environment Committee

To: Chair and Members
Planning and Environment Committee
From: Cathy Saunders, City Clerk
Subject: Request for Council Resolution, under section 45(1.4) of the *Planning Act, 1990* – 3080 Bostwick Road: Site 5
Meeting on: June 17, 2019

Recommendation

That, on the recommendation of the City Clerk, the report dated June 17, 2019 and entitled “Request for Council Resolution, under section 45(1.4) of the *Planning Act, 1990* - 3080 Bostwick Road: Site 5” **BE RECEIVED** for information.

Background

This report is submitted in response to a request from MHBC Planning Urban Design and Landscape Architecture on behalf of their client 731675 Ontario Limited (c/o York Developments), to obtain approval from the Municipal Council to submit a Minor Variance application with respect to the property known as Site 5, 3080 Bostwick Road in the City of London.

Section 45(1.3) of the *Planning Act, 1990* states:

“Subject to subsection (1.4), no person shall apply for a minor variance from the provisions of the by-law in respect to the land, building or structure before the second anniversary of the day on which the by-law was amended.”

Section 45(1.4) of the *Planning Act, 1990* states:

“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 with respect of a specific application, a class of application or in respect of such applications generally.”

The Planning and Environment Committee at its meeting held on May 27, 2019 approved the following recommendation to Municipal Council:

“That S. Allen, MHBC, BE GRANTED delegation status at the June 17, 2019 Planning and Environment Committee meeting relating the application by 731675 Ontario Limited (c/o York Developments), with respect to the property located at 3080 Bostwick Road. (2019-D09)”

In accordance with the above-noted sections of the *Planning Act, 1990*, 731675 Ontario Limited is requesting authorization from Municipal Council to submit a Minor Variance application with respect to the property known as 3080 Bostwick Road: Site 5.

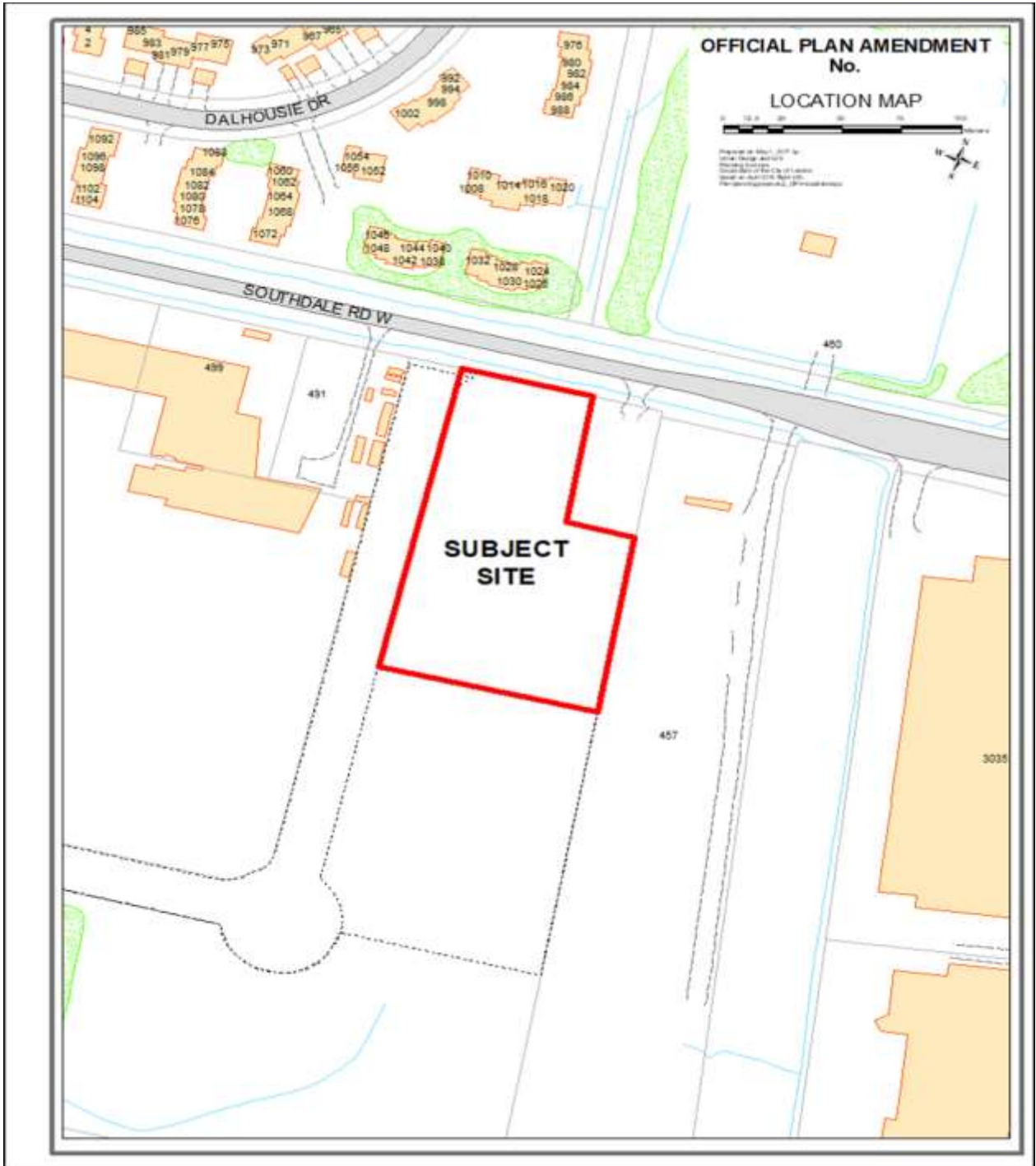
To assist Municipal Council in consideration of the request, the balance of this Report provides background information with respect to the previous *Planning Act* applications and zoning by-law information pertaining to the subject property.

Property History

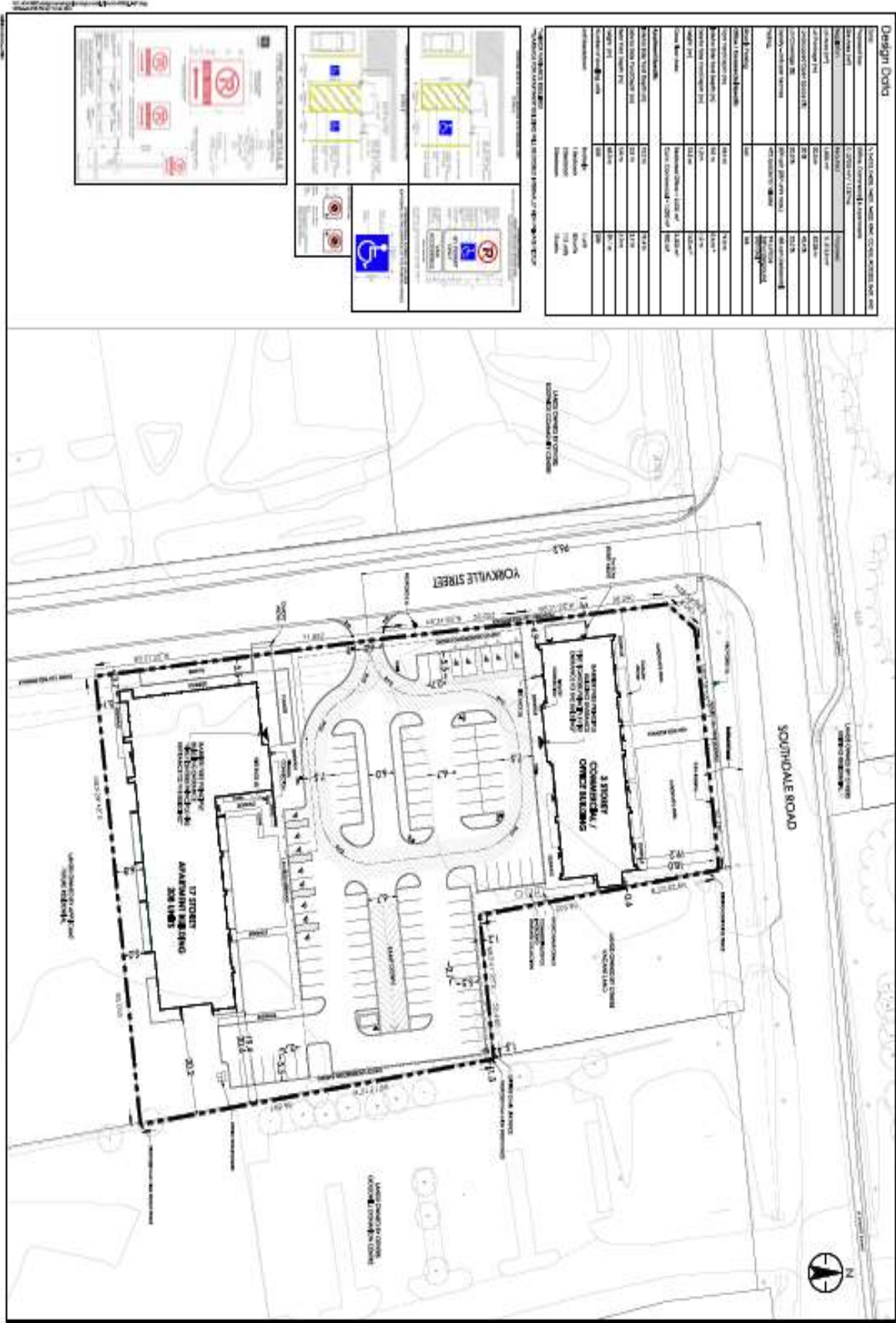
The request for delegation to speak to the subject matter is attached as Appendix “A” to this report. The request is to seek a resolution from Municipal Council to approve the submission of a Minor Variance Application to seek permission for relief to the Zoning By-law to assist with a proposed three (3) storey (13.5m (44 ft)) mixed office and commercial building and one seventeen (17) storey (68m (223ft)) tower at 3080 Bostwick Road (Site 5). The *Planning Act* does not permit the consideration of Minor Variance for two years following the date of the enactment of a Zoning By-law amendment with respect to the property, unless otherwise permitted by Municipal Council.

If Municipal Council resolves that the applicant is permitted to submit an application to the Committee of Adjustment for a Minor Variance, the merits of the proposed application would be evaluated for consideration by the Committee of Adjustment.

Location Map



Proposed Site Plan – Site 5 – 3080 Bostwick Road



Stantec

17-STORE APARTMENT BUILDING AND 3-STORE COMMERCIAL BUILDING
3080 BOSTWICK ROAD - SITE 5
YORKVILLE, ONTARIO

Legend

- 1. APARTMENT BUILDING
- 2. COMMERCIAL BUILDING
- 3. PARKING GARAGE
- 4. EXISTING DRIVEWAY
- 5. EXISTING DRIVEWAY
- 6. EXISTING DRIVEWAY
- 7. EXISTING DRIVEWAY
- 8. EXISTING DRIVEWAY
- 9. EXISTING DRIVEWAY
- 10. EXISTING DRIVEWAY

North Arrow

Scale

Project No. 14111/100

Date 10/14/2023

Drawn by J. [Name]

Checked by [Name]

Approved by [Name]

Project Manager [Name]

Client [Name]

1 of 1

Previous Reports Pertinent To This Matter

OZ – 8943 – 3080 Bostwick Road (Site 5) — Report to Planning and Environment Committee (November 12, 2018). The requested amendment was to permit site-specific Official Plan and Zoning By-law Amendments to allow for a stand-alone mixed office and commercial building with 3,000m² of commercial and office space, with a separate 17 storey apartment building, and a total density of 201 units per hectare. The Civic Administration submitted a planning report recommending refusal of the requested application. Notwithstanding the Civic Administration's recommendation, the Planning and Environment Committee, and ultimately Municipal Council, granted approval of OPA 689 to permit a site-specific Official Plan Amendment to allow for a stand-alone mixed office and commercial building with 3,000m² of commercial and office space, with a separate 17 storey apartment building, and a total density of 209 units per hectare. Municipal Council also approved an amendment to the Zoning By-law to change the zoning of the subject property FROM an Urban Reserve (UR4) Zone TO a holding Residential R9/Convenience Commercial Special Provision/Restricted Office Special Provision Bonus (h-h-213-h-(220)-h-(221)-h-(222)*R9-7/CC4(5)/RO2(32)*B-57*H40) Zone.

The development was approved through the use of a Bonus Zone (B-57) which shall be implemented through one or more agreements to provide for a three storey (13.5m (44 ft)) mixed office and commercial building and one 17 storey (68m (223ft)) tower, with an increased density up to 209 units per hectare in return for the provision of the following facilities, services, and matters, to the specification and satisfaction of the City:

- 1) A high quality development which is generally in accordance with the site plan and elevations as appended as Schedule "1" and Schedule "2" to the amending by-law, except where described in more detail below or in the Urban Design Guidelines for the High Density Residential designated lands within the Bostwick Neighbourhood;

Base

- i) A ground floor design that includes large proportions of clear glazing;
- ii) A ground floor to ceiling height that is greater than the height of all other individual storeys to activate the street and create a vibrant pedestrian realm; and,
- iii) Two levels of underground parking;

Middle

- iv) Slim tower architectural style to minimize the overall mass, visual impact and sunlight disruption of the tower;
- v) Tower that utilizes a high proportion of vision glass as the primary form of cladding for the tower, to mitigate the overall visual building mass and provide a light and refined appearance;
- vi) A setback of the tower portion of the building above the fourth storey along the Street B frontage; and,
- vii) Utilize changes in colour and material to visually break up the massing of the tower;

Top

- viii) Utilize building step-backs and variation in massing to define the building cap and completely conceal the mechanical and elevator penthouse within the overall architectural design of the top of the building to contribute to a dynamic skyline;

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C. Saunders**

- 2) Contribution of \$25,000 towards creating a skate park on the Community Centre lands;
- 3) Provision of 20% accessible apartment units;
- 4) Large caliper boulevard tree planting with a minimum 100mm caliper and a minimum distance of 10m between tree planting for the extent of the site frontage for Southdale Road West, and both sides of Street B;
- 5) Provision of one accessible electric vehicle charging station located on the Community Centre lands or in a publicly accessible location on Site 5;
- 6) Provision of two publicly accessible vehicle share facilities/spaces;
- 7) Provision of ten publicly accessible bicycle share facilities;
- 8) The following provisions shall be delivered as part of the first development phased of either Site 1 or Site 5 at the time of the development agreement:
 - i) Dedication of 0.64ha of park land identified as Block 4 in the draft plan of subdivision 39T-18502 to the City of London, above and beyond (in excess of) the full standard dedication requirements of by-law CP-9 for parkland or cash-in-lieu for both Sites 1 and 5;
 - ii) Provision of a pavilion and lighting within the dedicated park land, or the commensurate financial equivalent for the features as a identified in by-law C.P.-1496-244, to the City's discretion; and,
 - iii) Provision of a pedestrian bridge from the park land across the Thornicroft Drain to the Bostwick Community Centre, or the commensurate financial equivalent for the feature as a identified in by-law C.P.-1496-244, to the City's discretion;

Municipal Council's resolution of November 20, 2018, also included the following:

The Site Plan Approval Authority BE REQUESTED to consider the following through the site plan process:

- i) Site enhancements such as theme lighting, public seating, masonry walls, bicycle lanes, and wrapped LED lighting for non-boulevard trees
- ii) Dedicated bicycle parking along Southdale Road West

The following special regulations apply within the Bonus Zone:

a) Regulations:

i)	Density (Maximum)	209 units per hectare
ii)	Height (Maximum)	68 metres (223 ft)
iii)	Exterior Side Yard Setback (Minimum)	3.5m (11 ft)
iv)	Rear Yard Setback (Minimum)	5m (16 ft)
v)	Interior Side Yard Setback (Minimum)	15m (42 ft)

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C. Saunders**

vi)	Number of dwelling units (Maximum)	208
vii)	Parking Total for All Uses	472 spaces

Section Number 18.4 of the Restricted Office (RO) Zone is amended by adding the following Special Provision:

RO2(32) 3080 Bostwick Road (Site 5)

- a) Regulations
 - i) Front Yard Depth (Minimum) 18m (59 ft)
 - ii) Exterior Side Yard Depth (Minimum) 1.2m (4 ft)
 - iii) Interior Side Yard Depth (Minimum) 3m (9 ft)
 - iv) Height (Maximum) 13.5m (44ft)

Section Number 29.4 of the Convenience Commercial (CC) Zone is amended by adding the following Special Provision:

CC4(5) 3080 Bostwick Road (Site 5)

- a) Additional Permitted Uses:
 - i) Uses permitted under the CC6 Zone Variation
- b) Regulations
 - i) Convenience Commercial uses restricted to location within a Restricted Office (RO2) zoned building

Municipal Council approved all the above noted amendments at its meeting on November 20, 2018.

Planning History

The site is within the Southwest Area Secondary Plan (SWAP), which came into full force and effect in April of 2014. Through the review of the SWAP, the Multi-Family, High Density Residential designation was approved by Municipal Council in October of 2012. In 2014, a portion of the lands at 3080 Bostwick Road were severed and re-zoned (Z-8386) to facilitate development of the Bostwick Community Centre which is located to the west of this site.

On April 30, 2019, York Developments submitted an application for Site Plan Control approval (SPA19-036) for the development of what is referred to as Site 5 of 3080 Bostwick Road (see 1.2 Proposed Site Plan). The Civic Administration reviewed the application and provided conditional approval for the development on May 30, 2019. Final approval is subject to the applicant satisfying their conditions outlined by the Civic Administration in their conditional approval letter. The Civic Administration is anticipating a follow-up (second) submission from the applicant to address outstanding comments.

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On May 17, 2019, Scott Allen of MHBC Planning, Urban Design & Landscape Architecture, 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 Municipal 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 Municipal Council to allow same.

At the May 27, 2019, Planning and Environment Committee, It was resolved that staff prepare a report with respect to the request made by Scott Allen of MHBC Planning, Urban Design & Landscape Architecture.

Pertinent Matters from the Municipal Council Direction granting Approval – OZ-8943

In support of the Official Plan and Zoning By-law Amendments, Municipal Council adopted a Bonus Zone that sought to increase the height to 68m (17 storeys) and permit density at 209 uph. The proposed bonusable facilities, services or matters (as noted above) include:

- 1) A high quality development which is generally in accordance with a submitted site plan and elevations and future Urban Design Guidelines for the High Density Residential designated lands within the Bostwick Neighbourhood;
- 2) Financial Contributions towards creating a skate park on the Community Centre lands;
- 3) Provision for accessible apartment units;
- 4) Inclusion of Large caliper boulevard tree plantings along Southdale Road West, and both sides of Street B;
- 5) Provision for accessible electric vehicle charging station located on the Community Centre lands or in a publicly accessible location on Site 5;
- 6) Provision for publicly accessible vehicle share facilities/spaces;
- 7) Provision for publicly accessible bicycle share facilities; and,
- 8) Additional provisions that relate to:
 - i) Dedication of park land above and beyond (in excess of) the full standard dedication requirements and cash-in-lieu;
 - ii) a pavilion and lighting within the dedicated park land, or the commensurate financial equivalent for this features; and,
 - iii) a pedestrian bridge from the park land across the Thornicroft Drain to the Bostwick Community Centre, or the commensurate financial equivalent for the feature.

Delegation Request

The May 27, 2019 request from Scott Allen 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 Municipal Council resolution is passed allowing them to do so. The applicant is seeking relief from the following zoning regulations applied to Site 5:

- 1) Permit a 0.6 m minimum interior side yard setback for the office/commercial building (current permission: 3.0 m);
- 2) Permit a maximum 14.0 m building height for the commercial/office building to accommodate a parapet wall (current permission: 13.5 m);
3. Permit a reduction in the parking space requirement from 472 stalls to a maximum of 363 stalls; and,
4. Permit a maximum residential density of 210 units/ha (current permission allows 209 units /ha.)

Scott Allen of MHBC Planning, Urban Design & Landscape Architecture has stated that the changes are being requested because they were not foreseen at the time of the Zoning By-law amendment, and that they do not significantly affect the development.

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, Schedule 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 Municipal Council by way of the Planning and Environment Committee in accordance with Section 45 (1.4), to permit such a resolution to be passed.

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

Should Municipal Council resolve to allow the applicant to submit a Minor Variance application to provide relief to the building setback (interior Yard) for the office/commercial building, height (maximum) for the office/commercial building, density increase for the residential building and overall parking requirements for the entire site, staff will present recommendations to the Committee of Adjustment with regard to the planning merits of the application.

SUBMITTED BY:	CATHY SAUNDERS CITY CLERK
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CC: Paul Yeoman Director, Development Services
Michael Tomazincic, Manager, Current Planning
Aisling Laverty, Minor Variance Coordinator
Vanessa Santos, Site Development Planner, Development Services
Michael Pease, Manager, Development Planning
Sonia Wise, Senior Planner

June 11, 2019
GK/PY/LP/CS

APPENDIX A



KITCHENER
WOODBRIDGE
LONDON
KINGSTON
BARRIE
BURLINGTON

May 17, 2019

Chair Anna Hopkins: Members of City of London Planning and Environment Committee
City of London
300 Dufferin Avenue,
London ON, N6A 4L9

Dear Chair Hopkins and Committee Members:

**RE: Request for Delegation Status
731675 Ontario Limited (c/o York Developments)
3080 Bostwick Road: Site 5
OUR FILE: 1094'B'**

Council adopted the site-specific Zoning By-law Amendment (Z-1-182713) on November 20, 2018 pertaining to lands referred to as 'Site 5' of 3080 Bostwick Road. Generally, this amendment permits a three storey commercial/office building and a 17-storey apartment building on the subject lands. A site-specific Bonus Zone (B-57) was approved to implement the proposed development plan.

Through the detailed design process, it was determined that minor changes to the existing zoning permissions are required to fully implement the proposed development set out in the approved Bonus Zone. In light of the two-year moratorium on minor variances to amend site specific Zoning by-Law amendments, York Developments respectfully requests delegation status at the May 27, 2019 meeting of the Planning and Environment Committee. The intent of this delegation is to request that the Committee recommend Civic Administration accept a Minor Variance application to permit this revised proposal.

Please be advised that the Minor Variance application will be seeking relief from the following zoning regulations applied to Site 5:

1. Permit a 0.6 m minimum interior side yard setback for the office/commercial building (current permission: 3.0 m);
2. Permit a maximum 14.0 m building height for the commercial/office building to accommodate a parapet wall (current permission: 13.5 m);
3. Permit a reduction in the parking space requirement from 472 stalls to a maximum of 363 stalls; and
4. Permit a maximum residential density of 210 units/ha (current permission: 209 units/ha).

**Delegation Request
C. Saunders**

We thank you for your consideration of this request. Please contact the undersigned if you have any questions pertaining to this matter.

Yours truly,

MHBC

A handwritten signature in black ink, appearing to read "Scott Allen".

Scott Allen, MA, RPP
Partner

cc: *H. Lysynski; L. Pompili, City of London
A. Soufan, York Developments*