

## 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* – 660 Sunningdale Road East  
Meeting on: July 22, 2019

## Recommendation

That, on the recommendation of the City Clerk, the report dated July 22, 2019 and entitled “Request for Council Resolution, under section 45(1.4) of the *Planning Act, 1990* – 660 Sunningdale Road East” **BE RECEIVED** for information.

## Background

This report is submitted in response to a request from Clawson Group Inc., on behalf of their client Extra Realty Limited, to obtain approval from the Municipal Council to submit a Minor Variance application with respect to the property known as 660 Sunningdale Road East 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 Municipal Council at its meeting held on June 25, 2019 resolved:

“That M. Clawson, Clawson Group Inc. BE GRANTED delegation status at the June 22, 2019 Planning and Environment Committee meeting relating the application by Extra Realty Limited, with respect to the property located at 660 Sunningdale Road East. (2019-D13)”

In accordance with the above-noted sections of the *Planning Act, 1990*, Extra Realty Limited is requesting authorization from Municipal Council to submit a Minor Variance application with respect to the property known as 660 Sunningdale Road East.

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.

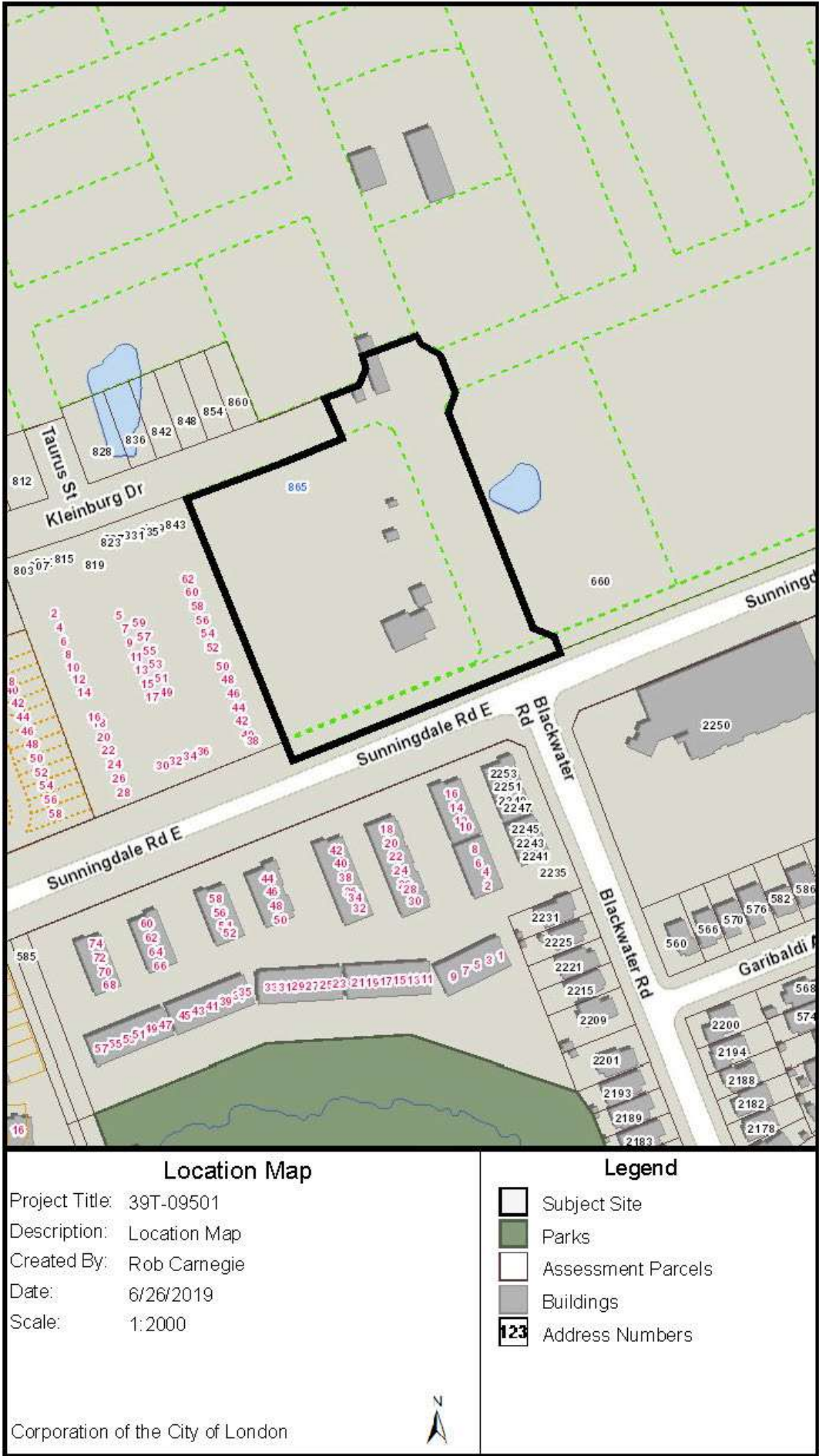
**Property History**

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 provide for the development of the subject property with the following relief from Zoning By-law requirements:

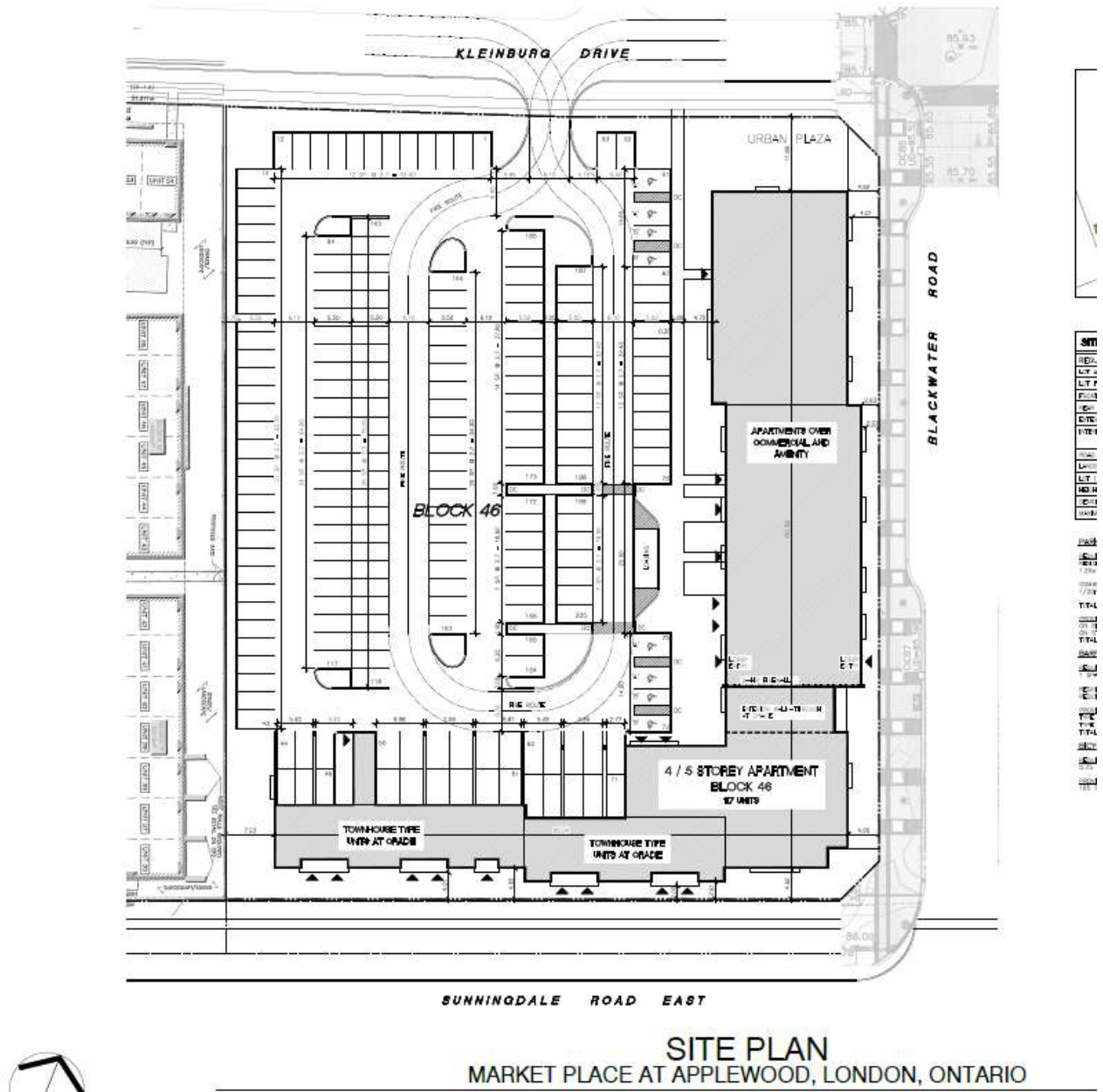
- to permit 3 less commercial parking spaces than required;
- to allow tandem parking spaces to be considered in the overall number of required parking spaces;
- to permit an increase in the proposed building height to 20 metres; and,
- to permit a reduced interior side yard setback of 7.0 metres.

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



## Previous Reports Pertinent To This Matter

**39T-09501/Z-8818** – 660 Sunningdale Road East, Applewood Subdivision. Report to Planning and Environment Committee (January 22, 2018). The requested amendment referred to a redline revised draft plan of subdivision consisting of a mix of single detached lots/dwellings, several multi-family blocks, mixed use development, main street commercial, parks, pathways, and open space, all served by the continuation of Blackwater Road, Superior Drive, Kleinburg Drive, and new local streets.

Block 46 of draft approved plan 39T-09501, was rezoned as part of this requested amendment as a Holding Business District Commercial Special Provision/Temporary (h•h-100•h-173•BDC2(9)\*H18/T-76).

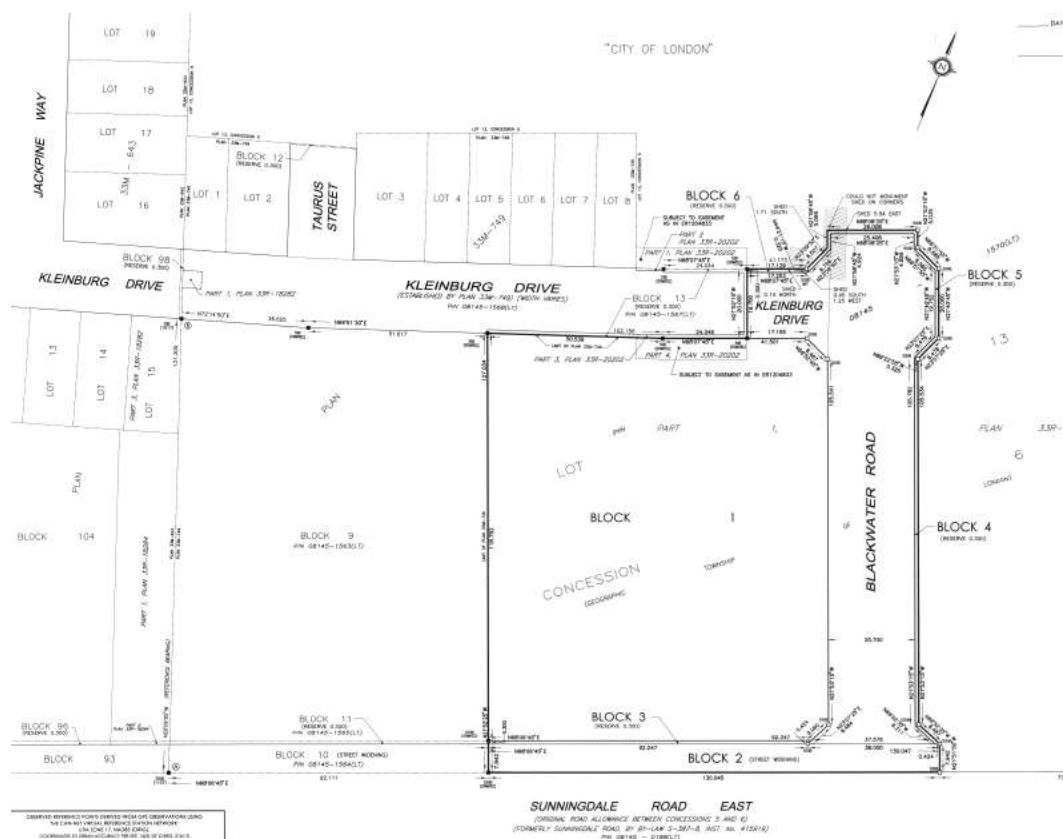
## Delegation Request

### C. Saunders

Draft plan approval was granted on February 21, 2018 by the Approval Authority. Phase 1 of the Applewood Subdivision was registered on August 17, 2018 as 33M-749. It consisted of eight (8) single detached lots, one (1) multi-family residential block, all served by the extension of Kleinburg Drive.

The subject site of this delegation/exemption request forms all of Phase 1B, which consists of Block 46, being a commercial/mixed use block, served by the extension of Blackwater Road, and received final approval by the Approval Authority on June 13, 2019, and was subsequently registered as 33M-764.

## Phase 1B (33M-764)



The proposed commercial Block (Blocks 46) is intended to provide for commercial uses geared towards the larger neighbourhood/area needs. The applicant requested an overall height of 18m through this application for both Blocks 46 and 47 to facilitate mixed use, multi-level development. The special provisions that were added to the commercial sites were all encompassed in the approved zoning to ensure that the future development creates a strong street wall and is pedestrian oriented.

## Planning History

The overall draft plan of subdivision (39T-09501) consists of a 42 hectare parcel of land located at the northwest corner of Adelaide Street North and Sunningdale Road East. It is located at the northerly limit of the City and borders with the Township of Middlesex Centre. The property slopes generally from north to south with a rolling terrain. The site currently contains a 4 hectare woodlot (designated as Environmentally Significant Area), a small Provincially Significant Wetland, and existing buildings including a single detached dwelling (located towards the south end of the property, adjacent to the extension of Blackwater Road), and two brick barns which have been designated under the provision of Section 29(3) of the *Ontario Heritage Act*, R.S.O. 1990, c. O. 18, (currently under appeal).

There are currently three road connections that exist surrounding the property – Blackwater Road to the south, and Superior Drive and Kleinberg Drive from the west.

As noted above, Phase 1B of draft plan 39T-09501 received final approval by the Approval Authority on June 13, 2019 and was registered as 33M-764. Phase 1B includes Block 46, which is the subject of this report.

On May 15, 2019, Clawson Group Inc. submitted an application for Site Plan Consultation (SPC19-060) for Block 46 of draft plan 39T-09501. The Site Plan Group reviewed the application and provided a Record of Consultation on June 12, 2019. The Record identified that relief to the approved zoning for the subject property was required to facilitate development in the manner / form being proposed. On May 27, 2019, Mike Clawson of the Clawson Group Inc. submitted a letter to the Chair and Members of the Planning and Environment Committee, requesting delegation status at an upcoming meeting of the Committee.

**Pertinent Matters from the Municipal Council Direction granting Approval**

The subject site located at 660 Sunningdale Road East (Block 46, 39T-09501), is zoned holding Business District Commercial Special Provision/Temporary (h•h-100•h-173•BDC2(9)\*H18/T-76). The special provisions approved by the Municipal Council are included below:

BDC2 (9)

(a) Prohibited Uses

- i) Dwelling Units on the ground floor

(b) Regulations

- |      |                                                                                                                                            |                                               |
|------|--------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------|
| i)   | Front & Exterior Side Yard Setback<br>(Minimum)                                                                                            | 2 metres (6.6 feet)                           |
|      | (Maximum)                                                                                                                                  | 4 metres (13.1 feet)                          |
| ii)  | Gross Leasable Floor Area<br>(Maximum)                                                                                                     | 3000 m <sup>2</sup> (32,292 ft <sup>2</sup> ) |
| iii) | The primary entrance for individual commercial/retail/office tenants shall oriented to the primary collector.                              |                                               |
| iv)  | Notwithstanding the provisions of Section 2 “LOT LINE, FRONT”, the frontage for this lot will be deemed to be along the primary collector. |                                               |

T-76

Lands located at 660 Sunningdale Road East, the existing single detached dwelling structure, as it exists at the date of the passing of this by-law, located on Block 46 in draft approved plan 39T-09501, as shown on Key Map No. A102, may be used for any of the uses permitted within the BDC2 Zone, for a temporary period not exceeding three (3) years from

The following holding provisions have also been applied:

- (h) holding provision - to ensure that there is orderly development through the execution of a subdivision agreement;
- (h-100) -to ensure there is adequate water service and appropriate access, a looped watermain system must be constructed and a second public access must be available;



- (h-173) - to ensure that development is consistent with the City of London Urban Design Principles and Placemaking Guidelines, the h-173 shall not be deleted until urban design guidelines have been prepared and implemented through the subdivision agreement, to the satisfaction of the City of London.

The existing BDC2 (9) Zone for Block 46 (west side of Blackwater Road), limits the gross floor area to 3000 m<sup>2</sup> (approx. 32,000 sq.ft.). This limit is provided for through the existing Official Plan and is anticipated to implement the smaller scale commercial needs for the local neighbourhood. The zoned height of 18 metres for Block 46 is meant to encourage additional mixed use buildings at this location and across the street as a gateway entry point into the subdivision

The BDC2 Zone, provides for a wide range of commercial and office type uses. The approved zoning prohibit residential uses on the ground floor for Block 46 as well as Block 47 (across the street to the east). The intent of the Main Street place type/designation is to provide larger scale commercial uses to serve the immediate area and the broader public, and to provide commercial uses within true mixed-use buildings. This is supported by the maximum zoned height of 18m and the restriction of residential uses on the ground floor, with minimal commercial uses. To this end, staff added a restriction to prohibit any residential uses on the ground floor of any BDC Zone variation within this development. The lotting of these Blocks do not create viable opportunities for residential uses on the ground floor of a mixed-use building and is not consistent with the intent and overall vision of this development. The regulations in the BDC Zone restrict residential units to above the first floor for any mixed use building within this development. This ensures that there are no “loopholes” in the zoning to permit forms of residential uses that are not compatible with development objectives for this subdivision. Encouraging mixed use buildings is a key intent of the new Main Street policies of The London Plan.

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 the Municipal Council resolve to allow the applicant to submit a Minor Variance application to provide relief from the required parking spaces, building height and interior side yard setback, staff will present recommendations to the Committee of Adjustment with regard to the planning merits of the application.

<b>SUBMITTED BY:</b>	<b>CATHY SAUNDERS CITY CLERK</b>
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**APPENDIX A**