

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* – Lot 66, 1738 Hamilton Road
Meeting on: August 12, 2019

Recommendation

That, on the recommendation of the City Clerk, the report dated August 12, 2019 and entitled “Request for Council Resolution, under section 45(1.4) of the *Planning Act, 1990* – Lot 66, 1738 Hamilton Road” **BE RECEIVED** for information.

Background

This report is submitted in response to a request from Thames Valley Joint Venture to obtain approval from the Municipal Council to submit a Minor Variance application with respect to the property known as Lot 66, 1738 Hamilton 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 Municipal Council at its meeting held on July 30, 2019 resolved:

“That P. Derakhshan, Planner, Thames Village Joint Venture BE GRANTED delegation status at the August 12, 2019 Planning and Environment Committee meeting relating the application by Thames Village Joint Venture, with respect to the property located at Lot 66, 1738 Hamilton Road, in the Old Victoria subdivision. (2019-D09)”

In accordance with the above-noted sections of the *Planning Act, 1990*, Thames Village Joint Venture is requesting authorization from Municipal Council to submit a Minor Variance application with respect to the property known as Lot 66, 1738 Hamilton Road.

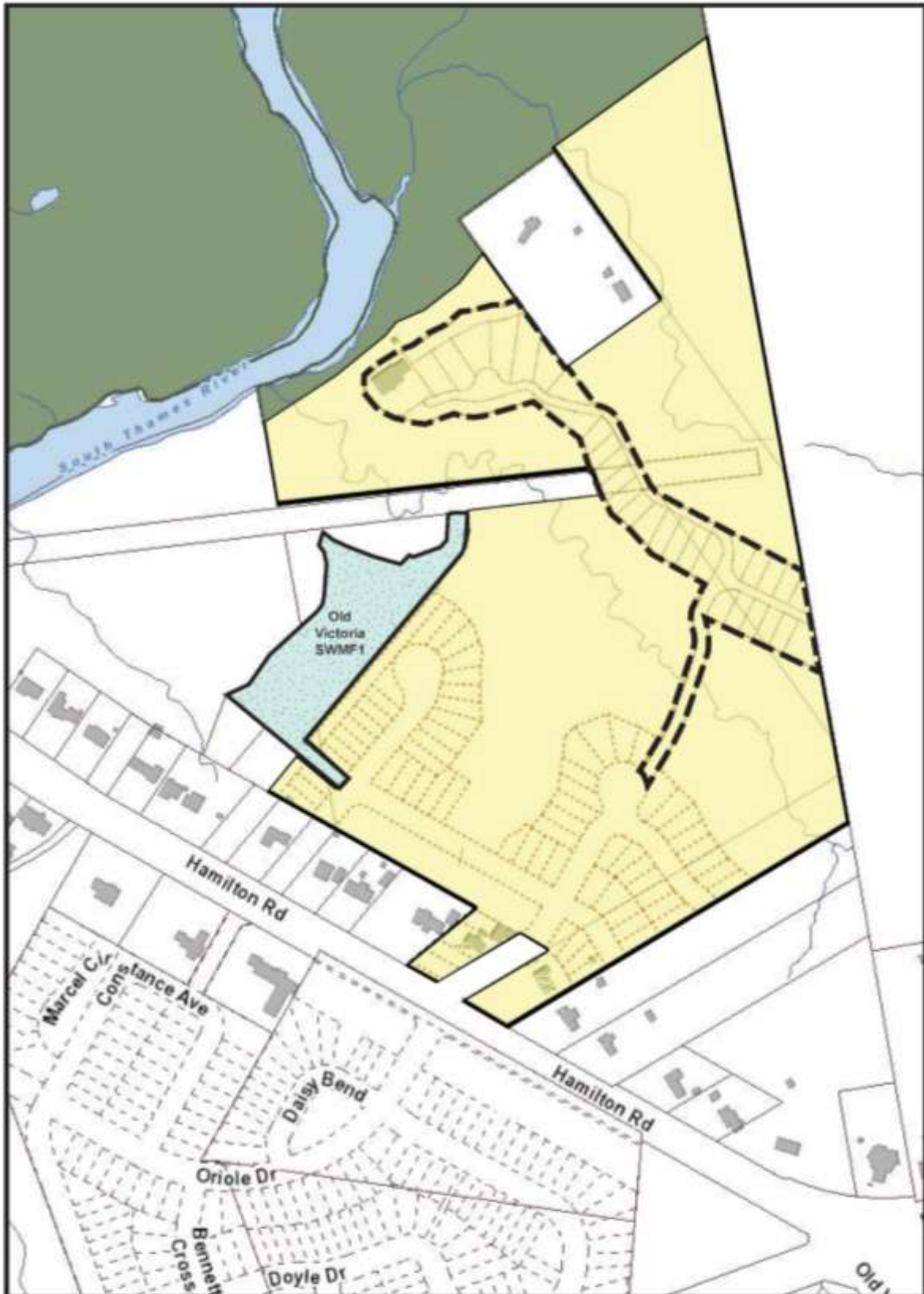
To assist Municipal Council in consideration of the request, the balance of this report provides background information with respect to the previous *Planning Act* applications and zoning by-law information pertaining to the subject property.

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 a reduced exterior side yard of 2.5 metres, whereas 8.0 metres is required by the Zoning By-law. In support of the request, Thames Village Joint Venture indicates that a noise barrier which is to be constructed, would minimize the visual impact to the proposed dwelling.

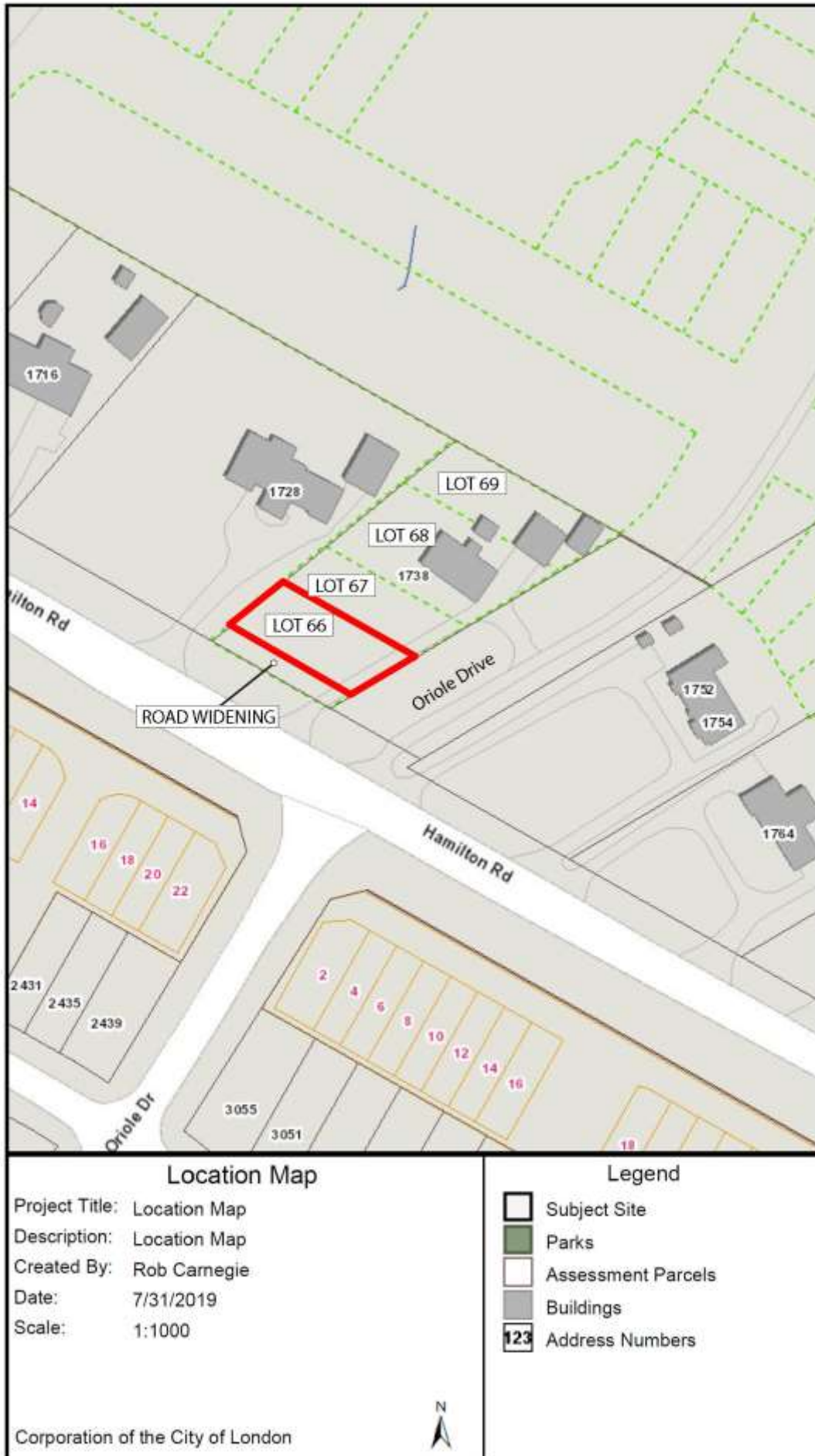
If Municipal Council resolves that the applicant is permitted to submit an application to the Committee of Adjustment for a Minor Variance, the merits of the proposed application would be evaluated for consideration by the Committee of Adjustment.

Location Map



Location Map		Legend	
Subject Property:	1742 Hamilton Rd		Subject Property
Applicant:	Thames Village Joint Venture Corp.		Parks
File Number:	39CD-17501		Assessment Parcels
Created By:	Rob Carnegie		Buildings
Date:	5/25/2018		Address Numbers
Scale:	1:4000		Stormwater Management Facility
Corporation of the City of London			

Subject Site



Previous Reports Pertinent To This Matter

39T-17502 / OZ-8147 - The applications submitted by Thames Village Joint Venture Corporation relate to the properties located at 1738, 1742, 1752 and 1756 Hamilton Road. A Staff Report was submitted to the June 18, 2018 Planning and Environment Committee meeting related to the request for approval of a draft plan of subdivision consisting of 69 single detached residential lots, 2 cluster housing blocks, 1 street townhouse block, 7 open space blocks, 1 road widening block, 2 reserve blocks, 2 temporary turning circles, and 3 local streets.

Lots 66, 67, 68 and 69 of Draft Plan of Subdivision 39T-17502, which encompass the property located at 1738 Hamilton Road, was subdivided into four new single detached parcels, including the existing dwelling (Lot 68). The subject request for delegation status from Thames Village Joint Venture Corporation, relates to Lot 66, located at the intersection of Hamilton Road and Oriole Drive. As part of the Draft Plan of Subdivision and rezoning application, Lot 66 was rezoned to Holding Residential Special Provision h*h-100*R1-3(19).

Planning History

This request for draft plan of subdivision approval and rezoning (39T-17502 / OZ-8147) was accepted on May 5, 2017. It was circulated to the required agencies and municipal departments on May 17, 2017 and advertised in "The Londoner" on June 1, 2017. An updated notice was circulated on November 21, 2017 and advertised in "The Londoner" on December 7, 2017. A notice of public meeting was advertised in the "Londoner" on May 31, 2018 and notice was sent out to area property owners on June 5, 2018. The public meeting was held on June 18, 2018. The comments received from the public during the process are summarized below:

- concerns with address numbering;
- enquiring about privacy fence;
- wondering if the homes will be one or two storeys;
- wondering about the townhouses style development behind the large acreage properties;
- concerns with the loss of privacy;
- concerns with the creek bed that runs behind the property.

Municipal Council advised the Approval Authority that it supported issuing draft approval of the proposed plan of subdivision, submitted by Thames Village Joint Venture Corporation (File No. 39T-17502), subject to conditions contained in the Staff Report dated June 18, 2018.

Draft Plan Approval was granted by the Approval Authority on August 15, 2018.

Pertinent Matters from the Municipal Council Direction granting Approval

The subject site identified as Lot 66 of draft plan 39T-17502, known municipally as 1738 Hamilton Road, is currently zoned Holding Residential Special Provision h*h-100*R1-3(19). The special provisions approved by the Municipal Council are included below:

R1-3(19)

a) Regulations

- | | | |
|----|-------------------------------|--|
| i) | Lot Coverage
(Maximum) 45% | One (1) Storey Single Detached Dwelling
(Z.-1-182679) |
|----|-------------------------------|--|

Other general regulations of the Residential R1-3 Zone include the following:

- Lot Area (Minimum) 300 m²
- Lot Frontage (Minimum) 10 m
- Yard Setbacks:
 - Front Yard 4.5 m
 - Interior Yard 1.2 m (one-storey), 1.8 m (two-storey)
 - Exterior Yard 8 m
- Landscape Open Space (Min) 35%
- Height (Maximum) 9 m

The following holding provisions have also been applied to this site:

- (h) holding provision - To ensure that there is orderly development through the execution of a or 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.

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 exterior side yard setback 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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APPENDIX A

Date: July 08, 2019

To: Chair and Members
Planning and Environment Committee

Re: Request for Delegation Status for Thames Village Joint Venture for the property located at lot 66, 1738 - 1754 Hamilton Road, London, Ontario.

On June 26, 2018, Council adopted Bylaw No. Z-1-182679 being a site specific by-law to The City of London Zoning Bylaw Z.-1. Thames Village Joint Venture respectfully requests delegation status at the Planning and Environment Committee meeting on July 22 in order to obtain the Civic Administration acceptance of a minor variance application relating to property located at 1738 Hamilton Road Lot 66, Old Victoria Subdivision.

The purpose of the Minor Variance application is amend the current residential R1-3(19) zoned lands to permit an Exterior Side Yard width of 2.5 meters whereas 8.0m is required within the Z-1 bylaw.

The reasons that we believe the minor variance application is appropriate and should be accepted by the Civic Administration are:

- A noise barrier wall will be installed on the exterior side of the building close to Hamilton Road which would minimize the visual impact of a dwelling unit adjacent to Hamilton Road;
- The reduced exterior side yard setback was not identified when the site specific zoning was being applied for;
- This change will not impact the general intent of the By-Law.
- The requested minor variance will maintain the general intent and purpose of the Official Plan and Zoning bylaw

Thames Village Joint Venture grants permission to put this communication on a public Agenda and the City of London website.

Regards,

Pooneh Derakhshan
Planner
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London, ON
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