

## 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, R.S.O. 1990, c. P.13 – 39T-16508,*  
3425 Emily Carr Lane (1160 Wharncliffe Road South)  
**Meeting on:** January 6, 2020

### Recommendation

That, on the recommendation of the City Clerk, the report dated January 6, 2020 and entitled “Request for Council Resolution, under section 45(1.4) of the *Planning Act, R.S.O. 1990, c. P.13 – 39T-16508,* 3425 Emily Carr Lane (1160 Wharncliffe Road South)” **BE RECEIVED** for information.

### Background

This report is submitted in response to a request to the attached letter (Appendix “A”) from Scott Allen, MHBC Planning, on behalf of Goldfield Ltd., to obtain approval from the Municipal Council to submit a Minor Variance application to for the property known as 3425 Emily Carr Lane (1160 Wharncliffe Road South), within Draft Approved Plan of Subdivision 39T-16508, in the City of London.

Section 45(1.3) of the *Planning Act, R.S.O. 1990, c. P.13* 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, R.S.O. 1990, c. P.13* 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 October 2, 2018, enacted By-Law Z.-1-182694 to amend Schedule “A” to By-law No. Z.-1, as amended, to change the zoning applicable to the lands located at 3425 Emily Carr Lane, from an Urban Reserve (UR4) Zone and Urban Reserve (UR6) Zone TO a Holding Residential R4 Special Provision (h.\*h-100\*h-104\*h-155\*R4-4(2)) Zone, Holding Residential R5 (h.\*h-100\*h-104\*h-155\*R5-7) and a Holding Residential R8 Special Provision (h.\*h-100\*h-104\*h-198\*R8-4) Zone.

In accordance with the above-noted sections of the *Planning Act, R.S.O. 1990, c. P.13*, Scott Allen, MHBC Planning, on behalf of Goldfield Ltd. is requesting authorization from Municipal Council to submit a Minor Variance application with respect to the property known as 3425 Emily Carr Lane (1160 Wharncliffe Road South), within Draft Approved Plan of Subdivision 39T-16508, in the City of London, to permit the development of the subject property with reduced front, exterior side and rear yards of 4.39 / 4.44 / 4.51 metres, respectively, whereas 6.0 metres is required by the Zoning By-law. The applicant may also require relief to the density regulation of the Zoning By-law.

To assist the Municipal Council in consideration of the request, the balance of this report provides background information with respect to the previous *Planning Act R.S.O. 1990, c. P.13* applications and Zoning By-law information pertaining to the subject property.

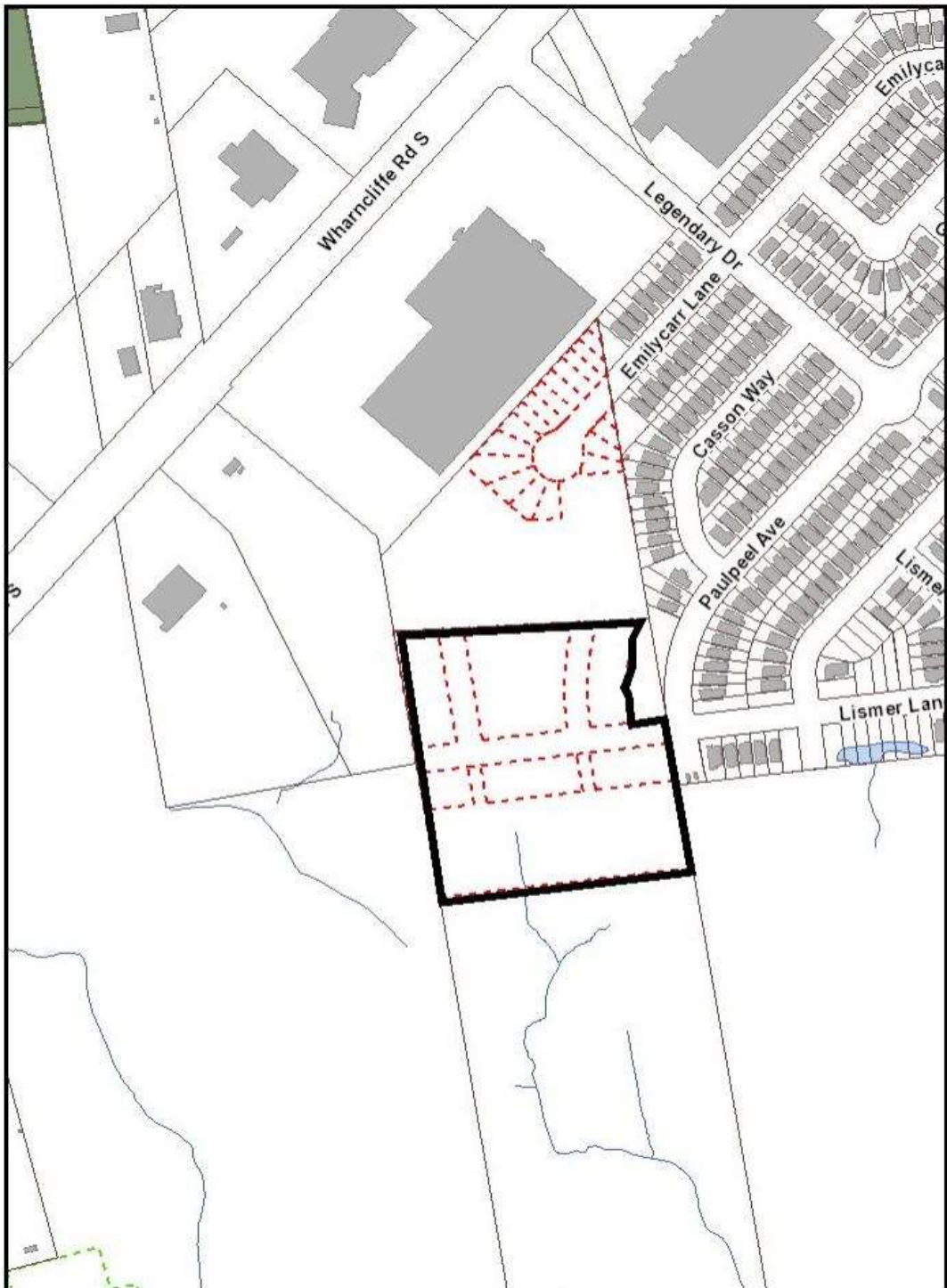
## **Property History**

The request is to seek a resolution from Municipal Council to permit the submission of a Minor Variance Application for the subject property to permit development with reduced front, exterior side and rear yards of 4.39 / 4.44 / 4.51 metres, respectively, whereas 6.0 metres is required by the Zoning By-law. The Applicant may also require relief from the density regulation of the Zoning By-law.

In support of the request, Development Services staff acknowledge that requested front, exterior side and rear yard setback special provision were part of the original Zoning By-law Amendment application submitted as part of this Draft Plan of Subdivision, but were not carried forward for consideration in the Notice of Application and the subsequent approved and in-force Zoning By-law (Z.1-182694). Neither staff nor the Applicant were aware of the omission at that time.

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 by the Committee of Adjustment. Development Services staff will submit a Planning Report providing planning analysis of the request for the Committee of Adjustment's consideration.

# Location Map



## Location Map

Subject Property: 3425 Emily Carr Lane  
Applicant: FARHI HOLDINGS CORP  
File Number: 39T-16508  
Created By: Craig Smith  
Date: 8/30/2018  
Scale: 1:4000

## Legend

-  Subject Property
-  Parks
-  Assessment Parcels
-  Buildings
-  Address Numbers

Corporation of the City of London



## Subject Site



## Previous Reports Pertinent To This Matter

**39T-16508 / OZ-8697** - The Applications submitted by 2178254 Ontario Limited c/o DNL Group Inc. (previous applicant / owner) relates to the properties located known as 3425 Emily Carr Lane (1160 Wharnclyffe Road South), within Draft Approved Plan of Subdivision 39T-16508. A report was submitted to the Planning and Environment Committee on September 24, 2018, related to the request for approval of a Draft Plan of Subdivision consisting of seven (7) medium density residential blocks, two (2) local public street and the extension of Lismer Way to the west

Block 6 of Draft Plan of Subdivision 39T-16508, which is the central Block within the Draft Plan flanked by Emily Carr Lane, Lismar Road and Street 'A' is the property that is the subject of the future Minor Variance application submission, if permitted by Municipal Council. As part of the Draft Plan of Subdivision and rezoning application, Block 6 was rezoned to a Holding Residential R5 (h.\*h-100\*h-104\*h-155\*R5-7) Zone.

## Planning History

The Application for Draft Plan of Subdivision Approval was accepted on October 16, 2016 and a revised Application was accepted on May 30, 2017 and again on April 15, 2018. The Application was circulated to the required agencies and municipal departments on November 17, 2016. Notice of Application was sent to all property owners within 120m of the subject property. Notice of Application was also published in the *Public Notices and Bidding Opportunities* section of *The Londoner* on November 24, 2016. On June 21, 2018, a Revised Notice of Application was sent to all property owners within 120m of the subject property and on June 28, 2018, the Revised Notice of Application was published in *The Londoner*. A notice of a Public Participation Meeting was advertised in *The Londoner* on September 6, 2018 and a notice of a Public Participation Meeting was sent out on September 6, 2018. The Public Participation Meeting was held on September 24, 2018. No comments were received from the public at the Public Participation Meeting.

Municipal Council advised the Approval Authority of its support for the issuance of draft approval of the proposed plan of subdivision, submitted by 2178254 Ontario Limited c/o DNL Group Inc. (previous applicant / owner) subject to conditions contained in the report dated September 24, 2018.

Draft Plan Approval was granted by the Approval Authority on October 23, 2018.

## Pertinent Matters from the Municipal Council Direction granting Approval

The subject site identified as Block 6 of draft plan 39T-16508, known municipally as 3425 Emily Carr Lane (1160 Wharnccliffe Road South), is currently zoned Holding Residential R5 (h.\*h-100\*h-104\*h-155\*R5-7). The Zone approved by Municipal Council includes some of the following lot regulation listed below:

R5-7)

### a) Regulations

- Lot Area (Minimum) 1,000 m<sup>2</sup>
- Lot Frontage (Minimum) 10 m
- Yard Setbacks:
  - Front Yard 6.0 m
  - Interior Yard 6.0 m
  - Exterior Yard 6.0 m
- Landscape Open Space (Min) 30%
- Height (Maximum) 12 m
- Lot Coverage (Max) 45%
- Density 40 units per hectare

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.
- (h-104) - To ensure that a comprehensive storm drainage and stormwater management report prepared by a consulting engineer is completed to address the stormwater management strategy for all lands within the subject plan and external lands where a private permanent on-site storm drainage facility is proposed for any block or blocks not serviced by a constructed regional stormwater management facility. The "h-104" symbol shall not be deleted until the report has been accepted to the satisfaction of the General Manager of Planning and Development and City Engineer

## **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 R.S.O. 1990, c. P.13* 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 R.S.O. 1990, c. P.13* (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 Variance applications 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.

<b>4.0 Conclusion</b>
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Should the Municipal Council resolve to allow the applicant to submit a Minor Variance Application to provide relief from the required front, exterior side and rear yard setback (and if required, Density) 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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