

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,
307 Fanshawe Park Road East
Meeting on: July 15, 2020

Recommendation

That, on the recommendation of the City Clerk, the report dated July 15, 2020 entitled "Request for Council Resolution, under section 45(1.4) of the *Planning Act, R.S.O. 1990, c. P.13* – 307 Fanshawe Park Road East", **BE RECEIVED.**

Background

Zelinka Priamo Ltd, on behalf of their client Royal Premier Homes, has submitted the attached letter, dated June 3, 2020 seeking approval from the Municipal Council to submit a Minor Variance Application for the property known as 307 Fanshawe Park Road East, with regards to the Zoning By-law Z-1 definition of "Stacked Townhouses", by indicating that the proposed development as it applies to Building B of the approved development.

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."

At its meeting held on October 1, 2019, the Municipal Council enacted By-law Z.-1-192791 to amend Schedule "A" to Zoning By-law No. Z.-1, as amended, to change the zoning applicable to the lands known as 307 Fanshawe Park Road East, from a Holding Residential R1/Bonus (h-5*h-54*h-89*R1-8*B-15) Zone to a Holding Residential R5 Special Provision (h-5*h-54*h-89*R5-7(10)) Zone.

The Agent for the Applicant indicates that Building B is proposed to contain a 2-storey townhouse building with 18 units (with units 3 units high) at the rear of the property. Subsequent to the approval of the Zoning By-law Amendment noted above, the Applicant and the Civic Administration became aware that the unit layout for the proposed Building B does not comply with the zoning definition for "Stacked Townhouse" as the proposed dwelling units are designed to be 3 units high, rather than the 2 units high as defined by the Zoning By-law.

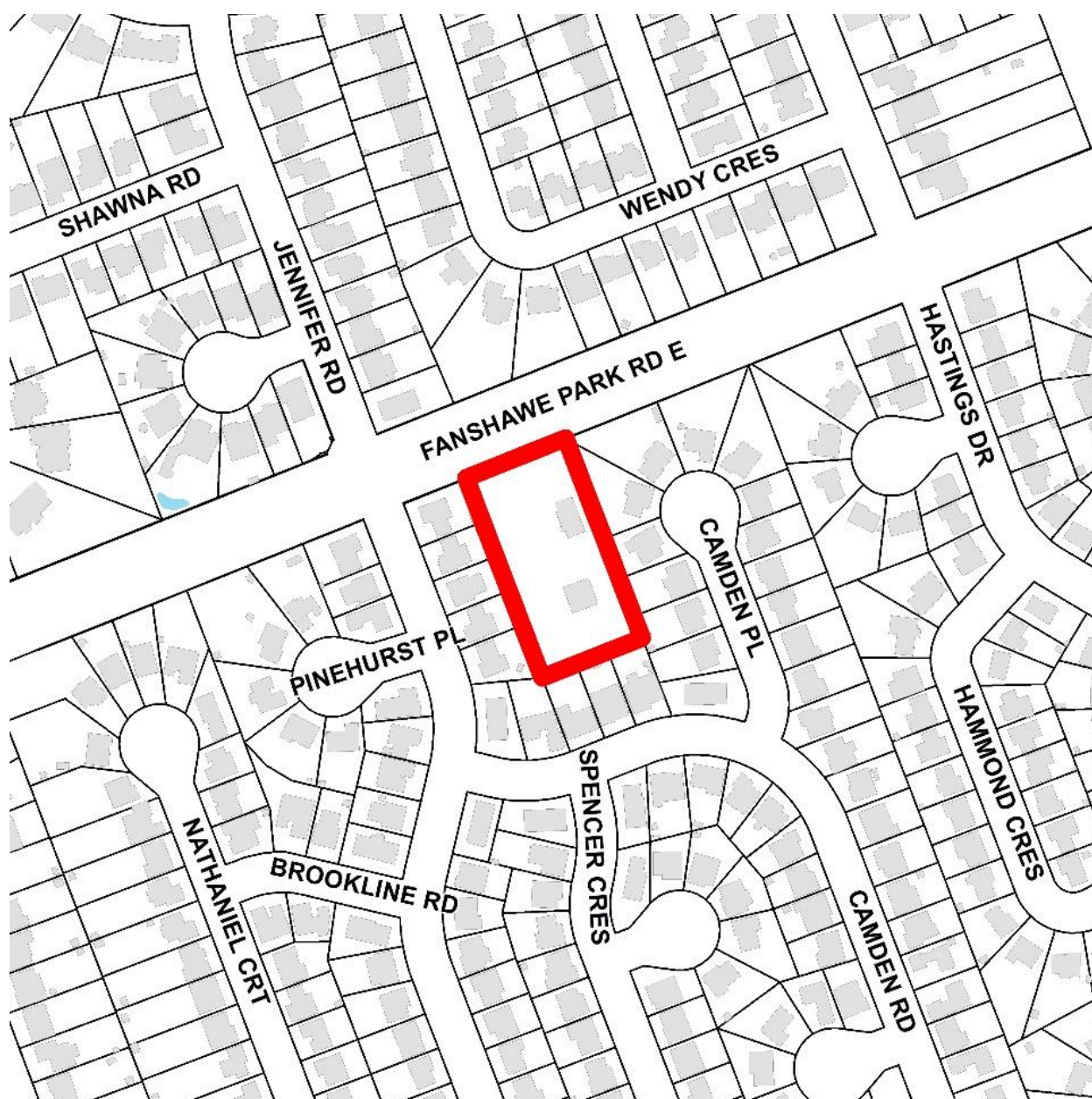
To assist the Municipal Council in their consideration of this matter, the balance of this report provides background information with respect to the previous *Planning Act, R.S.O. 1990, c. P.13* Zoning By-law Amendment Application pertaining to the subject property.

1.0 Property History

On April 11, 2011 a report was presented to the Built and Natural Environment Committee which recommended a Zoning By-law Amendment for 307 Fanshawe Park Road East. The purpose and effect of this Zoning By-law Amendment was to permit a 16-unit, three storey apartment building and a converted dwelling with 2-units. The Municipal Council passed the Zoning By-law Amendment on April 18, 2011 to rezone the subject property to a Holding Residential R1/ Bonus (h-5*h-54*h-89*R1-8*B-15) Zone. The approved apartment building was not built and a single detached dwelling remained on the site.

On January 4, 2019, demolition permits were issued to demolish the single detached dwelling and the accessory (barn) structure from the lot. The lot is now currently vacant.

1.1 Location Map



1.2 Previous Reports Pertinent To This Matter

Z-7853 - April 11, 2011 – Report to the Built and Natural Environment Committee – Recommendation to rezone the subject site from a Residential R1 (R1-8) Zone to a Holding Residential R1 Bonus (h-5*h-54*h-89*R1-8*B-15) Zone to permit an apartment building with a 0.0 metre front yard setback, a lot coverage of 32% and a converted dwelling with two dwelling units, and a bonus density of 32 units per hectare and a bonus height of 13m.

Z-9006 - May 27, 2019 – Report to the Planning and Environment Committee – Recommendation to rezone the subject site from a Holding Residential R1/ Bonus (h-5*h-54*h-89*R1-8*B-15) Zone, to a Holding Residential R5 Special

Provision (h-5*h-54*h-89*R5-7()) Zone to permit townhouses and stacked townhouses only, with a 4.5 metre minimum front yard setback, a 4.9 meter west interior side yard for a lot depth of 30 metres, a 2.3 metre front yard setback to porch/patios, a maximum height of 12 metres for a lot depth of 30 metres, a maximum height of 10 meters for the balance of the lands, and 75 units per hectare maximum.

Z-9006 - September 23, 2019 – Report to the Planning and Environment Committee – Recommendation to rezone the subject from a Holding Residential R1/ Bonus (h-5*h-54*h-89*R1-8*B-15) Zone to a Residential R5 Special Provision (R5-7()) Zone to permit townhouses and stacked townhouses only, with a 4.5 metre minimum front yard setback, a 4.9 metre west interior side yard for a lot depth of 30 metres, a 2.3 metre front yard setback to porch/patios, a maximum height of 12 metres for a lot depth of 30 metres, a maximum height of 10 meters for the balance of the lands, and 75 units per hectare maximum.

1.3 Planning History

On May, 27, 2019, the Planning and Environment Committee held a Public Participation Meeting to receive input from the public with respect to the proposed amendment to the Zoning By-law to rezone the subject land from a Residential R1/Bonus Zone to a Holding Residential R5 Special Provision Zone. The proposed amendment Application was referred back to staff for further consideration..

On September 23, 2019, the proposed Zoning By-law amendment, with some modifications to the proposed site plan to provide for improved tree protection and a reduction in the number of parking spaces to facilitate the development of a smaller parking area, was presented to the Planning and Environment Committee for consideration. The recommended Zoning By-law amendment was approved by the Municipal Council on October 1, 2019.

Front Elevation Block “A”



Front Elevation Block “B”



1.4 Approved Zoning By-law Amendment

The following summarizes the provisions provided for in the Zoning By-law Amendment.

Permitted Uses:

- i.) Stacked Townhouse

Regulations:

i.)	Maximum Density	75 units per hectare
ii.)	Minimum Front Yard Depth	4.5 metres
iii.)	West interior side yard depth for first 30m	4.9 metres
iv.)	Minimum Front Yard Setback to patio/porch	2.3 metres
v.)	Maximum Height for the first 30m of lot depth	12 metres
vi.)	Maximum Height for the remainder of the lands	10 metres
vii.)	Maximum Number of Parking Spaces	1.25 per unit

2.0 Policy Context

2.1 Planning Act

As noted previously in this report, the *Planning Act* provides the basis for the establishment of a Committee of 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 which 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)) to put 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).

Municipal Council is requested, 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.

3.0 Conclusion

The Agent for the Applicant is seeking approval from the Municipal Council to provide for the submission of a Minor Variance Application for the property located at 307 Fanshawe Park Road East for a portion of the development to contain townhouses 3 units high, rather than the 2 units high as defined by the Zoning By-law.

If the Municipal Council resolves that the Agent for the Applicant may submit an application for a Minor Variance to the Committee of Adjustment, the merits of the proposed Application would be evaluated by the Committee of Adjustment. The Civic Administration will submit a Planning Report providing planning analysis of the request for the Committee of Adjustment's consideration.

Submitted by:	CATHY SAUNDERS CITY CLERK
----------------------	--------------------------------------