

## 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,*  
745 -747 Waterloo Street  
**Meeting on:** August 10, 2020

## Recommendation

That, on the recommendation of the City Clerk, the report dated August 10, 2020 entitled "Request for Council Resolution, under section 45(1.4) of the *Planning Act, R.S.O. 1990, c. P.13 – 745 - 747 Waterloo Street*", **BE RECEIVED.**

## Background

Brock Development Group, on behalf of their client Y Group Investments & Management Inc. has submitted the attached letter, dated July 7, 2020 and received July 23, 2020, seeking approval from the Municipal Council to submit a Minor Variance Application for the property known as 745-747 Waterloo Street to allow medical offices currently restricted to the main floor of the building known as 745 Waterloo Street to be expanded to the second floor, resulting in an additional floor area of 890 square feet (83 sq. m. for medical uses.

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 2, 2018, the Municipal Council enacted By-law Z.-1-182695 to amend Schedule "A" to Zoning By-law No. Z.-1, as amended, to change the zoning applicable to the lands known as 745-747 Waterloo Street, from a Residential R2/Office Conversion (R2-2/OC4) Zone to a Residential R2/Office Conversion Special Provision (R2-2/OC6(5)) Zone at 745 Waterloo Street and from an Office Conversion Special Provision/Convenience Commercial Special Provision (OC4(4)CC(1)) Zone to an Office Conversion Special Provision/Convenience Commercial Special Provision (OC6(5)/CC(1) Zone at 747 Waterloo Street. The regulations related to the subject property states "Permitted uses within the Office Conversion Zone shall be restricted to the ground floor of the existing building at 745 Waterloo Street and to the entirety of the existing building at 747 Waterloo Street". The regulations were also amended to provide for a minimum of 8 parking spaces for all permitted uses on the property based on the floor area restrictions as outlined in the regulations.

Municipal Council also resolved the following with respect to the matter:

"b) the Civic Administration BE REQUESTED to review, in consultation with the neighbourhood, the traffic and parking congestion concerns raised by the neighbourhood and to report back at a future Planning and Environment Committee meeting;"

It is noted that report back with respect to part b) above has not yet been submitted.

The Agent for the Applicant indicates in support of the request “Due to extenuating circumstances surrounding COVID-19, additional medical clinic space is required to accommodate a private surgical suite at 745 Waterloo Street. This will allow procedures and surgeries to occur outside of hospital operating rooms.”

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

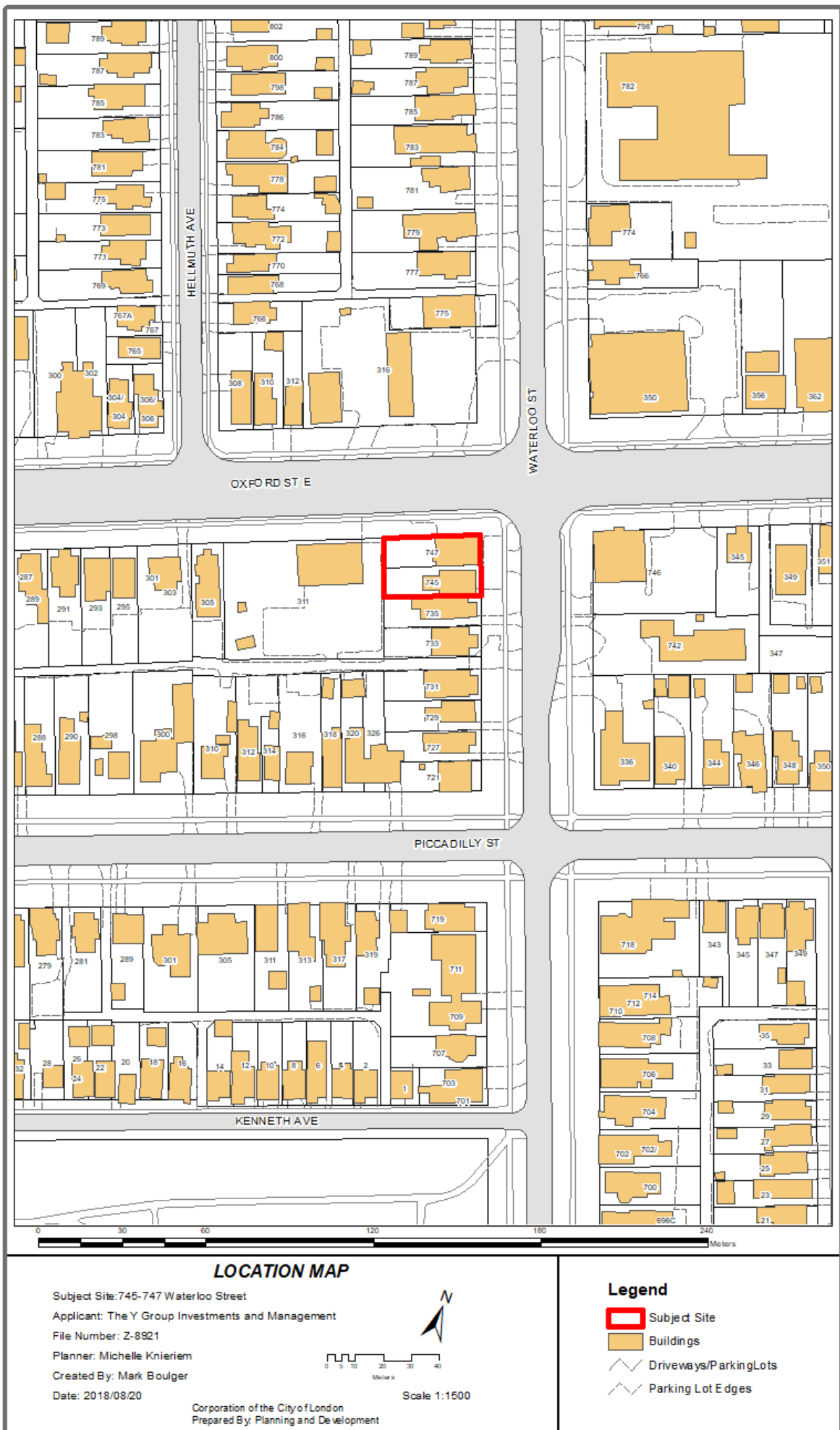
The subject site is located at the southwest corner of the intersection of Oxford Street East and Waterloo Street. It is occupied by 2, two-storey buildings, which are bisected by a walkway, and includes 8 parking spaces in the rear of the building. An additional 8 boulevard parking spaces (7 in the front, 1 in the rear) are also used by the subject site.

The subject site is also listed in the City of London’s Inventory of Heritage Resources and is adjacent to the Bishop Hellmuth Heritage Conservation District, located on the north side of Oxford Street East.



Photo of subject site as shown in September 24, 2018 Staff report to PEC

# 1.1 Location Map



## **1.2 Previous Reports Pertinent To This Matter**

Z-8921 – September 24, 2018 – Report to the Planning and Environment Committee – Recommendation to rezone the subject site from a Residential R2/Office Conversion (R2-2/OC4) Zone to a Residential R2/Office Conversion Special Provision Zone (R2-2/OC6(5)) Zone at 745 Waterloo Street and from an Office Conversion/Convenience Commercial Special Provision (OC4/CC(1)) Zone to an Office Conversion Special Provision/Convenience Commercial Special Provision Zone (OC6(5)/CC(1)) Zone at 747 Waterloo Street

## **1.3 Planning History**

A minor variance application (A.082/07) was approved by the Committee of Adjustment for 745 Waterloo Street in 2007. This minor variance decision permitted a retail store, with the requirements that this retail store shall be used for a chocolate retail store only and that the chocolate retail store shall not exceed the size of the hair salon that previously existed on the site. The variance also permitted reduced interior side yard setbacks, based on the reduced setbacks of the existing building.

In June, 2018, a request for a Zoning By-law amendment was received to rezone the portion of the subject site at 745 Waterloo Street from a Residential R2/Office Conversion (R2-2/OC4) Zone to a Residential R2/Office Conversion Special Provision (R2-2/OC6(5)) Zone and the portion of the subject site at 747 Waterloo Street from an Office Conversion/Convenience Commercial Special Provision (OC4/CC(1)) Zone to an Office Conversion Special Provision/Convenience Commercial Special Provision (OC6(5)/CC(1)) Zone. The intent of the requested amendment was to permit clinics, emergency care establishments, medical/dental offices, and outpatient clinics (all within existing buildings), in addition to the other uses already permitted on the properties. The amendment also requested recognition of existing site conditions including reductions in landscaped area (14%, whereas 30% would be required) and vehicular parking (8 spaces, whereas 26 spaces would be required).

## **1.4 Approved Zoning By-law Amendment**

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

Permitted Uses in the R2-2 Zone (745 Waterloo Street):

- i) Single Detached Dwellings
- ii) Semi-detached Dwellings
- iii) Duplex Dwellings
- iv) Converted Dwellings (maximum 2 dwelling units)

Note: A Chocolate Retail Store also permitted by Minor Variance is not identified in the Zoning By-law

Permitted Uses in the CC(1) Zone (747 Waterloo Street):

- i) Convenience Service Establishment (without a drive-through)
- ii) Convenience Stores (without a drive-through)
- iii) Financial Institutions (without a drive-through)
- iv) Personal Service Establishments (without a drive-through)
- v) Existing Retail Stores

Permitted Uses in the OC6(5) Zone (745 and 747 Waterloo Street):

- i) Clinics (in existing buildings)
- ii) Dwelling units
- iii) Emergency Care Establishments (in existing buildings)
- iv) Medical/dental offices (in existing buildings)
- v) Offices (in existing buildings)
- vi) Outpatient clinics (in existing buildings)

## Special Regulations of the OC6(5) Zone:

- i) Permitted Uses within the Office Conversion Zone shall be restricted to the ground floor of the existing building at 745 Waterloo Street and to the entirety of the existing building at 747 Waterloo Street
- ii) Parking Spaces (Minimum) 8 for all permitted uses on the property
- iii) Landscaped Area (Minimum) 14% for all permitted uses on the property

## 2.0 Policy Context

### Use

#### The London Plan

The subject site is within the Urban Corridor Place Type in The London Plan. The Urban Corridor Place Type permits a range of residential, retail, service, office, cultural, recreational and institutional uses (Policy 837). Further, The London Plan also includes a policy that specifically permits office conversions between 733 and 747 Waterloo Street, which includes the subject site (Policy 1076).

#### 1989 Official Plan

The existing Multi-family, Medium Density Residential designation allows for the conversion of dwellings for office purposes, subject to certain criteria. The 1989 Official Plan also specifically identifies locations within Residential designations where office conversions may be permitted. The location of the subject site is one of the locations identified as permitting office conversions.

### Parking

The OC6(5) zone approved in 2018 permits a range of uses, with different parking rates required for each use. If the site were to be occupied by the most parking-intensive uses permitted by that zone, a minimum of 30 parking spaces would be required. Meanwhile, the subject site can accommodate a maximum of 8 parking spaces on-site and an additional 8 boulevard parking spaces under permit from the City of London that are located on City-owned property surrounding the site.

In order to not worsen this deficiency, the OC6(5) zone included a special provision limiting the requested uses for the Office Conversion (OC6) Zone to the ground floor of 745 Waterloo Street and the entirety of 747 Waterloo Street rather than allowing the permitted uses to occupy the entire gross floor area of both buildings. The Zoning By-law regulations effectively facilitate only residential uses on the second floor of the building at 745 Waterloo Street.

## 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 745-747 Waterloo Street, to allow medical offices currently restricted to the main floor of the building known as 745 Waterloo Street to be expanded to the second floor, resulting in an additional floor area of 890 square feet (83 sq. m.) for medical uses.

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**