

# Staff Report



Development Services Department

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**REPORT TO:** Committee of Adjustment

**DATE OF MEETING:** June 21, 2022

**SUBMITTED BY:** Tina Malone-Wright, Supervisor, Development Applications  
519-741-2200 ext. 7765

**PREPARED BY:** Tim Seyler, Planner, 519-741-2200 ext. 7860

**WARD(S) INVOLVED:** Ward 1

**DATE OF REPORT:** June 10, 2022

**REPORT NO.:** DSD-2022-293

**SUBJECT:** Minor Variance Application A2022-069  
92 River Road East  
Owner: Urbe Developments Inc.  
Agent: Dave Galbraith, IBI Group

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## RECOMMENDATION:

### Zoning By-law 85-1

A. That Minor Variance Application A2022-069 for 92 River Road East requesting relief from:

1. Section 42.2.1 of Zoning By-law 85-1, to permit a Floor Space Ratio of 2.1 instead of the maximum permitted Floor Space Ratio of 2.0;
2. Section 42.2.6 c) of Zoning By-law 85-1, to permit a side yard setback (right) of 1.5 metres, and side yard setback (left) of 3.5 metres, instead of the minimum required 6.0 metre side yard setback for buildings that exceed 10.5 metres in height; and
3. Section 6.1.2 a) of Zoning By-law 85-1, to permit a parking requirement of 1.14 parking spaces per dwelling unit (16 parking spaces in total), instead of the minimum required 1.75 parking spaces per dwelling unit (25 parking spaces in total);

to facilitate the development of a 5-storey residential building having 14 dwelling units in accordance with Site Plan Application SP22/040/R/TS, BE APPROVED.

### Zoning By-law 2019-051

B. That Minor Variance Application A2022-069 for 92 River Road East requesting relief from:

1. Section 7.3, Table 7-6, of Zoning By-law 2019-051:
  - i. to permit a Floor Space Ratio of 2.1 metres instead of the maximum permitted Floor Space Ratio of 2.0;

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Please call 519-741-2345 or TTY 1-866-969-9994 for assistance.

- ii. to permit a lot width of 19.6 metres instead of the minimum required lot width of 30 metres;
  - iii. to permit a side yard setback (right) of 1.5 metres, and a side yard setback (left) of 3.5 metres, instead of the minimum required side yard setback of 4.5 metres.
2. Section 5.6, Table 5-5, of Zoning By-law 2019-051 to permit a parking requirement of 1.14 parking spaces per dwelling unit (16 parking spaces) instead of the minimum requirement of 1.15 parking spaces per dwelling unit (17 parking spaces)

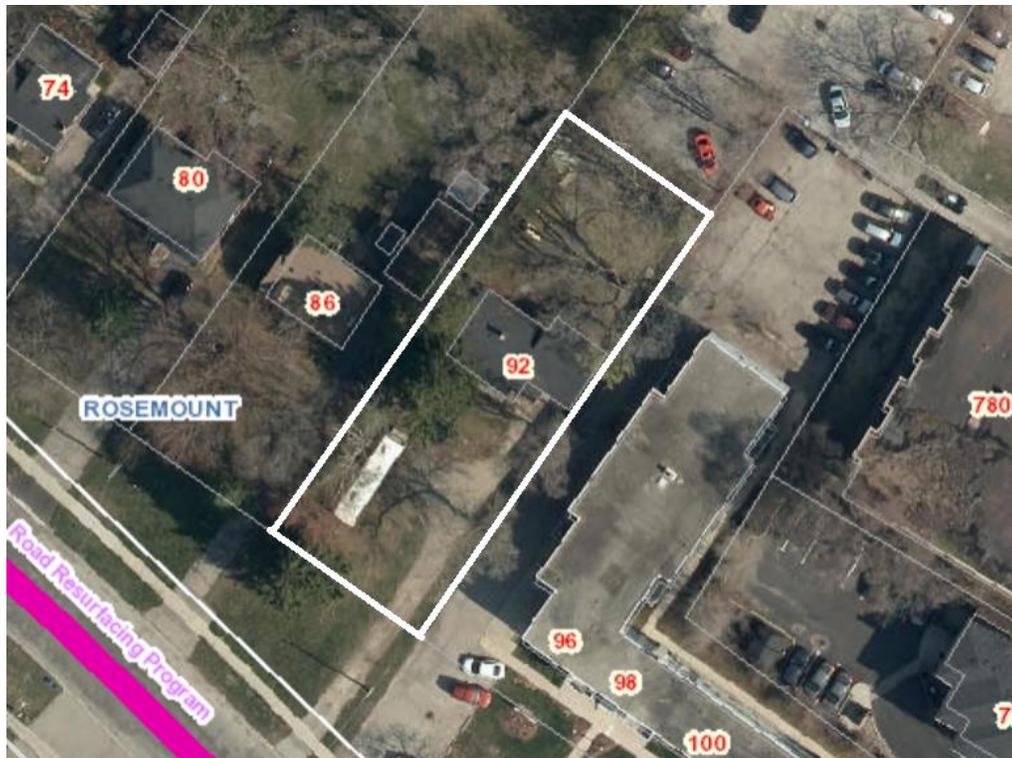
to facilitate the development of a 5-storey residential building having 14 dwelling units in accordance with Site Plan Application SP22/040/R/TS, BE APPROVED, subject to the following:

This minor variance shall become effective only at such time as Zoning By-law 2022-040 comes into force, pursuant to section 34 (30) of the Planning Act, R.S.O. 1990, c. P 13, as amended, at such time the variance shall be deemed to have come into force as of the final date of this decision.

#### REPORT HIGHLIGHTS:

- The purpose of this report is to review an application for minor variances to facilitate the development of a 5-storey residential building having 14 dwelling units on the property, municipally addressed as 92 River Road East, which is currently being reviewed as part of Site Plan Application SP22/040/R/TS.
- There are no financial implications.
- This report supports the delivery of core services.

#### BACKGROUND:



Location Map – 92 River Road East



**Front view of subject property**

The subject property is located at 92 River Road, in close proximity to the intersection of Frederick Street and River Road East.

The subject property is identified as 'Community Area' on Map 2 – Urban Structure and is designated 'Medium Rise Residential' on Map 3 – Land Use in the City's 2014 Official Plan.

The property is zoned 'Residential Eight Zone (R-8)' in Zoning By-law 85-1, and 'RES-6' in Zoning By-law 2019-051, which is currently under appeal.

The applicant is proposing to construct a 5-storey multiple dwelling, having 14 dwelling units, that cannot meet the requirements of Section 42.2.1, and 42.2.6 of Zoning By-law 85-1. The applicant is requesting relief for following:

- a) A Floor Space Ratio (FSR) of 2.1, whereas a maximum FSR of 2.0 is permitted;
- b) A side yard setback (right) of 1.5 metres, and a side yard setback (left) of 3.5 metres instead of the required 6.0 metres.

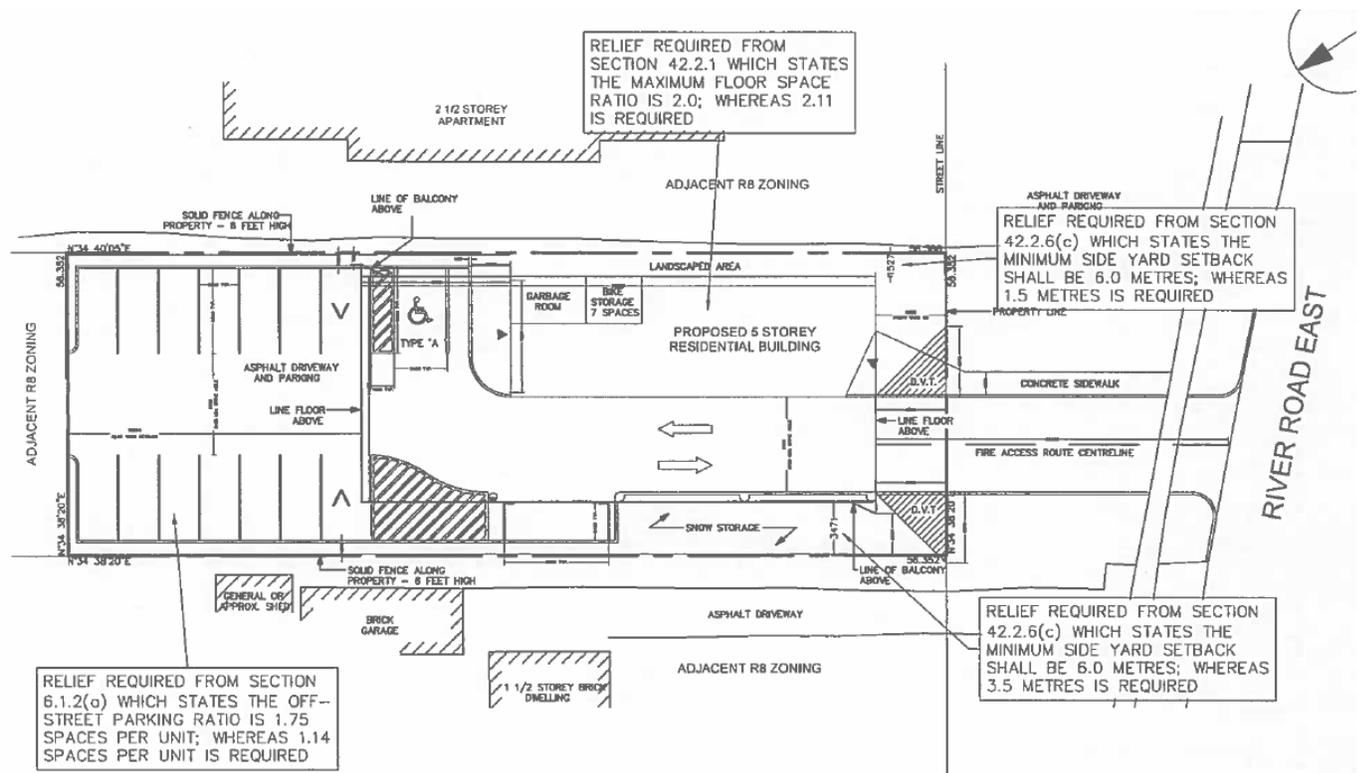
Further relief is being requested from Section 6.1.2a) of the Zoning By-law to permit a multiple dwelling to have a parking requirement of 1.14 spaces per dwelling unit, whereas a parking requirement of 1.75 spaces per dwelling unit is required.

The applicant is also requesting relief from Zoning By-law 2019-051 for the following:

- a) A Floor Space Ratio (FSR) of 2.1, whereas a maximum FSR of 2.0 is permitted;
- b) A side yard setback (right) of 1.5 metres, and a side yard setback (left) of 3.5 metres instead of the required 4.5 metres;
- c) A lot width of 19.6 metres instead of the minimum lot width required of 30 metres.

Further relief is being requested from Section 5.6, Table 5.2, of Zoning By-law 2019-051 to permit a multiple dwelling to have a parking requirement of 1.14 spaces per dwelling unit, whereas a parking requirement of 1.15 spaces per dwelling unit is required.

The applicant is in the process of obtaining site plan approval in principle (Site Plan Application SP22/040/R/TS) for the proposed multiple dwelling.



**Proposed Site Plan**

**REPORT:**

**Planning Comments:**

In considering the four tests for the minor variances as outlined in Section 45(1) of the Planning Act, R.S.O., 1990 Chap. P 13, as amended, Planning staff offers the following comments:

General Intent of the Official Plan

The subject property is designated Medium Rise Residential in the City's Official Plan, which contains a number of policies related to density in the medium rise residential areas. The Medium Rise Residential land use designation accommodates a full range of medium density housing types including townhouse dwellings in a cluster development, multiple dwellings and special needs housing. The City also encourages and supports the mixing and integrating of innovative and different forms of housing to achieve and maintain a medium rise built form. The permitted Floor space ratio increase is a result of the cantilevered building over the drive aisle. The City includes this space in the FSR calculation, however there is no liveable area and the FSR calculation is closer to 1.7 when eliminating the drive aisle space. Staff is satisfied that the increase in FSR, meets the general intent of the policies of the Official Plan. Staff is also satisfied that the requested variances will maintain the medium density character of the property and surrounding neighbourhood. Staff is further satisfied that urban design considerations will be addressed to ensure the development is compatible.

### General Intent of the Zoning By-law

The R-8 zone permits a range of housing types, and the intent of the 2.0 FSR maximum allowance is to ensure development occurs at a scale which is compatible with other medium-rise housing forms within the neighbourhood. As noted previously the City includes cantilevered drive aisle space within the FSR calculation, but the area is not used for liveable area. When eliminating the ground floor drive aisle space, the FSR calculation is closer to 1.7, which is under the maximum of 2.0. As such, staff is satisfied the requested variance to increase the maximum FSR from 2.0 to 2.1 meets the general intent of both Zoning By-laws.

The intent of the side yard setbacks is to ensure adequate separation from adjacent properties and reduce the impact by providing adequate landscaping and buffering around the property. Zoning By-law 2019-051 proposed the minimum setback of 4.5 metres be provided, and the proposed side yard setback (left) is slightly smaller at 3.5 metres. The smaller of the setbacks is adjacent to a drive aisle on the neighbouring property and the 1.5 metre setback will still provide adequate space for increased landscaping.

The intent of the lot width regulation in Zoning By-law 2019-051 is to ensure that properties with higher RES zoning designations can sustain larger developments at a scale appropriate to the neighbourhood. It is noted that the By-law 85-1 has a minimum lot width requirement of 15 metres which the property currently exceeds at 19.6 metres.

The general intent of the zoning is maintained through this variance for the side yard setbacks and lot width reduction.

The intent of the 1.75 parking spaces per dwelling unit parking requirement is to ensure that there is adequate parking spaces available for the residents and for visitors to the property. The reduction to 1.14 parking spaces per dwelling unit aligns with the future direction for parking requirements in the City's new Zoning By-law 2019-051 (1.15 spaces per unit). Furthermore, alternative transportation options are provided on site, as the property is located adjacent to an existing GRT bus stop. Adequate bicycle parking will also be provided in the new development. Staff is of the opinion that the reduction in parking meets the general intent of the Zoning By-law.

### Is/Are the Effects of the Variance(s) Minor?

Staff is of the opinion that the requested variances are minor as the reduced side yards, reduced parking rate and increased FSR will not present any significant impacts to adjacent properties or the overall neighbourhood.

### Is/Are the Variance(s) Desirable For The Appropriate Development or Use of the Land, Building and/or Structure?

The proposed variances are appropriate for the development and use of the land as the proposed multiple dwelling use is a permitted use in both Zoning By-laws. The scale, massing and height of the proposed multiple dwelling will not negatively impact the existing character of the subject property or surrounding neighbourhood.

### **Environmental Planning Comments:**

No natural heritage concerns. Tree management will be addressed through the Site Plan application.

### **Heritage Planning Comments:**

Heritage Planning has no concerns with this application.

### **Building Division Comments:**

The Building Division has no objections to the proposed variance provided building permit for the apartment building is obtained prior to construction. Please contact the Building Division at [building@kitchener.ca](mailto:building@kitchener.ca) with any questions.

**Engineering Division Comments:**

The Engineering Division has no concerns with this application.

**Parks/Operations Division Comments:**

The Parks/Operations Division has no concerns with this application.

**Transportation Planning Comments:**

After reviewing the Parking Justification Brief submitted on January 6, 2022, by IBI Group as part of their Site Plan Review Committee meeting held in April 2022, Transportation Services offered the following comments.

The applicant is proposing to construct a 5-storey residential apartment building containing 14 units with a parking supply of 16 spaces. The current zoning by-law requires 25 parking spaces, which equates to a nine parking space shortfall or a 36% parking reduction.

The future zoning by-law parking would require 1.15 parking spaces per unit, where the applicant is proposing a parking rate of 1.14 space per unit, which is reasonable and consistent with the future zoning by-law parking rate. Visitor parking will be provided on-site and represent 2 (12.5%) parking spaces. There will also be 7 Class A secure bicycle parking spaces provided.

The Parking Justification Brief notes two existing Grand River Transit (GRT) routes. First, iXpress Route 204 located less than 250m from the site and GRT Route 20, located less than 100m from the site. Route 204 has AM and PM peak hour headways of 15 minutes and Route 20 has 30 minute headways in the peak hours. In addition to the existing GRT routes, it should be noted that the site is located near a number of existing and planned cycling/active transportation routes in the area (Victoria Street North, River Road). These active transportation connections (GRT and cycling) will support the viability of active forms of transportation to and from the site and will support the reduced parking rate proposed.

Therefore, based on the analysis and recommendations within IBI's report, Transportation Services can support the proposed parking rate of 1.14 spaces per unit.

**STRATEGIC PLAN ALIGNMENT:**

This report supports the delivery of core services.

**FINANCIAL IMPLICATIONS:**

Capital Budget – The recommendation has no impact on the Capital Budget.

Operating Budget – The recommendation has no impact on the Operating Budget.

**COMMUNITY ENGAGEMENT:**

INFORM – This report has been posted to the City's website with the agenda in advance of the Committee of Adjustment meeting. A notice sign was placed on the property advising that a Committee of Adjustment application has been received. The sign advises interested parties to find additional information on the City's website or by emailing the Planning Division. A notice of the application was mailed to all property owners within 30 metres of the subject property.

**PREVIOUS REPORTS/AUTHORITIES:**

- *Planning Act*
- *Provincial Policy Statement (PPS 2014)*
- *A Place to Grow: Growth Plan for the Greater Golden Horseshoe, 2020*
- *Regional Official Plan*
- *Official Plan (2014)*
- *Zoning By-laws 85-1 and 2019-051*