

A G E N D A

**THE SIXTH MEETING OF THE COMMITTEE OF ADJUSTMENT
OF THE CITY OF ST. THOMAS 2021**

TELECONFERENCE

10:00 A.M.

**THURSDAY
APRIL 15, 2021**

DISCLOSURE OF INTEREST

MINUTES

Confirmation of the minutes of the meeting held on April 8, 2021.

HEARING OF APPLICATIONS

A02/21 - Home Hardware Stores Ltd. - 295 Wellington Street **Pages 2-13**

Follow Up Planning Report - A02/21 **Pages 14-15**

NEW BUSINESS

Next Meeting

To Be Determined.

ADJOURNMENT

CONFIRMATION OF AN APPLICATION FOR MINOR VARIANCE

February 8th, 2021

Secretary-Treasurer, Committee of Adjustment
Attention: Jon Hindley

Pursuant to By-Law 30-2015, a consultation meeting was held on October 8th, 2020 with Planning staff and the applicant.

An application for a minor variance, regarding 295 Wellington Street, was filed on January 27th, 2021 and the required fee under Section 69 of the Planning Act has been provided.

Please contact the Planning & Building Services Department if you have any questions.

Regards,



Jim McCoomb, MCIP, RPP
Manager of Planning Services



Pol Associates Inc
Land Use Planning Consultants
94 Rollingwood Circle
London ON N6G 1P7

January 19, 2021

City of St. Thomas
Committee of Adjustment
545 Talbot Street
St. Thomas ON N5P 3V7

Dear Sir,

RE: Minor Variance application for Clippity Clop Ice Cream Shoppe located at 295 Wellington Street St. Thomas (Home Hardware) to permit a food kiosk for the preparation and sale of ice cream.

Pol Associates Inc. is retained by Clippity Clop Ice Cream Shoppe to obtain a minor variance to permit a food kiosk for the preparation and sale of ice cream on lands owned by Home Hardware Stores Ltd. at 295 Wellington Street, St. Thomas. Authorization from the owner is attached.

Attached and forming the minor variance application are the following:

- Completed application form
- Home Hardware Ltd. owner authorization
- Surrounding land use plan
- Location plan
- Conceptual site plan
- NOTE: the \$400.00 application fee was sent under a separate cover to the City by the operator of Clippity Clop Ice Cream Shoppe, Carson Harris

Based on a review of the applicable Official Plan and zone regulations, and further to our pre-consultation meeting with the Planning Division on October 8, 2020, the regulation 16.3 Services Required needs to be varied. The applicant received approval in 2020 from the local Southwest Public Health confirm no municipal services are required to operate the food kiosk at this location. The following paragraphs consider the land use criteria for approval of a minor variance.

Conformity to the St. Thomas Official Plan

The subject lands are designated Commercial in the City of St. Thomas Official Plan. Commercial uses include the preparation and sale of food as requested in the variance. The intended use conforms to the general intent and purpose of the Official Plan.

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Conformity to the City of St. Thomas Zoning By-law

The subject lands are shown in the Secondary Commercial Zone C-5 on map No. 16 of By-law 74-2018. A restaurant for food preparation and service is a permitted use under Section 16.1 Permitted Uses. The Southwest Public Health inspected and issued permits to operate the food kiosk in June 2020 confirming no municipal services were necessary to operate the kiosk. Therefore the proposed food kiosk is in keeping with the intent and purpose of the C-5 Zone.

Is the variance minor?

The requested variance is minor because all other applicable regulations for the food kiosk are complied with. Approval of the variance will not impact surrounding property owners.

Is the variance appropriate for the site?

The variance is appropriate for this location on the lot. A food kiosk offers convenient access for pedestrians along Wellington Street and First Avenue and customers to the Home Hardware store. It is located a sufficient distance from property lines and will not impact the use of the commercial parking area or the abutting sidewalks. The food kiosk is appropriate for the development of the site.

The requested variance is sound land use planning and appropriate for the development of the site. The operator is looking forward to proceeding with the food kiosk permits and approvals as early as possible in 2021. Should you require further information, please contact me.

Regards,



William Pol, MCIP, RPP
Principal Planner
Pol Associates Inc.
P 519-933-5152 E wpolassociates@gmail.com

cc. Kris Liebold, Home Hardware Limited
 Carson Harris, Clippity Clop Ice Cream Shoppe



**CORPORATION OF THE CITY OF ST THOMAS
COMMITTEE OF ADJUSTMENT**

APPLICATION FOR MINOR VARIANCE OR FOR PERMISSION

(Section 45 of the Planning Act, RSO, 1990, as amended)

| | | |
|--------------------|---|---|
| OFFICE USE: | Date Application Received: <u>January 27, 2021</u> | Consultation Date: <u>October 8, 2020</u> |
| | Date Application Deemed Complete: <u>February 8, 2021</u> | |

Application #: A02/21

APPLICATION IS HEREBY MADE TO: City of St. Thomas
 545 Talbot Street
 St. Thomas ON N5P 3V7
 Tel: (519) 631-1680 ext 4125 Fax: 519) 633-9019
 Email: mknapp@stthomas.ca

Please note that in accordance with By-Law 30-2015, consultation with the Planning and Building Services Department must take place prior to the submission of an application. After consultation, the application will be filed with the Assistant Secretary-Treasurer, together with the sketch referred to in Note 1 and \$400 made payable to the City of St. Thomas. All information and materials submitted for the application shall be made available to the public, as indicated by Section 1.0.1 of the Planning Act, R.S.O. 1990.

Personal information contained on this form is collected under the authority of the Planning Act, R.S.O. 1990, as amended, and Ontario Regulation 200/96 and will be used for the purpose of processing this application.

1. Name of Owner(s) _____
 Address _____

 Postal Code _____ Tel: _____ e-mail: _____

2. Name of Authorized Agent (if any) _____
 Address _____

 Postal Code _____ Tel: _____ e-mail: _____

Note: Please specify to whom all communications should be sent: Owner () Agent ()

3. Nature and extent of relief from the Zoning By-law applied for:

4. Reason why the proposed use cannot comply with the provisions of the Zoning By-law:

5. Location of Land:
 Concession No. _____ Lot(s) _____ Registered Plan No. _____ Lot(s) _____

Reference Plan No. _____ Part(s) _____

Geographic/Former Township _____

Name of Street _____ Street No. _____

6. Dimensions of land affected:

Frontage _____ Depth _____

Area _____ Width of Street _____

7. Access to the subject land is by:

() a Regional Road () a private road

() a Municipal road that is maintained
all year

() a Municipal road that is maintained seasonally

8. Particulars of all buildings and structures on or proposed for the subject land (Specify ground floor area, gross floor area, number of storeys, width, length, height). Please specify use of existing structures.

Existing:

USE _____

Proposed:

9. Location of all buildings and structures on or proposed for the subject land (Specify distance from side, rear and front lot lines). Please specify use of proposed structure.

Existing:

Proposed:

USE

10. Date of acquisition of subject land: _____

11. Date of construction of all buildings and structures on subject land: _____

12. Existing uses of the subject land:

13. Existing uses of abutting lands:

North: _____ East: _____

South: _____ West: _____

14. Length of time the existing uses of the subject land have continued:

15. Services available (check appropriate space or spaces):

Water:

() Municipally owned and operated piped water system Other (Specify) _____

Sewage Disposal:

() Municipally owned and operated sanitary sewer system Other (Specify) _____

Storm Drainage

() Storm sewers Other (Specify) _____

16. Present Official Plan designation of the subject land:

17. Present Zoning of the subject land:

18. Has the owner previously applied for relief (minor variance) under Section 45 of the Act in respect of the subject property?

yes () no ()

If the answer is yes, describe briefly (and if known, quote Application #)

19. Is the subject property the subject of a current application for a consent under Section 53 or a plan of subdivision under Section 51 of the Planning Act, 1990?

yes () no () If so, state Application # and status _____

APPLICANT DECLARATION

By making this application, permission is hereby granted to any Municipal staff members and Municipal Planning Consultant to enter upon the premises described in this application at a reasonable time for the purpose of inspecting the property in relation to the proposed application and for distributing information concerning the same. This information is being collected pursuant to the Planning Act, Municipal Act, and Freedom of Information Act. The information contained herein will be distributed to bodies and agencies prescribed by legislation and regulation and also to interested parties.

If this application is signed by an agent or solicitor on behalf of an applicant, the owner’s written authorization must accompany the application (**Appendix A**). If the applicant is a corporation acting without an agent or solicitor, the application must be signed by an officer of the corporation and the corporation’s seal (if any) must be affixed.

MUNICIPAL FREEDOM OF INFORMATION AND PROTECTION OF PRIVACY ACT

Application information is collected under the authority of the Planning Act, R.S.O. 1990, c.P.13. In accordance with that Act, it is the policy of the City of St. Thomas to provide public access to all Planning Act applications and supporting documentation submitted to the City.

I William Pol, the Owner or Authorized Agent, hereby agree and acknowledge
(Print name of Owner or Authorized Agent)
that the information contained in this application and any documentation, including reports, studies and drawings, provided in support of the application, by myself, my agents, consultants and solicitors, constitutes public information and will become part of the public record. As such, and in accordance with the provisions of the *Municipal Freedom of Information and Protection of Privacy Act*, R.S.O. 1990, c.M. 56, I hereby consent to the City of St. Thomas making this application and its supporting documentation available to the general public, including copying and disclosing the application and its supporting documentation to any third party upon their request.

Collection of Personal Information:

Personal information on this form is collected under the authority of Section 41 of the *Planning Act*, R.S.O. 1990 and Sections 8 (1) and 10 of the *Municipal Act*, 2001, as amended, and will be used to contact the owner, applicant and/or agent regarding the Committee of Adjustment Application. Questions about this collection should be directed to the City Clerk, 545 Talbot Street, St. Thomas, Ontario, N5P 2T9 (519) 631-1680.

AFFIDAVIT OR SWORN DECLARATION

I, William Pol of London in the province of Ontario,
name of applicant City
make oath and say (or solemnly declare) that the information required under Schedule 1 of Ontario Regulation 545/06 and provided by the applicant in this application is accurate, and that the information contained in the documents that accompany this application is accurate. Sworn (or declared) before me at the London on this 8th day of February, 2021.
City Day Month Year

William Pol
Signature of Owner or Authorized Agent

February 8, 2021
Date

Signature of Commissioner of Oaths, etc.

Date

APPENDIX A – AUTHORIZATION OF OWNER

If the applicant is not the owner of the subject lands, please complete the owner authorization concerning personal information as set out below.

I, Home Hardware Ltd, am the owner of the subject lands, and I authorize William Pol, MCIP, RPP, to act on our behalf as the agent for the submissions required for all matters relating to the subject lands, and to provide any of my personal information that will be included in this application or collected during the planning process.

Date

Kris Leibold

Signature of Owner

APPENDIX B – ACKNOWLEDGEMENT OF LEGAL AND PLANNING FEES

In addition to the application fees listed in this application package, please note that where the City requires assistance from its solicitors or other technical or professional consultants in the processing of this application, the applicant shall be responsible for reimbursing all fees incurred by the City.

***Please note, Appendix B must be completed by the owner, not the authorized agent.**

I, Home Hardware Ltd, am the **owner** of the subject lands, and I understand that further fees may be incurred by the City throughout the planning process and that I am responsible for reimbursing all fees.

Date

Kris Leibold

Signature of Owner

NOTES:

1. Each copy of this application must be accompanied by a Sketch. The Sketch need not necessarily be to scale, but dimensions must be accurate, and showing the following:
 - (a) The boundaries and dimensions of the subject land;
 - (b) The location, size and type of all existing and proposed buildings and structures on the subject land, indicating the distance of the buildings or structures from the front yard lot line, rear yard lot line and the side yard lot lines;
 - (c) The approximate location of all natural and artificial features on the subject land and on land that is adjacent to the subject land that, in the opinion of the applicant, may affect the application. Examples include buildings, driveways, swimming pools, roads, railways, drainage ditches, wells, septic tank and tile bed, and trees;
 - (d) The current uses on land that is adjacent to the subject land;
 - (e) The location, width and name of any roads within or abutting the subject land, indicating whether it is an unopened road allowance, a public traveled road, a private road or a right-of-way;
 - (f) If access to the subject land is by water only, the location of the parking and docking facilities to be used;
 - (g) The location and nature of any restrictive covenant or easement affecting the subject land;
2. The Committee of Adjustment may require that a preliminary drawing be prepared, signed and dated by an Ontario Land Surveyor.
3. If this application is signed by an agent or solicitor on behalf of an applicant, the owner's written authorization must accompany the application. If the applicant is a corporation acting without agent or solicitor, the application must be signed by an officer of the corporation and the corporation's seal (if any) must be affixed.

Clippity Clop Ice Cream Shoppe
Conceptual Site Plan 295 Wellington street St.

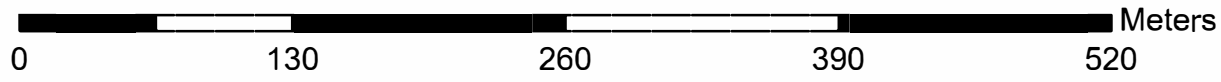
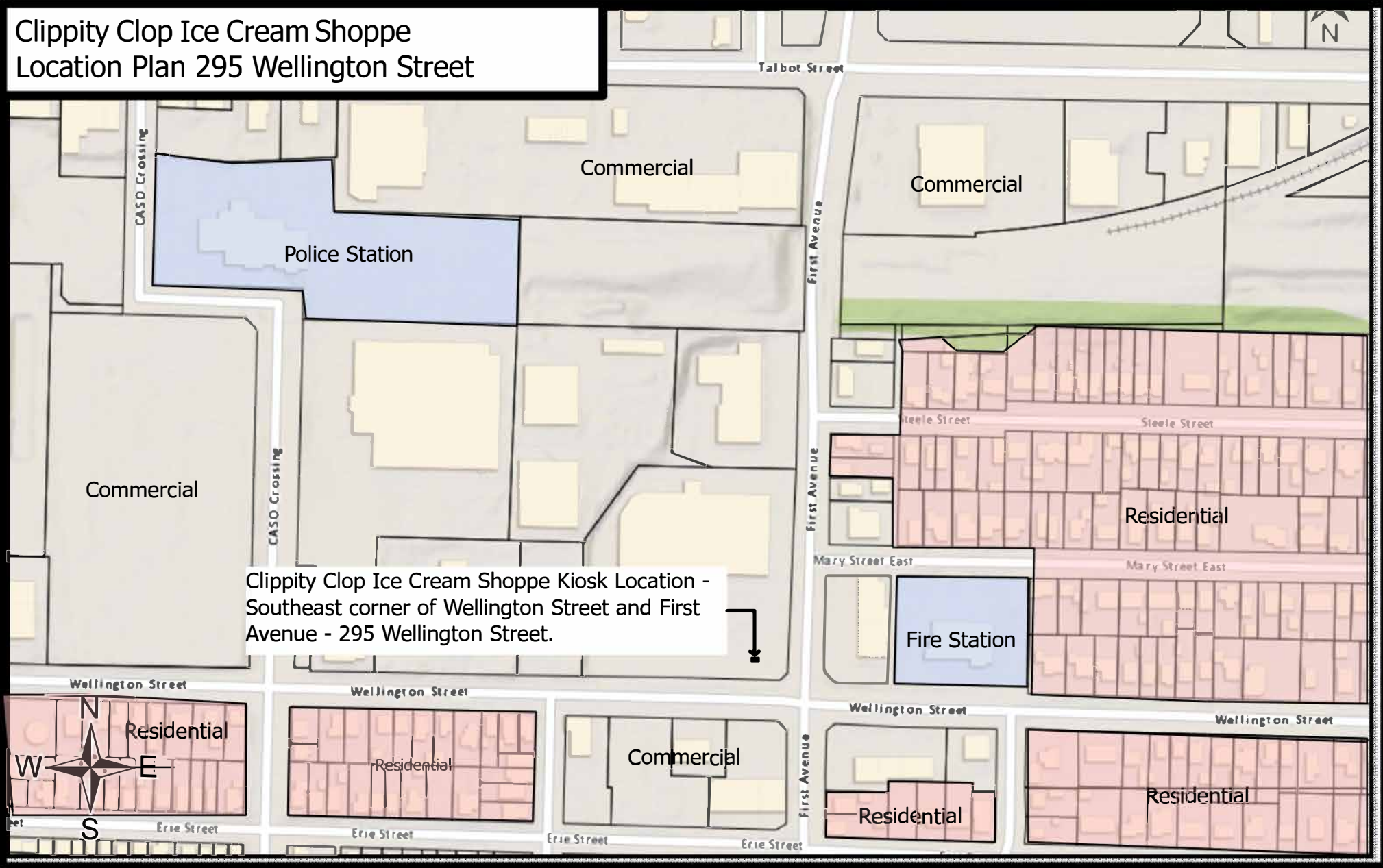


Pol Associates Inc. 94 Rollingwood Circle London ON N6J 1P7
Email: wpolassociates@gmail.com Phone: 519-933-5152

Clippity Clop Ice Cream Shoppe
Conceptual Site Plan 295 Wellington Street



Clippity Clop Ice Cream Shoppe Location Plan 295 Wellington Street





The Corporation of the City of St. Thomas

Report No.: COA02-2021

Applicant: Home Hardware Stores Ltd.

Members of the Committee of Adjustment

Report Date: April 12, 2021
Meeting Date: April 15, 2021

Location: 295 Wellington Street, Plan 65 PT R for Shops, Registered Plan 11R1668, Parts 1 and 3, City of St. Thomas

Subject: Request for a minor variance pursuant to 45(1) of the Planning Act, R.S.O., as amended

Department: Planning and Building Services Department
Prepared by: Steve Craig, Senior Planning Technician

Attachments: Location Plan

Recommendation:

That: Report COA02-2021 be received.

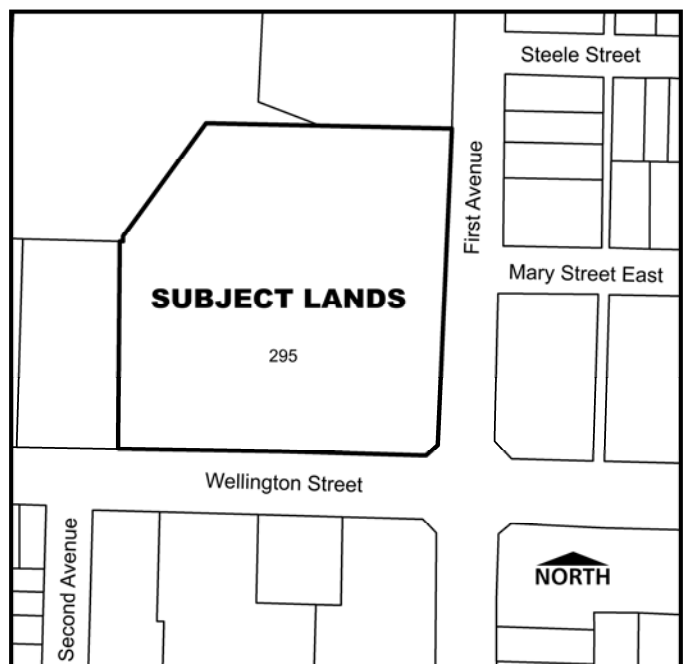
BACKGROUND:

- The applicant recently filed a minor variance application in support of the operation of a food kiosk on the subject lands, for the preparation and sale of ice cream (Clippity Clop Ice Cream Shoppe).
- The Committee of Adjustment deferred the application to provide City Council with the opportunity to consider a proposed draft Business Licence By-law, a copy of the staff report and draft by-law are attached.
- On the April 6, 2021 City Council meeting a staff report (TR-07-21) and a draft Business License By-law were brought forward by the Director of Finance and City Treasurer. City Council passed a resolution to receive the staff report and draft Business License By-law for information.

DRAFT BUSINESS LICENCE BY-LAW:

- "Refreshment Vehicle" shall mean any vehicle from which food or refreshments are sold for public consumption including carts, wagons, trailers, and trucks, irrespective of the type of motor power employed to move the refreshment vehicle from one point to another (Definitions - Section 1.0).
- "Portable Refreshment Structure" shall mean any portable structure (i.e., booth, kiosk, stand), other than a restaurant from which food and/or refreshments are offered for sale and/or sold for consumption by the public.
- Class 2 - A non-motorized Refreshment Vehicle or Portable Refreshment Structure where food products, either pre-packaged or prepared on site, are sold, or offered for sale. Sale operations under the Class 2 category are only permitted on private property (Licence Categories - Section 2.1 b)).
- A non-motorized cart or trailer that is mobile and can prepare food or sell pre-packaged food (CLASS 2 Refreshment Vehicles and Portable Refreshment Structures - Section 4.1).
- Class 2 Refreshment Vehicles, as described in Section 4.1 of this schedule, can conduct business on private property that is zoned for restaurant or restaurant takeout and with the written permission of the property owner (Class 2 Operating on Private Property - Section 4.8).
- Class 2 Refreshment Vehicles, as described in Section 4.1 of this schedule, are permitted to conduct business in those areas that meet all the following criteria (Class 2 Operation on Private Property - Section 4.9):
 - a) a location that is outside of the Business Improvement Area (BIA);
 - b) A location that is a minimum of 30m from an existing restaurant, including other vendors licensed under this By-law;
 - c) a location that is a minimum of 30m from a residence;
 - d) a location that is a minimum of 100m from a school, between the hours of 7am and 5pm;
 - e) a location that is a minimum of 100m from the boundary of a Special Event, unless otherwise permitted; and
 - f) operate (be open for business) between the hours of 7am-3am only (i.e., do not operate between 3am and 7am).

Location Plan:



- Class 2 business operating under section 4.1 of this schedule are limited to 8 licences (Licence Limits - Section 6.2).
- Applications will be available starting in November 1st for the following year. Licences will be issued starting on December 1st, on a first come, first serve basis. If on December 1st, there are more qualified applicants than licences available, a lottery will take place to determine who will be issued licences. If an individual has multiple applications, all other single applicants will be considered before an individual or corporation can receive multiple licences (Licence Limits - Section 6.6).
- All refreshment vehicles and Portable Refreshment Structures need approval from Southwestern Public Health and St. Thomas Fire Department, certifying that their business operation has satisfied all requirements to operate (Application Requirements - Section 7.1)
- The applicant must contact the City's Planning and Building Services to ensure the proposed property is zone for its intended use and supply this information with the application (Application Requirements - Section 7.2)
- In addition to all the requirements set out in this By-law, every application for a Class 1 and Class 2 Refreshment Vehicle licence shall include proof of insurance in respect of their Refreshment Vehicle that (Application Requirements – Section 7.3):
 - a) is satisfactory to the Licensing Administrator;
 - b) is in an amount of not less than \$2,000,000; and
 - c) requires that the Licensing Administrator be notified within sixty (60) days of its expiry.
- It is staff's understanding that City Council support the proposed draft Business License By-law in principle, subject to review by the Corporation of the City of St. Thomas City Solicitor.

COMMENTS:

- It is staff's understanding that the Clippity Clop Ice Cream Shoppe are proposing to operate out of an enclosed trailer on the subject lands, which under the draft Business License By-law will be licenced under the Class 2 category, as a non-motorized Refreshment Vehicle (Definitions - Section 1.1).
- Class 2 refreshment vehicles are permitted to conduct business on private property that is zoned for a restaurant. The subject lands are located within the Secondary Commercial Zone (C5), permitted uses include a restaurant (Class 2 Operating on Private Property - Section 4.8).
- Staff have reviewed the Class 2 criteria in the proposed draft Business License By-law and the proposed location of the Clippity Clop Ice Cream Shoppe conforms with the criteria under Section 4.9 of the proposed Business License By-law (Class 2 Operating on Private Property).
- In Staff's opinion the proposed variance meets the general intent and purpose of the Official Plan, Zoning By-law, is minor in nature, and is desirable and appropriate for the use of the lands, thereby satisfying the four tests, as set out in Section 45 of the Planning Act. Therefore, planning staff recommend that minor variance application COA02-2021 be approved, subject to the following conditions:
 - 1) Clippity Clop Ice Cream Shoppe shall provide confirmation from the Southwestern Public Health and the St. Thomas Fire Department, certifying that their business operation has satisfied all requirements to operate, to the satisfaction of the Corporation of the City of St. Thomas;
 - 2) Clippity Clop Ice Cream Shoppe shall provide proof of insurance, to the satisfaction of the Corporation of the City of St. Thomas; and
 - 3) Approval of Minor Variance Application COA02-2021 shall lapse on December 31, 2021.

Respectfully submitted,



Steve Craig
Senior Planning Technician