

**Minor Variance
COMMENTS TO THE COMMITTEE OF ADJUSTMENT
Panel 1**

Site Address: 115 Champagne Avenue South

Legal Description: Lots 15 to 17, Part of Lane, Registered Plan 131037

File No.: D08-02-16/A-00356

Date: January 13, 2016

Hearing Date: January 18, 2016

Planner: Robert Sandercott

Official Plan Designation: Mixed-Use Centre

Zoning: Residential Fifth Density Zone, Subzone B, Exception 1777 (R5B[1777]
S260)

SYNOPSIS OF APPLICATION

The Owners propose to add outdoor storage as a temporary permitted use on the subject property until such time as the second phase of the Soho Champagne development is constructed on the subject lands. The site presently contains a temporary sales centre for the Soho Champagne development and vacant land currently being used for the storage of motor vehicles. This application is an attempt to legitimize that use.

DEPARTMENT COMMENTS

The Planning, Infrastructure and Economic Development Department **objects** to the above noted application.

DISCUSSION AND RATIONALE

The City's Legal Services Branch has reviewed the application with regard to the authority of the Committee of Adjustment to grant approval for uses not allowed by the Zoning By-law via the Minor Variance process. While it is their opinion that a completely new, permanent use cannot generally be permitted, some flexibility is acknowledged in seeking approval for a temporary use in accordance with the permitted uses in the Zoning By-law, as an interim stage to a more permanent development, provided such a temporary use is determined to satisfy the four tests outlined under the *Planning Act*.

With this having been considered, it is the Department's position that the Applicant's request does not meet the intent of the relevant policies of the Official Plan, the Preston-Carling Secondary Plan, the Zoning By-law, and is not minor in nature. Should the Applicants wish to establish the proposed temporary use, a temporary Zoning By-law Amendment would be a more appropriate process through which to consider the Applicant's proposal.

Official Plan

The subject property is within the “Mixed-Use Centre” designation on Schedule B of the City of Ottawa Official Plan. In accordance with Policy 3.6.2 of the Plan, lands located within this designation are generally in areas identified as having a high potential to achieve compact and mixed-use development. Mixed-Use Centres are intended to accommodate a broad variety of transit-supportive land uses, such as offices, schools, hotels, large institutional buildings, retail uses, and high- and medium-density residential uses.

The use of a property for outdoor storage is not within the range of land uses normally intended to be accommodated within this designation. It should be noted that the subject lands are located within 600 metres of the Carling O-Train station. In this regard, Policy 3.6.2.7 states that uses that require the majority of their site to be devoted to the outdoor storage, sale or service of goods are not intended to be permitted in such a location.

Preston-Carling Secondary Plan

The subject property is designated as part of the “Station Area” in the Preston-Carling Secondary Plan. This area is intended to be developed with a wide range of transit-supportive uses, with the highest densities intended to occur along Carling Avenue and the nearby Carling O-Train/LRT station. The “Station Area” is further divided by Carling Avenue and the O-Train corridor into four quadrants, with the subject property located in the Northwest Quadrant.

The policies for the Northwest Quadrant state, among other things, that “high rise predominantly residential development as detailed in Schedule B in this plan may be permitted along Champagne Avenue up to Ev Tremblay Park”, with surrounding blocks intended to be developed with high-rise mixed use buildings to other mid or high-rise residential buildings.

The use of outdoor storage would not be considered within the intent of “predominantly residential development”, given that the proposal will result in a non-residential use being predominant, rather than at a scale that supports other residential uses in the area. The proposal is to occupy the majority of the subject property for storage; furthermore, its location on a corner lot would make this use appear more prominent along both streets.

City of Ottawa Zoning By-law

The property is presently designated R5B[1777] S260 in the City of Ottawa Zoning By-law. The underlying Residential Fifth Density Zone permits predominantly residential uses, including mid and high-rise apartment buildings. In addition to this, in accordance with Exception 1777 of the By-law, some commercial uses also permitted, however subject to multiple restrictions on their permitted location. In general, the permitted non-residential

uses on the site are intended to be located within a mixed-use building, and be of a size smaller in scale and secondary to the residential use of the lands, to serve the local surrounding area.

As the proposed outdoor storage is to serve a separate use located on a separate property, it cannot be considered an “accessory” use, but would instead be defined as a principal use “storage yard” under the Zoning By-law. The definition of this use is as follows:

“Storage yard means land used for outdoor storage, including:
(a) the storage of vehicles, including an automobile salvage operation or scrap yard;
(b) the storage of road maintenance material such as gravel or sand;
(c) the storage of construction, building or landscaping material; and
the storage of heavy vehicles or construction equipment, and includes
(d) an accessory maintenance garage used for the service and repair of the stored vehicles and equipment.”

A storage yard is not among the uses permitted in the R5B zone nor within Exception 1777, nor would the proposal appear to be of a size or scale that can be considered to be within the intent expressed by the zoning for permitted non-residential uses. The storage would be for an automobile dealership that serves the greater Ottawa area and beyond.

Given that the present tenant for the lands intends to use the property specifically for the storage of motor vehicles in association with an off-site automobile dealership, the planning rationale submitted by the Applicant has drawn comparisons between the proposed use of outdoor storage and that of a surface parking lot. However, the Department is of the opinion that a parking lot not associated with a use currently permitted by the zone would also not fall within the intent expressed by the Zoning By-law for this site. A parking lot is not permitted as a principal use in the present zoning.

It is acknowledged that the lands contained within this zone, which includes the abutting lot to the north (which contains the Phase One building for the Soho Champagne development), are to be considered as “one lot for zoning purposes”, and does not prohibit a surface parking lot as an accessory use to a permitted residential use on the same lot. However, the Department is also of the opinion that when reviewing these lands as “one lot”, the area on which the proposed use is to be located would be considered as part of the front yard, and that no parking spaces are permitted to be established within a required or provided front yard in an R5 zone. Consequently, relief from the Zoning By-law would in any case be required in order to permit surface parking at the subject location. In general, the Department objects to parking in a front yard.

Although the Zoning By-law does contain provisions permitting the use of a temporary

sales office for the sale of residential units, and does not subject such a temporary use to the parking provisions of the By-law, the Department would suggest that the expected parking demand for a sales centre would generally require less space for parking and consequently have less potential impact than the amount of space proposed to accommodate the proposed outdoor storage.

In spite of the above, it is noted that the variance presently being requested is to permit the use of “outdoor storage” on the subject lands. Although the current intention is to use the property specifically for the storage of motor vehicles for an automotive dealership, the Department is concerned that the definitions of “storage yard” and “outdoor storage” would potentially allow for a wider range of outdoor storage uses than what is presently intended for the temporary use. Staff are also greatly concerned that a clear time limit for the proposed temporary use has not been specified by the Applicants. While the stated intent is to permit this use until such time as Phase Two of the Soho Champagne development commences construction, the Applicant has not given any clear indication as to when construction is expected to occur.

Should the Committee decide to approve this application, Staff request that it be subject to the outdoor storage being limited to the storage of motor vehicles, and subject to a time limit in accordance with the statutory limitations of the *Planning Act* for a temporary Zoning By-law Amendment (i.e. three years).

In conclusion, the Department is of the opinion that the proposed temporary use does not meet the statutory tests under the *Planning Act* for a Minor Variance. The proposed use is not minor in terms of potential impact. There are no permitted uses in the present zoning designation that the proposed outdoor storage can be considered to be similar to, and the proposal does not maintain the intent of the relevant policies of the Zoning By-law and Official Plan, in spite of its intended temporary nature.

It is the opinion of Staff that a temporary Zoning By-law Amendment would be the more appropriate process to consider the proposed use, would allow for a more fulsome review process, and would be more effective in ensuring a clear time limit for the removal of the temporary use in accordance with the *Planning Act*.

“Original signed by Robert Sandercott”

Robert Sandercott
Planner

“Original signed by Simon Deiacó”

Simon Deiacó (or designate)
Planner III
Development Review, Central Branch
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