



City of
Peterborough

TO: Members of the Planning Committee

FROM: Ken Hetherington, Manager, Planning Division

MEETING DATE: March 25, 2013

SUBJECT: Report PLPD13-022
861 Lansdowne Street West – Zoning By-law Amendment

PURPOSE

A report to evaluate the planning merits of amending the Official Plan and Zoning By-Law for the property known as 861 Lansdowne Street West to permit a small scale retail establishment for the sale of eyewear and related accessories/products with a minimum floor area of 250m².

RECOMMENDATION

That the applications to Amend the Official Plan and Rezone the lands known as 861 Lansdowne Street West to permit a small scale retail establishment for the sale of eyewear and related accessories/products with a minimum floor area of 250m² as outlined in Report PLPD13-022 dated March 25, 2013, of the Manager, Planning Division, ***be denied***, based on the following:

The proposed amendments to the Official Plan and Zoning By-Law to introduce small scale retail within a new development on lands designated Special Purpose Retail is not consistent with Peterborough's planned commercial structure and the amendments have not been justified.

BUDGET AND FINANCIAL IMPLICATIONS

There are no direct budget or financial implications arising from the denial of this application.

RATIONALE

Denial of this Official Plan and Zoning By-Law Amendment is based upon the following:

The City's Official Plan establishes a Commercial Structure as outlined in Section 2.3 of the Plan. Shopping Nodes are illustrated on Figure 1 of the Official Plan, located at strategic locations within distinct portions of the City and developed historically with a shopping centre. These Shopping Nodes include related commercial sites and have distinct functions within the Commercial Structure.

The Special Purpose Retail Designation was created to provide opportunity for new large format retail within Shopping Nodes, on lands that are in close proximity to Major Shopping Centres. The subject lands are located within the Lansdowne-Parkway Node, anchored by Lansdowne Place and the Parkway Centre and designated 'Special Purpose Retail' since the Comprehensive Commercial Policy Review, 2000. The policies are very clear in that new retail development within the Special Purpose Retail Designation is intended to differentiate the type and size of permitted uses, and specifically exclude provision for smaller retail uses or premises that are typical of the Central Area and Major Shopping Centres except where the buildings existed at the time of the designation in 2001.

The following is an excerpt from Section 4.3.4.1 of the Special Purpose Retail policies:

"In general, smaller retail uses or premises of the types typical of the Central Area and Major Shopping Centres are not permitted, except where in existence at the time of designation in the Special Purpose Retail category."

The subject lands have recently been rezoned (June, 2010) to C.7 – Special Purpose Retail District, to implement the Special Purpose Retail policies of the Official Plan. The applicants purchased the property subsequent to the approval of the C.7 amending zoning by-law, and have since demolished the former building and commenced construction of two new commercial buildings.

Despite confirmation by the applicant at the Site Plan Approval stage that the proposed westerly building would not be occupied by smaller retail units, the minimum unit size restrictions in the C.7 Zoning were ignored, due to market pressures, according to the Planning Justification Report submitted with the application. The City's Official Plan seeks to maintain healthy interaction and balance within its commercial structure. New and expanded retail facilities are supported outside of the Central Area within Shopping Nodes, in accordance with the policies.

The subject application proposes to introduce small scale retail uses within a new development contrary to the intent and purpose of the Special Purpose Retail policies and should not be supported.

BACKGROUND

The subject application was received on November 14, 2012, deemed to be complete as of November 30, 2012 and was processed in accordance with department procedures. The Planning Act allows applicants to appeal Zoning By-Law Amendment applications after the expiry of 120 days of the application being deemed complete. The applicant will be in a position to file an appeal to the Ontario Municipal Board on April 1, 2013 if Council has not made a decision.

The subject property is approximately 0.54 ha. (1.35 ac.) in size, located on the south side of Lansdowne Street West, between The Parkway and High Street (former Rural Roots – Co-op).

The owner purchased the property in 2011. The former building on the property was demolished and two new buildings were proposed via a Site Plan Application in November, 2011. The construction of the two buildings is currently underway in accordance with the approved Site Plan. The buildings are free standing, measuring 532m² (proposed bank with drive thru) and 965.3m² in size. The applicants were advised by Planning Staff both at time of purchase and at the Site Plan Approval stage, about the minimum size restrictions of 700m² (7535 ft.²) per unit in the C.7 Zoning District for retail establishments. The following excerpt from a letter dated January 27th, 2012 to Brian Buchardt, Urban Design Planner for the City, from Eduardo Ortiz, Principal of Architecture Unfolded, on behalf of the applicant, indicates that the applicant was fully aware of the minimum size requirements and intended to use the westerly building (Building 'B') for uses other than those requiring a minimum size:

“All related drawings have been revised to clarify that building ‘B’ consists of four individual retail units which are not classified under permitted use 18A.2a) and therefore are not subject to the minimum 700 sq. m. regulation.”

The application now seeks exemption from the provisions of both the Official Plan and the Zoning By-Law to permit a single retail use with a minimum unit size of 250m² (2691 ft.²), not permitted by policy or by zoning regulation.

The Planning Justification Report prepared by Kevin Duguay in support of the application compares the proposed amendment to amendments approved for other suburban properties in the City that are challenged by building space unable to accommodate large format retail.

The following excerpt from the Planning Justification Report explains the rationale for the request:

“the Applicant/property owner, could have conceivably proceeded with the development-design of the westerly free-standing building to accommodate a single retail use. However, the market realities simply did not facilitate such an opportunity. Thus, the development-design of the westerly building proceeded in response to market realities.”

ANALYSIS

a) Official Plan

The lands are currently designated “Commercial” on Schedule ‘A’ – Land Use of the City of Peterborough Official Plan. Schedule ‘I’ – Commercial Area designates the lands as ‘Special Purpose Retail’.

The purpose of the ‘Special Purpose Retail Commercial’ designation of the property, is to provide *“for the development of large retail uses, preferably in a form of development where access, general building configuration and other matters are co-ordinated with those of adjacent properties.”*

Permitted uses within the ‘Special Purpose Retail Commercial’ designation include large retail stores, generally having a gross floor area of not less than 750 square metres, not including a supermarket, a department store or similar mass general merchandiser; personal service shops; eating establishments; gas bar and automotive sales and service uses; commercial recreation and assembly uses; financial services and public and community facilities uses. The designation further includes special provision to recognize buildings that existed at the time of designation (2001) at smaller sizes with reasonable flexibility and recognizes existing supermarkets, offices or clinics.

The application proposes to introduce a site specific policy exception to permit the introduction of a single small scale retail use for the sale of eyewear and related accessories/products, in a new building, having a minimum floor area of 250m².

The proposed amendment represents a departure from the intent and purpose of the City’s Special Purpose Retail designation and it’s role in the City’s commercial structure. Approval of this amendment has the effect of undermining the policies and the fundamental principles of the Special Purpose Retail designation. Planning Staff do not support this application.

b) Zoning By-law

The subject property is currently zoned C.7 – Special Purpose Retail District, restricting the use of the lands for commercial purposes with a minimum floor area of 700m² per unit for retail establishments. The C.7 Zoning District requires new developments such as that proposed for the subject lands, comply with the Official Plan direction as set out in the Special Purpose Retail policies.

In addition to the large format retail uses, the C.7 – Special Purpose Retail Zoning District permits the following uses that are otherwise not prescribed a minimum size by regulation and could occupy the smaller uses contemplated by the applicant:

- a retail establishment for the sale of beer, wine or liquor
- a video rental establishment
- a bank, financial institution or loan company, including an automated banking machine
- a personal service establishment
- a retail convenience store
- a sub post-office
- a dry cleaning depot
- a place of assembly
- a private club
- a place of entertainment, excluding a cinema
- an art school, music school, dance school or fine arts school
- a gymnasium or health club
- a place of amusement
- a hotel
- a restaurant
- a service station or a gas bar
- a car wash
- a muffler, auto glass or other motor vehicle repair establishment
- a repair shop
- a nursery or greenhouse
- a funeral parlour
- a police station
- an ambulance station
- a fire hall
- a church
- a library, museum or art gallery
- an animal hospital or veterinary office
- a rental establishment
- a printing shop
- a flea market
- an auction hall
- a parking lot or parking garage
- a miniature golf course
- a taxi stand

The application to amend the minimum floor area requirement for a retail establishment for the sale of eyewear and related accessories/products to 250m² is not in keeping with the intent and purpose of the Official Plan. The only instance whereby such flexibility is contemplated is to facilitate the reuse of a building which existed at the time of designation, and is designed to accommodate smaller uses. The policies do not support the construction of a new building as proposed for the subject lands.

RESPONSE TO NOTICE

a) Significant Agency Responses:

Agency circulation was issued on December 6, 2012.

No agency has expressed any significant concerns or requests with respect to the proposed Official Plan Amendment and/or Rezoning of the subject property.

b) Summary of Public Responses:

Notice of Complete Application was issued on December 1, 2012 by newspaper advertisement (Peterborough Examiner) and Notice of Public Meeting was issued by direct mail and by newspaper advertisement (Peterborough Examiner) on February 25, 2013. The notice complies with the requirements of the Planning Act.

No written comments have been received as of March 4, 2013.

Submitted by,

Ken Hetherington,
Manager, Planning Division

Prepared by,

Concurred with,

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Attachments:

Exhibit A - Land Use Map

Exhibit B – Concept Site Plan

Exhibit C – Proposed Elevation

Land Use Map

Exhibit 'A'
Page 1 of 1

File # z1224 & o1208

Property Location: 861 Lansdowne St W

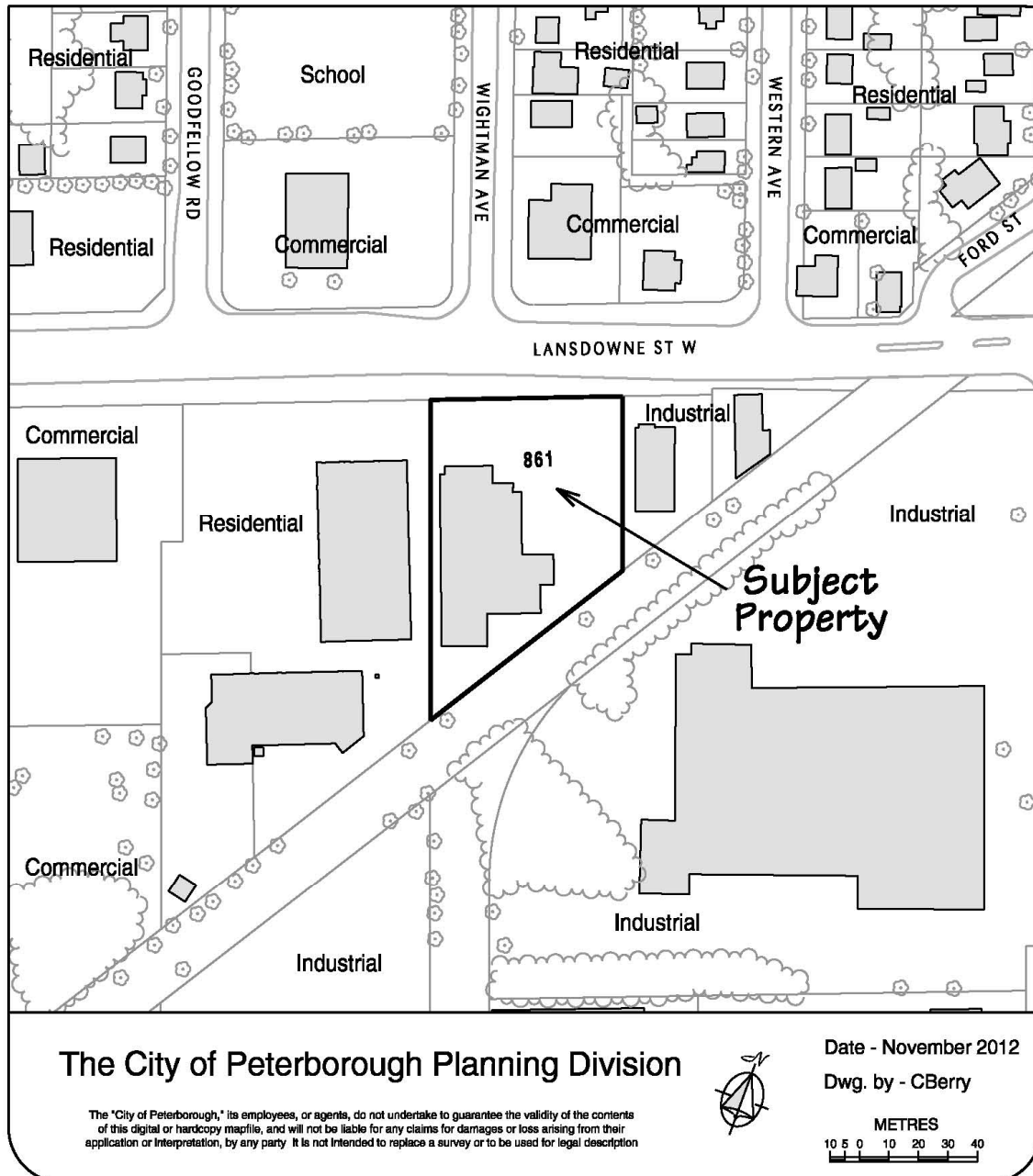
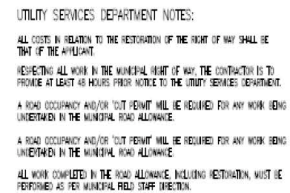


Exhibit 'B'
Page 1 of 1



Proposed Elevation – Building B (West Building)

Exhibit 'C'
Page 1 of 1

