



The Corporation of the Municipality of Leamington

Public Meeting Agenda

Zoning By-law Amendment

Monday, October 19, 2015

Commencing at 6:05 PM

In Leamington Council Chambers

Item for Consideration:

1. **Zoning By-law Amendment #109 for 108 Erie Street North, 4 & 6 Ivan Street and 9 & 13 Foundry Street**
 - a. Notice of Public Meeting dated September 30, 2015
Pages 2 to 3
 - b. Report PLA-51-15 dated August 27, 2015 regarding Zoning Amendment Application ZBA #109, 108 Erie Street North (080-00300), 4 Ivan Street (080-12400), 6 Ivan Street (080-12300), 9 Foundry Street (080-10100) and 13 Foundry Street (080-10200) and Council Resolution C-258-15 (previously presented to Council on September 14, 2015)
Pages 4 to 12



THE CORPORATION OF THE MUNICIPALITY OF LEAMINGTON
NOTICE OF A COMPLETE APPLICATION AND PUBLIC MEETING
TO CONSIDER A ZONING BY-LAW AMENDMENT

ZBA #109 - 108 Erie Street North, 4 & 6 Ivan Street and 9 & 13 Foundry Street

TAKE NOTICE that the Council of The Corporation of the Municipality of Leamington will hold a public meeting concerning a proposed zoning by-law amendment under the provisions of the Planning Act, R.S.O. 1990 on **Monday, October 19, 2015 at 6:00 pm** in the Council Chambers at the Municipal Building.

THE PURPOSE of the proposed amendment is to recognize the existing automobile sales and service establishment located at 108 Erie Street North, including 4 and 6 Ivan Street (see inserted key map) as a permitted use in the Commercial Uptown Zone (C1). The subject properties are designated Highway 77 Corridor Commercial District in the Official Plan, as shown on Schedule "A-6D" and are zoned C1 under Zoning By-law #890-09, as shown on Map 36. The amendment is being considered in part under the provisions of Section 7.12 of the Official Plan which deals with existing uses. Additionally, the amendment seeks to allow the lands located at 9 and 13 Foundry Street to be used as a parking lot accessory to the abutting automobile sales and service establishment with all development provisions subject to Site Plan approval. The subject properties are designated Residential in the Official Plan, as shown on Schedule "A-6D" and are zoned R2 under Zoning By-law #890-09, as shown on Map 36.

ANY PERSON may attend the public meeting and/or make written or verbal representation either in support of or in opposition to the proposed zoning by-law amendment.

IF A PERSON or public body does not make oral submissions at the Public Meeting or make written submissions to The Corporation of the Municipality of Leamington before the by-law is passed, the person or public body is not entitled to appeal the decision of Council of The Corporation of the Municipality of Leamington to the Ontario Municipal Board.

IF A PERSON or public body does not make oral submissions at the Public Meeting or make written submissions to The Corporation of the Municipality of Leamington before the by-law is passed, the person or public body may not be added as a party to the hearing of an appeal before the Ontario Municipal Board unless, in the opinion of the Board, there are reasonable grounds to do so.

ADDITIONAL INFORMATION relating to this matter is available for review at the Municipal Office for The Corporation of the Municipality of Leamington, during regular office hours. Please contact Brian Nagata, Development Planner, for further information.

DATED at the Municipality of Leamington this 30th day of September, 2015.

TRACEY PILLON-ABBS, DIRECTOR OF COMMUNITY & DEVELOPMENT SERVICES
MUNICIPALITY OF LEAMINGTON, 111 ERIE STREET NORTH
LEAMINGTON, ONTARIO N8H 2Z9 TELEPHONE: (519) 326-5761



Legend

Aerial Photography : April 2013



ZBA#109

108 Erie Street N. – Julie Fleishmann Holdings Ltd.

4 Ivan – Julie Fleishmann Holdings Ltd.

6 Ivan – Julie Fleishmann Holdings Ltd.

9 Foundry Street – E. Nelson

13 Foundry Street – P. & R. Vince

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All efforts have been made to ensure accuracy and completeness, however no guarantees can be made.

Provided by the: Municipality of Leamington Planning Services

111 Erie Street North, Leamington, Ontario N8H 2Z9

TEL: (519) 326-5761 FAX: (519) 326-2481

Inter-Office Memo

To: Director of Community & Development Services Tracey Pillon-Abbs
Manager of Planning Services Danielle Truax
Development Planner Brian Nagata

Cc: Planning Services Assistant Carol Derksen

From: Manager of Legislative Services Kim Siddall

☒ For Your Information

☒ Requires Your Attention

☐ Legislative Services will forward By-law for signatures

☐ Please forward agreement to Legal Services

☒ Please forward copy of Public Meeting to Legislative Services

☐

As per Confirming By-law 508-15

Please be advised that the Council of The Corporation of the Municipality of Leamington, at its meeting held Monday, September 14, 2015 enacted the following resolution:

No. C-258-15

That Zoning By-law Amendment Application ZBA #109, to recognize an existing automobile sales and service establishment as a permitted use on properties located at 108 Erie Street North, 4 and 6 Ivan, and to permit a parking lot as an accessory use to an existing automobile sales and service establishment including the establishment of zone provisions through Site Plan Control, on properties located at 9 and 13 Foundry Street, was reviewed and deemed to be complete pursuant to the requirements of the Planning Act;

And that Administration be directed to schedule the required Public Meeting for the purpose of receiving public comments (PLA-51-15).

Report

To: Mayor and Members of Council
From: Brian Nagata, Development Planner
Date: August 27, 2015
Re: Zoning Amendment Application ZBA #109
108 Erie Street North (080-00300)
4 Ivan Street (080-12400) & 6 Ivan Street (080-12300)
9 Foundry Street (080-10100) & 13 Foundry Street (080-10200)

Aim:

To provide Council with information regarding an application to amend Zoning By-law #890-09 to:

- Recognize an existing automobile sales and service establishment as a permitted use
- Permit a parking lot as an accessory use to an existing automobile sales and service establishment, including the establishment of zone provisions through Site Plan Control.

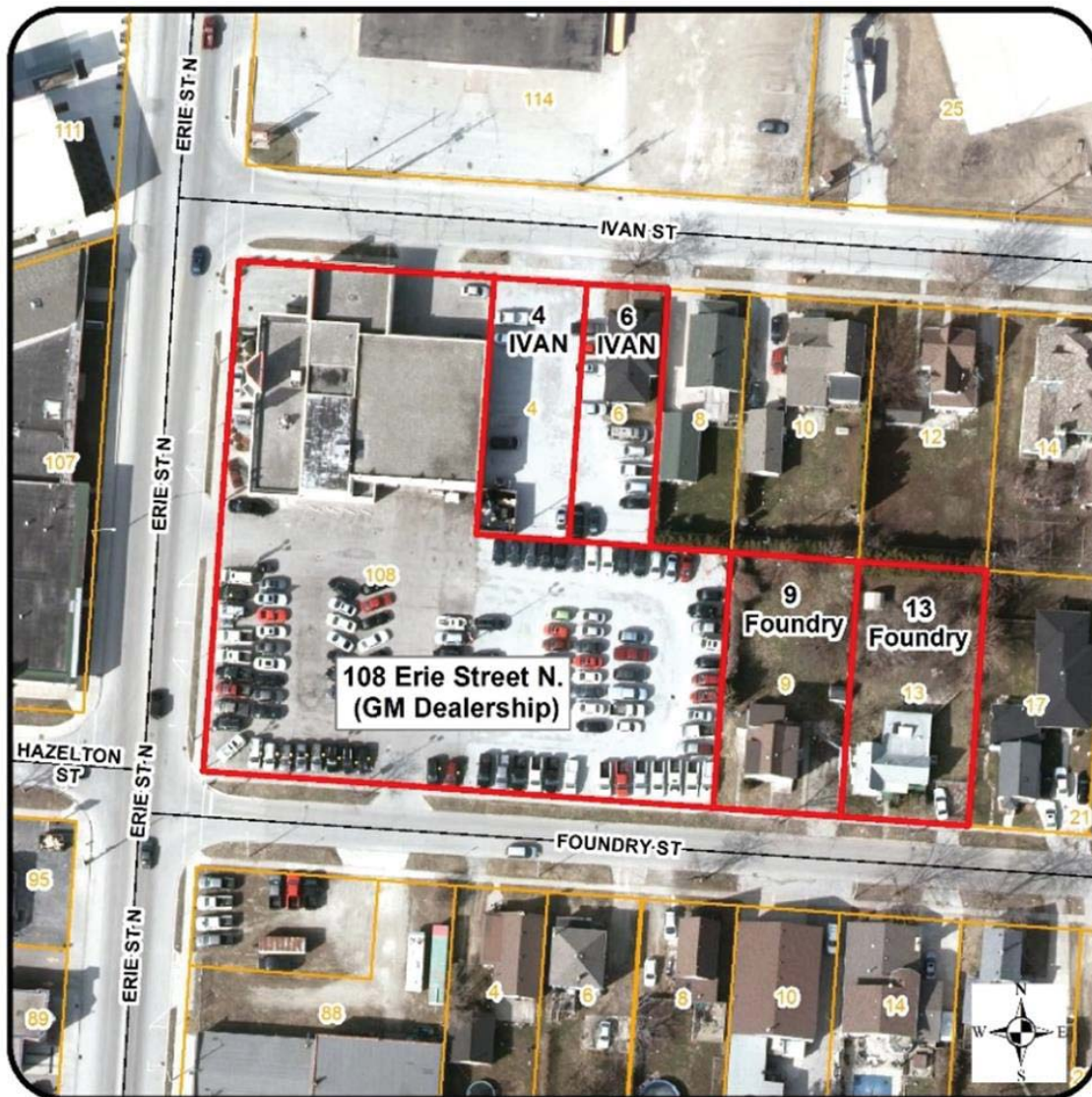
Background:

Staff has received a request to amend the zoning for five adjoining properties known as 108 Erie Street North, 4 & 6 Ivan Street and 9 & 13 Foundry Street (see inserted key map). The properties have a combined area of 0.8 ha (1.98 ac.) and frontage on Erie Street North, Foundry Street and Ivan Street.

Three of the properties are currently being used as a car dealership and are within a Highway 77 Corridor Commercial District OP designation and a Commercial Uptown Zone (C1). The car dealership has existed on the site since 1962 and expanded onto 4 & 6 Ivan Street in 2008.

The site includes a 961.73 m² (10,352 sq. ft.) building for the sale and service of vehicles, a single detached dwelling at 6 Ivan Street still being used for residential purposes, and a paved parking area in part and gravel parking area in part for the display of vehicles, employee parking and customer parking. 108 Erie Street North is subject to a Site Plan Agreement approved in 2003, and amended in 2005. The Site Plan Agreement does not include 4 & 6 Ivan Street, as the previously noted expansion was completed without Municipal approval.

The remaining two properties were acquired by the applicant in April 2015. The properties are within a Residential OP designation and Residential Zone (R2), and are currently being used for that purpose.



Key Map of Subject Properties

The surrounding area consists of commercial and industrial uses to the north, an established residential neighbourhood to the east, an established residential neighbourhood and commercial uses to the south, and commercial and institutional uses to the west. The commercial uses in this area are transitional in nature, providing uses of a scale and nature that fall somewhere in between those found in the uptown and highway commercial to the north.

The subject properties are on full municipal services, and are not located within the BIA area or the Uptown Community Improvement Plan Project Area.

Details pertaining to the zoning, size, and existing and proposed uses of each of the five properties are listed in the chart below.

Property	Official Plan	Zoning	Area	Current Use	Proposed Use
108 Erie Street North	Hwy 77 Corridor Commercial District	C1	0.53 ha (1.31 ac)	Automobile Sales and Service Establishment	Automobile Sales and Service Establishment
4 & 6 Ivan Street	Hwy 77 Corridor Commercial District	C1	1,111 m ² (11,958.67 sq. ft.)	Automobile Sales and Service Establishment & Single Detached Dwelling	Automobile Sales and Service Establishment & Single Detached Dwelling
9 Foundry Street	Residential	R2	809 m ² (8,708 sq. ft.)	Single Detached Dwelling	Parking Lot (Accessory to Automobile Sales and Service Establishment)
13 Foundry Street	Residential	R2	809 m ² (8,708 sq. ft.)	Single Detached Dwelling	Parking Lot (Accessory to Automobile Sales and Service Establishment)

Proposal:

The applicant is requesting that the existing car dealership be recognized as a permitted use, as well as a minor expansion to the existing parking lot.

The car dealership is not permitted under the current Commercial Uptown Zone (C1). The site was previously zoned Highway Commercial Zone (C2) under the former Town of Leamington Zoning By-law 4300-96, which permitted the car dealership. The change in zoning has resulted in the car dealership going from being a permitted use to a legal non-conforming use.

Legal non-conforming uses are permitted, however are restricted from any further development for that use and over the long term it is intended that they relocate to areas that are deemed more appropriate. The application proposes to site specifically allow the car dealership over the subject properties within the Commercial Uptown Zone (C1).

The second part of the application seeks to allow the two properties fronting Foundry Street to be used as a parking lot accessory to the car dealership. The applicant is currently using a portion of the property across the street at 107 Erie Street North, known as the Firebox, as an additional parking area. The applicant has submitted a concept plan illustrating how they foresee the two properties being developed.

The application has been submitted together with a Planning Justification Report (PJR) in support of the proposed application, which has been prepared by Jackie Lassaline, Principal Planner with Crozier Baird, dated July 10, 2015.

Comments:

Existing Auto Sales and Services Establishment

The OP recognizes that there are uses which were in existence prior to land use designations being established. These uses can be recognized in the zoning by-law or left as legal non-conforming uses. As legal non-conforming uses they are allowed to be there, however must seek approval from the Committee of Adjustment or make an application for a Zoning By-law Amendment for any extensions or enlargements to the use. As a permitted use, the use is allowed to be there with no further permissions necessary to make changes on-site.

The application seeks to allow the car dealership as a permitted use at this site. Council must be satisfied that the location is appropriate for the use and that in the long term it does not wish to see this type of use relocated to another area within the Municipality.

The commercial development that has occurred in the surrounding area consists primarily of uses that are common in the uptown area, however at a lower density which accommodates onsite parking and landscaped open space.

Though car dealerships contribute to the economic viability of an area, there are a number of nuisances commonly associated with their operation. These nuisances include but are not limited to noise (loud speakers for communicating messages to office and service staff), security lighting, and traffic (frequent ingress and egress of vehicles resulting from customers, employees and deliveries).

Car dealerships are permitted in the Commercial Highway Zone (C2) and Commercial Industrial Zone (C4), which are typically located in areas with an Eastern Commercial District, Highway 77 Corridor Commercial District or Western Commercial District designation. Car dealerships are typically located in areas with high visibility, easy accessibility for automobiles and delivery trucks, large areas for outdoor storage, other similar uses, and low levels of pedestrian traffic.

The owner does own a 5.94 ha (14.68 ac) property (342 Erie Street North) at the southeast corner of the intersection of County Road 33, Erie Street North, Highway 3 and Highway 77. The Highway 77 Corridor Commercial District would permit a car dealership, however a rezoning would be required to change the corresponding Commercial Shopping Centre Holding Zone (C3(h)) to a Commercial Highway Zone (C2) or Commercial Industrial Zone (C4), both of which permit a car dealership would be appropriate in this area. In addition, adequate sanitary and storm servicing would need to be in place to lift the holding provision, subsequently allowing the development to proceed. At this time, the sanitary services needed to develop a modern automobile sales and service establishment are not available to this area.

The owner has recently invested money into facades on the existing building and would like to continue at the current location together with the requested expansion.

Accessory Parking Lot Expansion

The second part of the application seeks to use residentially designated lands for a parking lot that is accessory to the car dealership.

The application purposes to leave the lands in the Residential Zone (R2), but allow a parking lot accessory only to the car dealership. The proposed zoning would allow the lands to be used as a parking lot in addition to the uses permitted under the Residential Zone (R2). This approach will ensure that the parking lot is limited in what it can be used for and encourage uses permitted under the Residential Zone (R2) to be re-established upon the car dealership relocating.

Accessory parking lots for commercial uses are not permitted under the Residential designation. Nonetheless, Section 7.16 of the OP does provide a policy that specifies that its intent in all cases is to be considered flexible, with no strict interpretation of any boundary line, figure or policy statement; provided that the development is deemed to be necessary for the desirable development of the planning area, and that the general intent of the OP is maintained. This provision allows for flexibility in planning, to plan beyond the defined designation lines under special circumstances (i.e. properties with more than one designation). This is a very broad policy to apply to the interpretation of where a line falls on a schedule that for the most part, and in this case follows property lines. It is pertinent that the use of this policy is sufficiently justified, as its intent is not to provide an avenue for avoiding having to submit an Official Plan Amendment application when one is warranted.

Upon review of the application and the supporting Planning Justification Report, Administration is of the opinion that further justification is required to address the following matters:

- How is the use of the above noted policy appropriate in this situation?
- Why is the proposal necessary for the desirable development of the planning area?
- How is the proposal consistent with the general intent of the OP and Residential policies?
 - In particular, that the application does not permit non-residential uses which are encroaching into residential areas.
- That the expansion into the residential lands can be appropriately justified given the existing legal non-conforming residential use at 6 Ivan Street.
- That the proposed expansion is necessary for the economic vitality of the car dealership and that no other locations are available without undue hardship on the owner.

Input from the public, through the public consultation process will help to paint a clearer picture for Administration and Council on the impact that the car dealership is currently having on the neighbourhood and what could be expected if allowed to expand.

Provincial Policy Statement

The proposed amendment is consistent with the direction of the PPS and contributes to the continued long term economic prosperity of the Uptown Commercial Area. The proposed amendment is an efficient use of land as the use requires no expansion of municipal

services, no natural heritage features or hazards are present and the development can be appropriately designed to ensure compatibility with the surrounding land uses.

The planning opinion provided in Section 2.0 of the PJR satisfactorily demonstrates that the proposed amendment is consistent with the direction of the Provincial Policy Statement, in particular those sections addressing healthy liveable communities, levels of servicing, and long term economic prosperity.

County Official Plan

The subject lands are designated within a Primary Settlement Area as shown on Schedule A2 of the County Official Plan. The land use goals and policies of the County OP mirror those of the PPS with respect to the efficient use of land and infrastructure, the promotion of compact and vibrant areas which maintain land use compatibility. The County OP directs that local Official Plans and Zoning By-laws will be used to control development within the settlement areas.

Leamington Official Plan

The Highway 77 Corridor Commercial District designation, on the lands occupied by the existing car dealership, permits and encourages this type of development.

The lands to be developed as a parking lot are currently designated as Residential. The expansion of the Highway 77 Corridor Commercial District onto these lands would require an Official Plan Amendment. However, due to the nature of the proposed use, it has been suggested that Section 7.16 of the OP can be used and would be appropriate in this situation to allow for flexibility in interpreting the boundary of the Highway 77 Corridor Commercial District. As previously noted, it is Administration's position that further justification from the applicant's planner, as well as input from the public, is required to support the use of this broad policy to allow the proposed use.

Zoning By-law 890-09

The proposed amendment will recognize the existing car dealership as a permitted use on the lands known as 108 Erie Street North and 4 & 6 Ivan Street.

The second part of the proposed amendment will allow a parking lot accessory to the car dealership on the lands known as 9 & 13 Foundry Street, in addition to the uses permitted under the Residential Zone (R2). The amendment seeks to establish that the applicable zone provisions for this use will be determined through the Site Plan Control approval process.

Development on all lands would be subject to Site Plan Control.

Financial Impact:

It is not anticipated that there will be any direct financial impacts to the municipality in consideration of the application. The subject properties are not located within the CIP area and are not eligible for any grants under that program.

Conclusion

Administration has received all of the information required under the Planning Act, as well as the materials deemed necessary to consider the application complete.

Administration notes the position of the applicant's planner and has determined that further justification may be required to ensure conformity with the OP and consistency with other relevant planning legislation and policies. In particular, administration acknowledges the enabling policies to recognize the existing legal non-conforming car dealership as a permitted use subject upon demonstration that the application meets the listed criteria. However further justification and input from the public is necessary to determine whether the proposed use of 9 & 13 Foundry Street conforms to the direction of the OP.

Administration is recommending that the application be deemed complete, as the prescribed information has been received and that the public meeting be scheduled and that all materials, including relevant reports be made available to the public.

The circulation of the application and the public meeting will provide the applicant's planner and Administration an opportunity to receive input on the long term and short term impact of permanently allowing the car dealership in this location and the impact of the proposed non-residential use into the residential area.

Recommendation:

That Zoning By-law Amendment Application ZBA #109 to recognize an existing automobile sales and service establishment as a permitted use, and permit a parking lot as an accessory use to an existing automobile sales and service establishment including the establishment of zone provisions through Site Plan Control, was reviewed and deemed to be complete pursuant to the requirements of the Planning Act;

And that Administration be directed to schedule the required Public Meeting for the purpose of receiving public comments. (PLA-51-15)

Respectfully submitted,

Brian Nagata

Digitally signed by Brian Nagata
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ou=Development Planner,
email=bnagata@leamington.ca, c=CA
Date: 2015.09.08 10:22:55 -04'00'

Brian Nagata
Development Planner

Danielle Truax
Manager of Planning Services

Tracey Pillon-Abbs,
Director of
Community &
Development Services

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Abbs, Director of Community &
Development Services
Date: 2015.09.08 11:52:56 -04'00'

Tracey Pillon-Abbs
Director of Community and Development Services

Peter Neufeld,
CAO

Digitally signed by Peter Neufeld, CAO
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email=pneufeld@leamington.ca, c=CA
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Concept Plan of Proposed Parking Lot Expansion

