

July 23rd, 2015

CONSOLIDATION REPORT
VARIANCES

The attached comments have been reviewed with regard to Committee of Adjustment Variance Application AN/A-15:205 (407 Wilson Street East, Ancaster) and the following comments are submitted:

Should the Committee approve the application, an approval should be subject to the following condition:

1. The owner shall apply for and receive an encroachment agreement for the landscaping boxes that encroach within the Wilson Street road allowance, to the satisfaction of the Public Works Department, Traffic Division.

July 23rd, 2015

AN/A-15:205 (407 Wilson Street East, Ancaster)

PLANNING and ECONOMIC DEVELOPMENT DEPARTMENT

Development Planning – Suburban:

The applicant is proposing to permit a motor vehicle service sales establishment in conjunction with the existing motor vehicle service establishment.

Urban Hamilton Official Plan

The subject lands are identified as "Community Node" on Schedule "E" – Urban Structure and designated "Mixed Use – Medium Density" on Schedule "E-1" – Urban Land Use Designations in the Urban Hamilton Official Plan (UHOP).

Volume 1, Chapter E, policy 2.3.3.2 states:

"Within each Community Node a range of uses shall be provided that allow for access to housing, employment, services, and recreation in close proximity to each other and transit. The Community Nodes shall provide services to residents within the former area municipalities and surrounding neighbourhoods in a mixed use environment."

The proposed use would be permitted in the "Community Node" as it provides employment and services on a transit route in a mixed use environment.

Further policy 2.3.3.17 states:

"The Community Node shall contain a broad mix of uses. Where possible, this mix of land uses should include developments either as mixed use buildings or a mix of uses on the same property. Redevelopment of larger sites provides significant opportunities to transform the character of a Node. Therefore, on sites greater than 2.5 hectares, a mix of uses shall be required in major redevelopments."

The proposed motor vehicle sales establishment is providing for a mix of uses on the same property as it will function in conjunction with the existing service station.

In addition, 4.6.5 and states:

"The following uses shall be permitted on lands designated Mixed Use - Medium Density on Schedule E-1 – Urban Land Use Designations:

- a) commercial uses such as retail stores, auto and home centres, home improvement supply stores, offices oriented to serving residents, personal services, financial establishments, live-work units, artist studios, restaurants, gas bars, and drive-through facilities;

...../2

AN/A-15:205
Page 2

Lastly, Prohibited Uses in policy 4.6.6 states:

"The following uses shall be prohibited on lands designated Mixed Use - Medium Density on Schedule E-1 – Urban Land Use Designations:

- a) gas bars and car washes on pedestrian predominant streets;
- b) vehicle dealerships; and,
- c) garden centres as a primary use."

Therefore, the proposed motor vehicle sales establishment is not a permitted use in the UHQP.

In addition, the lands are designated "Mixed Use - Medium Density" and "Pedestrian Predominant Street" in the Ancaster Wilson Secondary Plan. The lands are also identified as being part of the "Community Node" area and the "Village Core" area.

Within the secondary plan, vehicle dealerships are a prohibited use in the "Mixed Use – Medium Density" Designation (Volume 2, Policy 2.8.8.4 and Volume 1, Policy E.4.6.6b as noted above). Staff have concerns that the proposed motor vehicle sales establishment is also not consistent with the intent of the policies relating to Pedestrian Predominant Streets in the Urban Hamilton Official Plan.

Staff note the following policy in the Secondary Plan relating to parking areas on Pedestrian Predominant Streets:

- "2.8.8.5e) Private and public parking areas are permitted on lands designated Mixed Use – Medium Density, and identified as Pedestrian Predominant Streets, subject to the following:
 - i) Parking areas shall be buffered from the street through the use of building placement or enhanced landscaping;
 - ii) The location of parking areas shall not negatively affect the pedestrian environment or access to building; and,
 - iii) Private and public parking areas are encouraged to provide for shared parking for several uses within the Village Core."

The Ancaster Wilson Street Urban Design Guidelines also apply to the subject lands.

Ancaster Zoning By-law No. 87-57

The lands are zoned Village Area "VA-436" Zone, Modified, in the Ancaster Zoning By-law No. 87-57

The general intent and purpose of this provision in the By-law is to regulate the use of the subject lands. The applicant is proposing to permit a motor vehicle sales

AN/A-15:205
Page 3

establishment in conjunction with the existing motor vehicle service station whereas the By-law does not permit a motor vehicle dealership within Village Area "VA-436" zone.

The variance does not meet the general intent and purpose of the Official Plan since proposed use is not permitted and does not comply with the provisions in the UHOP noted above. The variance does not meet the general intent and purpose of the Zoning By-law since a motor vehicle sales establishment is not a permitted use within the Village Area "VA-436" zone. Specifically the "VA" parent zoning permits:

- (a) "Commercial buildings existing at the date of passing of this By-law and the enlargement or extension thereof, and buildings and structures accessory thereto, and the Village Area "VA" Zone uses permitted in Subsection 22.1 are also permitted in such commercial buildings.
- (b) Residential uses existing at the date of passing of this By-law and enlargement thereof but not so as to increase the number of dwelling units, and uses, buildings and structures accessory thereto.
- (c) One detached dwelling on one lot and uses, buildings and structures accessory thereto."

The Village Area "VA-436" site specific zone permits:

- "1.0 Notwithstanding Subsection 22.1, the following additional uses shall be permitted:
 - a) Motor Vehicle Service Station
 - b) Accessory dwelling unit"

Staff note that the use proposed is a defined term in the Zoning By-law but is not listed as a permitted use. Allowing a use that is not permitted in a Zone is usually dealt with by way of a Zoning By-law Amendment Application, similar to the motor vehicle service station use that was added through the site specific zoning.

In review, a Zoning By-law Amendment Application would be necessary to evaluate the impacts of permitting the additional use. Based on the foregoing, staff are of the opinion that the variance is not minor in nature since the proposed variance is adding a use not permitted in the By-law and, therefore, the proposal is deemed not to be appropriate for the development and use of the lands.

Based on the foregoing, staff does not support the proposed variance.

Building Division:

1. May be subject to the issuance of a building permit in the normal manner.

...../4

AN/A-15:205
Page 4

2. Building Permit #13-113041 issued on December 20, 2013, to construct a 389.0m², unsprinklered, 2nd storey addition to existing one-storey repair garage remains not finalized.
3. This site requires a minimum of fifty-five (55) parking spaces to be provided and maintained. Based on the site plan provided, a total of sixty-four (64) parking spaces are provided resulting in nine (9) surplus parking spaces which can accommodate car display/storage for the proposed motor vehicle sales establishment.
4. The use and operation of a motor vehicle service station/motor vehicle sales establishment (public garage) business is subject to the issuance and maintenance of a municipal licence from the Municipal Law Enforcement section of the Parking & By-law Services Division.

Development Engineering – West:

No comment.

Hamilton Municipal Parking System (Parking Services):

No concerns.

PUBLIC WORKS DEPARTMENT

Traffic, Engineering and Operations Division:

It appears the landscaping boxes encroach within the Wilson Street road allowance. In this regard, an encroachment agreement will be required. Details on the agreement can be obtained from Marilyn Preston at extension 4298.