

PUBLIC MEETING

Minutes of a public meeting held Monday, June 25, 2007 at 6:00 p.m. in the Council Chambers to consider a proposed amendment to the Town of Amherstburg Zoning By-law for a Temporary Use.

Present: Mayor Wayne Hurst
Deputy Mayor Robert Bailey
Councillor Rick Fryer
Councillor Robert Pillon
Councillor Paul Renaud
Councillor John Sutton
Councillor Rosa White

Also present: Frank Pizzuto, CAO
Pamela Malott, Clerk
George Balango, Manager of Development Services
Lory Bratt, Planning Coordinator

A record of those members of the public in attendance is attached as a schedule and forms part of these minutes.

DISCLOSURE OF INTEREST

Councillor Paul Renaud indicated a disclosure of interest and will refrain from discussion and/or voting on this matter.

Mayor Wayne Hurst opened the meeting welcoming all those in attendance stating the purpose was to consider a proposed amendment to the Town of Amherstburg Zoning By-law 1999-52 under Section 34 and 39 of the Planning Act for a Temporary Use regarding 93 North Street. Mayor Hurst then requested the Planning Coordinator to summarize the application.

Planning Coordinator

The Town is in receipt of an application for a proposed amendment to Zoning By-law 1999-52, as amended, under Section 34 and Section 39 of the Planning Act for a Temporary Use from Lindsey Morris, agent for the application.

The lands affected by the proposed amendment are located on the south side of North Street, west of Sandwich Street South and are described as Part Lot 3, Registered Plan 2 in the Town of Amherstburg. The subject property is known municipally as 93 North Street and has 15.24 metres (50 ft.) of frontage and a depth of 36.69 metres (120.37 ft.).

The proposed amendment to the Zoning By-law No. 1999-52 would change the zoning of the subject lands noted above from "Residential Third Density (R3) Zone" to "Temporary Special Provision Third Density (T-R3-4) Zone" to permit the establishment of a temporary Montessori School (day care) within the existing structure and an outdoor play area.

This temporary use provision for a Montessori School (day care) would expire a maximum of three (3) years after the date of passing of the amendment to the Zoning By-law, at which time further application may be made requesting an extension of the temporary provision for up to an additional three (3) years. If no extension is requested or granted the use must cease upon expiry of the temporary use provision in the Zoning By-law. The proposed amendment also requires that the Temporary Use shall be approved on a site plan under Section 41 of the Planning Act. This will address issues such as fencing, landscaping and parking.

The proposed amendment to the Zoning By-law is in conformity with the policies of the Official Plan.

Copies of the Notices of Public Meeting, survey of the subject property and draft Zoning By-law amendment formed part of the Council information report. The by-law has been placed on the regular agenda following this public meeting for consideration by Council.

Ms. Lindsey Morris and her Solicitor, Jeffrey Baker are in attendance on behalf of the application.

The following correspondence was received from the various agencies circulated:

- (i) Letter from Lindsey Morris that accompanied her application.
- (ii) Planning comments dated June 15, 2007 from George Balango, Manager Development Services.

Manager Development Services

The application for a temporary use to permit a Montessori School (day care) represents sound land use planning for the following reasons:

Section 3.3.3(11), Institutional Uses in Residential Areas states that certain community oriented institutional uses such as churches, recreational facilities, and facilities for special population groups including day care facilities are permitted within areas designated for residential purposes if they can satisfy all of the following location and design criteria:

- (a) frontage or flankage on an arterial or collector street;
- (b) design which is residential in character, maintaining the scale, density and character of the existing land use;
- (c) provision of buffering and transition to protect surrounding existing development;
- (d) provision of adequate off-street parking to serve the particular use, while retaining sufficient useable yard space to maintain the visual character of the area and to permit the expected activities of a residential area to be carried out;
- (e) on those streets which have been designated "no stopping" areas, provision shall be made for off-street locations to accommodate drop-off and pick-up of the users.

North Street is designated a local street in the Official Plan. Consequently the site cannot satisfy the location requirement regarding frontage or flankage on an arterial or collector street.

The Official Plan, in Section 6.9 Temporary Use By-laws, states that Council may pass a By-law that is prohibited by the Official Plan or by the Zoning By-law provided that Council is satisfied that the proposed use is temporary and will not create detrimental effects on the surrounding area.

The applicant has been advised that the proposed use is temporary. The proposed zoning would permit a temporary use. The primary issue is whether the proposed use will have detrimental effects on the surrounding area.

There is no adverse effect regarding scale and density in the surrounding area. No changes are proposed to the exterior of the structure. The scale of the proposed day care will not introduce significant traffic that would disrupt the daily activities of residential neighbours.

The site can provide for adequate parking while retaining sufficient useable yard space to maintain the visual characteristics of the area and to permit the activities of the abutting residences to continue without adverse effect.

The site is in close proximity to the General Commercial designation located to the east of the subject site. The Commercial designation fronts on Sandwich Street, a major arterial road. The southeast corner of the subject lands abuts the General Commercial designation. Lands to the north are designated Institutional. Commercial and Recreational uses occupy these lands. The proposed use will not have a detrimental effect on either the commercial or institutional lands.

Mr. Balango noted the day care facility located on Cherrylawn Crescent which is surrounded by residences and is compatible with the area with no complaints being received regarding that facility. He also noted the park and recreational facilities across the street from 93 North Street.

The Mayor then asked if the applicant wished to address Council.

Lindsey Morris

Ms. Morris addressed Council advising that she opened a Montessori Creative Learning Centre in Heritage Square Mall at 80 Richmond Street in September, 1989. The school has offered a morning class only. Ms. Morris indicated she has been looking for approximately six (6) months for a suitable location to move her business to facilitate a full day program. She is required to be licenced by the Ministry of Community and Social Services and must follow the regulations of the Day Nurseries Act of Ontario. The hours of operation will be 9:00 a.m. to 3:00 p.m., Monday to Friday. The school does not operate in the evenings, on weekends, during Christmas Holidays, March break and is closed the majority of the summer. There will be one classroom with 16 students who will be supervised by at least 2 trained teaching staff at all times. The children have a morning and afternoon break. Parents will be parking across the street in municipal parking spaces in order to drop off and pick up children. The residential look of the house will remain unchanged. The roof will be re-shingled and the renovations as required under the Ontario Building Code and Ministry regulations will be completed in the structure. Ms. Morris advised that Joe Toth, Architect is her architectural consultant for this project. A local realtor, John D'Alimonte has assisted Ms. Morris in her search for an appropriate parcel of land to meet all of the regulatory requirements.

Mayor Hurst then asked for any questions and/or comments from members of the public.

Jefferson Wiggins indicated his support of the proposed amendment for the temporary use. He advised that they have three children who are attending the program. It is a very structured and orderly program.

John D'Alimonte, realtor on behalf of Ms. Morris confirmed their search for an appropriate site for the proposed Montessori School and advised that this property lends itself to what is required for the use and Ms. Lindsey's requirements.

Kelly MacDonald, 87 North Street addressed Council objecting to the proposed amendment. She stated in her opinion this is a rezoning of a residential home to commercial zoning. Ms. MacDonald referred to a written submission advising that her family purchased their home on North Street for the atmosphere, mature trees and historical values of a small town. She expressed concern that this would not be a "temporary use" due to the investment required by the proponent.

Ms. MacDonald feared that other commercial type uses would occur on the site if the Montessori School ceased to exist. She felt the official plan should be followed for this residential area. Ms. MacDonald also presented a petition signed by persons who do not want a day care located on North Street.

Mickey Bezaire, 40 Fort Malden Drive expressed concern with the proposed use in a residential neighbourhood. He did not agree with the proponent that other properties were not available for this use. Mr. Bezaire indicated that in his opinion this was in contravention of the Official Plan policies. He did not think the reference to the Cherrylawn Day Care facility by the Town Planner to be an appropriate comparison as that facility was planned as part of the subdivision development and therefore residents were aware of the use prior to purchasing their homes. He feared the proponent would be able to apply 10 times for an extension of the temporary use.

Barbara Partington, 69 North Street stated her only concern was that the structure appeared small and wanted to ensure appropriate facilities for the children.

Ms. Morris responded that the house was being renovated to accommodate the children and meet all of the Ministry and Ontario Building Code requirements.

Lisa Varacalli, 3 Whelan Drive expressed her support for the Montessori School. She stated that the school enforces home values and it is operated as a school program not a daycare.

Marianne DiPasquale, 163 David also expressed her support for the school. She felt the use to be compatible with the area mentioning the parks and recreation facilities across the street. Ms. DiPasquale also stated that the Town should support this new business which helps young families.

Carol Ferguson asked if there was another Montessori School in Town.

She was advised that in addition to Ms. Morris's school at the Heritage Square Mall there is a second Montessori School at the corner of Sandwich Street and St. Arnaud Street.

Ms. Morris also indicated that each Montessori School is different in terms of choice of programs.

James Marcoux, 87 North Street stated that he was not questioning Ms. Morriss' ability as a teacher. He was concerned that residential uses are "slowly being choked out of the neighbourhood". Mr. Marcoux feared that the value of his home would decrease if this use was allowed. When he purchased his property it was under the premise that he was moving into a residential neighbourhood not a commercial area.

Jeff Baker, Solicitor for the Applicant addressed Council to respond to some of the comments made by members of the public. He stated that what is being considered is if this is an appropriate use of the site. This is not a rezoning for Commercial uses. This use is an Institutional use. The only criteria not fulfilled for a rezoning is frontage on an arterial or collector road. North Street, however, is not a typical residential street in consideration of the various existing uses. This is why a Temporary Use is being requested under the provisions of the Official Plan. His client is aware that if approved it is "temporary" and will proceed with the knowledge that it may be for only three years, however, she is still willing to invest in this property based on this restriction. If an extension is not granted at the end of the three years his client understands that the structure would be

renovated for residential use again. The proposed by-law is very specific in not permitting any other additional use other than a Montessori School.

The Planning Coordinator also clarified that only one extension may be granted for a Temporary Use under Section 39 of the Planning Act.

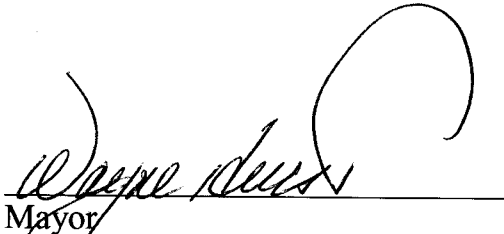
Councillor Pillon requested information on the use of the property after the possible six year time frame.

He was advised that the Temporary Use By-law would expire and the property would have to revert back to a residential use.

Mayor Hurst thanked everyone for their participation and advised that the proposed amendment to the Zoning By-law under Section 34 and 39 of the Planning Act for a Temporary Use regarding 93 North Street will be considered on the regular Council agenda following this public meeting commencing at 7:00 p.m. in the Council Chambers.

Moved by Councillor Rosa White
Seconded by Councillor Rick Fryer

That there being no further business this public meeting adjourn at 6:40 p.m.
-carried-



Mayor



Planning Coordinator

