

2024-01-10



PERMISSION APPLICATION
COMMENTS TO THE COMMITTEE OF ADJUSTMENT
PANEL 1

PLANNING, REAL ESTATE AND ECONOMIC DEVELOPMENT DEPARTMENT

Site Address: 927 Wellington Street West
Legal Description: Part of Lots 1, 2 and 16, Registered Plan 89
File No.: D08-02-22/A-00227
Report Date: January 11, 2024
Hearing Date: January 17, 2024
Planner: Margot Linker
Official Plan Designation: Inner Urban Transect, Neighbourhood, Evolving
Neighbourhood Overlay
Zoning: TM11 (Traditional Mainstreet, Subzone 11)

DEPARTMENT COMMENTS

The Planning, Real Estate and Economic Development Department **recommends refusal of** the application.

DISCUSSION AND RATIONALE

The Committee of Adjustment is authorized to consider Applications for Permission per Section 43(2)(a)(ii) in the *Planning Act*.

- 1) In addition to its powers under subsection (1), the committee, upon any such application,
 - a. where any land, building or structure, on the day the by-law was passed, was lawfully used for a purpose prohibited by the by-law, may permit,
 - ii. the use of such land, building or structure for a purpose that, in the opinion of the committee, is similar to the purpose for which it was used on the day the by-law was passed or is more compatible with the uses permitted by the by-law than the purpose for which it was used on the day the by-law was passed, if the use for a purpose prohibited by the by-law or another use for a purpose previously permitted by the committee **continued until the date of the application to the committee;**

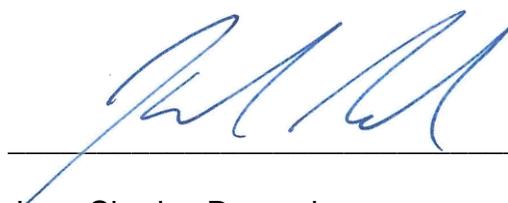
The *Planning Act* is explicit in requiring that the use for a purpose prohibited by the by-law

or another use for a purpose previously permitted by the committee continued until the date of the application to the committee and there is no wording to support this application to be applied retroactively. Based on the Department's understanding of the history of the site, it appears that the building that was lawfully used for a purpose prohibited by the Zoning By-law (*automobile service station*) ended between May 2016 and August 2017 (per Google Street View imagery and the cover letter stamped October 31, 2023) and was replaced during that time as a *heavy equipment and vehicle sales* use.

Without evidence whereby the *automobile service station* use did effectively continue on the subject land until the date the application was filed, Staff oppose the subject Permission application because the applicant is not eligible to change the use under the above-noted provision.



Margot Linker
Planner I, Development Review, Central
Planning, Real Estate and Economic
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Jean-Charles Renaud
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