

2024-09-10



**PERMISSION APPLICATION
COMMENTS TO THE COMMITTEE OF ADJUSTMENT
PANEL 2**

PLANNING, DEVELOPMENT AND BUILDING SERVICES DEPARTMENT

Site Address:	1224 Place d'Orleans
Legal Description:	Part of Lots 1 and 2, Concession 1 (Ottawa Front), Geographic Township of Gloucester
File No.:	D08-02-24/A-00200
Report Date:	September 12, 2024
Hearing Date:	September 17, 2024
Planner:	Samantha Gatchene
Official Plan Designation:	Suburban Transect, Hub, Evolving Neighbourhood Overlay
Zoning:	MC [2179] H (48) (Mixed-Use Centre Zone, Urban Exception 2179, with a height limit of 48 metres)

DEPARTMENT COMMENTS

The Planning, Development and Building Services Department **recommends refusal of** the application.

DISCUSSION AND RATIONALE

The site is designated as a Hub within the Suburban (East) Transect and subject to the Evolving Neighbourhood Overlay. It is located within the Place d'Orleans Protected Major Transit Station Area (PMTSA), which reflects its location within 400 metres of the existing Place d'Orleans Bus Rapid Transit (BRT) station and within 600 metres of the future Place d'Orleans Light Rail Transit (LRT) station. Hubs are envisioned as higher density areas that host a mix of residential, commercial, employment and institutional uses to meet the daily needs of residents in walking distance. The Place d'Orleans PMTSA has an area-wide density target of 120 people and jobs per gross hectare.

The site is zoned Mixed-Use Centre, Urban Exception 2179, with a height limit of 48 metres (MC [2179] H (48)). The intent of the MC zone is to accommodate transit-supportive uses, including a range of commercial uses. Exception 2179 pertains to building height and is not relevant to the proposed additional use. The MC zone lists **animal care establishment** as a permitted use; **kenel** is not listed as a permitted use.

Staff have previously advised the Applicant through pre-application consultations that the appropriate approval mechanism to add a use is a Zoning By-law Amendment.

Specifically, adding **kennel** in order to permit overnight boarding. Meetings were held with the Applicant in April 2023 and May 2024 with follow-up notes sent after each occasion.

The Committee of Adjustment is authorized to consider Applications for Permission per Section 45(2)(b) of the *Planning Act*.

The *Planning Act* requires a land use to be “defined in general terms” within a Zoning By-law in order for s. 45(2)(b) to apply. However, Section 54 of the Zoning By-law (ZBL) has separately defined terms for an **animal care establishment** and a **kennel**:

Overnight boarding is identified as specifically being associated with a kennel and not with an animal care establishment.

Staff recommend refusal of the subject Permission application on the grounds that **animal care establishment** is not defined in general terms under Section 54 of the ZBL and therefore the application does not satisfy the criteria under s. 45(2)(b) of the *Planning Act*. A **kennel** is a clearly defined use in the ZBL, and its definition specifies that overnight boarding is part of that use. The definition of **animal care establishment** is also a clearly defined use and, notably, overnight boarding is not included in its definition.

In addition to being clearly defined, kennels have specific use provisions under Section 84 of the ZBL. Section 84 includes requirements such as minimum lot dimensions, setbacks and minimum separation distances from residential use buildings to kennels where outdoor dog runs are present. The existence of these specific-use provisions and, excluding kennel operations from animal care establishment operations, further positions kennels (and potential activities associated with them, including overnight boarding) as distinct from animal care establishments.

ADDITIONAL COMMENTS

Permission versus Zoning By-law Amendment Application

In addition to the opinion that s. 45(2)(b) of the *Planning Act* is inapplicable to this application, staff do not consider Permission to be the appropriate approval mechanism for the proposed development because of the inability to impose post-approval requirements on the use. The standard procedure at the City of Ottawa is that any conditions imposed under Section 45(9) of the *Planning Act* are cleared **before** final approval. Further, these conditions are developed in collaboration with Planning staff, internal subject matter experts, and Legal Services.

The City does not recommend post-approval conditions or restrictions be imposed on non-consent applications to the Committee of Adjustment given that there are barriers to enforcing such conditions. Post-approval obligations of a property owner intended to apply in perpetuity are generally captured within a development agreement registered on title; however, the Zoning By-law is the appropriate mechanism to reference permitted land uses.

Several of the proposed conditions, would require internal process changes to monitor and enforce, in order to achieve the same outcome as a Zoning By-law Amendment, placing additional burden on staff.

Notwithstanding the staff opinion that s. 45(2)(b) of the *Planning Act* does not apply to this application, the process changes required to support the applicant's proposed conditions are not appropriate for a Permission application. The City has established a Minor Zoning By-law Amendment process specifically to address "...a change in use wholly contained within an existing building envelope....to introduce a new non-residential use...". The Minor zoning By-law Amendment is the appropriate process to review Dogtopia's overnight boarding operation.



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