

November 6, 2017

Mayor Jim Watson & Members of Council

CITY OF OTTAWA

110 Laurier Avenue, West

Ottawa, ON K2P 2L7

Dear Mayor Watson and Members of Council:

Re: By-law No. 2017-245 (Interim Control By-law)

We are the legal representatives of the owners of 203 Henderson Avenue in the Sandy Hill area of the City, directly adjacent to the University of Ottawa.

On July 12th, 2017, Council enacted By-law No. 2017-245 to establish interim control for lands in certain parts of the City, including 203 Henderson. This by-law was passed without notice to any of the owners. It arose from a resolution also passed on July 12th, 2017 directing an expansion of the study area formerly known as the "R4 Study". There was, of course, no notice of the motion either.

Of particular importance, the motion and by-law excluded another property in the Sandy Hill area known as "70 Russell Avenue".

I had appeared on behalf of the owners of 70 Russell at a meeting of the Planning Committee held on the 11th of July, 2017. 70 Russell appeared on the Agenda of Planning Committee because Councillor Fleury had withdrawn delegated approval for a site plan from the staff. After a lengthy hearing, Councillor Fleury withdrew his refusal of delegated authority, and the Site Plan for 70 Russell was approved on the same day.

Our clients are of the opinion that 203 Henderson should also have been exempted from the by-law, and would have been, if all of the facts related to it were brought forward.

Unfortunately, no opportunity was given to do that, and we bring the facts forward now, asking for exemption.

I am enclosing a partial chronology or timeline of events dealing with the 203 Henderson Avenue proposal. The most important point that I would make is that site plan approval had

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Roger R. Mills
Wade L. Smith
Patricia A. Lawson
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Martin D. Owens
Cheryl L. Hess
James F. Leal
Mélanie H. Levesque
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Counsel: Paul A. Webber, Q.C.,
John C. Clarke, Q.C. (Ret'd), David C. Thompson, Q.C. (Ret'd)

been granted to this property on July 4, 2017, prior to the site plan approval granted to 70 Russell. A copy of the Delegated Authority Report is attached as well.

In addition, it is worth noting that there was a very lengthy period of processing this application, upwards of two years, that the plans were repeatedly revised to accommodate the City's requests, that the required minor variances were granted by the Committee of Adjustments with all rights of appeal extinguished. It is unjust, in our submission, in the extreme, that 203 Henderson was not exempted from the operation of the By-law when 70 Russell was exempted.

In addition, it is worth noting that the planning rational for 203 Henderson is at least as strong, if not stronger, than the rational for 70 Russell. Henderson Avenue is actually a boundary of the University. On the block in question, there are only two dwellings that are not being used for student accommodation. There has been substantial residential construction, in the form of student residences, on the west, or opposite side of Henderson.

There are further adverse effects due to the operation of the By-law. The buildings at 203 Henderson are now being used to provide student housing, and have been for many years. However, the buildings are in significant need of repair. By-law Department Officials had been actively pursuing demands for repairs until they were advised of the current development application. There are certainly some parts of the City which have recognized the need to move forward on this property and the requested exemption from the By-law would permit development to occur, thus solving all of the property standards problems at once.

While we have advised our clients that their appeal against the Interim Control By-law stands a reasonable prospect of success, on the basis of "people zoning", they're obviously anxious to resolve this matter at the earliest possible date. They have had substantial expenditures in proceedings through the Development Process, they had completed every step required of them by the City, including site plan approval, and were prepare to take down a building permit until the enactment of the By-law. Of course, should out requested relief not be granted, we will be relying on the entire history of this matter before the Board.

We would hope that Council would fairly consider this request. So far as we are aware, there is no other development proposal that was more advanced than 203 Henderson, and certainly it was more advanced than 70 Russell, and the discrimination seems completely unwarranted.

Trusting this is satisfactory, we remain,

Yours very truly,

BELL BAKER LLP


Paul A. Webber, Q.C.

PAW/nml

Enclosures

TIMELINE 203-205 Henderson

April 13, 2015 Received survey

Apr 20, existing building drawn

Apr 23 Addition designed with entrance to Basement for lower unit

May 3, 2015 Application for Minor Variance prepared, no parking, north & south side yards

Application put on hold because application needed for each property

May 21, Consent Application prepared

June 4, Revised MV Application

July 6&7, 2015, Building permit Application

July 14, Pre-application prepared for a 4 unit apartment building

July 15, Comments received from Alan Montgomery (zoning review by Permit Department)

July 20, 2015 Comments received from Moe Nadeau (Code review by Permit Department)

July 23, Pre-Site Plan Control meeting with Planners

July 30, Response from Planners for 4 unit apartment building

Sept 3, Proposals for ESA

Oct 26, Mechanical Design Summary Forms received

Nov. 11 & 16 AutoCad drawings revised

Nov. 24 Design for Secondary Units

December 2015 Revise Floor Plans

Jan 13, 2016 Revised drawings sent to Moe Nadeau and Alan Montgomery

Jan 18, 2016 Comments back from Alan Montgomery to go to Minor Variance

Jan 28 Design with rear entrance and location of proposed Easement shown

April 27, Minor Variance Application

May 18, Acceptance Letter

May 19, Drawings revised

May 30, Reapplication for MV, reduce property width & area – drawings revised

Jun 6, Photograph property

Jun 9, MV drawings show overhang at back

Jun 15, 2016 Hearing for Consent

July 10, Prepare for MV Hearing, met with neighbours and email Action Sandy Hill

July 22, Revise drawings

July 28, Work on MV letter

Aug 8-19, Revised drawings showing exit stairs

Aug 14 to 29, No overhang at back, stepping back above

Aug. 29, Final Right of Way Survey

Sept 5, Revised drawings

Sept 6, Reapplication letter & revised drawings.

Oct. 4, Drawings sent for Minor Variance, letters from neighbours

Oct. 17, Sam Elias engineering drawings

Oct. 25 to Nov 10, drawings revised and sent to engineer

November 2, MV Hearing postponed because of SPC

November 11, Design Brief and drawings

November 14, Planning Rationale

November 25 to Dec.12, Minor Variance recirculation letter and drawings

Dec. 15/16 Survey Certificate

December 21, Site Plan Control Comments

Jan 19-25, 2017, Response to SPC Comments, photos of site

Jan 6-29 Drawings revised and discussions with City Designer

Jan 31, email of opposition from ASH

Feb 1, 2017 Hearing for MV approved

Feb 10, letter signed by Committee

Mar. 6, No appeal letter for Consent application

March 12-16, 2017 Respond to Moe Nadeau Building Permit Comments

Mar 15-17 Response 2 to SPC comments

Mar 31 Letter from Robert Sandercott

April 21 Revised drawings sent back

April 25, response letter to Moe Nadeau

May 5-May 31 Revise drawings and send to Robert

June 4 to 29 SPC drawings revised and finalized

July 4 Letter of Undertaking

July 12, Interim Bylaw passed

Aug 28 Letter to Terri Hunt, cc Ann Snedden

Sept 8 Appeal submitted



**SITE PLAN CONTROL APPROVAL APPLICATION
DELEGATED AUTHORITY REPORT
STAFF APPROVAL, DEVELOPMENT REVIEW, URBAN SERVICES - INNER CORE**

Site Location: 203 Henderson Avenue

File No.: D07-12-16-0166

Date of Application: November 15, 2016

This SITE PLAN CONTROL application submitted by Ziad Ahmad and Susan Smith, on behalf of Charbel Hanna and Jake McDermott, is APPROVED as shown on the following plan(s):

1. **Site Plan, Matrix, Wall, Floor, and Roof Types**, Drawing A1, prepared by Susan D. Smith Architect, dated 7/7/2015, Revision 4 dated 6/23/2017.
2. **New Elevations**, Drawing A5, prepared by Susan D. Smith Architect, dated 7/7/2015, Revision 4 dated 6/27/2017.

And subject to the following Standard and Special Conditions:

Standard Conditions

1. Letter of Undertaking

The Owner shall execute the City's standard Letter of Undertaking and satisfy the conditions contained within the Delegated Authority Report. In the event the Owner fails to execute the required Letter of Undertaking and submit any required fees and/or securities within six months, this approval shall lapse.

2. Permits

The Owner shall obtain such permits as may be required from Municipal or Provincial authorities and shall file copies thereof with the General Manager, Planning, Infrastructure and Economic Development Department.

3. Water Supply for Fire Fighting

The Owner shall provide adequate water supply for fire fighting for every building. Water supplies may be a public water works system, automatic fire pumps and pressure tanks or gravity tanks.

4. Reinstatement of City Property

The Owner(s) shall reinstate at its expense, to the satisfaction of the General Manager, Planning & Growth Management Department, any property of the City, including, but not limited to, sidewalks and curbs, boulevards, that are damaged as a result of the subject development.

5. Construction Fencing

The Owner shall be required to install construction fencing at its expense, in such a location as may be determined by the General Manager, Planning, Infrastructure and Economic Development Department.

6. Completion of Works

The Owner Acknowledges and Agrees that no building will be occupied on the lands, nor will the Owner convey title to any building until all requirements with respect to completion of the Works as identified in this Agreement have been carried out and received Approval by the General Manager, Planning, Infrastructure and Economic Development Department, including the installation of municipal numbering provided in a permanent location visible during both day and night and the installation of any street name sign on relevant streets. Provided that notwithstanding the non-completion of the foregoing Works, conveyance and/or occupancy of a lot or structure may otherwise be permitted, if in the sole opinion of the General Manager, Planning, Infrastructure and Economic Development Department, the aforesaid Works are proceeding satisfactorily toward completion. The consent of the General Manager, Planning, Infrastructure and Economic Development Department for such conveyance and/or occupancy shall be obtained in writing by the Owner.

Special Conditions

1. On-Site Parking

The following provision shall be included in any lease, rental agreement, sublet agreement, condominium agreement and/or Agreement of Purchase and Sale governing all or part of the building:

"The purchaser, tenant or sublessee acknowledges the unit being rented/sold may not be provided with any on-site parking. Should a tenant/purchaser have a vehicle for which they wish to have parking, that alternative and lawful

arrangements may need to be made to accommodate their parking need at an alternative location. The Purchaser/Tenant/Sublessee acknowledges that the availability and regulations governing on-street parking vary; that access to on-street parking, including through residential on-street parking permits issued by the City cannot be guaranteed now or in the future; and that a purchaser, tenant or sublessee intending to rely on on-street parking for their vehicle or vehicles does so at their own risk."

2. Elevations

The Owner agrees to construct the proposed building in accordance with the approved exterior elevation drawings. The Owner further agrees that any subsequent proposed changes to the approved exterior elevations shall be filed with the General Manager, Planning, Infrastructure and Economic Development Department, and agreed to by both parties prior to their implementation.

July 4, 2017
Date

Robert Sandercott
Robert Sandercott
Planner, Development Review
Development Review, Central
Planning, Infrastructure and Economic Development
Department

Enclosure: Site Plan Control Application approval – Supporting Information



SITE PLAN CONTROL APPROVAL APPLICATION SUPPORTING INFORMATION

File Number: D07-12-16-0166

SITE LOCATION

203-205 Henderson Avenue, and as shown on Document 1.

SYNOPSIS OF APPLICATION

- The subject property is located on the east side of Henderson Avenue, north of Templeton Street and contains an existing two-storey semi-detached dwelling. The proposal is to construct a three-storey addition to the dwelling and establish secondary dwelling units within each unit of the dwelling.
- The existing front yard parking will be eliminated and replaced with landscaping features, and no on-site parking will be provided. Access to the rear yard will be via the south side of the building;
- The front of the building including the front façade will be primarily brick, to match the existing building and form a consistent design style with neighbouring buildings along Henderson Avenue, with the colour of other materials to be consistent with the brick colour provided along the front;
- The rear yard will be fully landscaped, save for an area for garbage storage adjacent to the building, as well as an area for bicycle parking. This will ensure ample amenity space for the development.

DECISION AND RATIONALE

This application is approved for the following reasons:

- The application is consistent with the policies set out in the General Urban Area designation in the Official Plan, which contemplates a range of residential uses and housing types.
- The proposal is consistent with the policies set out in the Low Profile Residential designation in the Sandy Hill Secondary Plan.

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- The proposed addition conforms to the applicable provisions of the R4H[480] zone in Zoning By-law 2008-250. Minor Variance approval was obtained (file # D08-02-15-00159) for the 203 Henderson side to permit a secondary dwelling unit, as that lot was slightly deficient in both width and area.
- The application will be subject to conditions, including requiring the applicant to enter into a Letter of Undertaking in order to ensure that the site design and building design proceed in accordance with the approved plans.

CONSULTATION DETAILS

Councillor Mathieu Fleury has been notified of the application.

Public Comments

Summary of Comments - Public

This application was not subject to the Public Notification and Consultation Policy.

Technical Agency/Public Body Comments

Summary of Comments –Technical

N/A

Advisory Committee Comments

Summary of Comments – Advisory Committees

N/A

APPLICATION PROCESS TIMELINE STATUS

This Site Plan application was not processed by the On Time Decision Date established for the processing of an application that has Staff Delegated Authority in order to allow the associated Minor Variance application to be approved, and to address concerns relating to the building design and design of the front façade.

Contact: Robert Sandercott Tel: 613-580-2424, ext. 14270, fax 613-580-2576 or e-mail: robert.sandercott@ottawa.ca.

Document 1 – Location Map

