

MUNICIPALITY OF LEAMINGTON AGENDA



PUBLIC MEETING

Zoning By-law Amendment #19
88 Erie Street South
Commercial Zoning

MONDAY, APRIL 12, 2010
COMMENCING AT 7:00 P.M.
IN THE COUNCIL CHAMBERS

ITEMS FOR CONSIDERATION:

1. Notice of Public Meeting.
Pages 2-3
2. Memorandum from Manager of Building Services dated March 2, 2010 re: Building Department Comments - 88 Erie Street South.
Page 4
3. Report PLA 13/10 dated February 25, 2010 re: Zoning By-law Amendment #19 - Proposed Bed and Breakfast in a Commercial Zone - 88 Erie Street South.
(Previously considered at the March 1, 2010 Council Meeting)
Pages 5-8

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THE CORPORATION OF THE MUNICIPALITY OF LEAMINGTON
NOTICE OF PUBLIC MEETING
ZONING BY-LAW AMENDMENT

(88 Erie Street South - Proposed Bed & Breakfast)

TAKE NOTICE that the Council of the Corporation of the Municipality of Leamington will hold a public meeting concerning a proposed zoning by-law amendment under the provisions of the Planning Act, R.S.O. 1990 on **Monday, April 12th, 2010 at 7:00 pm** in the Council Chambers at the Municipal Building.

The subject property is described as Plan 169 Pt Lots 1 & 2 and locally known as 88 Erie Street South in the former Town of Leamington, now a portion of the Municipality of Leamington (see key map). The subject property is currently zoned Commercial General Zone (C6) on Map 40 in Zoning By-law #890-09.

The property owner requested that the subject lands be amended to permit a bed and breakfast establishment in addition to the existing use of a single unit detached dwelling and a day care.

The subject lands are currently designated Uptown Commercial District on Schedule "A-6D" of the Leamington Official Plan (approved 2008).

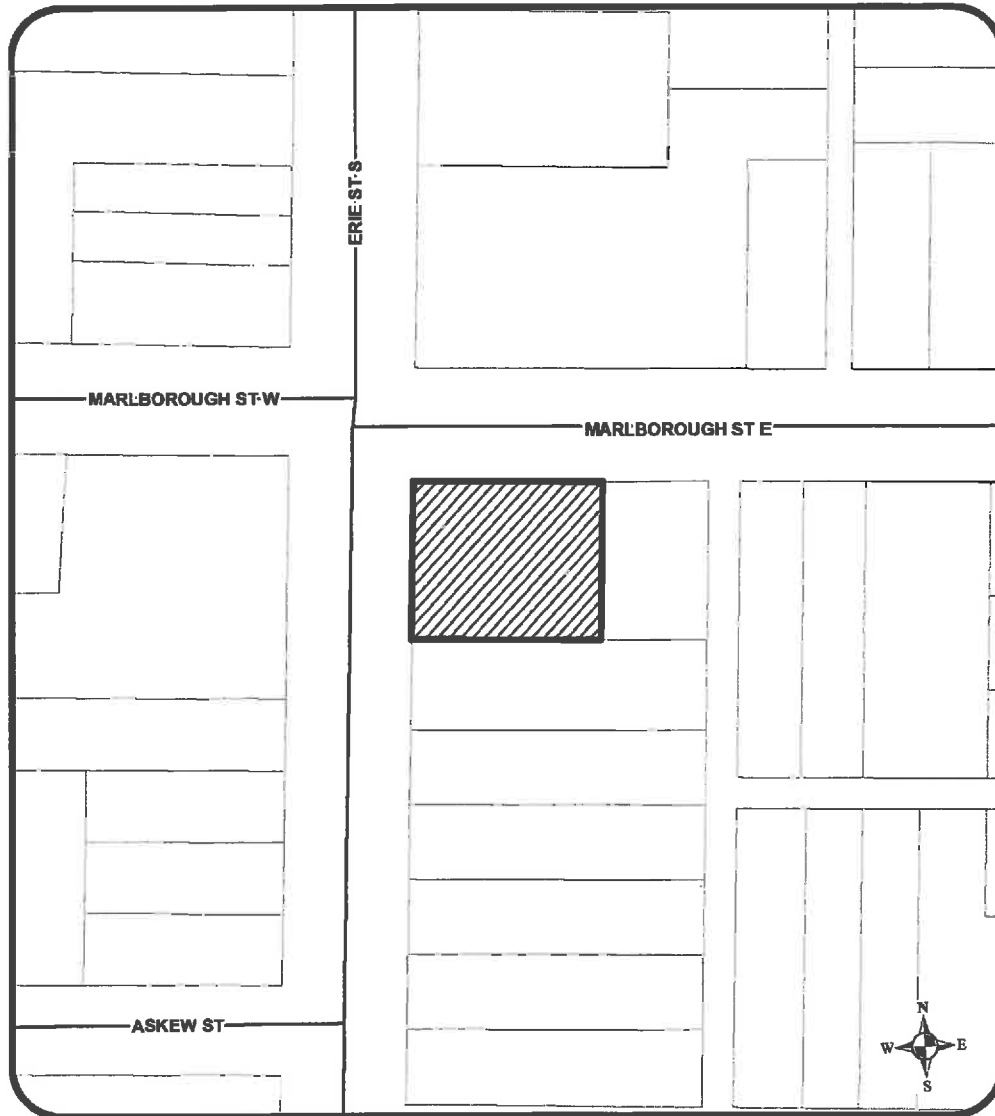
ANY PERSON may attend the public meeting and/or make written or verbal representation either in support of or in opposition to the proposed zoning by-law amendment.

If a person or public body that files an appeal to a decision of the Municipality of Leamington in respect of the proposed zoning by-law amendment does not make oral submission at a public meeting or make written submissions to the Municipality before the proposed by-law is adopted, the Ontario Municipal Board may dismiss all or part of the appeal.

ADDITIONAL INFORMATION relating to this matter is available for review at the Municipal Office for the Corporation of the Municipality of Leamington, 38 Erie Street North, during regular office hours. Please contact Tracey Pillon-Abbs, Manager of Planning Services, for further information.

DATED at the Municipality of Leamington this 3rd day of March 2010.

BRIAN R. SWEET, CLERK
MUNICIPALITY OF LEAMINGTON
38 ERIE STREET NORTH
LEAMINGTON, ONTARIO N8H 2Z3
TELEPHONE: (519) 326-5761



Legend
 SUBJECT PROPERTY

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Provided by the: Municipality of Leamington Engineering Department - GIS Services
38 Erie Street North, Leamington, Ontario N8H 2Z3
TEL: (519) 326-5761 FAX: (519) 326-2481

MEMORANDUM

To: Development Services Review Committee

From: Bechara Daher, Manager of Building Services

Date: March 2, 2010

Subject: 88 Erie St. South

Building department comments:

The proposed change of use or proposed additional use for the above subject property is subject to a **change of use permit** to insure that the health and safety requirements are in compliance with the Ontario Regulations.

The proposed use of a bed and breakfast in addition to the existing residential use and a daycare centre are required to be separated from each others with a fire separation in accordance with the Ontario Building Code (OBC) requirements.

Prior to a building permit is issued, owner must submit 2 sets of building plans prepared by an architect if the occupant load of the daycare use is greater than 5; otherwise, a qualified designer is required to undertake the design to insure that all required fire separation and exits are provided.

Yours Truly,

Bechara Daher

REPORT

TO: MAYOR AND MEMBERS OF COUNCIL
FROM: TRACEY PILLON-ABBS, MANAGER OF PLANNING SERVICES
DATE: FEBRUARY 25, 2010
SUBJECT: ZONING BY-LAW AMENDMENT
PROPOSED BED AND BREAKFAST IN A COMMERCIAL ZONE
88 ERIE STREET SOUTH

AIM:

To report upon a request to schedule the required public meeting to consider a proposed zoning by-law amendment for property located at 88 Erie Street South.

BACKGROUND:

Purpose of Application:

Staff has received an application for re-zoning by the owner(s) of the property, to amend the subject lands to permit a bed and breakfast establishment in a commercial zone.

Property Description:

The subject property is described as Plan 169 Pt Lots 1 & 2 and locally known as 88 Erie Street South in the former Town of Leamington, now a portion of the Municipality of Leamington (see key map).



Currently, the subject property has a single unit detached dwelling. The owner resides in the dwelling and operates a day care as an accessory use (home occupation) to the dwelling.

There are also future plans to operate an antique shop and coffee house on the main floor. The property owner has indicated on their application that there are 6 parking spaces located to the east of the dwelling with access from Marlborough Street East. This will be confirmed as part of site plan control, if the zoning amendment is approved by Council.

The property has frontage on both Marlborough Street East and Erie Street South and is serviced by municipal water, storm and sewers.

COMMENTS AND ANALYSIS:

Provincial Policy Statement (PPS):

It is required that the Municipality 'be consistent' with the PPS. In reviewing the policies, intensification and redevelopment is encouraged. The development can be supported if there are adequate infrastructure and public service facilities.

County of Essex Official Plan 2005 (OP):

The subject land is designated within the County of Essex Settlement Area on Schedule "A" in the County OP.

Leamington Official Plan, 2008 (OP):

The subject property is designated Uptown Commercial District on Schedule "A-6D" the Leamington OP (2008).

The goal of this designation is to strengthen the Municipality's commercial, cultural and entertainment focal point. Commercial redevelopment is encouraged. A full range of retail and service commercial uses are permitted and more specifically detailed in the Zoning By-law.

Bed and breakfast establishments are considered as secondary uses. Secondary uses are permitted in accordance with the specific regulations contained within the Zoning By-law.

Leamington Zoning:

The subject property is currently zoned Commercial General Zone (C6) on Zoning By-law #890-09. Bed and breakfast establishments are not a permitted use in this Zone.

It is proposed the keep the subject property in the C6 Zone and add the bed and breakfast establishment as a permitted use in a defined zone (C6-12). The bed and breakfast establishment will have 2 guest rooms located on the second floor of the dwelling. Each guest room will be approximately 12' x 10' in size. Access to the bed and breakfast will be from the front entry. The hours of operation will be limited to weekends only.

The owner intends to continue to reside in the dwelling. Also the owner intends to keep the day care, which is located in the basement and has access from the back entry. The hours of operation are 7:30 am to 5:30 pm weekdays only.

The future use of the antique shop and coffee house are permitted uses and do not need to be addressed under the amendment. The owner intends to locate the use on the main floor. The use will be conducted seasonally (April to October) and will operate from 4pm to 8pm Wednesdays thru Sundays.

The existing 6 parking spaces for the existing, proposed and future uses are sufficient, however may be subject to site plan control, as part of the change of use.

CONSULTATION:

Administration has completed their review of the proposed application as part of the pre-consultation process.

As set out in the Planning Act, a complete application includes any 'prescribed information' identified in the regulations of the Planning Act and any 'additional information' required by the municipality, as identified in its official plan.

Section 3.6.1.2 (l) of the Official Plan sets out that when considering application to amend the zoning by-law, the municipality shall be satisfied that:

- i) where deemed necessary, the applicant has prepared a market potential study to justify the proposed use. The need should be substantiated by adequate market research which will include not only the viability of the proposal but the impact it may have on the existing commercial facilities in the Municipality and in the surrounding area. ***Based on the nature of the proposed use, it is the opinion of Administration that a market study is not required. As a result of the municipal marina, ferry traffic to Pelee Island and Sandusky Ohio, Point Pelee National Park, the underwater dive park, the uptown area and visitors to the various roadside fruit, vegetable and flower stands, it is expected that tourism type commercial growth will continue.***
- ii) municipal services are available to the property and have the necessary capacity to satisfy any increased demands as a result of the proposed use. ***Engineering and Water Services have confirmed that they have no objections. There is a ¾" water service to the property.***
- iii) no serious traffic problems will result from the proposed use. ***Engineering Services have confirmed that they have no objections. Access to the property will be from Marlborough Street East, which is a collector road.***
- iv) the applicant has made reasonable efforts to obtain available space in the existing "Commercial Districts", or has demonstrated why it is not feasible to locate in these areas. ***The proposed use in within the existing Commercial District. No alterations to the District is being proposed.***
- v) the proposed use will not adversely affect existing adjacent uses. ***The property is currently fenced in and creates appropriate buffering to the residential uses in the east. Generally Bed and Breakfast establishments are located in Residential areas as a secondary use. However, since there was already a home occupation (the day care), it was Administration's opinion that the bed and breakfast establishment should be considered as part of the commercial use.***

Due to the nature of the proposed zoning change it is Administration's position that 'additional information' is not required.

CONCLUSION:

As part of the new Bill 51 regulations of the Planning Act, pre-consultation was used to review all the 'prescribed information' and any 'additional information' required in order to consider the application complete. Prior to deeming the application complete, Section 34 (10.3) of the Act sets out that Council must receive all the information or material it needs to make a decision.

Administration suggests that this matter should now proceed to a public meeting. The date for the required public meeting is requested to be scheduled for **Monday, April 12, 2010 at 7:00 pm.**

Notice of public meeting will be circulated to all commenting agencies, municipal departments and abutting landowners within 120 m (400 ft) of the subject property. Notice will also be posted in the Leamington Post. As part of the new Bill 51, all information will be made available to the public and commenting agencies.

A report by Administration will be presented to Council after the public meeting.

Once a decision for Zoning By-Law amendment has been made and notices sent out, there would be an appeal period in the case that there are any objections to the Ontario Municipal Board (OMB).

As set out under Bill 51 of the Planning Act, the OMB is required not only to have regard to Council's decision, but the basis on which the decision is made. In order to ensure that the OMB has regard to Council's decision, Council should be able to demonstrate that its decision was fully supported by relevant information and that the information was considered by Council.

RECOMMENDATION:

THAT Council declare that the application was reviewed and deemed to be complete pursuant to the requirements of the *Planning Act* to consider a zoning by-law amendment for property located at 88 Erie Street South to change the zoning from Commercial General Zone (C6) to Commercial General Defined Zone (C6-12) to permit a bed and breakfast establish in addition to the existing uses, as outlined in Report PLA 13/10;

AND that Administration is directed to schedule the required public meeting for Monday, April 12, 2010 at 7:00 pm.

Respectfully submitted,

Tracey Pillon-Abbs,
Manager of Planning Services

Douglas E. Morrish,
Director of Development Services

/tpa