

DPW 2007-12-5.3(1)

THE CORPORATION OF THE CITY OF KAWARTHA LAKES

APPENDIX "C"

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REPORT

to

REPORT

PLAN 2018-046

DEV2007-083

FILE NO.

D19-17-017

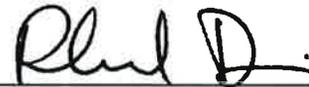
Meeting Date: June 19, 2007
Meeting Time: 1:30 p.m. - REGULAR MEETING
Meeting Place: Council Chambers
Development and Public Works Services Committee

WARD: 12

Subject: Parking Requirements - Re-development of 43, 47 & 49-51 Kent Street West, Lindsay

Author: Richard Danziger, Director

Signature:



RECOMMENDATION(S):

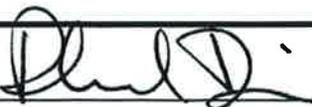
THAT Report DEV2007-083, "Parking Requirements - Re-development of 43, 47 & 49-51 Kent Street West, Lindsay", be received; and

THAT Council require cash-in-lieu of parking for the re-development of 43, 47 and 49-51 Kent Street West, Lindsay in the sum of \$40,000.00; or alternatively

THAT Council advise the City's Committee of Adjustment that it has no objection to a variance reducing the parking requirements for the re-development of 43, 47 and 49-51 Kent Street West, Lindsay from 39 spaces to 10 spaces; or alternatively

THAT no action be taken on this matter until a review of the parking policies of the Lindsay Official Plan for downtown Lindsay is undertaken and existing policies are confirmed or new policies are adopted.

DIRECTOR:



OTHER:



TREASURER (if applicable)

CHIEF ADMINISTRATIVE OFFICER

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BACKGROUND:

The owners of a block of land located at the south-east intersection of York Street and Kent Street West in Lindsay are proposing to re-develop the site for a 10,000 square foot drug store. The site is shown on Appendix "1" to this report, and is comprised of four parcels of land including 43, 47 and 49-51 Kent Street West as well as a closed alleyway off York Street and a lot south of the alleyway.

The developers are proposing to raze the existing buildings, fronting Kent Street, and develop the drug store with 10 parking spaces, which would be accessed from York Street.

Aside from any other issues, one of the most significant issues facing this development is the provision of parking, in compliance with the requirements of the Lindsay Zoning By-Law. The proposed development will require 39 parking spaces and the developer is only able to provide 10 new parking spaces.

RATIONALE:

Attached as Appendix "2" to this report is a letter dated June 4, 2007 from A & L Investments Limited, the owners of the properties in question. In essence, the developer is requesting accommodation by Council to permit the development of the site with fewer parking spaces than that required by by-law.

The current Town of Lindsay Zoning By-Law, i.e. By-Law 2000-75, has the same parking requirement for downtown Lindsay as it does in the area of Kent Street where Loblaws and the Lindsay Square Mall are located. Prior to the adoption of By-Law 2000-75, the then Lindsay Zoning By-Law required no parking for buildings in downtown Lindsay.

In the Lindsay Official Plan, which was adopted in 2000, there is a specific section which deals with parking:

"5.1.5 Parking

Parking needs in the Downtown Area will be assessed in order to provide adequate off-street parking in the Downtown Area. Where property becomes available in suitable locations, Council may acquire property to reduce parking deficiencies. All new development or re-development shall be encouraged to provide sufficient parking on-site to accommodate the proposed use. If such parking cannot be provided, the Town may collect cash-in-lieu pursuant to Section 40 of the *Planning Act* to be used expressly for the provision of additional parking spaces in an appropriately defined area."

In terms of interpreting the above policy, the applicants argue that the words "shall be encouraged" and "the Town may collect cash-in-lieu" does not contemplate a mandatory requirement for development in the downtown area to either provide parking or cash-in-lieu of parking. The writer would argue that, given the words in Section 5.1.5 and the fact that the zoning by-law was amended to require parking in the downtown, there is a

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clear indication that there certainly was an intent to address apparent parking deficiencies in Lindsay's downtown.

Policy 5.1.5, in the writer's opinion, does create problems for downtown development. As indicated previously, the existing zoning by-law requires the same amount of parking for a development occurring in the Loblaws/Lindsay Square Mall area, where lots are quite large, as it does for small downtown lots which may be fully occupied by a building.

In the writer's experience, it is rare that municipalities require the same parking ratios in downtown areas as they do in suburban development. It is not unusual to see exemptions for parking in downtown areas or, alternately, much reduced parking ratios for downtown development.

If a building was to burn down in downtown Lindsay and the owner was to attempt to rebuild the building, assuming they had no parking to begin with, they would have to provide the full amount of required parking or, alternately, provide cash-in-lieu of parking. From the writer's experience, this approach usually results in no re-development occurring in a downtown area because of the expense of providing parking, as compared to suburban locations.

Additionally, the public has played a significant role in the provision of downtown parking. This is true in Lindsay as well as Bobcaygeon and Fenelon Falls. Since none of the downtowns have seen any real re-development, the issue of downtown parking has remained dormant until this time, except in Fenelon Falls.

In the writer's experience with several smaller downtowns, the general policy has been to accept whatever parking was originally provided for a given floor area and only require parking for additional floor space over what existed at the commencement of a re-development. In other words, if a building contained 10,000 square feet and provided no parking, and a developer wished to re-develop the site for a 20,000 square foot building, additional parking would only be calculated on the incremental 10,000 square feet.

The writer suggests that the parking policy in the Lindsay Official Plan be re-written to permit the re-development or re-use of buildings without any additional parking requirement, so long as the re-use of the building remains within the four walls of existing development and, if there is a re-development, parking only be required for floor space which is incrementally greater than that which existed on site.

This policy modification would allow the reuse of existing buildings without having concerns over incurring additional parking requirements and would only require parking for incremental floor space, as opposed to what exists on a given lot.

The overall thrust for parking in the downtown should be to reduce the parking requirement by 50%, exempt existing floor space from parking requirements and require cash-in-lieu for any parking spaces still required but not physically provided.

In terms of the subject application, the buildings at 43, 47 and 49-51 Kent Street West totally fill the existing lots and no parking was provided. The applicants, however, do provide parking on the vacant alleyway and lot immediately behind their buildings. This

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parking is relatively uncontrolled and appears to be occupied by whoever can get to the site first.

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Council has at least three options in terms of dealing with the subject request.

REPORT

a) Section 40 of the Planning Act

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Section 40 of the *Planning Act* allows Council to exempt an owner from providing parking. The Section states:

“40. (1) Agreement exempting owner from requirement to provide parking. – Where an owner or occupant of a building is required under a by-law of a local municipality to provide and maintain parking facilities on land that is not part of a highway, the council of the municipality and such owner or occupant may enter into an agreement exempting the owner or occupant, to the extent specified in the agreement, from the requirement of providing or maintaining the parking facilities.

(2) Payment of money. – An agreement entered into under subsection (1) shall provide for the making of one or more payments of money to the municipality as consideration for the granting of the exemption and shall set forth the basis upon which such payment is calculated.”

Money collected in this matter has to be placed under a special account which can only be used for the provision or improvement of parking.

In the Village of Fenelon Falls, in the downtown area, parking deficiencies are subject to a cash-in-lieu payment of \$4,000.00 a space. Currently there is one business that is paying cash-in-lieu of parking which will eventually total \$60,000.00.

In the subject instance Council could exempt the subject site from parking requirements and require that the by-law deficiency of 29 spaces be paid for in the form of cash-in-lieu of parking. If the Fenelon Falls standard of \$4,000.00 is used the payment would amount of \$116,000.00.

In some cases municipalities have charged as little as \$1.00 a space because of the desire to encourage re-development in a downtown area.

If Council were to pursue the options of cash-in-lieu of parking for this development, the writer would suggest that it be based on the following:

- i. The cash-in-lieu payment be based on a 50% requirement for parking as compared to the existing by-law requirement, i.e. 20 spaces vs. 39 spaces.
- ii. The cash-in-lieu payment be taken for 10 spaces, i.e. 20 spaces minus the 10 provided on site.
- iii. The cash-in-lieu payment be \$40,000.00, i.e. 10 spaces x \$4,000.00.

In effect the cash-in-lieu payment per space, based on the existing by-law, would be \$1,379.00 per space.

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- b) Amendments to Official Plan and Zoning By-Law
Council could proceed to initiate amendments to the Lindsay Official Plan and Zoning By-Law to exempt the change in use of existing buildings from additional parking requirements and only require the provision of extra parking for additions to buildings, over and above that which existed at the time of development.

Simply requiring parking for additions works well so long as there is a building to start with. In the case of demolitions, the existing floor space immediately prior to demolition can be determined and that floor space can be exempted from parking requirement. In the case of lots which have been vacant for some period of time, the existing floor space prior to demotion will have to be established from historical records or other satisfactory evidence.

- c) Committee of Adjustment
The applicants do have an application before the Committee of Adjustment seeking a minor variance from the parking requirement. Although the writer is not convinced that the Committee of Adjustment should be dealing with this issue because of the existing Official Plan policy, Council could indicate its support for the requested variance which could assist the Committee in coming to its decision on this matter. The City could concurrently amend its downtown Lindsay parking policies while the Committee of Adjustment deals with this issue.

In conclusion, the writer would suggest that attempting to require downtown development to provide the same parking as a suburban development will only stifle all types of development in the Central Business District. There simply is not the space or financial incentive to re-develop in the downtown if parking requirements are seen as onerous. Traditionally, municipalities have played a role in the provision of downtown parking because of the nature of older downtowns and the need for public/private solutions to downtown parking.

Because Council has not addressed alternative b) above and that process could take some time, the writer suggests that alternatives a) and c) above are the only ones open to Council at this time. In setting the cash-in-lieu payment Council has the option of setting it at a very low figure and, in effect, implement option b) in principle for the proposed development at Kent Street West and York Street.

OTHER ALTERNATIVES CONSIDERED:

The alternatives to this issue have been discussed under the rationale section.

FINANCIAL CONSIDERATIONS:

Depending on the alternative chosen, the City may be in a position to receive cash-lieu of parking.

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RELATIONSHIP OF RECOMMENDATIONS TO 2002-2012 VISION:

The City's Vision sees the various downtowns of the municipality as strong cultural and commercial attracters. Assisting in parking would be an incentive for a stronger downtown.

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REVIEW OF ACCESSIBILITY IMPLICATIONS OF ANY DEVELOPMENT/POLICY

Not applicable at this time.

CONSULTATIONS:

Consultations were held with the Applicants, the City's Legal Counsel and Staff.

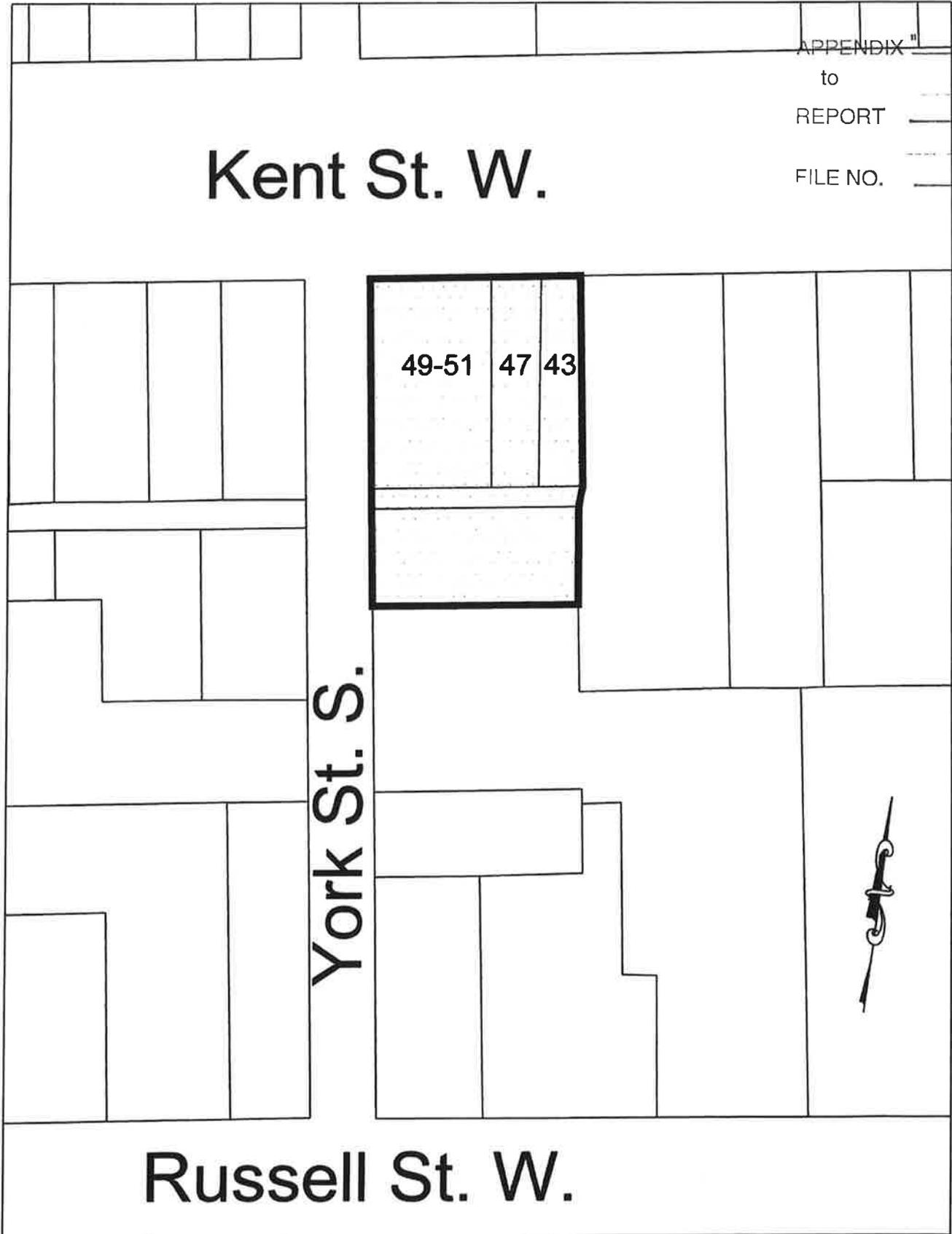
ATTACHMENTS:

Appendix "1" – Location of Property

Appendix "2" – Letter dated June 4, 2007 from A & L Investments Limited (property owners)

Phone: (705) 324-9411 Ext. 239 1-888-822-2225	Director: Richard Danziger
E-Mail: rdanziger@city.kawarthalakes.on.ca	Dept. File: D20-07-044

APPENDIX " 1 " ^{5.3(7)}
to
REPORT DEV 2007-083
FILE NO. D20-07-044



APPENDIX " C " ⁷¹⁸
to
REPORT _____
FILE NO. _____



A&L
INVESTMENTS
LIMITED

June 4, 2007

DELIVERED BY HAND

City of Kawartha Lakes
Development Services
180 Kent Street West
Lindsay, Ontario
K9V 2Y6

Attention: Richard Danziger, Director

Dear Richard

Re: Site Re-Development - Council Meeting – June 26, 2007

Further to our meeting today, we would request that we be added to the agenda for the June 26, 2007 Council Meeting. As discussed we are re-developing the buildings municipally known as 43, 47 and 49-51 Kent Street West. The site is currently occupied by three buildings with a total gross floor area of approximately 15,000 sq. ft. We are proposing to re-develop the site and construct a new single retail commercial building consisting of approximately 10,500 sq.ft. The current buildings which as stated are approximately 15,000 sq. ft. have no parking associated with them. Accordingly the new development will be approximately 4500 sq. ft. smaller. Under the proposed development the land adjacent to 43, 47 and 49-51 Kent Street on York Street would be merged with the new development and would provide ten (10) new parking spots. While this is twenty nine (29) spaces less than required under the current by-law, it does provide ten (10) more parking spaces than currently exists to service what will be a smaller building than currently exists. Although the current by-law does not provide and exception to the parking requirements for the downtown as the previous by-law did, the request is consistent with the intent of the Official Plan which in Section 5.1.5 states that within the downtown area that new development shall be "encouraged" to provide sufficient parking on-site to accommodate the proposed use. The official Plan does not contemplate a mandatory requirement for the Downtown Area and in this case, the new development will in fact provide ten (10) official new parking spaces to service as noted a retail area that has approximately 4500 gross square footage less than currently exists on the site.

If you have any questions, please do not hesitate to contact the undersigned.

Yours truly
A & L INVESTMENTS LIMITED

Per:



Shawn Marr

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to
REPORT DEV 2007-083

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