

Town of Whitby Staff Report

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Report Title: DEV-03-25: Zoning By-law Amendment Application, Paul Demczak c/o 2490987 Ontario Inc., 1399 Dundas Street East, File No. Z-02-25

Report to: Committee of the Whole

Date of meeting: April 7, 2025

Report Number: PDP 19-25

Department(s) Responsible:

Planning and Development Department
(Planning Services)

Submitted by:

R. Saunders, Commissioner of Planning
and Development

**Acknowledged by M. Gaskell,
Chief Administrative Officer**

For additional information, contact:

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1. Recommendation:

1. That Council approve an amendment to Zoning By-law No. 1784 for a temporary use (File No. Z-02-25), as outlined in Planning Report No. PDP 19-25; and,
2. That an amending By-law be brought forward for Council's consideration.

2. Highlights:

- A temporary use Zoning By-law Amendment Application has been submitted by Paul Demczak c/o 2490987 Ontario Inc. for 1399 Dundas Street East.
- The temporary use Zoning By-law Amendment proposes to permit a temporary automotive sales office and associated parking lot on the subject property for a maximum of three years.
- All commenting departments and external agencies have reviewed the proposed development and have indicated their support for or no objection to the proposed development, subject to their comments and conditions being addressed through the future Letter of Undertaking process.

3. Background:

3.1. Site and Area Description

The subject land is located on the south side of Dundas Street East, east of Hopkins Street (refer to Attachment #1). The subject land is municipally known as 1399 Dundas Street East. The subject land is approximately 0.78 hectares (1.93 acres) in size.

The subject land is currently vacant. The land uses to the north, east, and west include retail and commercial uses, while land uses to the south include residential uses (refer to Attachment #2). The subject property was used as an automobile sales establishment until 2021. In 2007, the zoning on the subject property and adjacent properties was amended to recognize existing automotive dealerships, however, once the automotive use ceased to exist, the permissions for automobile sales were removed as of right.

3.2. Application and Proposed Development

A temporary use Zoning By-law Amendment Application has been submitted by Paul Demczak c/o 2490987 Ontario Inc., to permit a temporary automotive sales office and associated parking lot on the subject land for a period of three years (refer to Attachment #3).

3.3. Documents Submitted in Support

The following documents were submitted in support of the application:

- An Architectural Plans Package, including a proposed site plan, prepared by Micacchi, dated March 2025 – Revision #4 (refer to Attachment #3); and,
- A Planning Rationale Report, prepared by Batory Planning & Management, dated January 2025.

The above documents were distributed to relevant internal departments and external agencies for review and comment.

4. Discussion:

4.1. Whitby Official Plan

The subject property is designated Mixed Use on Schedule A – Land Use of the Town of Whitby's Official Plan (refer to Attachment #4).

Areas designated as Mixed Use are encouraged to intensify and consolidate over time into mixed-use nodes in accordance with the comprehensive block plan and urban design policies of Section 6.2 (4.6.3.8). An automobile sales establishment is not permitted.

However, as outlined within Section 10.1.9.1 of the Town's Official Plan, Council may pass a by-law to permit the temporary use of land(s), building(s), or structure(s), for any purpose which is otherwise prohibited by the Zoning By-law, without an amendment to this Plan for a period of up to three years. Upon the expiry of the time period(s) authorized by the Temporary Use By-law, the use of land, buildings, or structures that were permitted under such By-law shall cease to exist and cannot be considered as non-conforming uses.

Further, Section 10.1.9.3 of the Official Plan states that, "in considering whether to enact a Temporary Use By-law, Council must be satisfied that:

- a) the site can adequately accommodate the proposed use, considering such matters as site layout, parking, traffic circulation, access, landscaping, and servicing;
- b) the use will be compatible with, and not adversely affect, any surrounding land uses, roads, or the natural environment that currently exists;
- c) the use will not prejudice the future development or redevelopment of the subject lands and the surrounding area as set out in this Plan; and,
- d) no new building or expansion of existing buildings, except for temporary moveable structures, shall be permitted."

The proposed use of a temporary automotive sales office and associated parking lot conforms to the above criteria.

4.2. Zoning By-law

The subject land is currently zoned Commercial Mixed Use – Exception 10 (CMU*-10) within Zoning By-law No. 1784 (refer to Attachment #5). The Commercial Mixed Use – Exception 10 (CMU*-10) does not permit the proposed use. Therefore, a temporary Zoning By-law Amendment is required to permit the proposed use.

4.3. Conclusion

Considering the nature of the proposed temporary use, it is concluded that the site can adequately accommodate a temporary automotive sales office and associated parking lot. Therefore, it is recommended that Council approve an amendment to Zoning By-law No. 1784 to permit a temporary automotive sales office and associated parking lot on the subject land.

All of the commenting departments and external agencies have indicated support for, or no objection to, the proposed application subject to their comments and conditions, as outlined in Section 7.

5. Financial Considerations:

Not applicable.

6. Communication and Public Engagement:

A Statutory Public Meeting was held on February 10th, 2025, in accordance with the Town of Whitby Official Plan and the Planning Act. This meeting provided the public, interested persons, and agencies the opportunity to make representation in respect of the Zoning By-law Amendment Application. The meeting minutes are included in Attachment #6. There were no public comments or submissions made at the Public Meeting.

All individuals who registered as an interested party at the statutory public meeting and any individual who provided written correspondence to the Town have been provided notice of the April 7th, 2025, Committee of the Whole Meeting.

7. Input from Departments/Sources:

The following agencies have reviewed the application and have no objection:

- Whitby Financial Services;
- Whitby Fire and Emergency Services; and,
- Elexicon Energy

Refer to Attachment #7 for Agency and Stakeholder Detailed Comments.

Internal Departments

Whitby Planning Services

No objections on the proposed temporary Zoning By-law Amendment Application, subject to completing the Letter of Undertaking process. Refer to Attachment #7 for detailed comments.

Whitby Engineering Services

No objections on the proposed temporary Zoning By-law Amendment Application, subject to addressing revisions through the Letter of Undertaking process. The Letter of Undertaking will address Engineering Services' requirements associated with the development proposal. Refer to Attachment #7 for detailed comments.

Whitby Landscaping

No objections on the proposed temporary Zoning By-law Amendment Application, subject to completing the Letter of Undertaking process. The Letter of Undertaking will address Landscaping requirements associated with the development proposal. Refer to Attachment #7 for detailed comments.

Whitby Building Division

No objections on the proposed temporary Zoning By-law Amendment Application, subject to completing the Letter of Undertaking process as well as any necessary Building Permit Application process. Refer to Attachment #7 for detailed comments.

Whitby Urban Design

No objections on the proposed temporary Zoning By-law Amendment Application, subject to completing the Letter of Undertaking process. Refer to Attachment #7 for detailed comments.

External Agencies

Region of Durham – Community Growth and Economic Development Department, Works Department, Rapid Transit Office

No objections on the proposed temporary Zoning By-law Amendment Application. Refer to Attachment #7 for detailed comments.

8. Strategic Priorities:

The development review process has provided opportunity for public and agency input. The recommendations contained in this report align with Pillar 3 of the Community Strategic Plan to create jobs and drive local economic growth.

This report is in a fully accessible format, which addresses the Town's strategic priority of accessibility.

9. Attachments:

Attachment #1: Location Sketch

Attachment #2: Aerial Context Map

Attachment #3: Proponent's Proposed Site Plan

Attachment #4: Excerpt from the Town of Whitby Official Plan – Schedule A

Attachment #5: Excerpt from Zoning By-law No. 1784

Attachment #6: Public Meeting Minutes

Attachment #7: Agency and Stakeholder Detailed Comments