

December 17, 1998

ACS1998-PW-PLN-0039

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OZP1997-029)

Department of Urban Planning and Public
Works

Ward/Quartier

OT6 - Somerset

- Planning and Economic Development
Committee / Comité de l'urbanisme et de
l'expansion économique
- City Council / Conseil municipal

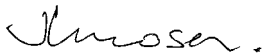
Action/Exécution

Official Plan Amendment / Zoning - 95-99 Norman Street

Modification du Plan directeur / Zonage - 95-99, rue Norman

Recommendations

1. That the application to amend the text of the Preston-Champagne Secondary Policy Plan of the City of Ottawa Official Plan to permit commercial and industrial uses at 95-99 Norman Street as detailed in Document 4, be REFUSED.
2. That the application to amend the *Zoning Bylaw, 1998* to change the zoning of 95-99 Norman Street from R5D-p, an apartment zone, to IS, a Small Scale Industrial Zone with exceptions as detailed in Document 4, be REFUSED.
3. That an amendment to Zoning By-law Number Z-2K to change the zoning of 95-99 Norman Street from R11-x (1.0)[5], a low density apartment zone, to a M1, Light Industrial Zone with exceptions as detailed in Document 4, be REFUSED.



December 21, 1998 (1:10p)

for/ Edward Robinson
Commissioner of Urban Planning and
Public Works



December 21, 1998 (3:31p)


Approved by
John S. Burke
Chief Administrative Officer

REK:rek

Contact: Robert Konowal - 244-5300 ext. 1-3869

Financial Comment

N/A.


December 21, 1998 (12:04p)

for Mona Monkman
City Treasurer

BH:cds

Executive Report

Reasons Behind Recommendations

Background - Site

The subject property is currently developed with a 245-square-metre building at 95 Norman Street occupied by an automobile service station, a 440-square-metre building at 97 Norman Street containing offices and a hairstylist, and a duplex house at 99 Norman Street. With the exception of the duplex house, these uses are non-conforming as they are not permitted under the current R5D-p apartment zoning.

In response to a complaint, a site inspection of the property has found that the hairstylist located at 97 Norman Street has been established without the necessary permission of the Committee of Adjustment. According to City records, the property does not enjoy a legal non-conforming right to such use of the property. A notice of violation was issued November 26, 1996. All previously held non-conforming rights for the use of the entire building at 97 Norman Street have been lost due to this illegal conversion.

Recommendation 1.

Background - Official Plan Policy

The subject property is located within that area governed by the Preston-Champagne Secondary Policy Plan as indicated on Schedule A - Land Use of the City of Ottawa Official Plan. Schedule L - Preston-Champagne Land Use designates that area west of Preston Street, which includes the subject lands, as "residential-low profile". The Preston-Champagne Secondary Policy Plan approved by Council August 3, 1994, reconfirmed the land use strategy for this area first implemented by the Dalhousie Neighbourhood Plan (1977), which rezoned this property and a significant portion of the immediate neighbourhood from industrial to residential.

According to the residential-low profile designation, the predominate use of lands is to be residential to preserve the existing residential character. The applicant is requesting that certain commercial and industrial uses be permitted on the subject property. The non-residential use of residentially designated lands may be considered if located on a major collector or arterial

roadway, or where they are isolated or at the periphery of existing residential development. The subject property cannot meet these locational criteria and consequently an amendment to the text of the Secondary Policy Plan is required to permit such use of the subject lands. Furthermore, a number of automobile-oriented uses requested by the applicant are not considered to comply with the commercial land use policies of the Secondary Policy Plan and would be required to be specified within the text of the amendment if they were to be permitted by zoning by-law.

The recommendation of refusal to amend the text of the Preston-Champagne Secondary Policy Plan to permit commercial and industrial uses at 95-99 Norman Street as detailed in Document 4, is based on the following points of consideration:

1. Area Land Use / Location of Site and Land Use Compatibility

The predominate land use existing in the area between Preston Street and the railway to the west is low profile residential. This is consistent with and supports the existing Secondary Plan land use designation of the area.

Immediately to the north, south and west of the subject property are detached and duplex dwellings. To the west is a non-conforming metal-working establishment. The situation of the subject site, on a local street with no through access and in proximity to low density residential uses, does not lend itself well for commercial or industrial use purposes.

A number of the commercial/industrial uses requested for this site are especially inappropriate. In particular, an automobile body shop is typically restricted to IG, General Industrial and IH, Heavy Industrial zones as it is incompatible with most other land uses due to noise, dust and fumes. An automobile body shop is not considered to be compatible with the surrounding low density residential uses. Automobile dealerships are commonly found in CD, District Linear Commercial Zones along major roads as they typically attract large volumes of traffic and have a high demand for parking. The subject lands are located on a local street with no through access. Both automobile-related uses are also visually incompatible with a residential neighbourhood.

The existing development does not meet certain minimum development standards (e.g. yards, landscaping, parking) which detracts from the use and enjoyment of adjacent residential properties. This apparent incompatibility is further evidenced by the number of respondents objecting to the existing and proposed commercial/industrial use of the property.

The current residential land use designation of the subject lands by the Preston-Champagne Secondary Plan is considered to be appropriate given the existing land use and the location of lands. The Secondary Policy Plan seeks to protect and enhance existing residential areas, and directs commercial uses to Preston Street. Approval of the subject application to regularize the existing use of this property and expand the opportunity for commercial and industrial purposes threatens the long-term stability of this residential area. The applicant has provided no planning reason why the commercial/industrial use of this site should prevail at the expense of adjacent residential uses and the residential and commercial planning objectives of the Secondary Policy Plan.

2. Secondary Plan Commercial Land Use Policy

The commercial land use policy of the Secondary Policy Plan seeks to encourage those neighbourhood level commercial uses that are pedestrian-oriented, vibrant and/or are able to promote an ethnic theme and evening activity such as specialty stores, restaurants and entertainment uses. The automobile-oriented uses requested by the applicant are not considered to exhibit the desired commercial land use characteristics of the Secondary Plan. No planning rationale has been provided by the applicant which would support the request for automobile-oriented uses.

The applicant currently operates a legal non-conforming automobile dealership at 439 Preston Street which operates in conjunction with 95 Norman Street. The applicant appealed the commercial zoning of the Secondary Policy Plan in an effort to have an automobile dealership as a permitted use at 439 Preston Street. The Ontario Municipal Board in its decision issued August 18, 1997, denied the appeal, thereby upholding the commercial land use policy of the Secondary Plan which does not encourage automobile sales.

3. Need for Amendment

While the building located at 97 Norman Street has lost any previous non-conforming rights and must now comply with the Zoning By-laws, 95 and 99 Norman Street still enjoy legal non-conforming rights to continue certain existing uses. The owner may apply to the Committee of Adjustment to enlarge or extend an existing non-conforming use or change the use of the property from one non-conforming use to another. The applicant has indicated that he does not find these conditions convenient and wishes to have certain commercial and industrial uses on the property “as of right” without the need for Committee of Adjustment approval. It is the Department’s opinion that existing planning legislation presents no hardship, and provides legal non-conforming uses with sufficient opportunity to carry on as well as to apply for changes in the use of the property without the need to amend the Official Plan and Zoning By-law.

4. A Precedent for Future Zoning Amendments

Abutting the subject lands to the east at 93 Norman Street is a non-conforming metal-working shop. Approval of the subject application will set a precedent for this and other existing commercial/industrial uses to have their non-conforming status changed to a permitted use (i.e. residential to commercial zoning). The agent for the applicant has stated in this submission that the owner of 93 Norman Street has also indicated an interest in pursuing a similar submission.

Recommendation 2.

The application to amend the *Zoning By-law, 1998* to change the zoning of 95-99 Norman Street from residential to industrial is refused for the following reason:

With regard to conformity with the IS, Small Scale Industrial Zone, the applicant contends that the requested zoning amendment “maintains the intent of the IS zone to allow existing low density industrial uses to continue in residential areas as well as permit them to change over time to a limited but more compatible range of commercial uses.”

The requested IS, Small Scale Industrial Zone was introduced by the *Zoning By-law, 1998* to maintain the intent of existing industrial-zoned lands under By-law Number Z-2K. The IS zone was not intended to be applied to industrial uses located in residential zones such as the subject property. During the public review of the Zoning By-law, 1998, the applicant requested that the IS zone be applied to the subject property. Council refused this request on May 27, 1997.

The applicant is requesting that exceptions be made to the development regulations of the requested IS zone to recognize existing development conditions. It is not recommended that existing development conditions (e.g. reduced side yards, front yard parking) be recognized through an amendment to the Zoning By-law. Any amendment to the performance standards has a permanent effect and may be enjoyed by any subsequent redevelopment of the lands once the existing building is removed. The Department is not prepared to support the deficiencies as requested, as they would permit redevelopment of the property that is not considered appropriate or desirable.

Recommendation 3.

The recommendation of refusal to amend Zoning By-law Number Z-2K to change the zoning of 95-99 Norman Street from residential to industrial is based on the following:

The *Zoning By-law, 1998* has been appealed to the Ontario Municipal Board and it is not expected that these appeals will be resolved until early next year. Where an amendment is made to the *Zoning By-law 1998*, an amendment may be required to Zoning By-law Number Z-2K to ensure development is able to proceed while the *Zoning By-law, 1998* remains under appeal. An amendment to Zoning By-law Number Z-2K is not required as it has been recommended that the application to amend the *Zoning By-law, 1998* be refused.

Consultation

All City Departments deemed to have an interest have been consulted and their comments incorporated in this submission. Ten people responded to the posting of the on-site sign. All ten respondents were in opposition to the application citing existing problems such as unsightly storage of disabled vehicles, on-street loading/unloading and spill-over parking. Nine of the 12 residential property owners (75%) who live on this section of Norman Street responded to the on-site sign.

The Dalhousie Community Association indicated it does not agree with the proposal. The Association stated that the “Preston-Champagne Study exhaustively reviewed the zoning in the whole area after wide public consultation. The proposed changes are directly contradictory to the Study and the resultant Official Plan and Zoning approved by Council. We don’t recall any presentation by the owners at public meetings or City Planning Committee that there was a problem with the residential zoning. The same applies to the 2020Z process. This is supposed to be a residential community”

Councillor Elisabeth Arnold provided the following comments:

“I am opposed to these applications . This area is designated residential in the Official Plan as a result of the Preston-Champagne Study of some years ago. This application for an Official Plan Amendment and the proposed list of uses in the rezoning, moves us further away from the recommendations of that study, and the designation in the Official Plan, than the existing conditions. Legally established non-conforming uses are permitted to remain and other proposed uses should be considered on a case by case basis”

Application Process Timeline

The application to amend the Zoning By-law was submitted on September 2, 1997. The application to amend the Official Plan was submitted on May 29, 1998. These applications took longer than the maximum 135 and 165 calendar day timeframes established respectively for the processing of Zoning By-law and Official Plan amendments. The processing of these applications was delayed at the request of the applicant so that the companion zoning application could also be heard at this time.

Disposition

Department of Corporate Services, Statutory Services Branch to notify the Agent (George Flumian, 222 Argyle Avenue, Ottawa, Ontario, K2P 1B9), Applicants (D. D'Angelo and G. Centofanti, 95 Norman Street, Ottawa, Ontario, K1S 3K5) and the Regional Municipality of Ottawa-Carleton, Development Approvals Division, of City Council's decision.

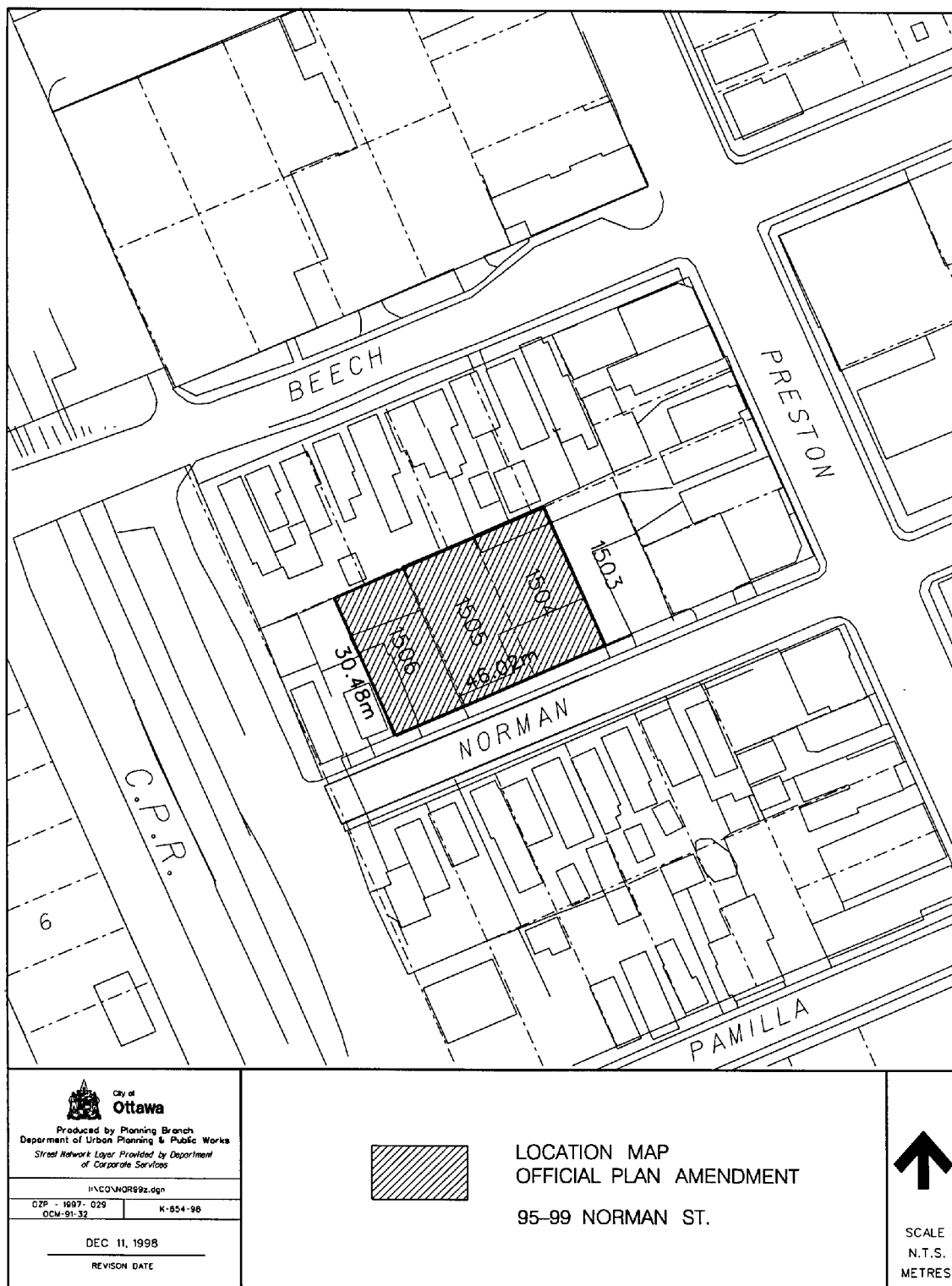
List of Supporting Documentation

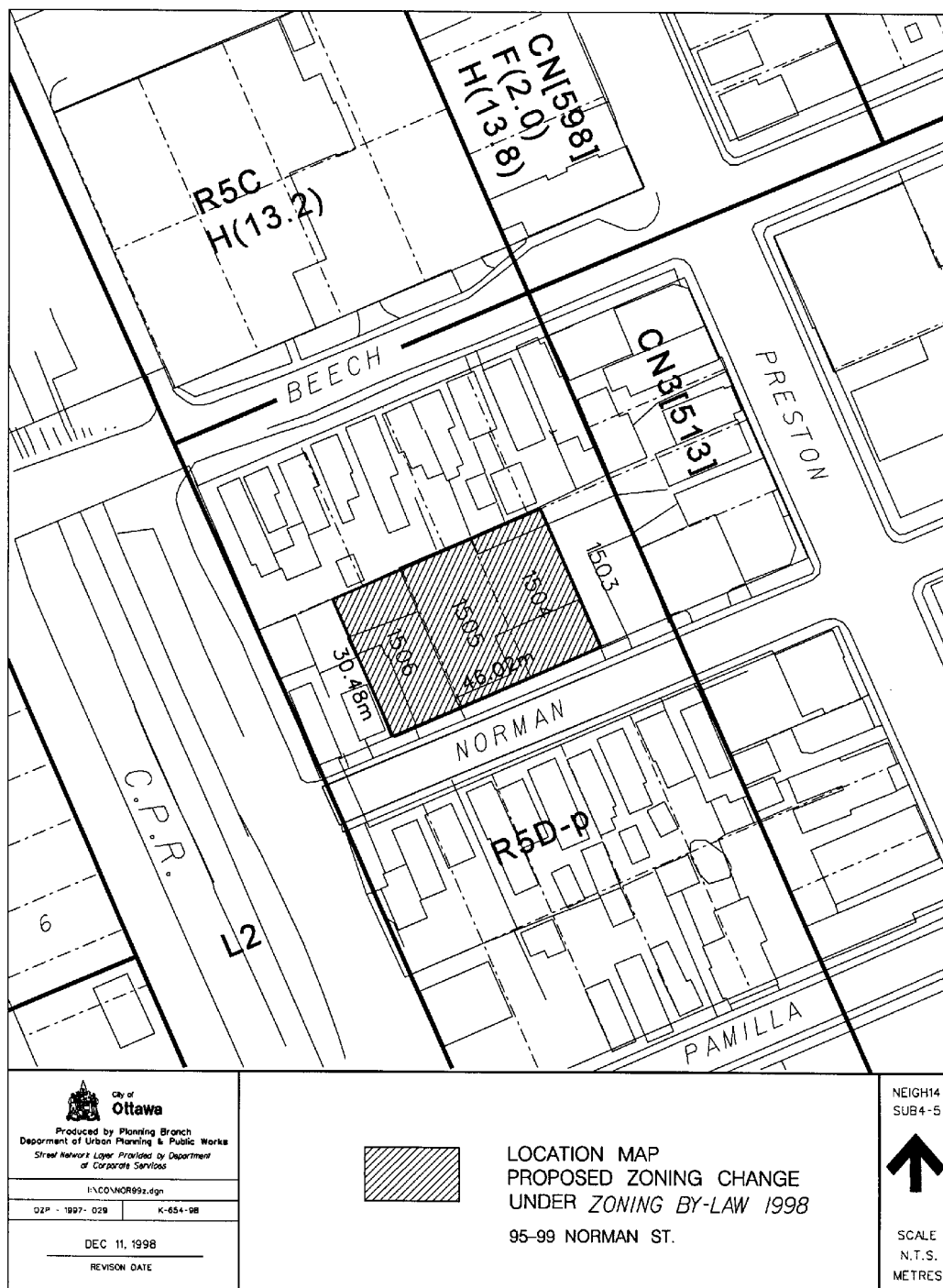
Document 1	Location Map - Official Plan Amendment
Document 2	Location Map - Amendment to the <i>Zoning Bylaw, 1998</i>
Document 3	Location Map - Amendment to Zoning By-law Number Z-2K
Document 4	Details of Proposed Official Plan Amendment/Zoning By-law Amendments
Document 5	Municipal Environmental Evaluation Report - (on file with City Clerk)
Document 6	Municipal Environmental Evaluation Report - (on file with City Clerk)

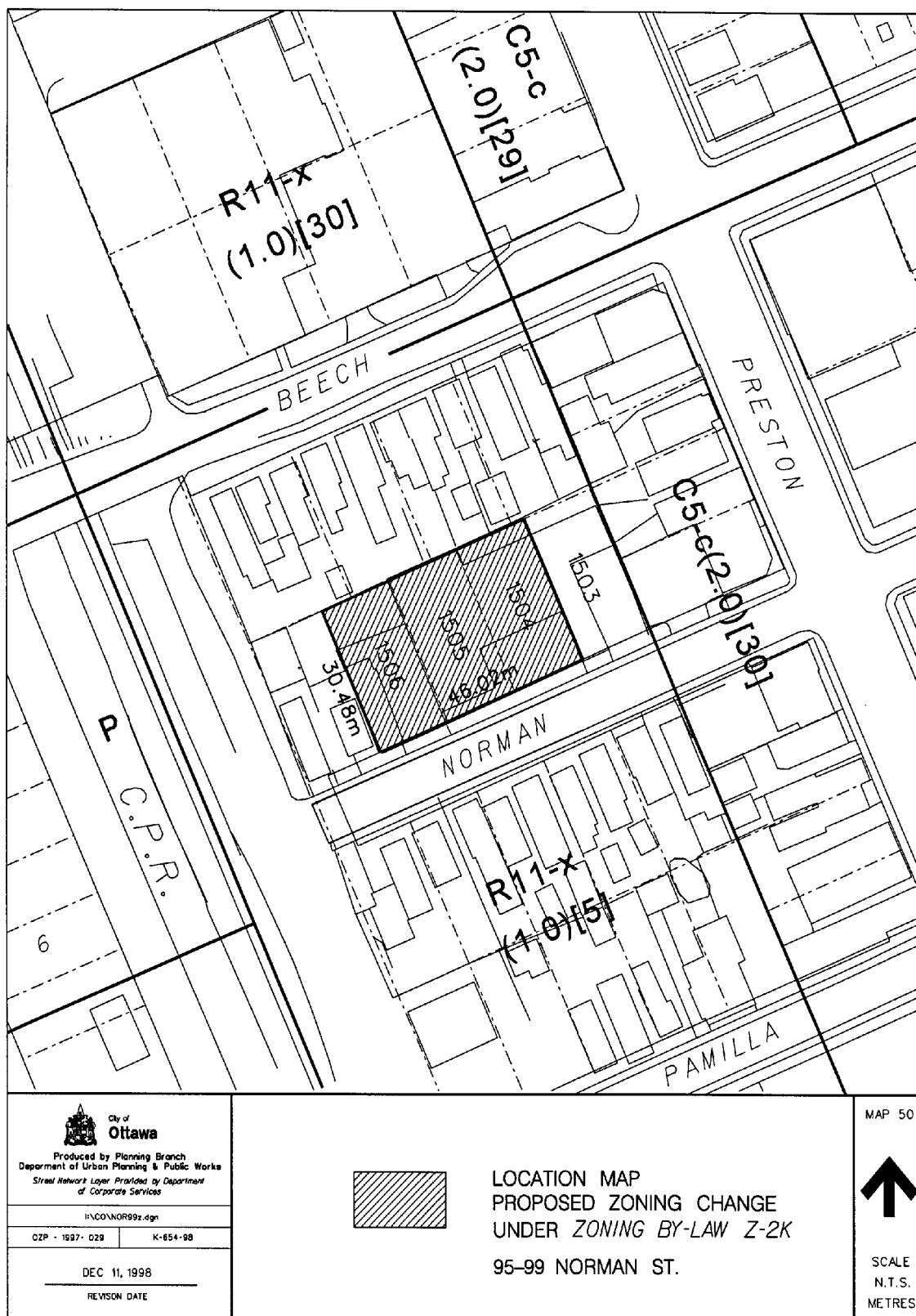
Part II - Supporting Documentation

Location Map - Official Plan Amendment

Document 1







DETAILS OF REQUESTED AMENDMENTS

Document 4

1. Details of requested Official Plan Amendment

Policy 6.4 b) of the Preston-Champagne Secondary Policy Plan is amended by adding the following line of text:

In the case of 95-99 Norman Street, limited commercial and industrial uses may be permitted which include an automobile dealership, automobile service station and automobile body shop.

2. Requested amendment to the *Zoning By-law, 1998*

Proposed IS zone with exceptions as follows:

a) the following additional uses are to be permitted:

automobile body shop, automobile dealership, and printing shop.

b) the following uses are to be prohibited:

building materials yard, heavy equipment and vehicles dealership, light industrial uses, truck transport terminal, printing plant, car wash, convenience store, gas bar, restaurant fast food, restaurant full service, restaurant take-out.

3. Requested amendment to Zoning By-law Number Z-2K

Proposed M1-x exception zone as follows:

The following uses only may be permitted:

automobile sales area, bank, barber shop, beauty parlour, public garage, public parking area, animal hospital, horticultural nursery or greenhouse, laboratory, small batch brewery, wholesale business, storage building, warehouse and equipment sales establishment, television or radio studio, the assembling, painting, upholstering, rebuilding or reconditioning of automotive vehicles, offices, public utility installation, day care, public or private recreational facility.