

1497, 1499 and 1501 Paris Street, Sudbury

Presented To:	Planning Committee
Meeting Date:	May 26, 2021
Type:	Public Hearing
Prepared by:	Mauro Manzon Planning Services
Recommended by:	General Manager of Growth and Infrastructure
File Number:	751-6/21-04

Report Summary

This report provides a recommendation regarding an application for rezoning in order to amend By-law 2010-100Z being the City of Greater Sudbury Zoning By-law from “R3-1”, Medium Density Residential to “C2”, General Commercial.

This report is presented by Mauro Manzon, Senior Planner.

Resolution

THAT the City of Greater Sudbury approves the application by Alesabetta & Fiorenzo Montini to amend Zoning By-law 2010-100Z by changing the zoning classification from “R3-1”, Medium Density Residential and “C2”, General Commercial to “HC2 Special”, Holding General Commercial Special on lands described as PINs 73595-0071 & 73595-0254, Parcels 9580 & 13780 S.E.S., in Lot 6, Concession 1, Township of McKim, as outlined in the report entitled “1497, 1499 & 1501 Paris Street, Sudbury”, from the General Manager of Growth and Infrastructure, presented at the Planning Committee meeting on May 26, 2021, subject to the following conditions:

1. That prior to the enactment of the amending by-law, the owner shall address the following conditions to the satisfaction of the Chief Building Official:
 - a) Submit building permit applications addressing the dwelling unit, building additions and accessory shed constructed without benefit of a permit;
 - b) Remove the shipping container from the subject property;
2. That the amending by-law includes the following site-specific provisions:
 - a) The location of existing buildings and structures shall be permitted;
 - b) The existing duplex dwelling shall be permitted;
 - c) Outdoor display and sales shall not be permitted on PIN 73595-0254 being Parcel 13780 S.E.S.;

- d) Excluding the above, existing outdoor storage and outdoor display and sales areas shall be permitted accessory to the existing automotive sales establishment for the display and sale, renting or leasing of utility and boat trailers;
- e) Planting strips shall not be required for existing uses;
- f) That development, as defined by the Conservation Authorities Act, R.S.O. 1990, c. C.27, be prohibited in the regulatory flood plain, unless otherwise approved by Conservation Sudbury;
- g) A Holding symbol which shall not be removed by the Council of the City of Greater Sudbury until the following condition has been addressed:
 - i) That the owner has entered into a Site Plan Control Agreement with the City of Greater Sudbury pursuant to Section 41 of The Planning Act to the satisfaction of the Director of Planning Services.

Until such time as the H symbol has been removed, the only permitted uses shall be those uses existing on the date that the amending by-law comes into effect.

- 3. Conditional approval shall lapse on June 15, 2023 unless Condition 1 above has been met or an extension has been granted by Council.

Relationship to the Strategic Plan, Health Impact Assessment and Community Energy & Emissions Plan (CEEP)

The application to amend the Zoning By-law is an operational matter under the Planning Act to which the City is responding. The proposal seeks to recognize an existing non-conforming use. There is no conflict with the Strategic Plan or the Community Energy & Emissions Plan.

Report Summary

An application for rezoning has been submitted for lands municipally known as 1497, 1499 & 1501 Paris Street, Sudbury in order to recognize an existing non-conforming use and to permit all “C2”, General Commercial uses. Planning Services recommends that the existing automotive sales establishment for the display and sale, renting or leasing of utility and boat trailers be permitted subject to the necessary conditions of approval, as it presents general conformity with the criteria applied under Section 19.5.7 of the Official Plan. Additional C2 uses would be subject to a holding provision until such time that a Site Plan Control Agreement is registered on the property.

Financial Implications

There are no financial implications associated with this report for rezoning as existing buildings are located on the property with no further expansion required.

However, development charges may be required to be paid for the additions to the commercial space that was completed without a building permit. The secondary unit for the single family dwelling may be exempt from development charges

Staff Report

Proposal:

An application has been received to amend By-law 2010-100Z being the City of Greater Sudbury Zoning By-law from “R3-1”, Medium Density Residential to “C2”, General Commercial.

The application has been submitted in order to recognize an existing commercial use, being an automotive sales establishment for the display and sale, renting or leasing of utility and boat trailers; and further, to extend C2 zoning permissions to the entirety of the site.

The property has a history of legal non-conforming use, which was lost when the current commercial use was established without benefit of Committee of Adjustment approval.

Existing Zoning: “R3-1”, Medium Density Residential and “C2”, General Commercial

The subject property has a split zoning. The main part of the site being PIN 73595-0071 is zoned “R3-1”, Medium Density Residential, which permits low and medium density residential uses up to a maximum density of 90 dwelling units per hectare.

The smaller portion of the site being PIN 73595-0254, which is essentially the driveway entrance to the property, is zoned “C2”, General Commercial.

Requested Zoning: “C2”, General Commercial

The owner is proposing to rezone the entirety of the lands to C2 in order to recognize the existing automotive sales establishment for utility and boat trailers, which was established without approval; and further, to permit all C2 uses. C2 zoning permits a broad range of residential and commercial uses, including more than 50 different land uses.

Location and Site Description:

PINs 73595-0071 & 73595-0254, Parcels 9580 & 13780 S.E.S., in Lot 6, Concession 1, Township of McKim (1497, 1499 & 1501 Paris Street, Sudbury)

The subject property forms a mixed-use site located on the west side of Paris Street in the Lockerby neighbourhood of Sudbury. The area is fully serviced by municipal sewer and water. Paris Street is designated as a Primary Arterial Road and is fully urbanized. The area is serviced by GOVA Route 1.

Total area of the lands to be rezoned is 0.43 ha based on the submitted concept plan, with 12 metres of frontage on Paris Street. The site is occupied by the following uses: an automotive sales establishment for the display and sale, renting or leasing of utility and boat trailers (Northland Trailer Sales), a triplex and a duplex. There are various accessory structures, including a shipping container in the rear yard.

Nepahwin Creek traverses the property, draining in a northerly direction towards Lily Creek. Most of the creek has been contained within a culvert, with a smaller open portion as delineated on the rezoning sketch. As a result, part of the property forms a regulated area under the Conservation Authorities Act, as outlined on the attached NDCA mapping.

The adjacent area forms a mixed-use district with both commercial and residential uses. Small office uses abut the driveway entrance to the north and south. Two (2) medium density residential uses abut the main part of the site: Robin’s Nest Co-op to the north (60 units) and the Banyan Apartments to the south (99 units). The abutting apartment complexes are built to a slightly higher elevation, with unobstructed views onto the subject lands. Both buildings are five (5) storeys in height.

Surrounding Land Uses:

The area surrounding the site includes:

North: Co-operative housing complex (Robin’s Nest) and small office building (1493 Paris Street);

East: Mixed commercial uses on east side of Paris Street;

South: Apartment building (Banyan Apartments) and small office building and convenience store (1503-1507-1513-1515 Paris Street);

West: vacant lands zoned “I”, Institutional (Rainbow District School Board).

Related Applications:

There is a history of minor variances on the subject land related to the legal non-conforming use as follows:

A0047/1979: expand legal non-conforming use being an engine repair shop by constructing a one-storey addition to west side of garage;

A0058/1996: enlarge engine repair shop with associated office and storage by constructing an addition to east side of building; and,

A0018/1998: change legal non-conforming use from engine repair shop to appliance repair service and sale of used appliances.

The trailer business was established without Committee of Adjustment approval as authorized under the Planning Act, and as such, legal non-conforming status has been lost.

Public Consultation:

The notice of complete application was circulated to the public and surrounding property owners on February 19, 2021. The statutory notice of the public hearing was provided by newspaper along with a courtesy mail-out circulated to the public and surrounding property owners within 120 metres of the property on May 8, 2021.

The applicant was advised of the City’s policy recommending that applicants consult with their neighbours, ward councillor and key stakeholders to inform area residents on the application prior to the public hearing.

The application indicates that the proponents will distribute letters to adjacent residents and owners in order to solicit comments.

As of the date of this report, one (1) phone call has been received seeking clarification on the application. Two (2) written submissions have been received, including an objection to the proposal.

Policy & Regulatory Framework:

The property is subject to the following policy and regulatory framework:

- [2020 Provincial Policy Statement](#)
- [2011 Growth Plan for Northern Ontario](#)
- [Official Plan for the City of Greater Sudbury, 2006](#)
- [Zoning By-law 2010-100Z](#)

Provincial Policy Statements and geographically specific Provincial Plans, along with municipal Official Plans, provide a policy framework for planning and development in the Province. This framework is implemented through a range of land use controls such as zoning by-laws, plans of subdivision and site plans.

Provincial Policy Statement:

Municipalities in the Province of Ontario are required under Section 3 of the [Planning Act](#) to ensure that decisions affecting planning matters are consistent with the Provincial Policy Statement.

Section 1.1.3 of the PPS identifies settlement areas as the focus of growth and development. A mix of land uses is promoted that utilize existing and planned infrastructure and public services facilities, including development that is transit-supportive. New development shall avoid the need for the unjustified and/or

uneconomical expansion of services.

Under Section 3.1 of the PPS related to Natural Hazards, development shall generally be directed to areas outside of hazardous lands adjacent to river, stream and small inland lake systems which are impacted by flooding hazards and/or erosion hazards. Development and site alteration shall not be permitted within a floodway regardless of whether the area of inundation contains high points of land not subject to flooding.

Growth Plan for Northern Ontario:

Municipalities in the Province of Ontario are required under Section 3 of the *Planning Act* to ensure that decisions affecting planning matters conform with the Growth Plan for Northern Ontario.

The GPNO identifies Greater Sudbury as an Economic and Service Hub, which shall accommodate a significant portion of future population and employment growth and allow a diverse mix of land uses.

Official Plan for the City of Greater Sudbury:

The subject lands have a split land use designation. The main portion of the site zoned R3-1 is designated as Living Area 1, similar to the housing complexes located to the north and south. The driveway entrance portion currently zoned C2 is designated as Mixed Use Commercial, which also aligns with the abutting properties along the driveway entrance. Under Section 19.9 of the Official Plan, there is some flexibility in determining the limits of a land use designation, particularly as it relates to hard boundaries such as a road, railway or waterbody.

Notwithstanding the above, the owner is seeking to recognize a non-conforming use. Under Section 19.5.7 of the Official Plan concerning non-conformity, the following Policies 3 and 4 shall be applied:

3. It is the intent of the City to eliminate those non-residential uses existing at the time of adoption of this Plan that are incompatible with surrounding uses, and which do not conform to the land use provisions of the Zoning By-law, nor to the land use designations of this Plan. However, the City may, through the adoption of a new Zoning By-law or through subsequent amendments to it, permit such uses, or an expansion, or change to such uses without an amendment to this Plan provided that such uses are or can be made compatible with the surrounding uses, and comply with the criteria below.
4. In considering the recognition of an established non-conforming use, or an application for an expansion, extension, or change of such use, the City or the Committee of Adjustment will have regard for the following criteria:
 - a. the proposal will not aggravate the situation created by the existence of the use, especially in regard to the policies of this Plan and the requirements of the Zoning By-Law applied to the area;
 - b. the proposal will create minimal impacts on surrounding uses with regard to noise, vibrations, fumes, smoke, odours, glare, traffic generating capacity, signs and other environmental matters;
 - c. the neighbouring conforming uses will be protected, where necessary, by the provisions of landscaping, buffering or screening; appropriate setbacks for buildings and structures; devices and measures to reduce nuisances; and, where necessary, by regulations for alleviating adverse effects caused by outside storage, lighting, advertising signs; and other matters;
 - d. the traffic and parking conditions of the vicinity will not be adversely affected by the application, and traffic hazards will be kept to a minimum by the appropriate design of access and egress points to, from and over the site; or through the improvement of site conditions, especially in proximity to intersections;
 - e. adequate provisions have been or will be made for off-street parking and loading facilities; and,
 - f. municipal services such as water, sanitary sewers, storm sewers and roads are adequate, or can be made adequate.

Zoning By-law 2010-100Z:

The property does not meet current day standards related to commercial development in a built-up urban area. In order to recognize the existing commercial use and address the unpermitted work on the property, a range of site-specific relief is required as follows:

- An unscreened outdoor storage area directly abuts an R3-1 zone, where the Zoning By-law restricts outdoor storage within any yard abutting a Residential zone boundary;
- There are no planting strips to buffer and screen the commercial use; and,
- The outdoor display and sales area along the southerly interior side yard is located in an area required for landscaped open space (planting strips).

Site Plan Control:

Mixed-use commercial properties are subject to Site Plan Control.

Department/Agency Review:

Building Services have outlined the non-complying features of the property and have also advised that construction has occurred without benefit of a building permit, which should be addressed as a condition of approval.

Conservation Sudbury have indicated their concerns related to the flood plain on the subject land, and have accordingly requested a site-specific provision restricting any development within the regulated area associated with Nepahwin Creek.

Planning Analysis:

The establishment of the trailer business without the necessary approval through Committee of Adjustment compels the owner to rezone the property if the commercial use is to continue. If approved, the use will become fully entrenched on the site. Furthermore, the owner is asking for all C2 uses to be extended across the entirety of the lands. The owner is not proposing any improvements at this time, where existing conditions do not meet current-day standards for mixed-use commercial development. Council must therefore be satisfied that the proposal meets the criteria set out under Section 19.5.7 of the Official Plan related to non-conformity.

1. *The proposal will not aggravate the situation created by the existence of the use.*

The existing commercial use is fairly small scale and does not involve the repair and servicing of motorized vehicles. It is therefore considered less intensive than the engine repair shop that pre-dates the trailer business.

It is recommended that the required relief be extended only to the existing commercial use, being an automotive sales establishment for the display and sale, renting or leasing of utility and boat trailers; and further, that a holding provision be implemented requiring a Site Plan Control Agreement prior to the introduction of additional C2 uses.

2. *The proposal will create minimal impacts on surrounding uses with regard to noise, vibrations, fumes, smoke, odours, glare, traffic generating capacity, signs and other environmental matters.*

Based on information provided by By-law Services, this process was initiated based on a complaint concerning trailers overhanging the sidewalk on Paris Street. Staff were advised that there are no additional complaints on record related to noise or other nuisance factors. Notwithstanding the above, a written submission has been received objecting to the proposal based on noise and site conditions. The noise complaint is tied to work being conducted in outdoor areas.

3. *The neighbouring conforming uses will be protected, where necessary, by the provisions of landscaping, buffering or screening; appropriate setbacks for buildings and structures; devices and*

measures to reduce nuisances; and, where necessary, by regulations for alleviating adverse effects caused by outside storage, lighting, advertising signs; and other matters.

There is an existing unscreened outdoor storage adjacent to the commercial building that directly abuts a Residential zone. Outdoor storage, which is distinct from outdoor display and sales, is not permitted in C2 zones.

It is recommended that the existing outdoor storage area be permitted only as an accessory use to the existing trailer business in order to allow the current lessee to continue to operate the business. In regards to future development and the additional C2 uses requested by the owner, site plan control will be utilized in order to improve on-site conditions to the extent possible.

4. *The traffic and parking conditions of the vicinity will not be adversely affected by the application, and traffic hazards will be kept to a minimum by the appropriate design of access and egress points to, from and over the site; or through the improvement of site conditions, especially in proximity to intersections.*

The main consideration relates to the outdoor display of trailers along the driveway entrance, which is too narrow to accommodate two-way traffic and a display area. Accordingly, the owner's rezoning sketch does not illustrate trailers parked along the driveway entrance. However a recent site visit revealed that trailers are still being displayed along the driveway entrance, which impedes sight lines and access to the site. As noted above, there has also been a complaint about trailers overhanging the sidewalk.

It is recommended that a site-specific provision be adopted that restricts outdoor display and sales on PIN 73595-0254, which is the 12 metre-wide driveway entrance to the site.

5. *Adequate provisions have been or will be made for off-street parking and loading facilities.*

Concerning the adequacy of on-site parking, Building Services advised that the parking calculations need to be revisited. The rezoning sketch illustrates 15 parking spaces where 18 spaces are required if a parking standard of 1 per 30 m² of net floor area were applied to the commercial building as an automotive sales establishment. A permitted 10% reduction for commercial uses on GOVA routes reduces the total parking requirement to 17 spaces.

Staff note that there is additional site area for two (2) more parking spaces and that relief is not warranted. Furthermore, an existing ramp to the building provides an adequate loading area.

6. *Municipal services such as water, sanitary sewers, storm sewers and roads are adequate, or can be made adequate.*

There are no concerns related to the adequacy of servicing.

Regulated area

Nepahwin Creek traverses the property, most of which is contained within a culvert. There is an open portion of the creek that is delineated on the rezoning sketch and attached topographical survey. As a result, a small portion of the site contains a designated flood plain. Staff note that there are no buildings within the limits of the flood plain.

Conservation Sudbury recommends that a site-specific provision be included in the amending by-law that would prohibit development within the flood plain unless otherwise approved by the Conservation Authority. The limits of the flood plain will be incorporated into any future Site Plan Control Agreement.

Recommended conditions of approval

Planning Services can support the proposal and the associated relief, but only as it relates to existing uses, being an automotive sales establishment for utility and boat trailers, a triplex and a duplex. It is recommended that a holding provision be implemented that would require a Site Plan Control Agreement prior to the introduction of any additional C2 uses in order to bring the property up to a higher standard including the interface with abutting sensitive land uses. The unpermitted work also needs to be addressed to the satisfaction of Building Services.

The following conditions of approval are recommended:

1. That prior to the enactment of the amending by-law, the owner shall address the following conditions to the satisfaction of the Chief Building Official:
 - a) Submit building permit applications addressing the construction conducted without benefit of a permit;
 - b) Remove the shipping container from the property;
2. That the amending by-law includes the following site-specific provisions:
 - a) The location of existing buildings and structures shall be permitted;
 - b) The existing duplex dwelling shall be permitted;
 - c) Outdoor display and sales shall not be permitted on PIN 73595-0254 being Parcel 13780 S.E.S.;
 - d) Excluding the above, existing outdoor storage and outdoor display and sales areas shall be permitted accessory to the existing automotive sales establishment for the display and sale, renting or leasing of utility and boat trailers;
 - e) Planting strips shall not be required for existing uses;
 - f) That development, as defined by the Conservation Authorities Act, R.S.O. 1990, c. C.27, be prohibited in the regulatory flood plain, unless otherwise approved by Conservation Sudbury;
 - g) A Holding symbol that shall not be removed by the Council of the City of Greater Sudbury until the following condition has been addressed:
 - i) That the owners have entered into a Site Plan Control Agreement with the City of Greater Sudbury pursuant to Section 41 of The Planning Act to the satisfaction of the Director of Planning Services.

Until such time as the H symbol has been removed, the only permitted uses shall be those uses existing on the date that the amending by-law comes into effect.

Conclusion

The proposal presents general conformity with Official Plan policies applied to non-conforming uses, as well as the policy framework outlined in the Provincial Policy Statement and the Growth Plan for Northern Ontario. The subject site is located in a fully serviced mixed-use node that is serviced by public transit. The proposed zoning is consistent with adjacent uses.

The Staff recommendation will allow the trailer business to continue while also establishing the pre-conditions for future redevelopment through the implementation of a holding provision.