

## 1325 Bellevue Avenue, Sudbury

Presented To:	Planning Committee
Meeting Date:	March 20, 2023
Type:	Public Hearing
Prepared by:	Bailey Chabot Planning Services
Recommended by:	General Manager of Growth and Infrastructure
File Number:	751-6/22-023

## Report Summary

This report provides a recommendation regarding an application to amend the City of Greater Sudbury's Zoning By-law, 2010-100Z in order to permit local commercial uses within an existing single-storey building that has historically operated with commercial uses.

This report is presented by Bailey Chabot, Senior Planner.

Letter(s) of concern from concerned citizen(s)

## Resolution

THAT the City of Greater Sudbury approves the application by the Community Church of the Way to amend Zoning By-law 2010-100Z by changing the zoning classification from "I(43)", Institutional Special to "C1", Local Commercial Special on lands described as PIN 73581-0275, Parcel 14649 SEC SES; Lots 75 and 76, Plan M129, Township of McKim; S/T LT154590, LT23487; Greater Sudbury, as outlined in the report entitled "1325 Bellevue Avenue, Sudbury", from the General Manager, Growth and Infrastructure, presented at the Planning Committee meeting on March 20, 2023, subject to the following conditions:

1. That prior to the enactment of an amending zoning by-law:
  - a) The owner shall have constructed a test maintenance hole to the satisfaction of the Director of Planning Services.
2. That the amending zoning by-law include the following site-specific provisions:
  - a) 'Business office', to a maximum net floor area of 150 metres squared per lot, be a permitted use; and,
  - b) The following uses be prohibited:
    - i. Any dwelling containing not more than 2 dwelling units;
    - ii. Group Home Type 1;
    - iii. Private Home Daycare; and,
    - iv. Day Care Centre

## **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 represents redevelopment of an existing serviced lot and is therefore consistent with the goals and objectives of the Strategic Plan. As the proposal promotes a mix of use in a built-up urban area serviced by public transit, the proposal aligns with the recommendations of the Community Energy & Emissions Plan.

## **Financial Implications**

If approved, any change in taxation is unknown at this time as the change in zoning may change the assessment value. The assessment value of the building would be determined by Municipal Property Assessment Corporation (MPAC).

If there is additional taxation revenue, it will only occur in the supplemental tax year. Any taxation revenue generated from new development is part of the supplemental taxation in its first year. Therefore, the City does not receive additional taxation revenue in future years from new development, as the tax levy amount to be collected as determined from the budget process, is spread out over all properties within the City.

The amount of development charges will be based on final review of the property by Building Services department.

## **Report Overview**

An application for Zoning By-law Amendment has been submitted to permit local commercial uses on the property municipally known as 1325 Bellevue Avenue, Sudbury. There is an existing single-storey structure on-site. Special provisions relate only to the requested 'business office' use and the requested prohibited uses.

Staff recommends approval of the application as described in the Resolution section on the basis that it is consistent with the Provincial Policy Statement, conforms to the Growth Plan for Northern Ontario, the Official Plan for the City of Greater Sudbury, has regard for matters of provincial interest and represents good planning.

## **STAFF REPORT**

### **PROPOSAL:**

An application for a Zoning By-law Amendment has been submitted to permit an 'business office' as a special use in a C1, Local Commercial Special zone. As with all uses in a standard C1, Local Commercial zone, the proposed 'business office' use would be to a maximum gross floor area of 150 metres squared. While no site-specific relief from the C1, Local Commercial standards are being requested, the proponent has requested that the following uses be prohibited:

- Any dwelling containing not more than 2 dwelling units;
- Group Home Type 1;
- Private Home Daycare; and,
- Day Care Centre.

Removal of these uses avoids the need for the proponent to conduct a record of site condition.

### **Location and Site Description:**

The subject parcel is legally described as PIN 73581-0275, Parcel 14649 SEC SES; Lots 75 and 76, Plan M129, Township of McKim; S/T LT154590, LT23487; Greater Sudbury and is known municipally as 1325 Bellevue Avenue, Sudbury. The lands are located at the northeast corner of the intersection of Bellevue Avenue, Howie Drive, and Dale Street and are located within a source water Intake Protection Zone 3. The parcel is rectangular in shape and per the submitted site plan has 38.13 metres of frontage along Bellevue Avenue and 30.65 metres of frontage along Dale Street. The total area of the parcel is approximately 1,110 metres squared. The parcel is relatively flat and contains an existing structure currently being used as a place of worship. The parcel does not appear to contain vegetation beyond grass along the easterly and northly yards and a few trees. The parcel is accessed via Dale Street, with a right-turn only exit onto Bellevue Avenue. There is a Canadian Pacific Railway rail line south of Dale Street.

### **Existing Zoning:** "I(43)", Institutional

The "I(43)" Zone permits only a place of worship per Section 5 Special Other Zones (1) Special Institutional Zones – I, (qq) of the City's Zoning By-law. The development standards associated with the "I(43)" zone are outlined under Part 10.3, Table 10. – Standards for All Other Zones. To create more economic opportunity, the proponent is looking to rezoning the parcel to permit a greater number of uses.

### **Requested Zoning:** "C1", Local Commercial Special

The rezoning is being pursued to create more economic opportunity through a greater number of uses than are currently permitted on the subject site. The proponent is looking to permit commercial uses that are compatible with the adjacent residential uses, including those permitted in the C1, Local Commercial zone, as well as an 'business office' use.

### **Surrounding Land Uses:**

North: Low density residential

East: Low density residential

South: Canadian Pacific Railway and Low density residential

West: Low and medium density residential

The existing zoning and location map are attached to this report and together indicate the location of the parcel subject to the Zoning By-law Amendment request, as well as the applicable zoning on other parcels of land in the immediate area.

Site photos generally depict the existing single-storey structure from Bellevue Avenue and Dale Street. Photos of the rear and interior side yards, from Bellevue Avenue and Dale respectively, are also shown. The immediate surrounding area is shown and the residential character of the neighbourhood is visible.

### **Public Consultation:**

The statutory Notice of Application was provided to the public by newspaper and to nearby landowners and tenants located within 120 m (400 ft) of the subject lands on January 18, 2023. The statutory Notice of Public Hearing dated March 4, 2023 was provided to the public by newspaper and to nearby landowners and tenants located within 120 m (400 ft) of the subject lands.

At the time of writing this report one public comment has been received; the authors oppose the use of the site for a Group Home Type 1. The applicant has requested that this use be prohibited for reasons discussed elsewhere in the report and the concern is considered resolved.

### **POLICY AND REGULATORY FRAMEWORK:**

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

- 2020 Provincial Policy Statement (PPS);
- 2011 Growth Plan for Northern Ontario;
- Official Plan for the City of Greater Sudbury; and,
- Zoning By-law 2010-100Z.

The PPS and the Growth Plan for Northern Ontario, along with the City's Official Plan, provide a policy framework for land use planning and development in the City of Greater Sudbury. This framework is implemented through a range of land use planning controls such as, but not limited to, zoning by-laws, plans of subdivision and site plans.

### **2020 Provincial Policy Statement (PPS):**

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 2020 PPS. The following PPS policies are pertinent to the application for Zoning By-law Amendment:

1. Employment policies set forth in Section 1.3.1 require that planning authorities promote economic development and competitiveness by providing for an appropriate mix and range of employment, institutional, and broader mixed uses to meet long-term needs (1.3.1a)) and encouraging compact, mixed-use development that incorporates compatible employment uses to support liveable and resilient communities, with consideration of housing policy 1.4 (1.3.1d)).
2. With respect to Transportation Systems policies, Section 1.6.7.4 outlines that a land use pattern, density and mix of land uses should be promoted that minimize the length and number of vehicular trips and support current and future use of public transit and active transportation options.
3. With respect to Energy Conservation, Air Quality and Climate Change policies, Section 1.8.1 identifies the support of energy conservation and efficiency, improved, air quality, reduced greenhouse gas emissions, and preparing for the impacts of a changing climate by encouraging intensification to improve the mix of employment and housing uses to shorten commute journeys.

## **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. There are no policies that are relevant to this application, therefore the application does not conflict with the Growth Plan.

## **Official Plan for the City of Greater Sudbury:**

The subject land is designated as Living Area 1, which primarily focuses on a range of residential uses including medium density housing types, but does permit small-scale commercial uses that are intended to serve the convenience needs of local residents within all Living Areas, by way of rezoning.

The objectives of the Living Area designation include ensuring that Communities and Non-Urban Settlements permit a variety of complementary and compatible land uses, including community facilities, small-scale commercial uses and open space areas (3.1.d.).

Policy 3.2.9 allow for small-scale commercial uses intended to serve the convenience needs of local residents and are permitted in all Living Areas by way of rezoning. The uses are intended to be isolated so to not change the residential character of the area and are limited to a maximum of 150 metres squared of floor space per location. Finally, a rezoning application is to be reviewed on the bases of general conformity with the following policies:

- a) access to and traffic generated by the site will not create adverse traffic problems on surrounding roads;
- b) lighting and signage are located so as not to create any adverse visual impact on the surrounding residences;
- c) the use will provide landscaping and buffering in a manner that is in harmony with adjoining and nearby residential properties; and,
- d) the proposed small-scale commercial use must form a good fit with the existing neighbourhood fabric.

Policy 3.2.1.6 further elaborates the considerations as part of a rezoning to ensure that:

- a) the site is suitable in terms of size and shape to accommodate the proposed density and building form;
- b) the proposed development is compatible with the surrounding neighbourhood in terms of scale, massing, height, siting, setbacks, and the location of parking and amenity areas;
- c) adequate on-site parking, lighting, landscaping and amenity areas are provided; and,
- d) the impact of traffic on local streets is minimal.

Section 8.3 outlines the need to protect drinking water and to conform to the City's Source Protection Plan. Policy 8.3.1 requires that development, certain land use activities and public works within the vulnerable areas will conform with the policies on List A of the Greater Sudbury Source Protection Plan while policy 8.3.6 requires that the City ensures that the Zoning By-law restrict land uses that have the potential to cause contamination of groundwater resources.

Section 10.5 discusses the contamination of lands through past activities and the need to adequately protect sensitive uses from this contamination. To ensure that there are no adverse effects on more sensitive land uses, policy 10.5.1 requires an environmental site assessment and, where necessary, remediation of the site prior to any change to a sensitive use.

Section 11.3.2 of the Official Plan outlines the land use policies to support transit needs. Policies in section 11.3.2 include the need for development to facilitate the provision of public transit, ensuring that urban design and community development that facilitate the provision of public transit will be promoted.

Section 11.4 requires sufficient parking to be provided on-site to meet the anticipated demand.

Section 11.8 of the Official Plan identifies accessibility as a key consideration for our communities.

### **Zoning By-law 2010-100Z:**

The existing “I(43)”, Institutional zone permits a place of worship as its only use. The current owners are looking to dispose of the lands and are looking for the highest and best use of the site. As such, they have requested a zoning amendment to a “C-1”, Local Commercial zone with special provisions to permit an “business office” use and to prohibit any sensitive land use.

### **Site Plan Control:**

The details of the future use of the site are undetermined; the need for site plan control will be determined when a specific use and/or development is considered for the site.

### **Department/Agency Review:**

The application, including relevant accompanying materials, has been circulated to all appropriate agencies and departments. Responses received from agencies and departments have been used to assist in evaluating the application and to inform the content of special provisions should the application be approved.

During the review of the proposal, comments provided by circulated agencies and departments included the following:

Water/Wastewater, Active Transportation, Transportation and Innovation Support, Roads Operations and the City’s Drainage Section have each advised that they have no concerns from their respective areas of interest.

Building Services has advised that any alterations to the existing structure will require building permits and that a building permit for the change of use from a take-out restaurant to a place of worship was not sought.

Development Engineering advises that the lands are serviced with municipal water and sanitary sewer infrastructure. Based on the requested rezoning and the requirements of the City’s Sewer Use By-law, a test maintenance hole is required on the sanitary sewer service to the building. Development Engineering does not oppose the rezoning, so long as the test maintenance hole is installed.

There was no opposition to the proposed rezoning identified by any circulated department or agency.

### **PLANNING ANALYSIS:**

The 2020 PPS, the 2011 Growth Plan, and the City of Greater Sudbury Official Plan, and other relevant policies and supporting guidelines were reviewed in their entirety. The following section provides a planning analysis of the application with respect to the applicable policies, including issues raised through agency and department circulation.

The application to permit a local commercial uses on the subject land is consistent with both the PPS and Official Plan direction to direct development to fully serviced settlement areas, to make the most efficient use of land, resources, infrastructure and public service facilities, promote economic development through an appropriate mix of uses, minimize negative impacts on air quality and climate change, promote energy efficiency and support public transit, active transportation and the efficient movement of goods. The Official Plan encourages all forms of intensification.

Specifically, the Official Plan requires compliance with 3.2.9 to permit small-scale commercial uses in the Living Area. The criteria listed in 3.2.9 are:

- a) access to and traffic generated by the site will not create adverse traffic problems on surrounding roads;
- b) lighting and signage are located so as not to create any adverse visual impact on the surrounding residences;
- c) the use will provide landscaping and buffering in a manner that is in harmony with adjoining and nearby residential properties; and,

- d) the proposed small-scale commercial use must form a good fit with the existing neighbourhood fabric.

The proposed development complies with these criteria as:

- a) there are no concerns that the rezoning will create adverse traffic problems on either Howie Drive, Bellevue Avenue, nor Dale Street;
- b) the existing signage is not lit and is along Bellevue Avenue;
- c) the existing landscaping includes fencing on the perimeter adjacent to residential uses; and,
- d) the site has operated as a commercial site prior to operating as a place of worship while the existing structure is less than the maximum 150 metres squared and focused toward Bellevue Avenue.

The OP also requires consideration of policy 3.2.1.6 when rezoning lands in a Living Area 1 designation. The criteria are:

- a) the site is suitable in terms of size and shape to accommodate the proposed density and building form;
- b) the proposed development is compatible with the surrounding neighbourhood in terms of scale, massing, height, siting, setbacks, and the location of parking and amenity areas;
- c) adequate on-site parking, lighting, landscaping and amenity areas are provided; and,
- d) the impact of traffic on local streets is minimal.

The proposed development complies with these criteria as:

- a) the structure is existing and has a lesser gross floor area than the maximum 150 metres squared permitted;
- b) the structure exists and is sited toward Bellevue Avenue;
- c) parking is available on-site, as is the appropriate lighting and landscaping;
- d) there are no concerns that the traffic associated with the rezoning will create adverse problems on the local streets.

With regards to Section 8.3, the proposed rezoning has been reviewed by the Source Water Protection experts. There is no concern with any of the proposed uses for causing the contamination of groundwater resources.

The proposed rezoning complies with Section 10.5 as no sensitive uses are being proposed on-site, therefore the proponent is not required to provide any environmental studies.

Section 11.3.2 has been complied with as the site is located on an existing transit route, with the nearest stop being less than 100 metres away, while section 11.4 is complied with as there is sufficient parking on-site to accommodate the proposed uses. Finally, section 11.8 identifies accessibility as a key consideration for our communities. The existing structure is a single storey on a relatively flat site that is served by a side walk and an accessible parking staff. Staff recommend that any future renovations take into consideration accessibility provisions of the building.

Given the above, staff are of the opinion that the proposed development complies with the relevant policies of the PPS 2020 and the Official Plan and represents an appropriate location for local commercial use. The site itself is sufficient in size to accommodate the required on-site parking, snow storage, and refuse storage.

With respect to the requested zone of "C1", Local Commercial Special, the proposed development meets the zoning standards of this zone. The parcel has an area of approximately 1,100 metres squared, lot frontage of greater than 30 metres and a lot depth of greater than 38 metres, which exceed the minimum requirements for the "C1", Local Commercial Zone. The existing building also exceed the minimum requirements for setbacks and is lesser than the maximum 150 square metres of area permitted by the zone.

The special provisions requested by the proponent are related to use only; sensitive uses that would necessitate a record of site condition (RSC) per the *Environmental Protection Act* (EPA) have been requested to be prohibited. This is not to say that the site is contaminated with pollutants or otherwise unsafe. A future user of the site could complete an RSC and rezone to permit the sensitive uses, such as a residential use or a day care centre.

The proponent has requested that an 'business office' use be permitted. The 'business office' use is defined as a building or part thereof where "*one or more persons is employed in administering, consulting, managing, directing or conducting a public or private agency, a professional office, a business, a brokerage or a labour or fraternal organization, and includes, without limiting the generality of the foregoing, an office accessory to a permitted non-residential use, a bank or other financial institution, a data processing establishment, a non-governmental or not-for-profit organization, the premises of a courier service, a newspaper publisher, or a real estate or insurance agent, but does not include a retail store, medical office or veterinarian's clinic*". A 'business, office' use would expect to have the same rate of use as other permitted uses in the "C1", Local Commercial Zone, such as a medical office, a pharmacy, or a personal service shop and would not expect to generate more vehicle or foot traffic. A 'business office' use is not expected to generate any negative externalities (such as odor or sound) that would be incompatible with the surrounding residential uses. Finally, a 'business, office' use requires parking at a rate of 1/30 metres squared of net floor area. The existing structure would only require a maximum of four parking spaces while there are greater than four parking spaces available on-site.

The final consideration is the appropriateness of the proposed rezoning within the context of the neighbourhood. The site has historically (with the exception of the last approximately five years) operated as a commercial site – initially as a gas station and convenience store, then as a restaurant. The subject lands are sufficient in size to support Local Commercial uses without any reduced setbacks, while the height of the existing structure is consistent with the residential character of the neighbourhood. No reduced setbacks or other relief has been requested.

Given the above analysis, staff are of the opinion that the proposed development is consistent with Provincial Policy Statement, 2020, conforms to both the Growth Plan for Northern Ontario, 2011, and City's Official Plan, and represents good land use planning. As such, staff recommend the approval of the proposed Zoning By-law Amendment, including the requested site-specific provisions related to use.

## **Conclusion**

The Planning Division undertook a circulation of the application to ensure that all technical and planning matters have been satisfactorily addressed; no concerns were identified by any of the circulated departments.

Staff is satisfied that the application is consistent with the PPS and conforms to the Growth Plan and the Official Plan. Staff is of the opinion that the proposed Zoning By-law Amendment is appropriate based on the following:

- The proposed local commercial uses will promote a range of appropriate uses in the area.
- The site is suitable for the proposed density and building form.
- The proposal has been evaluated in the context of the surrounding and future land uses and is considered appropriate.
- Adequate parking, landscaping and amenity areas can be provided.
- The impact on local streets will be minimal.
- The sewer and water services are adequate for the site.

Staff recommends approval of the application as described in the Resolution section on the basis that it is consistent with the Provincial Policy Statement, does not conflict with the Growth Plan for Northern Ontario, conforms to the Official Plan for the City of Greater Sudbury, has regard for matters of provincial interest and represents good planning.