

**Title: L.S. Bock Developments Inc.**

**Date: January 4, 2021**

## **Staff Report**

### **Proposal:**

An application for rezoning has been submitted in order to convert a duplex dwelling to a multiple dwelling with four (4) units. The existing building has two (2) occupied main floor units and two (2) unoccupied basement units according to the application.

**Existing Zoning:** "R2-2", Low Density Residential Two

R2-2 zoning permits low density residential uses in form of single detached, duplex and semi-detached dwellings.

**Requested Zoning:** "R3 Special", Medium Density Residential Special

The proposed R3 Special zoning would permit single detached, duplex and semi-detached dwellings and a multiple dwelling with a maximum of four (4) units. Site-specific relief is also requested for lot frontage, railway setback, parking in the required front yard, the amount of landscaped open space including planting strips, the location of the existing building, and retaining wall setbacks.

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

PIN 73582-0090, Parcel 13056 S.E.S., Lot 116, Plan M-131 in Lot 3, Concession 3, Township of McKim (953 Howey Drive, Sudbury)

The subject lot is located on the south side of Howey Drive, east of Somerset Street. The area is fully serviced by municipal sewer and water. Howey Drive is designated as a Secondary Arterial Road and is serviced by public transit. The closest transit stops are located to the west, an approximate walking distance of 53 metres (eastbound service) and 85 metres (westbound service).

The lot has a total area of 699 m<sup>2</sup>, with 12.19 metres of road frontage and an approximate depth of 58 metres. The site is occupied by a 199 m<sup>2</sup> one-storey dwelling constructed to accommodate four (4) units. The application indicates that two (2) of the units are currently occupied.

A single detached dwelling built in 1955 abuts to the east (957 Howey Drive). A triplex constructed in 1951 is situated to the west (947 Howey Drive). Both abutting dwellings have non-complying setbacks from their respective lot lines. The setbacks are deemed legal non-complying, as the dwellings were constructed prior to the implementation of zoning in 1962. Lands directly opposite the subject property are undeveloped.

The subject property backs onto the Canadian Pacific railway. The rail corridor is located at a lower elevation compared to adjacent residential uses.

### **Surrounding Land Uses:**

The area surrounding the site includes:

North: Undeveloped residential lands

East: Single detached dwelling

South: CPR rail corridor

West: Triplex dwelling

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**Related Applications:**

The first rezoning application was submitted in 2011 (File 751-6/10-40), which was denied by Council on March 30, 2011 (Recommendation 2011-48). The owner appealed the decision to the Ontario Municipal Board on April 20, 2011. The appellant did not address the notice requirements as set out by the Board and the appeal was eventually withdrawn on November 24, 2011.

Concurrent with the appeal process, the owner submitted an application for a minor variance for the rear yard setback to the railway (8.23 m where a minimum of 30 m is required). Committee of Adjustment approved the variance on the basis that the dwelling was to be a duplex (File A0115/2011).

On January 2, 2013, a permit was issued for a semi-detached dwelling with a finished basement area (Permit #B11-1653). The semi-detached dwelling was constructed to accommodate four (4) units.

On October 22, 2014, a public complaint was received concerning drainage from the site. Following a site investigation by Development Engineering, Building Services issued an Order to Comply on October 29, 2014. The order requires the owner to address the following:

- Construct the retaining wall as per approved drainage plan; and,
- Construct grading as per approved plan.

The second rezoning application was submitted in 2014 (File 751-6/14-29). Resolution PL2015-27 was subsequently approved by City Council on March 31, 2015 as follows:

THAT the City of Greater Sudbury approves the application by L.S. Bock Developments Inc. to amend Zoning By-law 2010-100Z by changing the zoning classification from "R2-2", Low Density Residential Two to "R3", Medium Density Residential Special on those lands described as PIN 73582-0090, Parcel 13056 S.E.S., Lot 116, Plan M-131 in Lot 3, Concession 3, Township of McKim subject to the following conditions:

- a. That prior to the adoption of the amending by-law, the owner shall meet the following conditions:
  - i) Apply for a building permit to the satisfaction of the Chief Building Official;
  - ii) Rectify outstanding drainage issues and, if required, submit a revised design lot grading plan to the satisfaction of the Director of Planning Services;
  - iii) The owner enter into an agreement with the City to dedicate on demand a 2-metre wide strip along Howey Drive; and,
- b. That the amending by-law include the following site-specific provisions:
  - i) A maximum of four (4) dwelling units within the existing building shall be permitted;
  - ii) A rear yard setback of 8.2 metres abutting a railroad right-of-way shall be permitted;
  - iii) The lot frontage of the existing lot shall be permitted;
  - iv) That an opaque fence with a minimum height of 1.5 m shall be required along the easterly and westerly lot lines from the required front yard setback to the rear lot line.

The conditional approval issued in 2015 was extended in 2017, 2018 and 2019. The conditions were never fully addressed and the approval eventually lapsed on September 30, 2019. The report and minutes from the 2015 rezoning approval are attached for review, including the floor plans for the building.

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### **Public Consultation:**

The statutory notice of the public hearing was provided by newspaper along with a courtesy mail-out to property owners and tenants within a minimum of 120 metres of the property.

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 applicant indicated no further public consultation is proposed beyond the statutory requirements under the Planning Act.

As of the date of this report, no phone calls or written submission have been received for the current application.

### **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.

Under Section 1.1 of the PPS, Planning authorities shall accommodate an appropriate affordable and market-based range and mix of residential types (including single-detached, additional residential units, multi-unit housing, affordable housing and housing for older persons). The location of residential intensification shall be appropriate based on the availability of existing and planned infrastructure and the proximity to community services. Section 1.1.3.4 states that appropriate development standards should be promoted which facilitate intensification, redevelopment and compact form, while avoiding or mitigating risks to public health and safety.

#### **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.

Section 4.3.3 of the GPNO encourages an appropriate range and mix of housing types in Economic and Service Hubs, which includes Greater Sudbury and other major centres in Northern Ontario.

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

**Living Area 1**

The subject land is designated as Living Area 1, which permits a range of residential uses including medium density housing types. The following criteria under Section 3.2.1 of the Official Plan are to be considered:

- 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.

**Residential intensification**

The application is a form of residential intensification given the increased density that is proposed. Section 2.3.3 of the Plan addresses residential intensification in settlement areas. The following criteria, amongst other matters, may be used to evaluate applications for intensification:

- a. the suitability of the site in terms of the size and shape of the lot, soil conditions, topography and drainage;
- b. compatibility with the existing and planned character of the area;
- c. the provision of on-site landscaping, fencing, planting and other measures to lessen any impact the proposed development may have on the character of the area;
- d. the availability of existing and planned infrastructure and public service facilities;
- e. the provision of adequate ingress/egress, off-street parking and loading facilities, and safe and convenient vehicular circulation;
- f. the impact of traffic generated by the proposed development on the road network and surrounding land uses;
- g. the availability of existing or planned, or potential to enhance, public transit and active transportation infrastructure;
- h. the level of sun-shadowing and wind impact on the surrounding public realm;
- i. impacts of the proposed development on surrounding natural features and areas and cultural heritage resources;
- j. the relationship between the proposed development and any natural or man-made hazards; and,
- k. the provision of any facilities, services and matters if the application is made pursuant to Section 37 of the Planning Act.

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

Based on a review of the submitted rezoning sketch, the proposed R3 Special zoning requires the following site-specific relief in order to accommodate a fourplex dwelling:

- Lot frontage of 12 metres where 18 metres is required;
- Setback of 8.2 metres to the railway right-of-way where 30 metres is required;
- Parking which encroaches into the required front yard;
- Opaque fencing along the easterly and westerly lot lines in lieu of a planting strip;
- The amount of landscaped open space, which will likely be less than the required 30% depending on the approved design lot grading plan;
- Zero setback for retaining walls along the easterly and westerly lot lines; and,
- Interior side yard setbacks less than the required 1.2 metres for a one-storey building.

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### **Site Plan Control:**

Site plan control is not implemented for a multiple dwelling under five (5) units based on the Site Plan Control By-law.

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

Commenting departments and agencies advised that if this application is approved, the same conditions should be carried forward as applied in 2015.

### **Planning Analysis:**

Concerning the 2011 application, Council's reasons for the refusal as set out in the meeting minutes were the small size of the lot, insufficient setbacks, impact on the adjoining neighbours, potential negative impact for snow removal, lack of room for planting strips and insufficient room for parking.

The second application was approved by Council in 2015 with appropriate conditions of approval as outlined in the Background section of this report. Three (3) extensions were granted prior to lapsing in 2019.

The proposal currently before the Committee is similar to the 2011 and 2015 applications, although a more detailed rezoning sketch with a lot grading overlay has been provided. The overall layout and parking configuration are essentially the same.

### **Neighbourhood context**

An inventory of adjacent uses based on assessment data indicates that the area is low density in character with single detached and duplex dwellings as the predominant housing types. There are some small multiple dwellings in the vicinity on lots also zoned R2-2, including a triplex which directly abuts the subject land to the west (947 Howey Drive). There are also triplexes located at 937 Howey Drive and 961 Howey Drive. The non-conforming status of these multi-residential properties is not known. A derelict multiple dwelling that previously occupied 943 Howey Drive has been demolished.

### **Suitability of site**

The major constraint is the narrow width of the lot and the proximity of the abutting dwellings, both of which have legal non-complying setbacks along the interior side yards. Based on the rezoning sketch, it also appears the interior side yard setbacks of the subject building are deficient. The result is an extremely tight fit, which is exacerbated by the elevation of the building and the parking area that encompasses almost the entire front yard.

The property is not suitable for a multiple dwelling based on the following considerations:

- The lot has insufficient frontage for a multiple dwelling;
- Planting strips cannot be provided due to the narrow width of the lot;
- Parking encroaches into the required front yard in contravention of the Zoning By-law;
- The entire front yard would essentially function as a parking area with little or no landscaping, which is not an acceptable standard for new development;
- The parking area will directly abut the property lines, which presents safety concerns and provides no opportunity to buffer the adjacent dwellings; and,
- There is no room for snow storage.

## **Conclusion:**

Although the Provincial Policy Statement encourages residential intensification, it is silent on site-specific considerations such as the suitability of the lot. However, the PPS does require that appropriate development standards be implemented in order to facilitate intensification. Accordingly, the policies of Section 2.3.3 of the Official Plan were expanded as part of the Phase 1 amendments adopted by Council and approved by the Province in 2018.

In this regard, the proposal fails to meet the policies applied to residential intensification under the Official Plan, being the suitability of the site to accommodate the proposed use, including the location of parking, the provision of landscaping, and drainage impacts. Consistent with the previous recommendations concerning this proposal, Planning Services cannot support the application on the basis that it represents over-development of the lot.

If the Committee deems to approve the application, it is recommended that the following conditions be addressed by the owner prior to the adoption of the amending by-law:

1. Apply for a building permit to the satisfaction of the Chief Building Official; and,
2. Rectify outstanding drainage issues and submit a revised design lot grading plan to the satisfaction of the Director of Planning Services.

The resolution should also include the following site-specific provisions incorporating the necessary relief:

- i) A maximum of four (4) dwelling units within the existing building shall be permitted;
- ii) A rear yard setback of 8.2 metres abutting a railroad right-of-way shall be permitted;
- iii) Lot frontage of 12 metres shall be permitted;
- iv) The location of the existing building shall be permitted;
- v) An opaque fence with a minimum height of 1.5 metres shall be required along the easterly and westerly lot lines from the required front yard setback to the rear lot line;
- vi) The minimum amount of landscaped open space shall be based on the approved design lot grading plan;
- vii) Parking shall be permitted within the required front yard; and,
- viii) A zero setback shall be permitted for retaining walls along the interior side lot lines.