

MEMORANDUM



**J.L. Richards
& Associates Limited**
314 Countryside Drive
Sudbury, ON Canada
P3E 6G2

Tel: 705 522 8174

Page 1 of 7

To: Natalie Bray, City Clerk, Director of Planning
Services, City of Elliot Lake

Date: November 3, 2022

JLR No.: 27355-002.1 (27)

CC:

From: Gursimran Saini, Planner

Re: City of Elliot Lake Zoning By-law Amendment
80 Hergott Avenue, Elliot Lake (PIN: 316210361)

PROPERTY

The subject property is generally located south of the intersection of Esten Drive and Hergott Avenue, on the west side of Hergott Avenue. The subject property is municipally addressed as 80 Hergott Avenue, and legally described as: PCL 87-1 SEC 1M425 SRO; BLK 87 PL 1M425 GUNTERMAN S/T PT 1 1R4976 AS IN LT119298; ELLIOT LAKE

The subject property has an area of approximately 4,467 square metres (0.4 hectares) and a frontage of approximately 53 metres on Hergott Avenue. Aerial review suggests that the subject property is currently occupied by a detached structure, which is identified as a restaurant in the application form by the Applicant.

APPLICATION

The Applicant has initiated a Zoning By-law Amendment to permit the use of the existing structure on the subject property as an optometry clinic.

The effect of the proposed Zoning By-law Amendment is to rezone the property to 'Neighborhood Commercial – Special Exception 4 (C3 - 4)' zone to permit an optometry clinic on the subject property.

RECOMMENDATION

The proposed Zoning By-law amendment is consistent with the intent and policies of the Provincial Policy Statement, the Growth Plan for Northern Ontario and conforms to the City of Elliot Lake's Official Plan. As such the amendment is recommended for approval.

1.0 Background

The subject property is municipally addressed as 80 Hergott Avenue and is generally located south of the intersection of Esten Drive and Hergott Avenue, on the west side of Hergott Avenue. The subject property is legally described as PCL 87-1 SEC 1M425 SRO; BLK 87 PL 1M425 GUNTERMAN S/T PT 1 1R4976 AS IN LT119298; ELLIOT LAKE. The subject property has an area of approximately 4,467 square metres (0.4 hectares) and a frontage of approximately 53 metres on Hergott Avenue. Aerial review suggests that the subject property is currently occupied by a detached structure, which is identified as a restaurant in the application form by the Applicant.

The subject property is surrounded by naturally vegetated municipal lands to the east, west and south, with detached residential development further west and south. Lands further east are occupied by a public school, and lands to the north are occupied by a commercial establishment (landscape contractor/ business), with residential development further north and northeast of the subject property. Figure 1 shows the location of the subject property.



The Applicant has applied for a Zoning By-law Amendment to permit the use of existing building on the subject property as an optometry clinic. The subject property is located within the City of Elliot Lake Urban Settlement Area and designated 'Residential' in the City of Elliot Lake Official Plan (*Schedule A – Urban Map*) and zoned 'Neighborhood Commercial – Special Exception 1 (C3-1)' in the City of Elliot Lake Zoning By-law No. 18-36 (*Schedule A – Urban Map*). The proposal has been reviewed in context of the applicable policy framework as discussed in the following sections.

2.0 Analysis

2.1 Provincial Policy Statement (PPS), 2020

The Provincial Policy Statement (PPS) 2020 provides for appropriate development while protecting resources of provincial interest, public health and safety, and the quality of the natural environment. The Planning Act requires that municipal decisions in respect to the exercise of any authority that affects a planning matter "shall be consistent with" the PPS.

Section 1.1.1.b of the PPS states that healthy, liveable, and safe communities are sustained by, "*accommodating ... employment (including industrial and commercial) ... uses to meet long term needs*". Section 1.1.3.1 identifies settlement areas to be the focus of growth and their vitality and regeneration shall be promoted, as these areas are critical to the long-term economic prosperity of a community. Section 1.1.3.2 indicates that land use patterns within settlement areas should be appropriate for, and efficiently use, planned or existing infrastructure and public service facilities. Section 1.3.1 a)

indicates: *planning authorities shall 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.*"

The subject property is located within the settlement area boundary of the City and has access to municipal servicing. The proposed commercial uses (optometry clinic) will be located within the existing building on the subject property. Employment uses are generally supported by the PPS in urban settlement areas, and the proposed use is compatible with the existing surrounding uses, characterized by low density detached residential development, open space and an elementary school. Additionally, the proposal presents the opportunity for adaptive reuse of an existing building.

Based on our review, the application is consistent with the relevant policies of the PPS.

2.2 Growth Plan for Northern Ontario (GNPO), 2011

The GPNO indicates that communities, both large and small, function as the economic and service hub of the North. In order to ensure the prosperity of northern communities, Section 4.2 of the GPNO directs that municipalities should prepare long-term community strategies. These strategies, among other items, should accommodate the diverse needs of all residents, now and in the future, and optimize use of existing infrastructure.

The proposed optometry clinic will provide a specialized healthcare facility in an area which is largely characterized by low density residential uses. Additionally, the subject property has access to municipal servicing and no expansion of municipal infrastructure is required to facilitate the proposal. The intended use of the subject property is therefore supported by Growth Plan for Northern Ontario.

2.3 City of Elliot Lake Official Plan, (2018)

The subject property is located within the City of Elliot Lake Urban Settlement Area and designated 'Residential' in the City of Elliot Lake Official Plan (*Schedule A – Urban Map*).

Section 5.1 of the Official Plan contains policies for 'Residential' designation. Section 5.1.2 of the Official Plan notes that the predominant use of lands in this designated shall be for a range of residential use, but further states that, "*other uses which are compatible and necessary to serve residential neighborhoods may be permitted. Such uses may include parkland, neighborhood commercial uses...*". Additionally, these uses shall be considered based on the following criteria:

1. *The compatibility of the use with adjacent developments, and the compatibility of the visual appearance of the use with adjacent development;*
2. *The appropriateness of the location to serve the neighborhood and to minimize potential traffic impacts; and,*
3. *A preferred location on or in close proximity to an urban collector road.*

The Applicant is proposing adaptive reuse of an existing building for an optometry clinic. The proposed use is compatible with and may serve the surrounding residential area. As no changes to the building and site are proposed through this Application, no further impacts to visual appearance of the subject property are anticipated. Additionally, Hergott Avenue is identified as an 'urban collector street' in the Elliot Lake Official Plan (*Schedule A: Urban Map*). Further, the subject property is currently occupied by a restaurant, and as such, its replacement with an optometry clinic is not anticipated to cause any significant traffic impacts. The proposed uses will introduce a healthcare facility to serve the residents of the area.

Section 4.4 of the Official Plan contains policies on developing and sustaining an economically prosperous community, which include:

- "1. *To expedite planning approvals that conform with the policies of this Plan.*
3. *...to continue the growth and cultural diversity of Elliot Lake as a modern, well connected community with business opportunities...*" A home-based refillery business in an existing dwelling supports development of a local business and contributes towards economic development in the City."

It has already been demonstrated above that the proposed commercial use is permitted in “residential” designation and generally conforms to other applicable policies of the Official Plan. Further, the proposal facilitates use of an existing building for a commercial use which will provide a useful healthcare facility in the area. As such, the proposal supports development of a local business and contributes towards economic development in the City.

Section 4.8 of the Official Plan contains policies on Infilling and Intensification, and notes that, *“It shall be the policy of Council to encourage infilling on vacant lands and the intensification of residential and non-residential buildings within the City, which are already provided with municipal services.”* The proposed development represents adaptive re-use of a building with existing municipal servicing, for uses which are generally compatible with the surrounding uses in the area in line with the intent of the Plan.

Section 6.4.2.7. of the Official Plan contains policies on contaminated lands. The relevant policies require proper decommissioning and clean-up of contaminated sites prior to their redevelopment or reuse. Further, an Environment Site Assessment and Record of Site Condition may be required for properties which may be contaminated or potentially contaminated. Further, Section 6.4.2.7 (4) states that: *“all contaminated lands may be subject to Site Plan Control and/or holding provisions of the Zoning By-law.”*

An Environmental Site Assessment (Phase II) Report by AMEC Earth & Environmental Limited, dated January 2001, was prepared as a part of the due diligence activities for the purchase of the subject property. The objective of this study was to investigate soil and/or groundwater contamination as a result of operation of a former fuel retail outlet at the subject property. The Report concluded that there are no environmental concerns on property. Further, removal of tanks was recommended which was completed in 2009.

It is our understanding that a business (Wendell Farquhar Trucking Limited) with the registered address of the subject property, was registered as a hazardous waste generator (Generator no: ON8996769) with the Hazardous Waste Information Network (HWIN) on December 1, 2009. Based on review of HWIN database, the subject property is no longer registered. A shut-down inspection on the subject property was conducted by Technical Standards and Safety Authority (TSSA) on March 25, 2014 and an engineer's report summarizing tank removal activities, prepared by MRW Consulting Engineers on behalf of the owners, was submitted on April 8, 2014. The report received by the TSSA noted that the groundwater and soil samples were tested for certain contaminants and the concentrations were found to be lower than the Ministry of Environment's Site Condition Standards for industrial/commercial/community property as applicable on the subject property. The report noted that no further remediation activities were warranted for the subject property. The engineer's report was reviewed by TSSA, and no further information was requested at the time.

The proposal contemplates a commercial use on the subject property and no sensitive uses are introduced on the lands through this application. Based on the above, the proposed commercial use of the property is appropriate. As the optometry clinic is proposed within the existing structure, a Site Plan Control Application is not required at this time. Further, the Applicant/ Owners are advised that any development activities on the subject property must comply with the *Environmental Protection Act*, 1990.

Based on a review of relevant policies, the proposed rezoning to facilitate an optometry clinic on ‘residential’ designated lands conforms to the City of Elliot Lake Official Plan.

2.4 City of Elliot Lake Zoning By-law No.18-36

The subject property is zoned ‘Neighborhood Commercial – Special Exception 1 (C3 - 1)’ in the City of Elliot Lake Zoning By-law No. 18-36 (*Schedule A – Urban Map*). Special Exception 1 permits the use of the subject property for a landscaping business in addition to the uses otherwise permitted in Neighborhood Commercial (C3) Zone. It appears the C3-1 Zone may have been a mapping error applicable to 60 Hergott; however, the C3 Zone would remain applicable to the subject lands and the mapping error can be addressed through this application.

The C3 Zone permits the use of land for various uses including, but not limited to, convenience stores, eating establishments, offices and private service shops. However, the proposed use is characterized as a ‘clinic’ based on the definitions in the Zoning By-law which state:

*Clinic: a building or part thereof used solely for the purpose of consultations, clinical or medical services, dentists, **optometrists**, chiropodists, drugless practitioners, or massage therapist together with their qualified assistants, but does not include a Medical Clinic where three or more legally qualified physicians are practicing.*

Based on the above, the proposed use is not permitted as of right on the subject property and a Zoning By-law Amendment is required to allow for this use in C3 Zone.

The proposed optometry clinic is compatible with the surrounding commercial, open space and residential uses and will provide a specialized healthcare facility in the area. There are no environmental concerns associated with the proposed uses on the subject property. Additionally, no new development is proposed through this application, and the Applicant is proposing to reuse the existing restaurant building on the subject property for the proposed optometry clinic. As such, there are no foreseeable negative impacts of the proposed change of use on the surrounding development. The traffic generation is also anticipated to be similar, as both the existing and proposed uses are commercial in nature. Based on the above, the proposed uses are appropriate for the subject property and the requested amendment is reasonable from a planning perspective.

Additionally, the following provisions apply:

Provision	Requirement/Permitted	Existing	Compliance*
Height (max)	2 storeys	1 storey	Yes
Building Coverage (Max)	60%	~7%	Yes
Building Line from any lot lines	6 m	North: 6.16 m East: ~25 m West: 20.25 m South: >50 m	Yes

Zoning Compliance of the existing development has been reviewed based on the Plan of Survey submitted by the Applicant with the Application, dated 1984. Historical imagery of the subject property has been reviewed for the following years: 1985, 2004, 2009, 2011, 2012, 2018, 2019 and 2020. Aerial review suggests that the detached structure on the subject property has existed in the same location through the years. The only change occurred between 2011 and 2012, where the projection of the existing structure into the front yard was decreased, thus increasing the front yard setback, and offering an improvement over the existing situation. As such, the 1984 survey is considered appropriate for review.

The table above demonstrates that the existing development on the subject property complies with all applicable provisions of C3 zone. Additionally, a medical clinic is subject to the following parking provisions pursuant to Section 6 of the Zoning By-law:

Medical Clinic: 5 spaces per practitioner

The Applicant has advised that one optometrist will practice from the future proposed clinic, which generates a requirement of five parking spaces. There is an existing parking lot on the subject property which can accommodate over 20 cars. Additionally, the subject property has a lot coverage of only 7% and can reasonably accommodate additional parking, if required. Based on the above, there are no concerns with regards to parking provisions for the proposed commercial use. The Applicant is further advised that for a facility with a provision of up to 37 parking spaces, one accessible parking space (Type A) is required as per the requirements of Section 6.3.1 of the Zoning By-law. Type A spaces shall have a minimum width of 3.4 metres and parking access aisle width of 1.5 metres. The Applicant is advised to review Section 6 of the Zoning By-law for other considerations while providing parking spaces.

Based on a review of relevant provisions, the proposed amendment is reasonable and generally maintains the intent of the Zoning By-law and can be recommended for approval. It is recommended that the subject property be rezoned from C3-1 to C3-4 to permit the proposed optometry clinic.

RECOMMENDATION

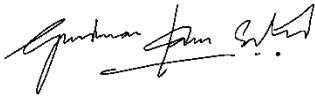
The application for a Zoning By-law Amendment is consistent with the Provincial Policy Statement, the Growth Plan for Northern Ontario, and conforms to the City of Elliot Lake Official Plan. With this in mind, we recommend the following:

- That Council enact a By-law to rezone the lands subject to this application to include 'Clinic' as a permitted use on the subject property.

Should you have any questions regarding the above, or if additional information is required, please contact the undersigned.

J.L. RICHARDS & ASSOCIATES LIMITED

Prepared by:



Gursimran Saini
Planner

Reviewed by:



Sarah Vereault, MCIP, RPP
Associate, Senior Planner

GS:sv

Schedule A: Sketch of the Subject Property as submitted by the Applicant

Schedule A: Sketch of the Subject Property as Submitted by the Applicant

