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REQUEST FOR DECISION

SUBMITTED BY:	Mackenzie Childs, Planner II
DATE:	February 13, 2023
SUBJECT:	261 York Street – Municipal Planning Strategy amendments to enable concurrent Land Use By-law amendments

ORIGIN

An application was received by Harry Rhyno Refrigeration Co. Ltd on October 14, 2022 to initiate an amendment to the Municipal Planning Strategy. Council received a Request for Decision on December 12, 2022 (Doc #22-199) with a recommendation to refuse the requested amendment as it is not supported in policy. Council deferred the decision to request more information on the proposed amendments for the Neighbourhood Commercial (C7) and Special Commercial (C8) Zones, as the subject property is zoned C8. Council received a Report for Information regarding these proposed amendments at a Discussion Session on January 23, 2023 (Doc #20-158B).

RECOMMENDATION

It is recommended that Town Council for the Town of Bridgewater refuse the requested amendment to the Municipal Planning Strategy to redesignate the property at 261 York Street at this time and maintain the existing Low Density Residential designation.

BACKGROUND

An application was received on October 14, 2022 by Harry Rhyno Refrigeration Co. Ltd ("the applicant") for an amendment to the Future Land Use Map of the Municipal Planning Strategy (a redesignation), as well as an amendment to the Zoning Map of the Land Use By-law (a rezoning) to enable the proposed use of a custom clothing design business on the property located at 261 York Street, PID #60022134 ("the subject property"). The cover letter from the application can be found as Appendix A.

The applicant is requesting a rezoning from Special Commercial (C8) to General Commercial (C5). To enable the rezoning, a redesignation of the property from Low Density Residential to General Commercial would be required. The redesignation would be a policy amendment to the Municipal Planning Strategy (MPS).

The subject property currently contains a 1-story building that was previously a plumbing and heating business. Photos of the property are shown below.



Front image



Street image

The subject property is located in the Special Commercial (C8) Zone of the Land Use By-law (LUB). This zone permits single unit dwellings, two unit dwellings, and the existing property-specific use as-of-right. This zone also permits certain uses by development agreement (DA): an expansion of the existing building or use; multi-unit residential or collective residential up to 4 units per acre; inns constructed prior to August 27, 1975; and a change or addition of use to craft workshop, dog grooming, dressmaking and tailoring, galleries, household repair services, offices, personal service shops, retail sales up to 1,000 square feet on corner lots of arterial or collector streets, and studios.

A zoning/context map of the property and surrounding area is included below. The property is adjacent to properties in the Single Unit Residential (R1) Zone and the Institutional (I1) Zone, with nearby properties in the Park (P), the Comprehensive Residential (R3), the Neighbourhood Commercial (C7) and Downtown Residential (R4) zones. The surrounding uses include single unit dwellings, a 30-unit dwelling, and cemeteries.



- | | | |
|-------------------------------|--------------------------------|-------------------------------|
| 261 York St | P - Park | R4 - Downtown Residential |
| C7 - Neighbourhood Commercial | R1 - Single Unit Residential | R6 - High Density Residential |
| C8 - Special Commercial | R2 - Two Unit Residential | |
| I1 - Institutional | R3 - Comprehensive Residential | |
| M1 - Industrial | | |

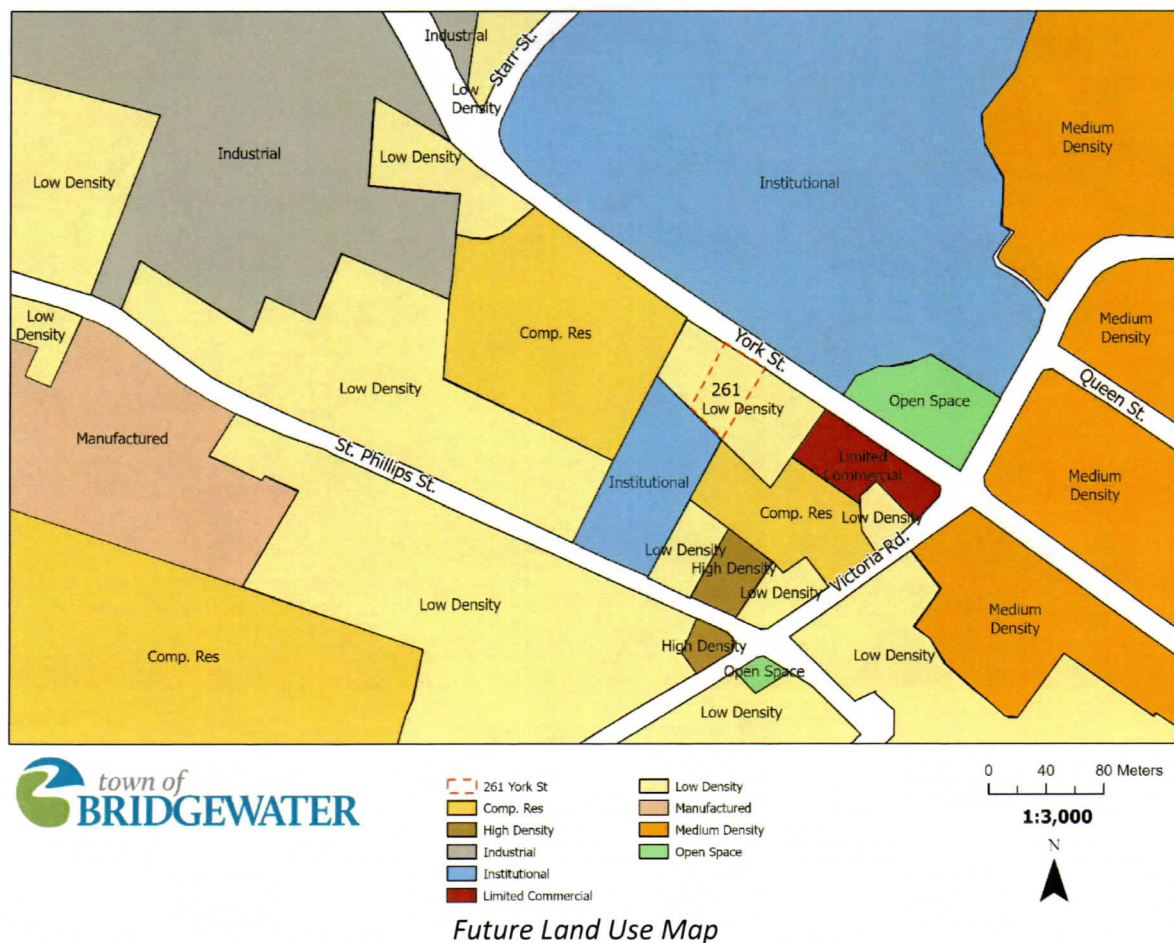
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Zoning/Context Map

The property is designated as Low Density Residential on the Future Land Use Map (FLUM) of the Municipal Planning Strategy (MPS), as shown on the designation map below. The property is adjacent to properties with Low Density Residential, Limited Commercial, Comprehensive Residential and Institutional designations.



DISCUSSION

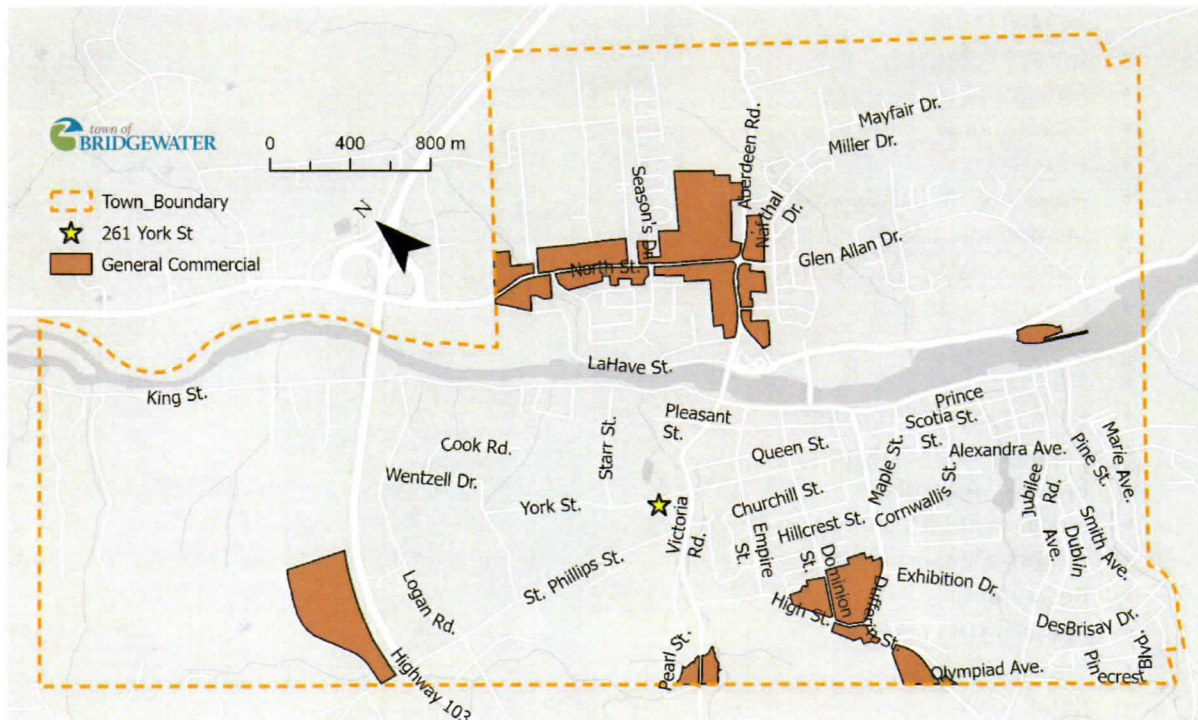
The application is to:

- Redesignate the property from Low Density Residential to General Commercial, and
- Rezone the property from Special Commercial (C8) to General Commercial (C5)

This report is focused on a), to determine if Council is interested in entertaining the redesignation through policy change.

Proposed Designation and Zone

The General Commercial designation is intended for a broad range of commercial development along or close to major arterial streets in Bridgewater, outside the town core. Specifically, these areas include North Street, the western portion of Aberdeen Road, the Bridgewater Plaza area, the Port of Bridgewater, portions of Victoria Road and Dufferin Street near Bridgewater's boundary, and the area around the northern exit at Exit 12A leading into the Bridgewater Business Park Expansion. The location of the properties currently designated as General Commercial are shown on the map below. The subject property is identified on the map as well. As shown, the subject property is not located near existing General Commercial properties.



General Commercial Designation from FLUM

This designation contains four zones: Urban Commercial (C3), Group Commercial (C4), General Commercial (C5), and Highway Commercial (C9) zone. The requested zone for this application is the General Commercial (C5) Zone which is intended for land uses that rely on the visibility and ease of access from high-volume traffic areas leading into Bridgewater. In particular, entryways into town on North Street and Dufferin Street, and to a lesser degree, Victoria Road. These areas are characterized by uses such as automobile dealerships, automobile repairs, gas stations, equipment rental services, and drive-through restaurants. These areas are not conducive to residential development and living, therefore residential is not permitted in the C5 zone.

The following developments, up to a maximum of 49,998 square feet in gross floor area are permitted as-of-right in the C5 Zone:

- Animal Hospitals & Veterinaries
- Automobile Repair Services
- Automobile Sales & Rental
- Building Supplies Stores
- Bus Terminals
- Car Wash Facilities
- Clinics
- Clubs & Fraternal Organizations
- Community Centres
- Distribution Centres
- Dog Grooming
- Dressmaking and Tailoring
- Drive-through Facilities
- Educational Uses
- Emergency Services
- Equipment Sales & Rental

- Funeral Homes
- Garden & Nursery Sales
- Garages
- Gas Stations
- Hotels
- Household Repair Services
- Institutional Uses
- Laundromats & Dry Cleaners
- Manufactured Home Sales & Repair
- Motels
- Offices
- Parking Lots & Structures
- Personal Service Shops
- Places of Assembly
- Places of Entertainment
- Printing Establishments
- Restaurants
- Recycling Depots
- Research Facilities
- Retail Sales
- Self-Storage Facilities
- Studios
- Taxi Operations
- Telecommunication Towers
- Visitor Information Centres
- Warehouses, Depots & Storage Facilities

The developments listed above, exceeding 49,998 square feet in gross floor area, could be permitted by development agreement.

Redesignation

Part of the concurrent amendment application is to redesignate the property from Low Density Residential to General Commercial.

The current Low Density Residential designation identifies all lands reserved for single unit and two unit residential development. This designation provides protection against new land use development that is inconsistent with low density development.

The proposed General Commercial designation identifies lands intended for a broad range of commercial development along or close to major arterial streets in Bridgewater, outside the downtown core. The subject property is located near Victoria Road which is an arterial street and is located on York Street which is a collector street. However, policy explicitly states the designation should be located outside the town core, and the subject property is located near the town core.

The areas described in policy that are suitable for the General Commercial designation are those that have an existing strong commercial identity near the entrances to the town. North Street, the western portion of Aberdeen Road, and the western portion of Dufferin Street all have established commercial uses, many which include vehicular-focused uses. The area of Victoria Road near the town boundary has less of a commercial character than the other areas, but still has vehicular-focused uses and is adjacent to commercial uses outside the town boundary. The area off Highway 103 near what will be Exit 12A is zoned and designated to focus on commercial uses that are visible from high volume streets. The Port of

Bridgewater on LaHave Street is also designated as General Commercial and it is located near industrial uses, on an arterial street, and near a main entryway to town.

Rezoning

The application is also to rezone the property from Special Commercial (C8) to General Commercial (C5). A redesignation is required in order for Council to consider the request to rezone to General Commercial (C5).

The current C8 Zone identifies properties in town where commercial uses were once established in areas which are now predominantly residential. The intention of the zone is to permit the existing uses in the existing buildings, however there are limited opportunities for future changes in order to reduce future conflict in the residential areas. If the existing or permitted commercial land uses are discontinued, policy states that Council shall consider rezoning them in accordance with the Future Land Use Map; these zones are the Single Unit Residential (R1) Zone and Two Unit Residential (R2) Zone.

The proposed C5 Zone intends to support commercial land uses reliant on high-volume traffic. The C5 Zone permits many uses as-of-right, including a large number of which are focused on vehicular traffic (ex. automobile repair services, automobile sales, cash wash facilities, taxi operations, gas stations), as well as those that are not conducive to nearby residential or park uses due to potential negative impacts such as noise or high volumes of vehicles (ex. distribution centres, recycling depots, warehouses, emergency services). Although some of the uses permitted as-of-right in the C5 Zone are suitable for the subject property, such as a clothing design business, others are not. This needs to be considered when analyzing an application for a redesignation or rezoning, because once zoning is in place any as-of-right use may be permitted.

If the property was redesignated it would not only enable the consideration of rezoning to the General Commercial (C5) Zone but also the Urban Commercial (C3), the Group Commercial (C4), or the Highway Commercial (C9) zones. Similarly to the C5 Zone however, the policy description of these zones would not be suitable for the subject property. The C3 Zone is intended to promote a more compact and consistent commercial transition between the town's edge and centre through a variety of commercial, service uses, and higher density residential, and focuses on North Street, Aberdeen Road, and the Port of Bridgewater lands on LaHave Street. The Group Commercial (C4) Zone is intended to accommodate large format shopping and mixed-use development in strategic locations outside of the downtown core. The Highway Commercial (C9) Zone is to facilitate efficient, rapid development geared towards the traveling public in the visible areas surrounding Exit 12A.

Proposed Use

The proposed use for the subject property is a custom clothing design business which would operate by appointment only. There would be a small showroom in the front of the building and there would be storage and a clothing heat-press machine in the back of the building. Based on definitions of the LUB, the proposed use could be considered retail sales or a craft workshop.

Retail sales are permitted in the C8 Zone by development agreement up to 1,000 square feet on corner lots of arterial or collector streets, with the immediate residential areas in which the use is located as the primary service area for the use; since the property is not on a corner nor is the immediate area the primary service area, it would not fit under this use in the C8 Zone. However, craft workshops are permitted by DA in the C8 Zone, therefore the proposed use could be enabled through a DA in the current zone; a redesignation and rezoning are not required.

The applicant is not interested in going through a development agreement process however, rather is seeking a rezoning to increase the potential for property sale.

Current Zone (C8)

The property is currently zoned Special Commercial (C8); this zone includes commercial properties within residential areas that existed prior to land use controls. The existing uses are permitted to remain, however expansion of use and buildings is limited. Policy states that Council shall consider rezoning them in accordance with the FLUM. The C8 Zone is intended to be restrictive, however amendments were made in 2020 to the zone to permit additional uses by development agreement that were deemed compatible with the properties and the policy. Staff are currently exploring proposed amendments to the C8 Zone, as well as the Neighbourhood Commercial (C7) Zone, to either rezone properties in accordance with the FLUM, rezone some properties to C7 if deemed appropriate, or rezone and redesignate to another zone if appropriate. As the subject zone is zoned C8 it will be analyzed, however the current application is a request to rezone to General Commercial (C5), so that is what is being evaluated.

Compliance with Policy

The purpose of the Municipal Planning Strategy (MPS), as set out by the Municipal Government Act (MGA) is to provide statement of policy to guide the development of the municipality. The MGA Section 219, further states that a municipality shall not act in a manner that is inconsistent with a MPS and that the Land Use By-law (LUB) shall enable the policies of the MPS. The description of the General Commercial Designation and the General Commercial (C5) Zone in the MPS are not consistent with the location of the subject property.

Policy IM-6 of the MPS states when considering any proposed amendments to the LUB, it shall be a policy of Council to have regard for matters on compatibility of the development, servicing, transportation, and environment. However, before doing a complete analysis of a detailed application for a development agreement or LUB amendments, Council needs to determine if it would like to pursue a change in policy (redesignation). Therefore, a full review of IM-6 has not yet been completed, as that would be completed for the Planning Analysis Report.

As the subject property is in the Low Density Residential designation which is meant to protect against development that is inconsistent with low density residential development, the description and intent of the General Commercial designation is incompatible with the subject property, the proposed use for the property can be accommodated within the existing C8 Zone, many of the uses permitted as-of-right in the General Commercial (C5) Zone as well as the other zones within the General Commercial designation are incompatible with the subject property and the area surrounding the property, the proposed redesignation is not supported in policy.

Process

Since a redesignation is a policy amendment, and therefore a policy decision of Council, there is no opportunity for the appeal of such a decision (approval or denial) by the developer or the public (MGA, Clause 248(d)). If Council chooses to go through the process to consider the requested redesignation and rezoning, there are opportunities for public input during the public participation meeting and public hearing, but no ability for an appeal of the decision by either the developer or the public.

If Council chooses to initiate this application, it does not mean that Council is approving the requested policy change. A full review and analysis of the proposal would be carried out, in addition to public consultation. Staff would then bring forward a Planning Analysis report with a recommendation for Council's consideration.

Based on the initial policy analysis included above, staff are recommending Council refuse to initiate the application for a policy change based on the intent of the General Commercial designation and zone.

IMPLICATIONS

Financial/Budget

N/A

Legal

N/A

Strategic Priorities / Work Program

Land use and development control is one of the core responsibilities of the Community Development Department.

Land Use By-law

Municipal Planning Strategy

OPTIONS

1. Refuse the requested policy change (redesignation) and maintain the existing designation of the subject property. ***Recommended***
2. Initiate the application for concurrent redesignation and rezoning for the proposed use on the subject property. Staff would then begin the public participation and policy analysis phases of the application process.
3. Defer a decision on the policy change and refer it back to staff for more information.

COMMUNICATIONS

Communication requirements as per the Municipal Government Act would be followed if the application process continued.