

Staff Report

Report To: City Council
Report From: Sabine Robart, Manager of Planning & Heritage
Meeting Date: December 18, 2023
Report Code: CS-23-135
Subject: Cash in Lieu of Parking Agreement – 982 1st Avenue West
(Cordengo Realty Inc.)

Recommendations:

THAT in consideration of Staff Report CS-23-135 respecting a request for a Cash in Lieu of Parking Agreement by Cordengo Realty Inc. for 982 1st Avenue West, City Council:

1. Approves the request for an exemption from providing two (2) parking spaces as required by the City's Zoning By-law (2010-078, as amended) by providing a one-time cash-in-lieu payment of \$12,000 (\$6,000 per parking as space as per the City's Fees and Charges By-law No. 2023-080) for the required parking spaces through an agreement authorized by Section 40 of the *Planning Act* and the City's Official Plan policies; and
2. Directs staff to bring forward a by-law to authorize the Mayor and Clerk to execute a Cash-in-Lieu of Parking Agreement with the owners of 982 1st Avenue West.

Highlights:

- An application for a Building Permit has been received for land at 982 1st Ave W (23-000562) to facilitate the change of use of the ground floor from residential to commercial.
- The change in use to commercial requires two (2) additional parking spaces in accordance with the provisions of the City's Zoning By-law.

- The City's Official Plan and the Zoning By-law provide that a cash-in-lieu of parking exemption can be requested and granted by Council. The one-time fee for each space is established by the Fees and Charges By-law at \$6,000 per space.
- Cordengo Realty Inc. is requesting an exemption from providing two (2) parking spaces by providing a cash-in-lieu payment of \$12,000 (\$6,000 per parking space as per the City's Fees and Charges By-law 2023-080) through an agreement authorized by Section 40 of the *Planning Act*.

Strategic Plan Alignment:

This report supports the delivery of Core Service.

Climate and Environmental Implications:

This supports the objectives of the City's Corporate Climate Change Adaptation Plan by strengthening the resiliency of City infrastructure or services.

Previous Report/Authority:

[Planning Act, R.S.O 1990, c, P. 13](#) – Section 40

[City of Owen Sound Official Plan \(2021\)](#)

[City of Owen Sound Zoning By-law 2010-078](#)

[City of Owen Sound Fees and Charges By-law 2023-080](#)

Site Plan Approval ST1989.010

Background & Proposal:

The subject property is located at 982 1st Avenue West, south of the intersection of 1st Ave W and 10th St W. The property has approximately 10 metres of frontage on 1st Ave W, 44.5 metres of depth and is 455.8 square metres in size.

The L-shaped property contains a 2.5-storey red brick building and is accessed from 1st Ave W via a shared drive aisle with the adjacent property

to the south (978 1st Ave W). The property contains four (4) parking spaces that are located at the rear (west) of the property.

1st Avenue West, between 10th St W and 9th St W, is predominated by single detached dwellings that have been converted to mixed-use buildings, usually with a commercial component on the ground storey and residential dwelling units on second and third storeys.

Surrounding land uses include (see Orthophoto in Schedule 'A'):

North: mixed use including commercial and residential

East: Sydenham River, River District

South: mixed use including commercial and residential

West: mixed use including commercial and residential

The subject property is designated 'River District Commercial' in the Owen Sound Official Plan (OP) and is zoned 'Core Commercial' (C1) in the City's Zoning By-law (2010-078, as amended). (See Planning Map in Schedule 'B').

The Proposal

Cordengo Realty Inc (Cliff Wang) has submitted an application for a Building Permit for 982 1st Ave W (23-000562) to facilitate the change of use of the ground storey from residential to commercial. The building on the subject property is 2.5 storeys with approximately 226 sq m of gross floor area (GFA).

The building currently contains a residential dwelling unit on the ground floor and commercial uses on the second and third floors.

The Building Permit application proposes to convert the ground floor residential dwelling unit to commercial (office) space. The change of use requires the development to provide a total of six (6) off-street parking spaces. Through the previous Site Plan Approval (1989.010), the subject property has four (4) off-street parking spaces. The property owner (Cordengo Realty Inc) is requesting an exemption from providing two additional (2) parking spaces by utilizing the cash-in-lieu provisions of the Official Plan and Zoning By-law. A payment of \$12,000 (\$6,000 per parking as space as per the City's Fees and Charges By-law 2023-080) for the required parking spaces would be provided. An agreement would also be

executed under the authority of Section 40 of the *Planning Act* and the City's Official Plan policies.

Analysis:

The subject proposal is required to meet all development standards and policies applicable to projects within the City of Owen Sound. All applicable policies, standards, and review comments are reviewed below in the context of the subject application.

Planning Act

Section 40 of the *Planning Act*, R.S.O 1990, c. P. 13 ("the Act") provides that a municipality and an owner or occupant of a building may enter into an agreement exempting the owner or occupant from providing or maintaining parking facilities in accordance with the applicable Zoning By-law, provided that such an agreement includes the payment of money for the exemption, and sets out the terms for the payment calculation.

Agreement exempting owner from requirement to provide parking

40 (1) *Where an owner or occupant of a building is required under a by-law of a local municipality to provide and maintain parking facilities on land that is not part of a highway, the council of the municipality and such owner or occupant may enter into an agreement exempting the owner or occupant, to the extent specified in the agreement, from the requirement of providing or maintaining the parking facilities. R.S.O. 1990, c. P.13, s. 40 (1).*

Payment of money

(2) *An agreement entered into under subsection (1) shall provide for the making of one or more payments of money to the municipality as consideration for the granting of the exemption and shall set forth the basis upon which such payment is calculated. R.S.O. 1990, c. P.13, s. 40 (2).*

Special account

(3) *All money received by a municipality under an agreement entered into under this section shall be paid into a special account and,*

(a) the money in that account shall be applied for the same purposes as a reserve fund established under the Municipal Act, 2001 or the City of Toronto Act, 2006, as the case may be;

- (b) the money in that account may be invested in securities in which the municipality is permitted to invest under the Municipal Act, 2001 or the City of Toronto Act, 2006, as the case may be;*
- (c) earnings derived from the investment of the money in the special account shall be paid into that account; and*
- (d) the auditor of the municipality, in the auditor's annual report, shall report on the activities and position of the account. 2002, c. 17, Sched. B, s. 13 (1); 2006, c. 32, Sched. C, s. 47 (6).*

Registration of agreement

(4) An agreement entered into under this section may be registered in the proper land registry office against the land to which it applies and, when so registered, any money payable to the municipality under the agreement that has become due for payment shall have priority lien status as described in section 1 of the Municipal Act, 2001 or section 3 of the City of Toronto Act, 2006, as the case may be. 2002, c. 17, Sched. B, s. 13 (2); 2006, c. 32, Sched. C, s. 47 (7).

Certificate

(5) When all money payable to the municipality under an agreement registered under subsection (4) has been paid, or such agreement has been terminated, the clerk of the municipality shall, at the request of the owner of the land, provide a certificate in a form registrable in the proper land registry office, certifying that the money has been paid or that the agreement has been terminated. R.S.O. 1990, c. P.13, s. 40 (5).

Comment:

The application under the Building Code to convert the main floor of this existing 2 ½ storey building must comply with all provisions of the City's Zoning By-law. The proposal meets all requirements save and except the minimum requirements with respect to on-site parking.

As noted above, the *Planning Act* provides for such an exemption.

An agreement has been drafted by the City's solicitor and provided to the applicant.

The agreement provides for a lump sum payment of \$12,000 based on \$6,000 per space as detailed by the City's Fees and Charges By-law 2023-080. The monies received by the City under the agreement shall be paid into

a special reserve account, which shall be used to acquire lands and provide and maintain public parking facilities.

The agreement notes that the relief from parking requirements granted in the agreement will cease upon demolition of the buildings or structures existing on the subject property on December 18, 2023. Redevelopment of the property that requires the demolition of the existing buildings and structures will constitute 'development' and require a future Site Plan Approval application. Off-street parking requirements will be subject to the zoning provisions in force and effect at that time.

The executed agreement will be registered on title of the subject property.

City of Owen Sound Official Plan

The subject property is designated 'River District Commercial' in the Owen Sound Official Plan (OP).

Permitted uses in the River District Commercial designation include a full range of commercial, institutional, recreational, and residential uses. The proposed commercial and residential use is permitted within the River District Commercial designation.

Section 5.1.4.5 of the OP states that *all new development or redevelopment in the River District Commercial area shall be encouraged to provide sufficient parking on site to accommodate the proposed use. If such parking cannot be provided, the City may collect cash-in-lieu pursuant to Section 40 of the Planning Act to be used expressly for the provision of additional parking spaces in an appropriately defined area. In addition, the City may choose to require parking be provided at a lower rate within the River District Commercial area.*

Section 9.7.5 of the OP details cash-in-lieu of parking:

9.7.5 Payment-in-lieu of Parking

9.7.5.1 Where a zoning by-law requires that on-site parking be provided as a condition to the development or establishment of a use, the City, at its sole discretion may enter into an agreement with the owner of such lands exempting the owner from the provision of on-site parking subject to the payment to the municipality of a sum of money which shall be used to acquire lands and provide and maintain public parking facilities.

Comment:

The proposed change of use from residential to commercial requires the provision of six (6) off-street parking spaces as described in detail in the zoning section. Through the previous Site Plan Approval (1989.010), the subject property is required to provide four (4) off-street parking spaces. These four spaces are existing. The property owner (Cordengo Realty Inc) is requesting an exemption from providing two (2) additional parking spaces by providing a cash-in-lieu payment.

9.7.5.2 Payment-in-lieu of parking monies may be paid in one lump sum or may be paid in yearly instalments as provided for in the agreement.

Comment:

The applicant is providing a lump sum payment of \$12,000 for two parking spaces as per the rate of \$6,000 per parking space established in the [City's Fees and Charges By-law \(2023-080\)](#) Schedule I.34

9.7.5.3 Payment-in-lieu of parking should be employed only in the River District Commercial area where, in the opinion of the City, there is sufficient concentration of uses and/or public demand to warrant the establishment of public parking. Subject to the foregoing, the City may use this alternative where any of the following conditions exist:

- a. The subject property is too small to accommodate the amount of parking required.*
- b. Provision of on-site parking would result in poor site planning that would detract from the subject and area properties (the development would be out-of-character with the form of development evident in the vicinity of the subject property).*
- c. Attempts are being made to consolidate lands for public use, where the owner agrees to make available to the municipality, surplus lands for such consolidation.*
- d. The owner will undertake such additional works as the City may agree to which ordinarily would be beyond the normal and standard requirements of the City.*

Comment:

The subject property is designated as 'River District Commercial'. Established municipal parking facilities within 250 metres of the subject property include:

- on-street parking available along 1st Avenue West and 2nd Avenue East from 10th St W to 8th St W; and
- off-street municipal parking in Lot 1 (City Hall), Lot 2 (Farmers' Market), Lot 4 (900 block) and Lot 5 (800 block).

The subject property is relatively small. The existing building, shared drive aisle and parking area at the rear of the property cover a significant majority of the property. The only undeveloped area on the lot is located in the front yard. This space is not large enough to accommodate the required parking spaces and area required to provide safe access to 1st Avenue West. The property cannot accommodate the additional two (2) off-street parking spaces required by the City's Zoning By-law 2010-078 and meets the policy requirements of the Official Plan with respect to cash-in-lieu of parking.

The proposal conforms to the policies of the City's Official Plan.

City of Owen Sound Zoning By-law (2010-078, as amended)

The subject property is zoned 'Core Commercial' (C1) in the City's Zoning By-law (2010-078, as amended).

The change of use detailed in the Building Permit proposes to convert the existing ground floor residential dwelling to commercial (office) space.

Section 5.18.4 Parking Exemption applies specifically to the area zoned C1 and (b) states that in the C1 zone, parking shall be required in accordance with this By-law where the change of use is from a residential use to any other permitted use.

The provisions of Section 5.18.3, Off-Street Parking Requirements for C1 Zone require one (1) space per 40 sq m of GFA for commercial uses, including office, clinic, and personal service uses, among other uses.

As per the City's Zoning By-law 2010-078, as amended, the uses within the existing building are required to provide six (6) off-street parking spaces. The approved site plan provides for four (4) off-street parking spaces. Given the policies of the *Planning Act* and the City's OP, the development qualifies for an exemption of two (2) parking spaces subject to a cash-in-lieu payment per space and an agreement between the property and the City.

The proposal meets the requirements of the City's Zoning By-law.

Financial Implications:

A lump sum cash-in-lieu payment of \$12,000 (\$6,000 per parking as space as per the City's Fees and Charges By-law 2023-080) shall be placed into a special account to be used to acquire lands and provide and maintain public parking facilities in the City's River District.

Communication Strategy:

Communication with the City's solicitor.

Consultation:

The Agreement was prepared by the City's Solicitor.
Communication with the applicant.

Attachments:

- Schedule 'A': Orthophoto
- Schedule 'B': Official Plan and Zoning Map
- Schedule 'C': Approved Site Plan
- Schedule 'D': Downtown Owen Sound Parking Map

Recommended by:

Sabine Robart, M.SC. (PL), MCIP, RPP, Manager of Planning & Heritage
Pam Coulter, BA, RPP, Director of Community Service

Submission approved by:

Tim Simmonds, City Manager

For more information on this report, please contact Sabine Robart, Manager of Planning & Heritage at srobart@owensound.ca or 519-376-4440 ext. 1236.