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October 4, 2022

## STAFF REPORT

TO: Members of Council  
Village of Newbury

FROM: Marion-Frances Cabral, Planner

SUBJECT: Official Plan Amendment OPA 01-22 (OPA 14)  
3 York Street, Newbury  
Kenneth Daley and Nadine Grant

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### Recommendation:

THAT Official Plan Amendment application OPA 01-22 (OPA 14), filed Kenneth Daley and Nadine Grant, in order to re-designate the lands from 'Commercial' to 'Residential' be adopted and forwarded to the County of Middlesex for consideration and approval.

### Purpose:

The purpose of the Official Plan Amendment application is to re-designate the lands from "Commercial" to "Residential" to facilitate the conversion of the existing building (former church) into a single family residence.

A location map is attached to this staff report.

### Background:

The subject property is located on the west corner of York Street and Dundas Street in Newbury. Residential uses are located to the east, west, north and south, and limited commercial and office development is located to the north and west of the lands.

The subject property currently comprises an area of 1, 539 m<sup>2</sup> (16, 566 ft<sup>2</sup>) and has approximately 40.9 m (134.2 ft) of frontage on York Street and 50 m (164 ft) of frontage on Dundas Street. The subject property contains an existing building (former church). However, vehicular driveway access does not exist directly to Dundas Street or York Street. The subject property has access to full municipal services.

The applicant seeks to re-designate, and subsequently rezone, the lands to permit residential uses and convert the former church into a single family residence. The applicant has advised that some minor alterations to the building may occur such as building an exterior deck and changing some external windows/doors. However, no significant changes are proposed to alter the exterior façade of the building.

Generally, the Official Plan Amendment and Zoning By-law Amendment applications are applied for concurrently. However, the applicant needed to obtain a survey of the lands to accurately determine the setbacks of the building and dimensions of the property to be reflected within a site-specific zone for the property. The applicant will apply for a Zoning by-law Amendment and it will be heard by Council at a later date.

### **Policy and Regulation Background:**

The Official Plan designates the subject lands within the “Commercial” designation, and is zoned “General Commercial (C1)” in the Zoning By-law.

### **Provincial Policy Statement, 2020**

The Provincial Policy Statement, 2020 (PPS), the County Official Plan, and the Newbury Official Plan all encourage development in settlement areas on full municipal services provided the development is compatible with the surrounding area and represents an orderly and efficient use of land and infrastructure.

Section 1.3 (“Employment”) of the PPS states that planning authorities shall promote economic development and competitiveness by providing an appropriate mix and range of employment including commercial and industrial lands, and by facilitating the conditions for economic investment within the municipality. Additionally, planning authorities shall plan for, protect and preserve employment areas for current and future uses. Planning Authorities may permit conversion of lands within employment areas to non-employment uses through a comprehensive review, only where it has been demonstrated that the land is not required for employment purposes over the long term and that there is a need for the conversion. Further planning authorities shall protect employment areas in proximity to major goods movement facilities and corridors for employment uses that require those locations.

Section 1.4 (“Housing”) states that planning authorities shall provide for an appropriate range and mix of housing options and densities to meet projected market-based and affordable housing needs of current and future residents.

Section 1.6 (“Infrastructure and Public Service Facilities”) states that planning authorities should consider opportunities for adaptive re-use or repurposing of existing buildings before considering the provision or extension of new infrastructure to accommodate new, greenfield development.

### **Middlesex County Official Plan**

Economic development is an important function of the County’s Growth Management policy framework. Many long-term goals and objectives depend on economic activity and the opportunity for residents to live and work within the County.

Local municipalities, through their official plans, shall prepare detailed policies to guide redevelopment of areas in transition or land that is underutilized.



The County supports intensification and redevelopment within settlement areas where there is an appropriate level of physical services. The County will require that 15% of all development occur by way of intensification and redevelopment.

County Council shall encourage residential intensification and redevelopment in areas designated for residential use which comply with the following criteria: the physical potential of the existing building stock or sties can accommodate the identified forms of residential intensification; the existing or planned services can support new households in the area; and physical compatibility with the existing built form.

Urban Areas in the County shall demonstrate the potential to accommodate future growth. Local municipalities shall develop Growth Management Strategies to rationalize the type, amount, location and timing of growth and development and to establish the basis for the provision of the services and the necessary infrastructure.

County Council adopted Amendment No. 3 to the County official plan on July 19, 2022. The purpose of the Amendment was to update the official plan to ensure that the land use planning policies are current, reflect Provincial legislation and policy, have regard for matters of Provincial interest and any guideline documents, are consistent with the Provincial Policy Statement (PPS), and reflect changing community needs for the next 25-years. While the policies implemented through Amendment No. 3 are not in force and effect until Ministry approval, the updated policies are included in this report for informative purposes indicating the intent of County Council, but are not determinative for the purposes of this planning application.

Adopted Section 3.2.3 ("Local Official Plans") directs local municipalities to establish policies for the redevelopment and rehabilitation of brownfield sites and other underutilized sites within developed areas. This complements intensification policies that promote the conversion or expansion of existing institutional buildings for residential use.

#### Village of Newbury Official Plan

Section 3.4 ("Commercial and Industrial") of the Official Plan establishes policies related to Commercial and Industrial lands within the Village. The piecemeal creation of ribbon development of commercial, industrial and/or institutional uses along major roads shall be discouraged. Wherever possible, industrial, institutional and commercial uses should also be encouraged to locate in proximity to one another.

Section 3.3 ("Residential") of the Village of Newbury Official Plan states that "new residential development shall normally take place on lots of a registered plan of subdivision or on lots created by consent of the authority having jurisdiction. Consents shall only be granted when a registered plan of subdivision is not necessary to ensure the effective implementation of the policies of this Plan." Further, "where residential areas are designated, development shall be restricted to residential and institutional uses. New residential development in the Village shall be limited in scale and restricted to low density, single family and two family dwellings."

Section 5.5 ("Consents") of the Village of Newbury Official Plan states that "a consent shall only be granted if the purposes for which the lands which are subject of the consent to be



used is in conformity with this Plan and the provisions of the affected zoning by-law, and when it is clear that a plan of subdivision is not considered necessary to ensure the effective implementation of the policies of this Plan. Where a consent application contravenes this Plan of the zoning by-law, no consent shall be granted unless this Plan and/or the zoning by-law is duly amended and approved by the authority have jurisdiction of the appropriate condition regarding the zoning change is included in the decision of the authority granting the consent.”

With respect to the Zoning By-law, the ‘General Commercial (C1)’ zone permits only a variety of commercial uses such as office, library, retail store, parking lot, residential units that are accessory to the primary commercial use, and existing single-family detached dwellings. Further, the zoning requires a minimum lot frontage of 15 m (49.2 ft) and lot area of 500 m<sup>2</sup> (5, 381.96 ft<sup>2</sup>).

The ‘Residential First Density (R1)’ zone permits a single-family detached dwelling on one lot, home occupation and private garage. Additionally, the zoning requires a minimum lot frontage of 15 m (49.2 ft) and lot area of 500 m<sup>2</sup> (5, 381.96 ft<sup>2</sup>).

#### **Consultation:**

Notice of the application and public meeting was circulated to agencies, as well as property owners in accordance to the requirements of the *Planning Act*.

#### **Public Comments:**

At the time the subject report was completed, no comments have been received from area residents.

#### **Agency Comments:**

At the time the subject report was completed, no comments have been received from agencies including the County Engineer, St. Clair Region Conservation Authority or CN Rail. It is not expected that the redevelopment of the subject property would result in agency comments.

#### **Analysis:**

It is the opinion of staff that the lands can be supported for conversion from “Commercial” to “Residential”. The applicant did not undertake a comprehensive review to support the application, however, the lands are underutilized and there appears to be sufficient land available for commercial uses in other areas of the Village. The proposed land use is compatible with the surrounding uses, and street network would support residential development. Due to proximity to the commercial use immediately to the north, the applicant should consider physical separation and buffering (e.g. landscaping, fencing) between the two properties.

Provincial legislation requires a Record of Site Condition to be filed with the Province where land or buildings are being converted from industrial or commercial uses to more sensitive uses (e.g. residential, institutional). A Record of Site Condition summarizes the environmental

condition of a property and is completed by a Qualified Professional. Specifically, the Record of Site Condition is intended to determine if there are any human or environmental health hazards in the soil, sediment or groundwater and steps to remediate the lands. This can occur as a result of the storage of underground fuel tanks (e.g. gas pump), operations on site (e.g. drycleaner), or historical improper handling of chemicals or substances. Generally, a Record of Site Condition can be requested at the time of a rezoning application to support the conversion of land, or at the building permit stage. Planning Staff will review the requirement to have a Record of Site Condition completed for the rezoning application. However, it is not anticipated that the historical use of the site would result in contamination to affect human or environmental health.

The subject lands are compatible with adjacent residential uses and sufficiently distanced from the abutting commercial use. The proposed residential use can be supported on full municipal services and have year round access to a public roadway. As such, planning staff support the provision of a new residential use on the subject lands.

It is the opinion of staff that the proposal represents desirable intensification by developing underutilized lands within the settlement area where full municipal services are located. Based on the above analysis, it is recommended that Official Plan Amendment No. 14 be adopted and forwarded to the County of Middlesex for consideration, as it satisfies the requirements of the *Planning Act*; is consistent with the Provincial Policy Statement, 2020; conforms to the Official Plans of the Village of Newbury and the County of Middlesex; and, represents sound land use planning.

Following this, the applicant will be required to apply for a zoning by-law amendment to facilitate the conversion of the church. This opinion is provided prior to the public meeting and without the benefit of potentially receiving all comments from agencies or members of the public. Should new information arise regarding this proposal prior to or at the public meeting, Council is advised to take such information into account when considering the application.



## Location Map:

