

**Shediac Planning Review and Adjustment Committee /
Comité de révision de la planification de la Commission du Shediac**
Monday, April 27, 2020 / Le lundi 27 avril, 2020

Staff Report / Rapport du personnel

Subject / Objet : Non-Conforming Use / Usages Non-Conforme

File number / Numéro du fichier 20-377

From / De :



Phil Robichaud
Development Officer / Agent
d'aménagement

Reviewed by / Révisé par :



Joshua Adams
Planner / Urbaniste

General Information / Information générale

Applicant / Requéant :

Robert Belliveau Glenwood Kitchen Ltd.

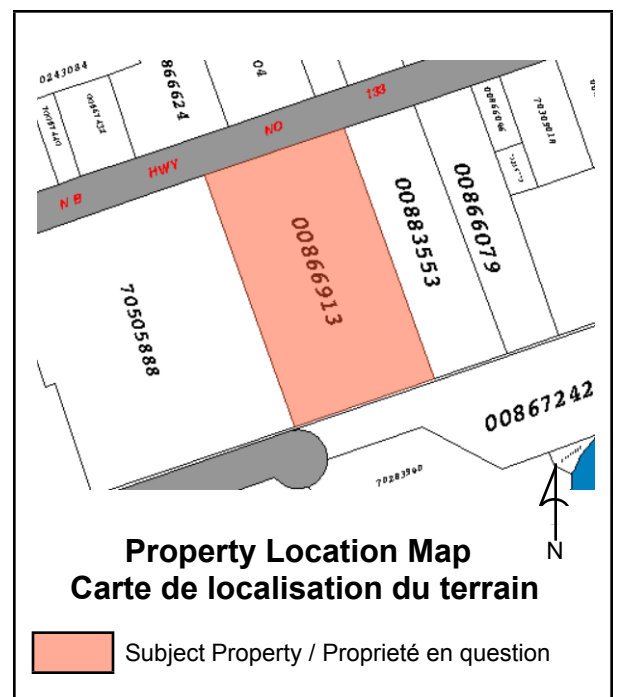
Landowner / Propriétaire :

Robert Belliveau Glenwood Kitchen Ltd.

Proposal / Demande :

Restoration of two non-conforming structures. The structures are silos used for the storage of sawdust.

Non conforming structures that have been damaged to the extent of more than half may be restored with the approval of the Planning Review and Adjustment Committee.



Site Information / Information du site

PID / NID: 00866913

Lot Size / Grandeur du lot: 1.06 hectares (2.6 acres)

Location / Endroit :

191 rue Main Street, Ville de Shediac / Town of Shediac

Current Use / Usage présent :

Manufacturing facility

Zoning / Zonage :

GC - General Commercial & SLR - Sea Level Rise

Future Land Use Designation / Désignation de l'utilisation future du sol :

Commercial

Surrounding Use & Zoning / Usage des environs & Zonage :

Surrounding uses: Commercial (grocery store and gym), residential (single and multi), vacant (property to the east) and campground

Surrounding zonings: General Commercial (GC), High Density Residential (R3), Camground (CA) and Sea Level Rise (SLR)

Municipal Servicing / Services municipaux:

Property is serviced by both the Town of Shediac water system and the Greater Shediac Sewerage

Access-Egress / Accès/Sortie :

Main Street

Policies / Politiques

By-law No. P-14-36 Municipal Development Plan

3.2.5 Industrial uses

Policies

1. Council's policy is to consider an industrial use on land located South of Highway 15, subject to Section 39 of the Community Planning Act.
2. Council's policy is to be selective in terms of the type of industry, its location, and the operational conditions that will have to be met.
3. Subject to Section 39 of the Community Planning Act, Council must encourage the establishment of low-polluting industries.
4. Council's policy is to maintain a transition zone around industrial uses.

7.8.2 Proposals related to the Western Gateway borough:

1. It is proposed to maintain the integrity of existing neighbourhood residential units.
6. It is proposed to require that a site plan be designed to optimize land use, thus creating a built environment that is enjoyable and efficient, before authorizing a residential and commercial development in this borough.
7. It is proposed to promote the diversification of commercial uses in this borough in order to create a dynamic area that will attract people because of their accessibility.
8. It is proposed that council ensure that commercial uses do not have a negative impact on the quality of life of the residents in this borough by enforcing the zoning by-law and imposing urban design and landscaping standards.
9. It is proposed that the town develop design standards to guarantee a proper integration of various uses in this environment.
10. It is proposed to maintain a transition zone around commercial uses in order to minimize nuisances to other types of uses.
11. It is proposed to beautify the gateway into town from Highway 11 with landscaping that highlights Shediac's history and its people.
18. It is proposed to promote the maintenance and expansion of green areas and public spaces.
19. It is proposed to pay a particular attention to parks and green spaces that could be used all year long.
20. It is proposed that new developments located in the flood-prone zone be adapted to mitigate the effects of sea-level rise.

Zoning and/or Subdivision Regulation / Réglementations de zonage et/ou de lotissement

Town of Shediac Zoning By-Law Z-14-44

14 General Commercial Zone (GC)

14.1 Permitted uses 14.1.1

No land, building or structure shall be used for any purpose other than:

- a) one or several of the following main uses:
 - (i) a service station, a public garage or a carwash,
 - (ii) a restaurant, a drive-thru or a takeout,
 - (iii) a retail store or service shop,
 - (iv) a bar and/or night club, as long as it is located on Main Street,
 - (v) a motel or hotel,
 - (vi) a shopping centre,
 - (vii) a daycare or kindergarten,
 - (viii) an office or office building,

- (ix) a primary/secondary school,
- (x) a sports complex,
- (xi) a movie theatre, cultural centre and/or entertainment facility, a museum or amusement place,
- (xii) a library or bookstore,
- (xiii) a garden centre,
- (xiv) a computer centre, call centre, research and development laboratory which does not work with dangerous or explosive material,
- (xv) a multiple unit dwelling, subject to paragraph c),
- (xvi) a health centre and/or medical clinic,
- (xvii) one or several government services, and (xviii) equipment rental and repair shop subject to Section 34(4)c) of the Community Planning Act.
- (xix) a bed and breakfast; and
- (xx) a veterinary service.

e) one or several buildings, structures or accessory uses related to the main use of the land, building or structure.

Internal Consultation & External Consultation / Consultations internes et externes

The Town of Shediac staff was consulted.

This file was discussed internally among staff.

Discussion

Glenwood Kitchen is a manufacturing facility operating at 191 Main Street in the Town of Shediac. The company is a wholesale manufacturing source for cabinetry, frames, drawers, hinges, and accessories. The establishment has been operating long before the adoption of the current Zoning By-Law.

The current Zoning By-Law has this property zoned General Commercial (GC). The General Commercial zone does not allow a manufacturing facility, but because this establishment was operating before the current Zoning By-Law, this use is considered an *Existing Non-Conforming Use* as defined in the Community Planning Act. A more common word for this definition is "grandfathered". Non-conforming uses may continue operating despite the zoning regulation not allowing the uses, but may not be enlarged and are subject to the conditions outlined in the Community Planning Act.

This request is to replace two existing accessory structures that are both damaged to the point where they are irreparable (meaning the cost of repair is more than replacing the whole structure). The structures are grain silos used for the storage of sawdust. The sawdust is a by-product of the manufacturing facility. The sawdust, instead of being disposed of or carried out of the property, is being burned onsite as a source of heat for buildings on the property.

Both silos were damaged because of a human error. A negative pressure air hammer collapsed the walls and roof of structures (see in schedules explanation from applicant). The restoration of the proposed structures will be similar dimensions and will utilize the existing cement pads of the current structures. As per the Town of Shediac Building By-Law, both these structures will need to stamp by a New Brunswick certified structural engineer.

The Community Planning Act states that if a structure, in the opinion of the Planning Review and Adjustment Committee, has been damaged to the extent of at least half of the whole structure, exclusive of the foundation, the structure shall not be restored unless the Planning Review and Adjustment Committee agrees otherwise. This is the purpose of this request.

The purpose of non-conforming uses is that they will eventually phase out. In this request, the application is to allow the restoration of structures for sawdust storage. It will not change or affect the main manufacturing use that is currently not permitted in the zoning by-law. Cabinets will continue to be manufactured whether this request is approved or denied. The silos are only incidental to the main use by

allowing the storage of by-products. Staff is in the opinion that it would be unreasonable to not allow the restoration of the accessory structures because they're only used for storage, they will be the same size and the facility is already setup to utilize the sawdust as a source of heat.

This request does not change the main use and will simply allow the manufacturing facility to operate in the same manner before it suffered unfortunate damages due to human error.

Public Notice / Avis public

Notice was sent to property owners within 60 meters of the subject property.

Legal Authority / Autorité légale

Community Planning Act 2017, c.19

Non-conforming use

60(1) The making of a zoning by-law or a regulation that amends or repeals an existing zoning by-law or regulation or the making of zoning provisions in a rural plan that amend or repeal existing zoning provisions

- (a) may cause uses then existing to become nonconforming, and
- (b) does not change the date on which a use became non-conforming.

60(2) A non-conforming use may continue despite the zoning by-law or regulation or rural plan but

(b) if a building or structure that contains a nonconforming use has, in the opinion of the advisory committee or regional service commission, as the case may be, been damaged to the extent of at least half of the whole building or structure, exclusive of the foundation, the building or structure shall not be repaired or restored or used except in conformity with the zoning by-law or regulation or rural plan, unless the advisory committee or regional service commission agrees otherwise, and, in the case of a by-law, the council may purchase or otherwise acquire the parcel of land on which the building or structure is situated.

Recommendation / Recommandation

The Southeast Regional Service Commission staff respectfully recommends the Shediac Planning Review and Adjustment Committee to approve the request to allow the restoration of two existing non-conforming accessory structures because the request is reasonable and does not change the main non-conforming use.

Note: This report was written in english and translated to a bilingual document. Where a conflict exists between the two languages, the language the report was written shall prevail. / **Note:** ce rapport a été rédigé en anglais et traduit en version bilingue. En cas de conflit entre les deux langues, la langue dans laquelle le rapport a été rédigé a préséance.