

***REPORT TO THE COMMITTEE OF ADJUSTMENT***

**Submitted By: Building and Planning Services Department -  
Planning Division**

**Application No.: A24-24**

**Meeting Date: September 18, 2024**

**Owner: Richard Paradis**

**Agent: N/A**

**Location: 460 Huron Street, legally described as PLAN 11 LOT 16 in the  
City of Stratford.**

**Zoning: C2 – Highway Commercial**

**Official Plan Designation: Commercial Area**

**Road Classification: Huron Street - Arterial**

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**Purpose of Application A24-24:**

The purpose of application A24-24 is to permit the expansion of a legal non-conforming use to facilitate an additional dwelling unit (ADU) in the basement of an existing single detached dwelling.

Permission requested:

1. Regulation 7.3.2.1. – To permit an additional dwelling unit below the first storey of an existing single detached dwelling under Section 45(2)(a)(ii) of the Planning Act, R.S.O. 1990.

## **Background:**

### Attachments

- Map 1 – Location & Zoning Map
- Figure 1 – Proposed ADU Floor Plan
- Figure 2 – Site Photo (September 10<sup>th</sup>, 2024)

### Site Characteristics

Existing Use: Single detached dwelling

Frontage: Approximately 25 m

Depth: Approximately 36 m

Area: Approximately 900 m<sup>2</sup>

Shape: Rectangular

### Surrounding Land Uses:

North: Single detached dwellings

East: Single detached dwellings

South: Commercial Retail Stores

West: Commercial Offices

### Agency Comments

The application was circulated to agencies for comments on August 26<sup>th</sup>, 2024. The following comments were received:

#### **City of Stratford Infrastructure and Development Services Department – Engineering Division:**

- Confirm that the existing sanitary/storm/water services are appropriately sized for the intended use in accordance with the OBC. It is the property owner's responsibility to confirm the condition of their existing services if they are to be reused. Provide the private drain connection (servicing) details once available to the Engineering Division.

#### **City of Stratford Building and Planning Department – Building Services:**

- No concerns with the request.
- Building permit is required to be obtained prior works commencing for this project. Applicant is to submit all planning approvals to the Plans Examiner to go with their current building permit application. Any question relating to the building permit please continue to contact Russell Harley ([rharley@stratford.ca](mailto:rharley@stratford.ca)) as they are the plans examiner on the building permit application.

### **City of Stratford Community Services Department – Parks Division:**

- No concerns

### **City of Stratford Clerks Department:**

- Recommends all parking requirements be maintained and supports the creation of additional housing in the City of Stratford.

### **Festival Hydro:**

- If there are any changes required to the existing electrical service or metering as part of the project, customer to contact Festival Hydro 'Services' to request a service layout.

### **Upper Thames River Conservation Authority:**

- No objections or requirements for this application.

### Public Comments

Public Notice was provided to neighbouring property owners in accordance with the provisions of the Planning Act, on August 30<sup>th</sup>, 2024. In addition, notice of the proposed application was published in the Town Crier of the Beacon Herald on August 31, 2024. At the time of writing this report, two (2) letters were received by residents of the neighbourhood. Concerns include the use of the proposed ADU as a short-term rental as well as parking availability and potential overflow onto abutting properties.

Any additional public comments received after the date of completion of the report will be provided to the Committee of Adjustment.

### **Planning Analysis:**

#### Planning Act

In September 2019 and November of 2022, the Government of Ontario passed Bill 108, the More Homes, More Choices Act and Bill 23, the More Homes Built Faster Act. As part of these legislations, changes to Ontario's Planning Act were made. One such change created new requirements for municipalities to not prohibit ADUs subject to full municipal services. As per Section 35.1, a maximum of two ADUs are permitted "as-of-right" on residential properties containing a single detached dwelling, semi-detached dwelling, or townhouse dwelling, without requiring a Zoning By-law Amendment. In addition, tandem parking for ADUs is now permitted.

The application proposes to construct an ADU in the basement of the legally existing single detached dwelling. However, though use of the property is residential, the subject lands are both designated "Commercial" in the City's Official Plan and Zoned Highway Commercial C2 in the City's Zoning By-law. As such, the proposed ADU does not conform to the City's Official Plan and Zoning By-law, and permission to expand the single detached dwelling being a legal non-confirming use under Section 45(2) of the Planning Act is required to facilitate the development.

#### Permission for Expansion of a Legal Non-Conforming Use

Section 45(2)(a)(ii) of the Planning Act provides Committees of Adjustment the power to grant permission to allow the expansion of a legal non-confirming use of a building or structure outside of the permitted uses in the Zoning By-law.

Specifically, Section 45 (2)(a)(ii) R.S.O. 1990 c. P.13, s. 45 (2). reads as follows:

*In addition to its powers under subsection (1), the committee, upon any such application,*

- (a) where any land, building or structure, on the day the by-law was passed, was lawfully used for a purpose prohibited by the by-law, may permit,*
- (ii) the use of such land, building or structure for a purpose that, in the opinion of the committee, is similar to the purpose for which it was used on the day the by-law was passed or is more compatible with the uses permitted by the by-law than the purpose for which it was used on the day the by-law was passed, if the use for a purpose prohibited by the by-law or another use for a purpose previously permitted by the committee continued until the date of the application to the committee;*

The four tests of a Minor Variance do not apply to requests to expand a legal non-confirming use under Section 45(2) of the Planning Act. Instead, the tests for an application to expand a legal non-confirming use are:

- a) Whether the application is desirable for the appropriate development of the subject property; and
- b) Whether the application will result in undue adverse impacts on the surrounding properties and neighbourhood.

#### Is the application desirable for the appropriate development of the subject property?

The proposed ADU would be located within the basement of the existing legal non-confirming single-detached dwelling on the subject property. Residential use has existed on the subject lands and neighbouring properties for over 50 years, and as the existing

dwellings are legal non-conforming, they will continue to be used for such purpose until commercial redevelopment is proposed. As per the Planning Act and the City's Zoning By-law, ADUs are permitted and encouraged in single detached dwellings. Section 7.3.2.1 of the Zoning By-law also permits dwelling units in the C2 zone, however only located above the first storey in a building containing a permitted non-residential use. As the proposed ADU is to be located in the basement of the existing dwelling, it is considered below the first storey and does not comply with the Zoning By-law. Planning Staff are of the opinion that given the legal non-conforming status of the existing dwelling, residential use of the property to facilitate the development of a new ADU is appropriate for the subject lands until the time at which commercial redevelopment is proposed.

Will the application result in undue adverse impacts on the surrounding properties and the neighbourhood?

It is not anticipated that the proposed application will result in adverse impacts to the surrounding neighbourhood. The requested permission to expand the legal non-conforming residential use on the property will facilitate the development of a ADU located in the basement of the existing single detached dwelling. The neighbourhood primarily consists of commercial and existing residential uses and section 4.24 of the Zoning By-law permits Second Suites as an accessory use within single-detached dwellings. Concerns received from members of the public in response to the application include the possibility of the ADU being used for short-term rental purposes and whether sufficient parking would be provided to prevent overflow onto abutting properties. Short-term rental accommodations are permitted in the C2 zone, however as per Section 4.24.1 d) of the Zoning By-law, are not permitted on a lot with a second suite. Therefore, if permission is granted to expand the legal non-confirming use to permit the ADU in the basement of 460 Huron Street, short-term rentals will no longer be permitted on the property. Additionally, Planning Staff have determined that there is sufficient room for at least three required vehicle parking spaces on the existing semicircular driveway. Trespassing and overflow parking on abutting properties are to be addressed civilly or through the City of Stratford's Police Department. As such, Staff are of the opinion that the proposed application is compatible with the surrounding area and will not result in undue adverse impacts on neighbouring properties.

For these reasons, Planning Staff recommend that the City of Stratford's Committee of Adjustment grant permission under Section 45(2)(a)(ii) to expand the legal non-conforming use residential use of 460 Huron Street, to facilitate the construction of an ADU in the basement of the existing dwelling.

**Recommendation:**

**THAT the City of Stratford Committee of Adjustment APPROVE Application A24-24, submitted by Richard Paradis for lands described as Plan 11 Lot 16**

**and municipally addressed as 460 Huron Street in the City of Stratford, as it relates to:**

- 1.** Regulation 7.3.2.1. – To permit an additional dwelling unit below the first storey of an existing single detached dwelling under Section 45(2)(a)(ii) of the Planning Act, R.S.O. 1990

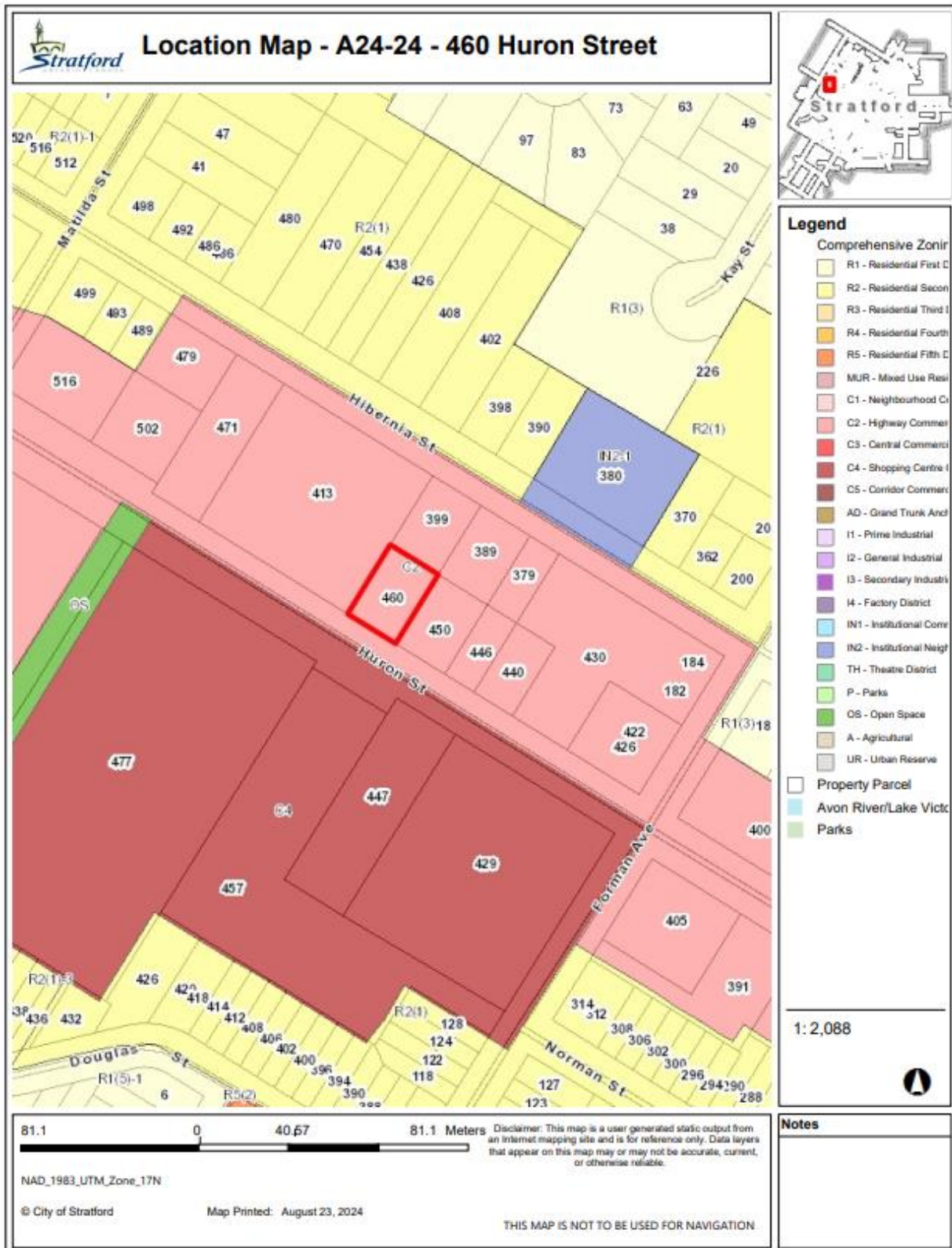
**Prepared by:** Jade McGowan, Planning Student

**Reviewed by:** Alexander Burnett, Planner

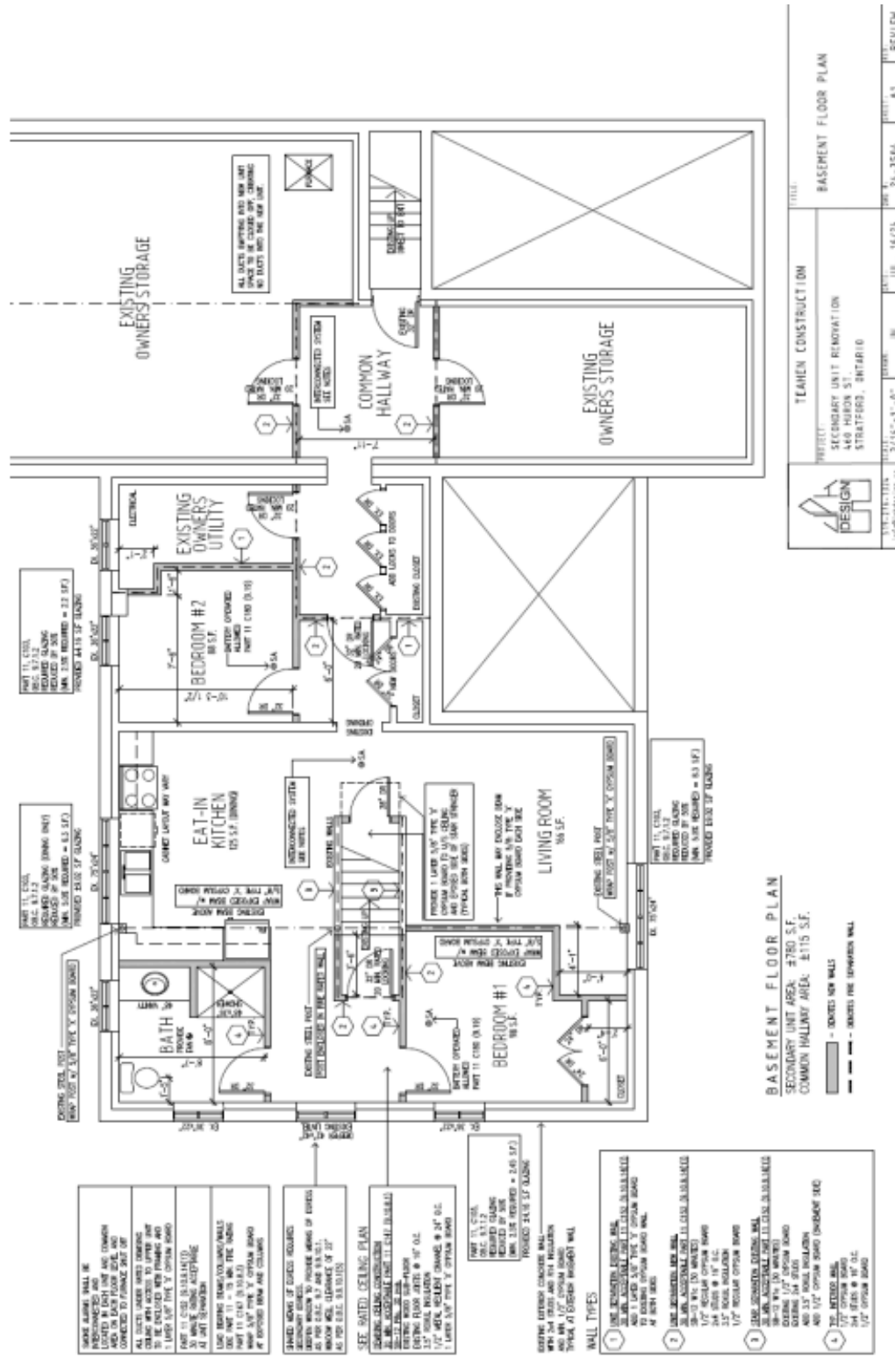
**Recommended & approved by:** Marc Bancroft, MPL, MCIP, RPP  
Manager of Planning

**Report finalized:** September 13<sup>th</sup>, 2024

**Map 1 – Location & Zoning Map**  
**File # A24-24**  
**Richard Paradis – 460 Huron Street**



**Figure 1 – Proposed ADU Floor Plan  
File # A24-24  
Richard Paradis – 460 Huron Street**





**Figure 2 – Site Photo (September 10<sup>th</sup>, 2024)**  
**File # A24-24**  
**Richard Paradis – 460 Huron Street**

