

**Subject: Zoning By-law Amendment – 325 Elgin Street**

**File Number: ACS2023-PRE-PS-0030**

**Report to Planning and Housing Committee on 20 March 2023**

**and Council 12 April 2023**

**Submitted on March 8, 2023 by Derrick Moodie, Director, Planning Services,  
Planning, Real Estate and Economic Development**

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**Ward: Somerset (14)**

**Objet : Modification du Règlement de zonage – 325, rue Elgin**

**Dossier : ACS2023-PRE-PS-0030**

**Rapport au Comité de la planification et du logement**

**le 20 mars 2023**

**et au Conseil le 12 avril 2023**

**Soumis le 8 mars 2023 par Derrick Moodie, Directeur, Services de la planification,  
Direction générale de la planification, des biens immobiliers et du développement  
économique**

**Personne ressource : Jean-Charles Renaud, Urbansite, Examen des demandes  
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**Quartier : Somerset (14)**

## REPORT RECOMMENDATIONS

That Planning and Housing Committee approve the following:

1. Recommend Council approve an amendment to Zoning By-law 2008-250 for 325 Elgin Street and to change the zoning on a portion of the property into Traditional Mainstreet Zone, Subzone 1, as shown in Document 1, to permit an outdoor commercial patio, as detailed in Document 2; and
2. Approve the Consultation Details Section of this report be included as part of the 'brief explanation' in the Summary of Written and Oral Public Submissions, to be prepared by the Office of the City Clerk and submitted to Council in the report titled, "Summary of Oral and Written Public Submissions for Items Subject to *the Planning Act* 'Explanation Requirements' at the City Council Meeting of April 12, 2023," subject to submissions received between the publication of this report and the time of Council's decision.

## RECOMMANDATIONS DU RAPPORT

Que le Comité de la planification et du logement :

1. Recommande au Conseil d'approuver une modification au *Règlement de zonage* n° 2008-250 concernant la propriété située au 325, rue Elgin, comme le montre le document 1, en vue de permettre une terrasse commerciale extérieure, comme l'explique en détail le document 2; et
2. Donne son approbation afin que la section du présent rapport consacrée aux détails de la consultation soit incluse en tant que « brève explication » dans le résumé des observations écrites et orales du public, qui sera rédigé par le Bureau du greffier municipal et soumis au Conseil dans le rapport intitulé « Résumé des observations orales et écrites du public sur les questions assujetties aux "exigences d'explication" aux termes de la *Loi sur l'aménagement du territoire* à la réunion du Conseil municipal prévue le 12 avril 2023 », à la condition que les observations aient été reçues entre le moment de la publication du présent rapport et le moment de la décision du Conseil.

## **BACKGROUND**

Learn more about [link to Development Application process - Zoning Amendment](#)

For all the supporting documents related to this application visit the [link to Development Application Search Tool](#).

### **Site location**

325 Elgin Street

### **Owner**

Église unie Saint Marc

### **Applicant**

Tyler Yakichuk, Fotenn

### **Description of site and surroundings**

The property is located at the southeast corner of the intersection of Elgin Street and Lewis Street, across from Minto Park. 325 Elgin Street is approximately 30 metres wide and 45 meters deep. The front of the site is defined by the Église unie Saint Marc and by a single-storey commercial building containing Al's Steakhouse. The back of the site is a surface parking lot.

The property owner, Église unie Saint Marc, leases the rear parking lot where the patio currently exists to Al's Steakhouse.

### **Summary of proposed development**

The applicant seeks to operate a seasonal outdoor commercial patio in an area of the subject lands where a patio has been operating on a temporary basis for the past two years (excluding winter). The total area of the patio is approximately 235 square metres and is located at the rear of the subject property, in the parking lot between 136 and 142 Lewis Street. The outdoor commercial patio was originally permitted under the temporary outdoor commercial patio rules.

Although the application was submitted by the property's tenant (Al's Steakhouse, Sam Saikali), the property owner, being the Église unie Saint Marc, has provided their support in regards to the requested relief.

## Summary of requested Zoning By-law amendment

The property is currently dual-zoned: The portion of the property abutting Elgin Street is zoned TM1[1531] H(15) (Traditional Mainstreet, Subzone 1, Urban Exception 1531, Maximum Height 15 metres) while the portion where the patio is proposed is zoned R4UD (Residential Fourth Density, Subzone UD).

Exception 1531 applies to multiple properties in the vicinity and includes the following provision: "*despite Section 54, restaurant, full-service means a restaurant that sells, serves and prepares on-site food and beverages to patrons seated at tables, for consumption on the premises.*" This provision is proposed to be carried over to the new site-specific exception.

In order to permit the outdoor commercial patio, the entire property is proposed to be rezoned to TM1[xxxx] H(15), which would allow a restaurant use across the entire property, and therefore an associated patio, along with these site specific provisions:

- The separation distance between the outdoor commercial patio and a lot in a residential zone is 0 metres.

## DISCUSSION

### Public consultation

Notification and public consultation was undertaken in accordance with the Public Notification and Public Consultation Policy approved by City Council for Zoning By-law amendments.

For this proposal's consultation details, see Document 3 of this report.

### Official Plan designation(s)

The property is located within the Downtown Core Transect Policy Area on Schedule A of the Official Plan. The Downtown Core Transect is described as a mature built environment whose urban characteristics of high-density, mixed uses and sustainable transportation orientation are to be maintained and enhanced.

According to Schedule B1 of the Official Plan, the site located within the Evolving Neighbourhood Overlay, and Elgin Street is designated as a Corridor – Mainstreet. Neighbourhoods are considered to be the heart of communities, where a mix of building forms and densities are permitted. The Evolving overlay signals a gradual evolution over time that will see a change in character to support intensification. The Corridor designation applies to bands of land along specified streets whose planned function combines a higher density of development and a greater degree of mixed uses.

### **Other applicable policies and guidelines**

According to Section 2.4 for the Central and East Downtown Core Secondary Plan, the property is designated Corridor. The Secondary Plan states that Corridors will be consistent with Section 6.2 – Corridors, of Volume 1 of the Official Plan.

The forthcoming Urban Design Guidelines for Commercial Patios will seek to provide guidance on how to create vibrant and accessible outdoor commercial patio spaces. Although it is only slated for consideration by Council in April 2023, the proposal would be subject to these guidelines would they have been in effect.

### **Heritage**

The site is located within the Minto Park Heritage Conservation District and is affected by the Heritage Overlay in the Zoning By-law. The proposal was reviewed by Heritage Staff, who confirmed that no Heritage applications were required given that no new structures were being proposed. Heritage Staff have no concerns.

### **Planning rationale**

#### Official Plan

The site in question is located within the Downtown Core Transect Policy area on Schedule A of the Official Plan. The Policy Area is described as being the historic, geographical, physical, cultural, symbolic and employment hub of the National Capital Region, as well as a mature built environment whose urban characteristics of high-density, mixed uses and sustainable transportation orientation are to be maintained and enhanced. It intends on maintaining and enhancing an urban pattern of built form and site design in an attempt to foster the development of 15-minute neighbourhoods.

The property is designated as a Mainstreet Corridor on Schedule B1 of the Official Plan. The Corridor designation applies to bands of land along specified streets whose planned function combines a higher density of development and a greater degree of mixed uses. The designation generally applies to properties up to a maximum depth of 220 metres from the centreline of the street identified as a Mainstreet Corridor. Corridors are intended to permit residential uses as well as such non-residential uses that integrate with a dense, mixed-use urban environment. Mainstreet Corridors are recognized as having a different context, and the policies included in the Official Plan set out to foster their evolution in a way that supports cultural development in order to maintain, extend, or create a level of activity and animation typical of Mainstreets.

Staff are of the opinion that the proposal to rezone a portion of land to a Traditional Mainstreet Zone in order to permit an outdoor commercial patio for an existing restaurant is consistent with Official Plan policies.

### Secondary Plan

The Central and East Downtown Core Secondary Plan provides the strategic planning direction to guide future development and redevelopment within the Central and East Downtown Core. The property is located within the Centretown Character Area and is designated Corridor, as per Section 2.4.

The Centretown Character Area seeks to accommodate an assortment of uses. The area is expected to evolve particularly where vacant or underutilized lots, parking lots and aging buildings are located, in an effort to accommodate more development consisting of a mix of uses.

The Corridor policy of the Secondary Plan simply states that Corridors will be consistent with Section 6.2 – Corridors, of Volume 1 of the Official Plan, which has been discussed in the section above.

Staff are of the opinion that the proposal for an outdoor commercial patio located where a parking lot currently exists, on a property designated as a Corridor, is consistent with the Secondary Plan policies.

### Urban Design Guidelines for Commercial Patios

The City of Ottawa is proposing to update the existing Right-Of-Way (ROW) Patio By-law and introduce the new Urban Design Guidelines for Commercial Patios. This update is anticipated to be considered by the City's Transportation Committee on March 23, 2023 and by Council on April 12, 2023. The purpose of this document is to provide guidance on how to create vibrant and accessible outdoor commercial patio spaces.

Although the new guidelines are not in effect at the time of writing this report, the proposed patio is successful at meeting many of the guidelines included in the draft document, such as those related to noise, privacy, aesthetics, etc.

### Recommended Zoning Details

As detailed in Document 2, the proposed Zoning By-law Amendment has the effect of rezoning the site to include site specific provisions. The following summarizes the site-specific zoning provisions and planning rationale:

- A portion of the property is currently zoned TM1[1531] H(15) (Traditional Mainstreet, Subzone 1, Urban Exception 1531, Maximum Height 15 metres).

Exception 1531 applies to multiple properties in the vicinity and includes the following provision: "despite Section 54, restaurant, full-service means a restaurant that sells, serves and prepares on-site food and beverages to patrons seated at tables, for consumption on the premises." This provision is proposed to be carried over to the new site-specific exception in order to maintain consistency.

- The proposal seeks a reduction to the separation distance between an unscreened outdoor commercial patio and a residential zone. Section 85(3)(b) states that "where an outdoor commercial patio abuts a residential zone, is within 30 metres of that zone and is not physically separated by a building, it must be screened from that zone by a structure, screen or wall that is at least 2 metres in height." The patio is flanked by two buildings on opposing sides and the abutting heritage building used as an office has no windows or openings next to the patio, which helps mitigate noise levels and travel. Therefore, the patio would be without a two-metre screen or wall on the other two sides, which staff have assessed to be appropriate in this instance given the site context.

Furthermore, a noise assessment report was prepared in order to determine the noise impacts of the patio on its surroundings. While the site may be abutting residentially zoned properties, the closest residential building is located just under 30 metres from the edge of the patio. Using the modeling software, seven receptors were placed at various nearby locations in order to measure noise emanating from the patio. It was determined that that noise levels at nearby points of reception are expected to fall below the accepted noise level limits established by the City of Ottawa's Environmental Noise Control Guidelines.

Given the existence of a one-metre-tall fence with robust vegetation located along the south edge of the parking lot, as well as physical shielding by nearby commercial buildings, the patio is expected to be compatible with existing noise sensitive land uses. Additionally, the business operator intends on operating the outdoor commercial patio only between the hours of 7am and 11pm, and will also be guided by the City's noise by-law. Furthermore, Section 85(3)(a) of the Zoning By-law does not permit the use of amplified sounds on the patio.

While the outdoor commercial patio will be located over existing parking spaces (during the summer months), 41 parking spaces will remain available within this same parking lot. The restaurant itself does not require any parking spaces as per the Zoning By-law, and the church requires 17 parking spaces. The proposed outdoor commercial patio is not anticipated to have any impacts on off-street parking.

Staff are of the opinion that the proposed Zoning By-law amendment is appropriate for this site.

### **Provincial Policy Statement**

Staff have reviewed this proposal and have determined that it is consistent with the 2020 Provincial Policy Statement.

### **RURAL IMPLICATIONS**

There are no rural implications associated with this report.

### **COMMENTS BY THE WARD COUNCILLOR(S)**

Councillor Troster is aware of the application related to this report and had no comments to add.

### **LEGAL IMPLICATIONS**

There are no legal implications associated with implementing the report recommendation.

### **RISK MANAGEMENT IMPLICATIONS**

There are no risk implications associated with this report.

### **ASSET MANAGEMENT IMPLICATIONS**

There are no asset management implications associated with this report.

### **FINANCIAL IMPLICATIONS**

There are no direct financial implications

### **ACCESSIBILITY IMPACTS**

The commercial patio will be required to meet accessibility standards at the time of building permit. Staff have no concerns about accessibility.

### **APPLICATION PROCESS TIMELINE STATUS**

This application (Development Application Number: D07-12-21-0112) was not processed by the "On Time Decision Date" established for the processing of Zoning By-law amendments due to delays between submissions.

### **SUPPORTING DOCUMENTATION**

Document 1 Zoning Key Map



Document 2 Details of Recommended Zoning

Document 3 Consultation Details

## **CONCLUSION**

The Planning, Real Estate and Economic Development Department supports the proposed Zoning By-law Amendment. The proposal is consistent with the Official Plan policies in the Downtown Core Transect Policy Area, as well as those related to Evolving Neighbourhoods and Mainstreet Corridors. The proposal is also consistent with the policies included in the Central and East Downtown Core Secondary Plan. The proposed Zoning By-law amendment is appropriate for the site and maintains policy objectives. The amendment represents good planning and, for the reasons stated above, staff recommends approval of the Zoning By-law amendment.

## **DISPOSITION**

Office of the City Clerk, Council and Committee Services to notify the owner; applicant; Ottawa Scene Canada Signs, 13-1920 Merivale Road, Ottawa, ON K2G 1E8; Krista O'Brien, Program Manager, Tax Billing & Control, Finance and Corporate Services Department (Mail Code: 26-76) of City Council's decision.

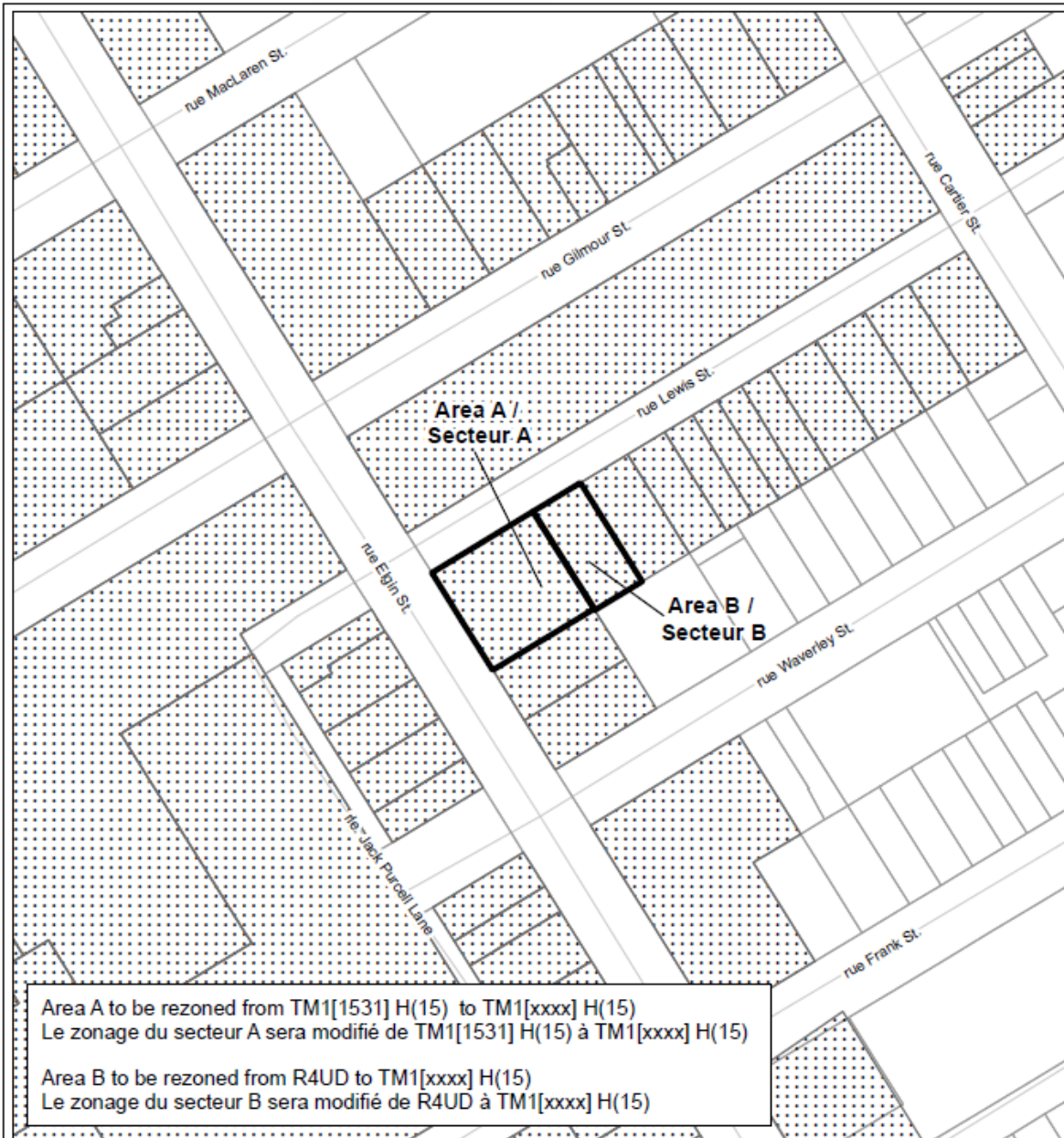
Zoning and Interpretations Unit, Policy Planning Branch, Economic Development and Long Range Planning Services to prepare the implementing by-law and forward to Legal Services.

Legal Services, City Manager's Office to forward the implementing by-law to City Council.

Planning Operations, Planning Services to undertake the statutory notification.





**Document 1 – Zoning Key Map**

For an interactive Zoning map of Ottawa visit [geoOttawa](https://geoottawa.com)



Area A to be rezoned from TM1[1531] H(15) to TM1[xxxx] H(15)  
 Le zonage du secteur A sera modifié de TM1[1531] H(15) à TM1[xxxx] H(15)

Area B to be rezoned from R4UD to TM1[xxxx] H(15)  
 Le zonage du secteur B sera modifié de R4UD à TM1[xxxx] H(15)

		LOCATION MAP / PLAN DE LOCALISATION ZONING KEY PLAN / SCHÉMA DE ZONAGE	
D02-02-21-0112	23-0156-X	 325 rue Elgin Street	 Heritage (Section 60) Patrimoine (Article 60)
I:\CO\2023\Zoning\Elgin_325			
<small>©Parcel data is owned by Teranet Enterprises Inc. and its suppliers. All rights reserved. May not be produced without permission. THIS IS NOT A PLAN OF SURVEY.</small> <small>©Les données de parcelles appartiennent à Teranet Enterprises Inc. et à ses fournisseurs. Tous droits réservés. Ne peut être reproduit sans autorisation. CECI N'EST PAS UN PLAN D'ARPENTAGE.</small>		Entire map area is affected by the Mature Neighbourhoods Overlay (section 139) / Tout le secteur de la carte est touché par la Zone sous-jacente de quartiers établis (article 139)	
REVISION / RÉVISION - 2023 / 02 / 13			

## Document 2 – Details of Recommended Zoning

The proposed change to the City of Ottawa Zoning By-law No. 2008-250 for 325 Elgin Street:

Add a new exception with provisions similar to the following:

- 1) Rezone the lands shown in Document 1.
- 2) Add a new exception xxxx to Section 239 – Urban Exceptions with provisions similar in effect to the following:
  - a) In Column I, Exception Number, add the text “[xxxx]”
  - b) In Column II, Applicable Zones add the text “TM1[xxxx] H15”
  - c) In Column V, Provisions, add the text:
    - i. Despite Section 54, restaurant, full-service means a restaurant that sells, serves and prepares on-site food and beverages to patrons seated at tables, for consumption on the premises.
    - ii. Section 85(3)(b) does not apply

### **Document 3 – Consultation Details**

#### Notification and Consultation Process

Notification and public consultation was undertaken in accordance with the Public Notification and Public Consultation Policy approved by City Council for Zoning By-law amendments.

Public Comment 1: Please ensure that any future development meet the same look and feel of the other buildings and that the TM zoning respects the setbacks when abutting against residential properties. A change in permanent zoning would make this land more available to development without the same consultation process that is now happening for a patio.

Staff Response: The proposed TM1 zone is consistent with the remainder of the property, as well as other properties along Elgin Street in the immediate area. Future development is expected to occur as per policies related to Corridors/Mainstreets.

Public Comment 2: This proposal will place further strain on the limited parking situation on the neighbourhood streets.

Staff Response: The existing restaurant and outdoor commercial patio meet the Zoning By-law's parking requirements. Staff do not expect any adverse impacts to on-street parking as a result of this application.

#### Comments from the Centretown Community Association:

There is much to praise in turning a portion of the parking lot on Lewis Street just east of Elgin into an attractive restaurant patio. It enlivens a previously drab space and assists a local business during these difficult times.

We hope this zoning bylaw amendment will be contingent on two considerations. First, that the space remain a restaurant patio and the rezoning not allow for conversion to other, not mentioned, uses. Second, as there are residences it should remain a relatively quiet restaurant patio and not become a noisy venue.

Staff Response: While staff appreciate the desire to prevent Mainstreet developments from spreading out and away from the main street itself and into residential neighbourhoods, the proposed rezoning meets the intent of the Official Plan and Secondary Plan policies and was deemed appropriate for the site. The provisions included in the site-specific exception will help mitigate any potential noise issues related to the outdoor patio. Section 85 of the zoning by-law also contains a provision

about not permitting “an amplified system, directly or indirectly, for music or entertainment purposes” which remains applicable to this patio.