

DECISION/DIRECTION NOTE

Title: Notices Published - 47 Smith Avenue - DEV2300150

Date Prepared: November 22, 2023

Report To: Regular Meeting of Council

Councillor and Role: Councillor Carl Ridgeley, Development

Ward: Ward 2

Decision/Direction Required:

To consider a change of Non-Conforming Use application that has been submitted by Islamic Circle of North America for 47 Smith Avenue.

Discussion – Background and Current Status:

The proposed application is to change the hours of use for a Place of Worship. The applicant is proposing revised hours from 4 a.m. to 12 a.m. (midnight), seven (7) days per week, which would be extended from the currently approved hours of 8 a.m. to 9 p.m. The floor area and Use will remain as it exists. On-site parking is provided.

Sixty-two (62) submissions were received. The submissions were both in support of the proposed change in hours, while other submissions raised concerns pertaining to traffic, early morning worship time and associated noise of people coming/going, snow clearing noise, and available parking.

The current zoning for the site is Residential 2 (R2); Place of Worship is not a permitted or discretionary use in the R2 Zone but has been a long-standing use at this site more than 50 years, making it an existing, non-conforming use. Under Section 7.5 “Non-Conforming,” the existing use for the site is not changing and remains a Place of Worship. The material change proposed is the revised hours of operation for the Use. Under Section 7.5.3(a), Council will need to exercise its discretion given the revised hours for the Use.

The revised hours of use for the existing Place of Worship are proposed from 4 a.m. until 12 a.m. (midnight). Prayer times vary depending on the time of year and change based on seasonal conditions (sunrise and sunset), which is why the hours of operation are set at such a broad range. Expected attendance for the early morning prayer is between 5 – 10 people, with higher attendance during certain observances. The applicant has advised that many of the attendees will be students of MUN and CONA, who do not have vehicles of their own and will walk or use public transportation or carpool. It was noted that attendees will also be advised accordingly about the parking limitations before the operation begins.

ST. JOHN'S

Transportation Engineering has no concerns with the proposed application. There are eight (8) parking spaces on-site, with several of these spaces being deeper, which could allow for stacked parking. Parking is available along one side of Smith Avenue. As the use and building size is not changing or expanding, the existing parking on-site is acceptable. Snow clearing can occur at any time of day and is not governed by the City's Noise By-Law.

Key Considerations/Implications:

1. Budget/Financial Implications: Not applicable.
2. Partners or Other Stakeholders: Property owner and neighbouring property owners.
3. Alignment with Strategic Directions:

A Sustainable City: Plan for land use and preserve and enhance the natural and built environment where we live.

Choose an item.

4. Alignment with Adopted Plans: Envision St. John's Municipal Plan and Development Regulations.
5. Accessibility and Inclusion: Not applicable.
6. Legal or Policy Implications: Envision St. John's Development Regulations Section 7.5 "Non-Conforming" and Section 10 "Residential 2 (R2) Zone".
7. Privacy Implications: Not applicable.
8. Engagement and Communications Considerations: Public advertisement in accordance with Section 4.8 Public Consultation of the St. John's Envision Development Regulations. The City has sent written notices to property owners within a minimum 150-metre radius of the application site. The application has been advertised in The Telegram newspaper at least twice and is posted on the City's website. Written comments received by the Office of the City Clerk are included in the agenda for the regular meeting of Council.
9. Human Resource Implications: Not applicable.
10. Procurement Implications: Not applicable.
11. Information Technology Implications: Not applicable.
12. Other Implications: Not applicable.

Recommendation:

That Council approve the change of Non-Conforming Use application at 47 Smith Avenue, to allow the revised hours of use from 4 a.m. to 12 a.m. (midnight), seven (7) days per week in relation to the existing Place of Worship.

Prepared by:

Lindsay Lyghtle Brushett, MCIP Supervisor – Planning & Development
Planning, Engineering and Regulatory Services

Approved by:

Jason Sinyard, P.Eng, MBA Deputy City Manager
Planning, Engineering and Regulatory Services

Report Approval Details

Document Title:	Notices Published - 47 Smith Avenue.docx
Attachments:	- DEV2300150-47 SMITH AVENUE.pdf
Final Approval Date:	Nov 22, 2023

This report and all of its attachments were approved and signed as outlined below:

Lindsay Lyghtle Brushett - Nov 22, 2023 - 12:20 PM

Jason Sinyard - Nov 22, 2023 - 4:14 PM