



## THE CORPORATION OF THE TOWN OF AMHERSTBURG

### OFFICE OF DEVELOPMENT SERVICES

*MISSION STATEMENT: Committed to delivering cost-effective and efficient services for the residents of the Town of Amherstburg with a view to improve and enhance their quality of life.*

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To: Mayor and Members of Town Council

Subject: Zoning By-law Amendment for 639 Front Road North Zoning By-law Amendment

#### 1. RECOMMENDATION:

It is recommended that:

1. **By-law 2023-035** being a by-law to amend Zoning By-law No. 1999-52, to amend the zoning for the subject lands known as 639 Front Road North be taken as having been read three times and finally passed and the Mayor and Clerk **BE AUTHORIZED** to sign same.

#### 2. BACKGROUND:

The Town is in receipt of an application for a Zoning By-law amendment to By-law 1999-52 from 2833983 Ontario Limited. The re-zoning application affects approximately 2.3 hectares of land on the east side of Front Road N, municipally known as 639 Front Road N (Figure 1 in Appendix A of the attachments). The rezoning, if approved, will change the zoning from Residential Type 1A (R1A) Zone/Commercial Neighbourhood (CN) Zone to a split zone of Special Provision Residential Multiple Second Density (RM2-11) Zone on approximately the front 0.77 ha of the property and Special Provision Residential Second Density (R2-8) on approximately the rear 1.64 ha of the property.

The rezoning will facilitate the development of a 28 unit, 5-storey condominium building, six lots for semi-detached dwellings and two lots for single detached dwellings. The lands are designated High Density Residential/Special Policy Area 9 in the Town's Official Plan (Figure 2 in Appendix A). The uses permitted in areas designated High Density Residential shall include horizontal multiples, apartments, limited home occupation uses

and public uses. The maximum density shall not exceed 150 dwelling units per gross hectare. Special Policy Area 9 as applicable to the subject property's Official Plan Designation provides for higher density uses.

The Statutory Public Meeting for the Zoning By-law amendment was held on March 13, 2023 at 5:00 p.m. Due to the number of residents attending the meeting, Council questions and concerns were not able to be addressed that evening. As such, Council recommended that the item be continued on March 27, 2023. All residents within 120 m of the subject lands were mailed a notice advising them of the continuance of the public meeting on March 27, 2023. The notice was mailed on March 15, 2023. Of note, all statutory requirements under the Planning Act with respect to notice were met for the original Statutory Public meeting on March 13.

The submitted application seeks to change the zoning for the proposed development to site specific zones to facilitate the development of a condominium building, semi-detached dwellings and two single detached dwellings. Multiple forms of relief from each zone are required. The tables below outline the zoning relief that is required for each special provision zone.

Table 1: RM2-11 Zone Relief Requests

Zoning Provision	Required	Provided
Front yard setback**	25 m** (see note below)	16 m** (see note below)
Minimum Interior Side Yard Width	6.0m or half to height of the building, whichever is greater <b>10 m (based on assumed height of 20 m)</b>	7.5 m
Minimum Exterior Side Yard Width	6.0m or half to height of the building, whichever is greater <b>10 m (based on assumed height of 20 m)</b>	7.5 m

\*\* Please note that the relief from front yard setback was requested in error. The setback required by the Town's Zoning by-law for setbacks from County roads is 26 m from the centreline of County Road 20, not 25 m from the property line. The requested RM2 zone requires a 7.5 m front yard setback and 16 m is provided. **The proposed 16 m front yard setback will meet the setback required by Section 3.26(a) of the Zoning By-law. Therefore, the request for front yard setback relief has been removed from the draft by-law.**

Table 2: R2-8 Zone Relief Requests

Zoning Provision	Required	Provided
Minimum Exterior Side Yard Width	6 m	4.1 m
Maximum Lot Coverage (single detached dwelling)	35%	42%
Maximum Lot Coverage (semi-detached dwelling)	35%	56%

The submitted application will change the permitted uses on the property. Currently, only single detached dwellings would be permitted under the Residential Type 1A (R1A) Zone,

along with additional uses, identified below, for the Special Provision Commercial Neighbourhood (CN-4) Zone. The applicant is requesting Council's consideration for a higher density development on the subject lands. The figure in Appendix B in the attachments outlines the proposed zone boundaries and a concept plan for the proposed uses. The Zoning By-law Amendment is the first step in the planning process for the proposed development. Should the applicant decide to proceed beyond the Zoning By-law Amendment then the development proposal will be required to go through the Draft Plan of Subdivision approval process with the County of Essex for the semi-detached and single detached lots, and Draft Plan of Condominium for the condominium building. Furthermore, the Site Plan Control approval process with the Town of Amherstburg would be a requirement for the condominium building.

The following studies have been submitted for review during the Zoning By-law Amendment process:

- Planning Justification Report
- Traffic Impact Study
- Archaeological Phase I and Phase II Report
- Phase 1 Environmental Site Assessment

The following additional studies, at a minimum, will be required should the applicant decide to proceed to the draft plan of subdivision and site plan control stage:

- Drainage Report
- Stormwater Management Report
- Functional Servicing Report
- Update to the Environmental Impact Statement (EIS) Report and updated clearance from the Ministry of Environment, Conservation and Parks (MECP)

It should be noted that the studies required for Draft plan of Subdivision, Draft Plan of Condominium and and Site Plan Control are not required for zoning. Council is able to request additional studies and/or request peer reviews of any of the provided studies. Should this applicant decide to apply for a Draft Plan of Subdivision and Draft Plan of Condominium, the County of Essex and all appropriate external authorities will review these studies, including the studies that were provided to the Town during the Zoning By-law Amendment.

The County of Essex Infrastructure Services Division has provided comments stating that they will review the Traffic Impact Study during future planning approval stages. Therefore, the details regarding traffic will be addressed during the draft plan of subdivision stage of the application. The County also identified that they will require a 32 m setback from the centreline of the road for the building. The Town's Zoning By-law only requires a 26 m setback from the centreline of the road, therefore relief cannot be requested because the proposal meets the Town's Zoning By-law. The applicant has been advised of this and that they will be required to request relief from the County of Essex regarding the 32 m, or amend the layout to be in compliance with the County's setback requirements.

Though not required for a Zoning By-law Amendment, the County Planner has chosen to provide comment on the application and identified that the following studies will be required prior to approval of Draft Plan of Subdivision and Draft Plan of Condominium:

- Updated Environmental Impact Statement Report with clearance from MECP

- Slope Stability Assessment
- Traffic Impact Study

The above mentioned reports have either been submitted to the Town for the Zoning By-law Amendment or are underway in preparation for the Draft Plan of Subdivision and Draft Plan of Condominium. As identified by the Town, the County and the applicant's planning justification report, the above listed studies are required for the Draft Plan of Subdivision and Draft Plan of Condominium application. The County Planner has indicated that she would prefer to see the Zoning By-law Amendment, the Draft Plan of Subdivision and the Draft Plan of Condominium brought forward at the same time, however the applicant has requested that the Zoning By-law Amendment be completed first, as is his right. While the developer has provided the Town with clarity on what he is proposing to develop to support the Zoning By-law Amendment, the draft plan documents that he has provided are above and beyond what is required for a Zoning By-law Amendment.

The property is currently zoned Special Policy Commercial Neighbourhood/Residential Type 1A (CN-4/R1A) Zone. Under the CN-4/R1A Zone, the current uses would be permitted on the site:

- Business office;
- Day care;
- Dry cleaner's distribution station;
- Dwelling unit;
- Medical/dental office;
- Professional service shop;
- Professional office;
- Public use;
- Retail store;
- Convenience store;
- Video rental establishment;
- Restaurant;
- Tavern;
- Marina;
- Single unit residential uses;
- Home occupation;
- Accessory uses;
- Public uses.

Under the current zoning, the applicant could build a subdivision with large lots for single detached dwellings. The minimum lot size in the R1A zone within the serviced area is 900 m<sup>2</sup>. Conservatively and hypothetically, the developer could potentially build an 18 lot subdivision, while keeping in mind setbacks from the drain and room on the property for a 20 m road right of way. Under the Bill 23 amendments to the Planning Act, each lot would be permitted to build two additional dwelling units on their property, which would not be accounted for or planned for when considering sewage capacity, stormwater management, drainage or traffic. Additionally, due to the large size requirements for the lots in the R1A zone, it is more likely that new homeowners would have the space on their property to construct the additional dwelling units. Due to the provincial legislation that allows all property owners the as-of-right permission to build up to two additional dwelling units, there is potential for a conservative estimate of 54 dwelling units on the property, under the current zoning. Additionally, the applicant could replace the old Anderdon

Tavern, on the existing footprint with the same massing and volume, with a new tavern or restaurant and associated parking.

The current proposal, which would be supported by the proposed zoning by-law amendment, is for 42 dwelling units, including 28 condominium units, 12 semi-detached units, and 2 single detached units. Under Bill 23, the property owners of the semi-detached and single detached units would also be permitted to build additional dwelling units. However, due to the smaller size of the properties and the increased lot coverage request, there would not be as much room on the properties to accommodate the additional units or parking, as would be provided under the current zoning. Therefore, it is less likely that the smaller lots would be able to support as many additional dwelling units as the larger lots permitted under the current R1A zoning.

### **3. DISCUSSION:**

#### **Planning Analysis**

The following section of this report will highlight the applicable planning policies that have been considered in the administrative planning recommendation.

#### **Planning Act (R.S.O. 1990)**

The proposal is consistent with Part I Section 2 of the Planning Act which requires that Council have regard to matters of provincial interest including (the following are excerpts from Section 2 of the Planning Act that apply to this development):

- the adequate provision and efficient use of communication, transportation, sewage and water services and waste management systems;
- the orderly development of safe and healthy communities;
- the adequate provision of a full range of housing, including affordable housing;
- the appropriate location of growth and development;
- the promotion of development that is designed to be sustainable, to support public transit and to be oriented to pedestrians;
- the promotion of built form that,
  - o is well-designed,
  - o encourages a sense of place, and
  - o provides for public spaces that are of high quality, safe, accessible, attractive and vibrant;

The development is located within the primary settlement area and can be considered infill development. It is providing for intensification of under utilized land within the existing serviced area. The proposed development provides for alternative types of housing to the predominately available single detached dwelling and increases the supply of smaller, condominium style units in the Town of Amherstburg. The proposed development will go through the Draft Plan of Subdivision and Draft Plan of Condominium process and Site Plan Control, which will ensure that there is adequate servicing and that stormwater is managed appropriately. The proposed Zoning By-law Amendment appears to be consistent with the Planning Act.

## Provincial Policy Statement 2020

The Provincial Policy Statement issued under Section 3 of the Planning Act came into effect on May 1, 2020. The Provincial Policy Statement provides policy direction on matters of provincial interest related to land use planning and development. As a key part of Ontario's policy-led planning system, the Provincial Policy Statement sets the policy foundation for regulating the development and use of land. It also supports the provincial goal to enhance the quality of life for all Ontarians.

The Provincial Policy Statement provides for appropriate development while protecting resources of provincial interest, public health and safety, and the quality of the natural and built environment. The Provincial Policy Statement supports improved land use planning and management, which contributes to a more effective and efficient land use planning system.

When reviewing a planning application to determine if the requested Zoning By-law Amendment (ZBA) makes sound planning, it is imperative that the proposed development is consistent with the Provincial Policy Statement (PPS).

The PPS provides policy direction for appropriate development while protecting resources of provincial interest, public health and safety, and the quality of the natural environment. The PPS recognizes that the wise management of development may involve directing, promoting, or sustaining growth. Land use must be carefully managed to accommodate appropriate development to meet the full range of current and future needs while achieving efficient development patterns.

The following policy excerpts from the PPS are applicable to the subject applications:

**1.1 *Managing and Directing Land Use to Achieve Efficient and Resilient Development and Land Use Patterns***

**1.1.1 *Healthy, liveable, and safe communities are sustained by:***

- a) *Promoting efficient development and land use patterns which sustain the financial well-being of the province and municipalities over the long term.*
- b) *Accommodating an appropriate affordable and market-based range and mix of residential types (including single-detached, additional residential units, multi-unit housing, affordable housing, and housing for older persons), employment (including industrial and commercial), institutional (including places of worship, cemeteries, and long-term care homes), recreation, park and open space, and other uses to meet long-term needs.*
- c) *Avoiding development and land use patterns which may cause environmental or public health and safety concerns.*
- d) *Avoiding development and land use patterns that would prevent the efficient expansion of settlement areas in those areas which are adjacent or close to settlement areas.*
- e) *Promoting the integration of land use planning, growth management, transit-supportive development, intensification, and infrastructure planning to achieve cost-effective development patterns, optimization of transit investments, and standards to minimize land consumption and servicing costs.*
- f) *Improving accessibility for persons with disabilities and older persons by addressing land use barriers which restrict their full participation in society.*

- g) *Ensuring that necessary infrastructure and public service facilities are or will be available to meet current and project needs.*
- h) *Promoting development and land use patterns that conserve biodiversity; and*
- i) *Preparing for the regional and local impacts of a changing climate.*

1.1.2 *Sufficient land shall be made available to accommodate an appropriate range and mix of land uses to meet projected needs for a time horizon of up to 25 years, informed by provincial guidelines. However, where an alternate time period has been established for specific areas of the province as a result of a provincial planning exercise or a provincial plan, that time frame may be used for municipalities within the area. Within settlement areas, sufficient land shall be made available through intensification and redevelopment and, if necessary, designated growth areas. Nothing in policy 1.1.2 limits the planning for infrastructure, public service facilities and employment areas beyond a 25-year time horizon.*

### **1.1.3 Settlement Areas**

*Settlement areas are urban areas and rural settlement areas, and include cities, towns, villages and hamlets. Ontario's settlement areas vary significantly in terms of size, density, population, economic activity, diversity and intensity of land uses, service levels, and types of infrastructure available.*

*The vitality and regeneration of settlement areas is critical to the long-term economic prosperity of our communities. Development pressures and land use change will vary across Ontario. It is in the interest of all communities to use land and resources wisely, to promote efficient development patterns, protect resources, promote green spaces, ensure effective use of infrastructure and public service facilities and minimize unnecessary public expenditures.*

- 1.1.3.1 *Settlement areas shall be the focus of growth and development.*
- 1.1.3.2 *Land use patterns within settlement areas shall be based on densities and a mix of land uses which:*
  - a) *efficiently use land and resources;*
  - b) *are appropriate for, and efficiently use, the infrastructure and public service facilities which are planned or available, and avoid the need for their unjustified and/or uneconomical expansion;*
  - c) *minimize negative impacts to air quality and climate change, and promote energy efficiency;*
  - d) *prepare for the impacts of a changing climate;*
  - e) *support active transportation;*
  - f) *are transit-supportive, where transit is planned, exists or may be developed; and*
  - g) *are freight-supportive.*

*Land use patterns within settlement areas shall also be based on a range of uses and opportunities for intensification and redevelopment in accordance with the criteria in policy 1.1.3.3, where this can be accommodated.*

- 1.1.3.3 *Planning authorities shall identify appropriate locations and promote opportunities for transit-supportive development, accommodating a significant supply and range of housing options through intensification and redevelopment where this can be accommodated taking into account existing building stock or areas, including brownfield sites, and the availability of suitable existing or planned infrastructure and public service facilities required to accommodate projected needs.*
- 1.1.3.4 *Appropriate development standards should be promoted which facilitate intensification, redevelopment and compact form, while avoiding or mitigating risks to public health and safety.*
- 1.1.3.5 *Planning authorities shall establish and implement minimum targets for intensification and redevelopment within built-up areas, based on local conditions. However, where provincial targets are established through provincial plans, the provincial target shall represent the minimum target for affected areas.*
- 1.1.3.6 *New development taking place in designated growth areas should occur adjacent to the existing built-up area and should have a compact form, mix of uses and densities that allow for the efficient use of land, infrastructure and public service facilities.*
- 1.1.3.7 *Planning authorities should establish and implement phasing policies to ensure:*
  - a) *that specified targets for intensification and redevelopment are achieved prior to, or concurrent with, new development within designated growth areas; and*
  - b) *the orderly progression of development within designated growth areas and the timely provision of the infrastructure and public service facilities required to meet current and projected needs.*

The proposed Zoning By-law Amendment appears to be consistent with the Provincial Policy Statement 2020 (PPS). The subject lands are located within a developed, fully serviced settlement area. The comprehensive subdivision planning process and site plan control process will ensure that the development addresses all Provincial, Regional and local interests with respect to the appropriate use and development of the land. Specifically, the proposed subdivision and condominium building represents efficient and orderly development of serviced residential land in accordance with the land use vision outlined in the Provincial Policy Statement. Traffic and safety concerns have been considered through the requirement of a Traffic Impact Assessment (TIA). The TIA does not recommend any upgrades to the County Road. The County has been circulated and stated that they will comment on the Traffic Impact Study during the Draft Plan of Subdivision, Draft Plan of Condominium and Site Plan Control stage of the application. The proposed development is consistent with the direction from the province to build more homes and provide more attainable and affordable options.

The Planning Justification Report (PJR) provided by Stantec Consulting states (pg. 26): *It is our professional planning opinion that the proposed residential development represents sound planning principles efficiently uses land, resources, existing infrastructure and public service facilities, and does not impose any environmental or public health and safety concern (PPS, 1.1.1c/1.1.3.2). The use of existing infrastructure and public service facilities, including roads and surrounding health care centres, schools,*

*and Police and Fire Stations, will be optimized by the proposed development (PPS, 1.6.3 a).*

*The proposed residential units within this Draft Plan of Subdivision will respond to dynamic market based needs and provide necessary housing supply and range of housing options for a diverse workforce (PPS, 1.7.1 b). Through the optimization of the long-term use of this presently vacant lot of land, and existing nearby infrastructure and public service facilities, the proposed subdivision intends to support all Provincial efforts in fostering long-term economic prosperity (PPS, 1.7.1 c).*

### County of Essex Official Plan

The County of Essex Official Plan was adopted on February 19, 2014 and was approved by the province on April 28, 2015. All lower tier Official Plans or amendments must comply with the policies of the upper tier Official Plan (County). The applicable County policies that should be considered when assessing the merits of the subject Official Plan Amendment include:

*Section 1.5 Goals for a Healthy County outline the following:*

- To direct the majority of growth (including intensification and affordable housing), and investment (infrastructure and community services and facilities) to the County's Primary Settlement Areas. These Primary Settlement Areas will serve as focal points for civic, commercial, entertainment and cultural activities.*
- To encourage reduced greenhouse gas emissions and energy consumption in the County by promoting built forms and transportation systems that create more sustainable, efficient, healthy, and liveable communities.*
- To create more mixed use, compact, pedestrian-oriented development within designated and fully serviced urban settlement areas.*
- To provide a broad range of housing choices, employment and leisure opportunities for a growing and aging population.*
- To prohibit urban forms of development outside of designated "Settlement Areas" and discourage urban development in areas with partial municipal services.*

*Section 2.2 Growth Management note the following:*

*The health of the County requires that long-range land use planning and infrastructure investment are properly managed in a way that will:*

- Direct non-resource related growth and development to settlements where it can be serviced, with a particular emphasis on Primary Settlement Areas.*

*It is the fundamental policy of this Plan to promote healthy and diverse communities where County residents can live, work and enjoy recreational opportunities. In this regard, every attempt should be made to optimize and make efficient use of existing infrastructure.*

*Section 2.8.1 (e)*

e) *Strive to minimize conflict between local and non-local traffic by protecting the County Road system depicted on Schedule “D1”. The County shall discourage new development that would adversely impact traffic movement along the County Road system unless road improvements can be undertaken to eliminate the adverse impact. New development proposing access onto County Roads outside of “Settlement Areas” shall be managed according to the County’s access policies.*

### *Section 3.2 Settlement Areas*

#### *Section 3.2.2 Goals*

*The following goals are established for those lands designated as “Settlement Areas” on Schedule “A1”:*

- a) *Support and promote public and private re-investment in the Primary Settlement Areas.*
- b) *To support and promote healthy, diverse and vibrant settlement areas within each of the seven Essex County municipalities where all county residents, including special interest and needs groups can live, work and enjoy recreational opportunities.*
- c) *To promote development within Primary Settlement Areas that is compact, mixed-use, pedestrian oriented, with a broad range of housing types, services and amenities available for residents from all cultural, social and economic backgrounds.*
- d) *To promote the creation of public places within all neighbourhoods that foster a sense of community pride and well-being and create a sense of place.*
- e) *To require the efficient use of land, resources, water and sanitary sewage treatment facilities, other infrastructure and public service facilities including schools as provided for in the growth management policies contained within this Plan.*
- f) *To increase the opportunity for job creation within each local municipality by attracting and maintaining industries and businesses closer to where County residents live.*
- g) *To support long term economic prosperity by providing infrastructure and public service facilities to accommodate projected growth.*
- h) *To provide locations where natural habitat restoration can be accommodated to ensure an increase in the amount of core natural area and linkages amongst natural areas.*
- i) *Promote residential intensification within Primary Settlement Areas, and to a lesser extent, within full serviced Secondary Settlement Areas.*
- j) *Promote affordable housing within Primary Settlement Areas, and to a lesser extent, within full serviced Secondary Settlement Areas.*
- k) *Encourage each local municipality to undertake a Local Comprehensive Review of their “Settlement Areas” with the goal of re-allocating growth to the most appropriate locations that meet the intent of this Plan. The County encourages the Local Comprehensive Review to be undertaken at the time of the five-year review of the local Official Plan; however, local municipalities may initiate a Local Comprehensive Review at any time.*
- l) *Encourage employment opportunities on lands within “Settlement Areas” that are in proximity to rail corridors.*

The proposed Zoning By-law Amendment conforms to the County of Essex Official Plan as the subject lands are located within the primary settlement area, are fully serviced and the development can be considered infill and intensification of the lands. The additional density proposed on the subject lands will help the Town accommodate projected growth. While the development may not be considered walkable, it is located within the fully serviced settlement area and provides further density along Front Road N. The property is located approximately 3 km to the closest grocery store (Sobeys), which may not be a walkable distance for some, but it can be considered a bike-able distance and can promote active transportation. The County Roads division has been circulated the Zoning By-law Amendment proposal and stated that they have no comments at this time and will comment further during the subsequent planning stages.

The PJR states (pg. 27):

*By incorporating a range of housing types, from single-detached dwellings to apartment units, the proposed subdivision advances County goals through contribution to its intensification targets while continuing to maintain respect for the overall character of the existing surrounding neighbourhood (3.2.7). This is accomplished through a gradual transition from low density (located adjacent to existing low density) to slightly higher density forms such as semi-detached dwellings, and eventually reaching the highest density form of housing on the west end of the Subject Lands nearest Front Road North.*

#### Town of Amherstburg Official Plan

The subject lands are within Town's Settlement Boundary and are designated as High Density Residential/Special Policy Area 9 in the Town's Official Plan. The proposed condominium building, single detached dwellings and semi-detached dwellings are permitted uses within the existing designation and the proposal makes efficient use of residential land and municipal infrastructure in accordance with the applicable Official Plan policies.

*Section 4.3.2(1) Policies – Applicable to All Residential Designations states:*

##### *Vacant Residentially Designated Areas*

*In vacant areas proposed for residential development, a suitable mix of housing types should be provided while ensuring that the overall density restrictions are not exceeded and that conflicts do not occur between housing types. Internal road networks should be designed to ensure good access to the major road network while discouraging through traffic. Section 4.3.1, Low Density Residential outlines the criteria that must be met to allow lands designated Low Density Residential to be developed as Medium or High Density Residential without an amendment to this Plan.*

*The Town shall ensure that an adequate supply of land designated for residential development to meet the demand for housing for a twenty-year period is maintained.*

*The Town shall review annually the supply of vacant land designated for residential development in draft approved and/or registered lots and blocks on plans of subdivision against the objective to maintain a minimum continuous ten-year supply.*

*The planning of new residential areas shall make provisions for a range of*

*housing types, sizes, price and tenure arrangements in order to provide accommodation for households of differing socio-economic characteristics.*

*Consideration shall be given to the orientation of streets, lots and buildings to make full use of solar energy, as well as energy efficient construction techniques. In order to achieve this aim, the following design techniques should be considered when evaluating new plans of subdivision:*

- a) east-west street orientation so facing walls and windows of houses may orient south;*
- b) angle lots;*

Section 4.3.7 Residential Special Policy Areas of the Town of Amherstburg Official Plan states:

*(1) The lands located at and abutting the former Anderdon Tavern site on the east side of County Road 20, north of Texas Road and south of Middle Side Road and identified as Special Policy Area 9, shall have a dual designation of Neighbourhood Commercial and High Density Residential. Medium and/or Low Density Residential development and/or a hotel shall also be permitted subject to an approved concept plan by Council. Height limitations shall be incorporated into the Zoning By-law. A restaurant (not fast food or drive through) may form part of the permitted uses under the designation if integrated into either a hotel or a Neighbourhood Commercial development. The west side of the site may be used as either low density residential or as a marina associated with the residential development to the east of County Road 20.*

The proposed use of the subject lands conforms to the Town of Amherstburg Official Plan by providing a higher density land use on the subject lands, as envisioned by the Special Policy Area 9 designation. The development will allow for 42 dwelling units on the subject lands, which results in a gross density of 18.3 units/hectare. The proposed gross density of the land provides for a low density development, which is a permitted use under the current Official Plan designation. The proposed density remains relatively low due to the design of the property, which allows for a large section of the land to remain protected and provides for a setback for all buildings from the existing drain. The proposed density allows for a gentle increase in density on the property when compared to surrounding land uses.

The proposed five-storey condominium building can be considered a high density use, as permitted by the current Official Plan policies for the subject lands. The area surrounding the subject lands is predominately low density residential with single detached dwellings. The compatibility of the condominium building has been raised as a concern by Council and residents. The proposed building will be buffered from neighbouring residential lots by the natural heritage features and drain on the southern portion of the property and by the proposed road and proposed semi-detached structures on the northern portion of the property. The condominium building is proposing 28 units with a landscaped area along the front of the property. Council has the option to request that the applicant prepare a shadow study to identify and mitigate potential negative impacts from shadows, however during the Draft Plan of Condominium and Site Plan Control stage, Administration will be requesting additional studies including, but not limited to, a shadow study.

The PJR states (pg. 28):

The proposed RM2 and R2 Zone with the requested Special Provisions would ensure that a suitable variety of densities and unit types can be provided on the Subject Lands to accommodate projected populations, which is highlighted as an intent of the Town's Official Plan (4.2.1). The execution of the proposed Draft Plan will increase housing supply through residential intensification by means of infill, which is also stated as an objective within Town's Official Plan (4.2.2. 5). The Draft Plan will conform with Town Official Plan policies such that a suitable mix of housing types will be provided on a currently vacant lot, while ensuring that the overall density restrictions are not violated (4.2.3. 4).

### **Statutory Meeting Follow-up**

Some questions and concerns were raised at the Statutory Public meeting by members of the public and Council. Administration has addressed the questions and concerns through the table located below.

**Table 1:** Comments from the Statutory Public Meeting regarding the Zoning By-law Amendment proposed for 639 Front Road North.

Comment	Administration's Response
Traffic concerns – Front Road North is a busy road and cannot handle the additional traffic	<p>A Traffic Impact Study, written by Stantec Consulting Ltd., was prepared for the development. The report is dated July, 2022. The conclusions of the report state:</p> <ul style="list-style-type: none"> <li>• <i>All study intersections are operating at LOS C or better during both AM and PM peak hours of the existing (2022) traffic conditions.</i></li> <li>• <i>With full buildout of the proposed development in 2024 and post-development horizon year 2029, all study intersections are anticipated to operate at LOS C or better during both AM and PM peak hours without any operational issues.</i></li> <li>• <i>The proposed access spacings relative to nearby intersections are sufficient.</i></li> <li>• <i>Adequate sight distance will be provided along both approaches of Front Road North at the proposed site access intersection.</i></li> <li>• <i>The proposed access will accommodate design vehicles' turning movements.</i></li> <li>• <i>The provided parking stalls will meet the parking demand based on the Town's Zoning By-Law.</i></li> </ul>
Concerns regarding the White Drain	The applicants are currently undergoing a Drainage Report under the Drainage Act, which will be required to be complete prior to the approval of the Draft Plan of Subdivision and Draft Plan of Condominium. The Drainage Report will address any concerns with the drain and determine if any upgrades are required. The Drainage Report is not a requirement of the proposed Zoning By-law Amendment.
Concerns regarding environmental factors including species at risk.	The applicants have completed an Environmental Impact Assessment in 2018 and an update in 2023. Clearance from the Ministry of Environment, Conservation and Parks

	<p>(MECP) will be required prior to approval of the Draft Plan of Subdivision and Draft Plan of Condominium. All development activities will be required to comply with the permit issues by the MECP.</p> <p>The proposed development takes into consideration the naturalized areas of the property and is proposed with a substantial setback from the drain and wooded area located on the southern portion of the property.</p>
<p>Concerns regarding the exterior features of the proposed condominium building.</p>	<p>All plans provided to Council at this time are concepts and are subject to change during the Draft Plan of Subdivision, Draft Plan of Condominium and Site Plan Control process. Through the Bill 23 amendments to the Planning Act, Site Plan Control can no longer regulate the exterior features of a building.</p> <p>Further to that, the Town of Amherstburg does not have Urban Design policies in the Official Plan. These policies will be introduced during the Official Plan Update that is currently being conducted. This is another reason for the importance of updating the Official Plan.</p>
<p>Proximity to Heritage Properties</p>	<p>The closest designated properties are 669 and 671 Front Road North, commonly referred to as the Thomas Ouellette Manor and Carriage House.</p> <p>Part V, Section 2.6.3 of the PPS states that:</p> <p><i>“Planning authorities shall not permit development and site alteration on adjacent lands to protected heritage property except where the proposed development and site alteration has been evaluated and it has been demonstrated that the heritage attributes of the protected heritage property will be conserved.”</i></p> <p>The PPS defines “adjacent” as:</p> <p><i>adjacent lands as those land contiguous (sharing a property line) or as may be defined in the Official Plan.</i></p> <p>The proposed development at 639 Front Road N is not directly adjacent to 669 or 671 Front Road N.</p> <p>Further, the subject lands are not within the Town’s Central Business District or Gateway to Amherstburg policy area. There are currently no policies in place to require that the buildings proposed on the property have a heritage look and feel. The developer has agreed to meet with property owners, if required, during the site plan control process to determine some design features that may be desired as part of the building.</p>

<p>Concerns regarding the proposed special provisions in the Zoning By-law and consideration for addressing the special provisions at a later date</p>	<p>The current proposal before Council includes relief for various setbacks and lot coverage. The proposal represents a full picture for the development and provides Council and residents with a clear and transparent proposal for what is being requested for the site. It is suggested to Council that the amendment and site specific provisions be brought to Council concurrently rather than at separate meetings.</p> <p>RM2-11 Special Provisions justification</p> <p>Reduced side yards – the reduced side yards are requested due to the requirement of a 20 m right of way for a road on the north side of the building and the drain and protected lands on the south side of the building. The building will not be built close to the existing property lines. New property lines will be created through the draft plan of subdivision process and the proposed building would be set closer to those property lines than what is currently permitted in the RM2 zone. Buffering from neighbouring residents is provided by the road and the drain/protected area.</p> <p>Front yard depth – Section 3.26(a) of the Zoning By-law requires 26 m of setback from the centre of the right of way of a County Road for a residential building. The proposed 16 m setback from the property line would provide the required 26 m from centreline setback. As noted in Section 2 of the report, the request for relief from the front yard setback was made in error and has been removed from the by-law.</p> <p>R2-8 Special Provisions</p> <p>Lot coverage – increased lot coverage is normally not supported for individual infill development within existing subdivisions because the stormwater management system and sewers were not designed to handle the additional load from additional impermeable surfaces. When a development requests additional lot coverage before infrastructure is built, the stormwater can be designed to handle the additional load and the additional lot coverage will not put undue pressure on the infrastructure.</p> <p>Exterior side yard width – the decreased exterior side yard will only affect those residences within the proposed development due to the proposed layout of the road. The requested decrease will not put the houses any closer to existing abutting lots.</p>
<p>Intake Protection Zone</p>	<p>A portion of the property is within the Intake Protection Zone 1 (IPZ1) which protects lands from certain restricted land uses (e.g. the handling and storage of liquid fuel).</p> <p>Proposals or applications must be circulated to the Risk Management Official if the following conditions are met:</p>

	<p>1. The property is in the Event Based Area, zoned non-residential and includes the installation of above ground fuel storage</p> <p>2. The property is in Amherstburg IPZ-1, zoned non-residential and includes the installation of any type above ground storage structure (e.g. fuel, chemical, fertilizer, pesticide, salt, snow, etc), or any type of agricultural activity.</p> <p>The subject lands are currently zoned residential and proposed to remain residential.  Direction from ERCA's Risk Management Services Office is as follows:  If the property parcel is zoned residential in both the Official Plan and Zoning By-law, no further screening by the Risk Management Official is required. The Risk Management Official confirms that the Approval Authority or building official is permitted to make the determination that the site specific land use is not designated for the purposes of Section 59 of the Clean Water Act.</p> <p>The property owner is not proposing any storage of hazardous materials, however, it can be required during the site plan control stage, that if the developer wishes to use any of the property for storage, the storage will not be permitted in the IPZ1 area.</p>
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In summary, the Applicant is requesting that the current zoning regulations that apply to these lands be amended to allow for two site specific zones. The effect of the amendment to the RM2-11 Zone will be to allow for a multiple dwelling construction with special provisions including a reduced exterior side yard from 6 m or half the height of the building, whichever is greater, to 7.5 m, and a reduced interior side yard from 6 m or half the height of the building, whichever is greater, to 7.5 m.

The effect of the amendment to the R2-8 zone will be to allow for general residential uses on the subject properties with a reduced minimum exterior side yard width from 6 m to 4.1 m, an increased maximum lot coverage for single detached dwellings from 35% to 42% and an increased maximum lot coverage for semi-detached dwellings from 35% to 56%.

In the event that Council approves this application and should the applicant proceed in advancing the proposal, the development would then be subject to the Draft Plan of Subdivision and Draft Plan of Condominium process through the County of Essex, including a subdivision and condominium agreement that will return to Town Council, and a Site Plan Control agreement for the proposed condominium, to ensure orderly development of the site.

The proposed Zoning By-law Amendment is considered to be consistent with Section 2 of the Planning Act, the 2020 PPS, in conformity with the County Official Plan and in conformity with the policy direction as set out in the Town's Official Plan. The requested

site specific zones including reductions in setbacks and increases in lot coverage do not facilitate any negative impacts on surrounding properties. The application is considered to conform to good planning principles.

Options for Council to Consider:

1. Administration recommendation: Administration recommends approval of this application based on local, regional and provincial policy. Further justification is provided throughout this report.
2. Deferral of application: Should Council wish, the application can be deferred based on valid planning rationale relating specifically to the zoning matter before Council. This method is not recommended as it increases the risk of appeals. If a decision is not made on a file within 90 days of deeming the file complete, as per Section 34(11) of the Planning Act, the applicant can appeal to the Ontario Land Tribunal (OLT) on the basis of a non-decision by Council. In addition to the costs the Town will incur to attend an OLT hearing, 50% of the amendment fee (\$1145.00) will be required to be returned to the applicant (Section 34(10.12) of the Planning Act) if a decision is not made by April 30, 2023. Deferring the decision is deemed to be failure to make a decision, resulting in the potential risks and costs associated and noted above.
3. Refuse the decision: a refusal must be based on planning principles. Council will be required to provide planning rationale for the refusal, which may then be required to be defended at the OLT, should the applicant appeal the refusal. There will be legal and planning consulting costs associated with this decision as well.

**4. RISK ANALYSIS:**

The recommendation presents little to no risk to the municipality.

Should Council fail to make a decision on this application by April 30, 2023, 90 days following the deeming of this Zoning By-law Amendment application complete, the applicant may appeal to the Ontario Land Tribunal on the grounds of failure to make a decision as per s. 34 (11) of the Planning Act.

**5. FINANCIAL MATTERS:**

All costs associated with the application are the responsibility of the applicant. Should the decision be appealed to the Ontario Land Tribunal then the Town will incur costs.

Should Council fail to make a decision on Administration's recommendations in this report by April 30, 2023, 90 days following the deeming of the application complete, the Town will be required to refund 50% (\$1145.00) of the applicant's Zoning By-law Amendment application fee of \$2,290 per s. 34 (10.12) of the Planning Act.

**6. CONSULTATIONS:**

The Notice of Public Meeting was published in the local newspaper and on the Town website and circulated to the required agencies, property owners and municipal

departments in accordance with the requirements of the Planning Act, R.S.O. 1990, c.P. 13 and associated regulations.

The second Notice of Public Meeting for the continuance of the meeting on March 27, 2023 was mailed to all residents within the 120 m circulation area. The second notice was mailed on March 15, 2023.

No further consultation is required.

**7. CONCLUSION:**

It is the opinion of administration that the Zoning By-law Amendment allows for the appropriate development of the subject lands, is consistent with the policies of the Section 2 of the Planning Act and the Provincial Policy Statement, 2020, and conforms with the policies of the County of Essex Official Plan and the Town of Amherstburg Official Plan.

Administration recommends that Zoning By-law 2023-035 be approved by Council, given three readings and finally passed and the Mayor and Clerk be authorized to sign same.



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Sarah French  
**Planner**



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Christopher Aspila  
**Manager, Planning Services**

## Report Approval Details

Document Title:	Zoning By-law Amendment for 639 Front Road North.docx
Attachments:	<ul style="list-style-type: none"><li>- Appendix 'A' ZBA-20-22 Aerials.pdf</li><li>- Appendix 'B' ZBA-20-22 Zoning Areas.pdf</li><li>- Appendix 'C' ZBA-20-22 Application Redacted.pdf</li><li>- Appendix 'D' ZBA-20-22 PJR Update Jan 2023.pdf</li><li>- Appendix 'E' Traffic Analysis.pdf</li><li>- Appendix 'F' ZBA-20-22 639 Front Road N Site Pictures.pdf</li><li>- Appendix 'G' ZBA-20-22 639 Front Road Lot Sizes and Coverages.pdf</li><li>- Appendix 'H' ZBA-20-22 Circulation List for Council.pdf</li><li>- Appendix 'I' ZBA-20-22- Summary of Comments Received.pdf</li><li>- Appendix 'J' 2023-035 By-law 639 Front.pdf</li></ul>
Final Approval Date:	Apr 19, 2023

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



Melissa Osborne



Tracy Prince



Valerie Critchley



Kevin Fox