



## THE CORPORATION OF THE TOWN OF AMHERSTBURG

### OFFICE OF DEVELOPMENT SERVICES

***Mission Statement:*** As stewards of the Town of Amherstburg, we strive to improve the quality of life of all residents through the delivery of effective, efficient, and affordable services.

<b>Author's Name: Christopher Aspila</b>	<b>Report Date: January 24, 2025</b>
<b>Author's Phone: 519 519 736-5408 ext. 2124</b>	<b>Date to Council: February 10, 2025</b>
<b>Author's E-mail: caspila@amherstburg.ca</b>	<b>Resolution #:</b>

**To: Mayor and Members of Town Council**

**Subject: Zoning By-law Amendment ZBA-18-24 for 6754 County Road 50**

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#### **1. RECOMMENDATION:**

It is recommended that:

1. **By-law 2025-008** being a by-law to amend Zoning By-law No. 1999-52, to amend the zoning for the subject lands known as 6754 County Road 50 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 T/A General Contracting c/o Tony Abraham and represented by Robert Brown, Planner, Oakview Land Use Planning, for an existing site located on the southwest corner of County Roads 50 and 20, municipally known as 6754 County Road 50.

This site is currently designated Neighbourhood Commercial in the Town's approved Official Plan (see Figure 1) and is zoned in a site-specific Commercial Neighbourhood (CN-8) zone category (see Figure 2).

A Statutory Public Meeting under the Planning Act was held August 12, 2024, at which comments and questions were received from members of the public and Council that are addressed in the Discussion portion of this report.

### 3. DISCUSSION:

The effect of the amendment will be to amend the existing site-specific Neighbourhood Commercial zoning to include a gas bar as a permitted use with site specific special provisions. The special provisions include:

- Reduction in the required number of parking spaces for the convenience store from 8 spaces to 7 spaces.
- Retain the requirement for 3 additional parking spaces for the gas bar and one Type A barrier free spot, resulting in a total of 11 parking spots provided on the site for the proposed use. The by-law identifies that any change of use or expansion of the building would require a review of the number of parking spots.
- Setback from County Road 50 of 21.88 m from centerline, where 26 m is normally required.
- Maintain the existing interior side yard setback of 4.94 m for the existing commercial building. The required interior side yard setback is 10 m for a commercial lot abutting a residential lot.

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

Administration has addressed the questions and concerns raised at the Statutory Public Meeting through a table located below.

**Table 1:** Comments from the Statutory Public Meeting regarding the Zoning By-law Amendment proposed for 6754 County Road 50.

<b>Comments and Concerns Received</b>	<b>Administrative Response</b>
<p>Concerns were raised regarding former use of property as gas station and the potential for on-site and off-site contamination.</p>	<p>The Applicant has completed a Stage 1 Assessment for the subject lands (pertaining to underground conditions). The executive summary of this assessment includes the following findings:</p> <p><i>“Based on the Phase I ESA findings, including site observations, the review of the environmental databases, and available historical information a total of five (5) on-site PCAs and six (6) off-site PCAs were identified. All PCAs are considered to contribute to APECs or COPC at the Phase I site due to the PXAs occurring on-site or due to the proximity, elevation, and inferred direction of the groundwater flow.</i></p> <p><i>In summary, the on-site PCAs consisted of historical use operating as a service station, possibly of underground storage tanks remaining on-site, potential leaks from the underground wastewater holding tanks, fill from the grading of the site for a parking lot and operations as a car wash. The off-site PCAs consist of a reported fuel leak from the east adjacent service station, a transformer located east adjacent of the property as well as off-site waste generation and manufacturing.</i></p>

	<p><i>SME recommends conduction of a Phase II ESA to investigate the soil and groundwater quality to determine if the on-site or off-site PCAs have adversely affected the environmental conditions of the site.”</i></p> <p>Based on the findings and recommendations of the site assessment work, administration requested further confirmation that the site did not have levels of contamination within the soil that were above the acceptable levels identified in the MOE criteria. The applicant commissioned a soil analysis study, which occurred on December 19, 2024 and was provided to the Town. The soil analysis states that ‘<i>the results of the analysis for total petroleum hydrocarbons (F1 to F4) and BTEX (Benzene, Toluene, Ethylbenzene and Xylene) in the soil samples taken from Test Pits #1, #2, #3, #4 and #5, satisfies the relevant current MOE criteria for fine-grained soil with commercial land use and non-potable water resources.</i>’</p>
<p>There is no need in the area for a second gas station. No business plan was presented to support the proposed development of a new gas bar at this location.</p>	<p>Municipalities do not have any jurisdiction to limit the number of gas stations or any type of businesses that are located in any geographic area. A decision to open a particular business, regardless of whether there are the same or similar businesses in the area is at the sole discretion of the business owner. The OLT, LPAT and the OMB have consistently ruled over many years that the issue of attempting to limit competition and/or whether there is a business plan to support the establishment of a new business is not considered to be a valid planning argument to deny a development application.</p>
<p>The site is too small to accommodate a private septic system.</p>	<p>The Town’s Building Department has reviewed this rezoning application (and the Applicant’s proposed on-site private sanitary sewage facility, site plan and servicing drawings) and is satisfied that the site is sufficiently sized to accommodate a new on-site private sanitary sewage facility at this location for the intended land uses.</p>
<p>There is lack of spaces on site for accessible parking.</p>	<p>The site plan that has been submitted to the Town provides for a reduction of 1 parking space for the convenience store but contains the required number of spots for the gas bar and the provision of accessible parking. There will be 10 parking spaces plus one Type A accessible parking spot. This is consistent with the requirements of the Town of Amherstburg Comprehensive Zoning By-law 1999-52.</p>

<p>Concern for pedestrian and bicycle safety given the increase amount of traffic.</p>	<p>The Owner has prepared a Traffic Impact Brief for the subject lands, and site servicing and site plan drawings. As part of this rezoning application, these documents have been reviewed by County Road and Town Engineering Staff, and no safety concerns have been raised. A copy of the Traffic Impact Brief is attached as an appendix to this report. The County has approved access from County Road 20 however it will be restricted to right-in and right-out movements.</p>
<p>Why wasn't a gas station already permitted in the CN-8 zone.</p>	<p>The CN-8 zone was a site-specific zone that had previously been created by Council to add a garden and landscape center and a carwash to the list of permitted neighbourhood commercial uses at this location. This type of site-specific zoning is often used by municipalities to approve individual development requests that are submitted by property owners, based on very specific development plans that an Owner has for a site at any given point in time. There are many such "defined areas" in the Amherstburg's Zoning By-law, and it is common for these types of zones to change over time as new owners buy one or more of these properties and move forward with new development and/or redevelopment plans that wish to introduce one or more additional uses.</p>
<p>Will TSSA be involved in the approval of the gas station.</p>	<p>The Owner will be required to comply with all TSSA regulations. Provisions will be included in the Site Plan Control Agreement to ensure that these approvals are obtained and that full compliance with their regulations are being met.</p>
<p>Why were there no EV charging stations included as part of the prosed development.</p>	<p>At this point in time the Owner has not made EV Charging Stations part of their development plan.</p>
<p>Concerns were raised regarding the provision of adequate drainage on the site.</p>	<p>A Storm Water Management Plan has been prepared by the Owner's Engineer and has been submitted to the Town's Engineering Staff for their review and approval for the subject site's site plan control application. As part of site plan control approval, the Town's Engineering Staff will undertake a detailed review of this SWM Plan to ensure that on-site drainage is being properly dealt with, and that there are no negative impacts for adjacent properties.</p>
<p>Will there be landscaping provided on the property?</p>	<p>The Owner was asked to submit a landscape plan as part of site plan approval. This plan will provide details regarding the installation and maintenance of all required fencing and on-</p>

	site landscaping to adequately buffer and screen the proposed development from adjacent residential properties. The owner has proposed the planting of several trees on the property and the Planning Department is working with him on the correct location and species.
Concerns were raised regarding the lighting on the property shining on adjacent properties.	The Owner will be required to submit a Photometric Plan as part of site plan approval. This Plan will include details for all proposed on-site lighting and will establish lighting specifications to ensure that outdoor lighting from this site does not adversely impact adjacent residential lands.
No access to the site should be permitted from County Road 20.	County Road 20 and County Road 50 are under the jurisdiction of the County of Essex. The County's Roads staff have reviewed the Traffic Impact Brief and site plan and do not have any concerns with the driveways being proposed on both of the County Roads. As noted above, the County has approved access from County Road 20 however it will be restricted to "right-in" and "right-out" movements.

### ***Planning Analysis***

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

The purposes of the Planning Act are;

- “(a) to promote sustainable economic development in a healthy natural environment within the policy and by the means provided under this Act;
- (b) to provide for a land use planning system led by provincial policy;
- (c) to integrate matters of provincial interest in provincial and municipal planning decisions;
- (d) to provide for planning processes that are fair by making them open, accessible, timely and efficient;
- (e) to encourage co-operation and co-ordination among various interests;
- (f) to recognize the decision-making authority and accountability of municipal councils in planning. 1994, c. 23, s. 3-50”

The proposal is consistent with Section 2 of the Planning Act which requires that the 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 orderly development of safe and healthy communities;
- the adequate provision of employment opportunities;
- 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 proposal provides for orderly development of the community by providing additional commercial uses within a secondary settlement area in the Town of Amherstburg, and within one of the existing areas designated for commercial uses. The proposal provides additional options for those living within the community and those passing through on the County Road network. The Town of Amherstburg Planning Department does not provide comment on the business case or business impacts of locating similar commercial uses in such proximity.

### ***Provincial Planning Statement***

The Provincial Planning 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 Planning Statement sets the policy foundation for regulating the development and use of land province-wide, helping achieve the provincial goal of meeting the needs of a fast-growing province while enhancing the quality of life for all Ontarians.

The Provincial Planning Statement is a policy statement issued under the authority of section 3 of the Planning Act and came into effect on October 20, 2024. The Provincial Planning Statement applies to all decisions in respect of the exercise of any authority that affects a planning matter made on or after October 20, 2024.

In respect of the exercise of any authority that affects a planning matter, section 3 of the Planning Act requires that decisions affecting planning matters shall be consistent with policy statements issued under the Act.

When reviewing a planning application to determine if the requested Zoning By-law Amendment makes sound planning, it is imperative that the proposed development is consistent with the Provincial Planning 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 particularly applicable to the subject application:

#### *2.3 Settlement Areas and Settlement Area Boundary Expansions*

##### *2.3.1 General Policies for Settlement Areas*

*1. Settlement areas shall be the focus of growth and development. Within settlement areas, growth should be focused in, where applicable, strategic growth areas, including major transit station areas.*

*2. Land use patterns within settlement areas should be based on densities and a mix of land uses which:*

*a) efficiently use land and resources;*

*b) optimize existing and planned infrastructure and public service facilities;*

*c) support active transportation;*

d) are transit-supportive, as appropriate; and  
e) are freight-supportive.

3. Planning authorities shall support general intensification and redevelopment to support the achievement of complete communities, including by planning for a range and mix of housing options and prioritizing planning and investment in the necessary infrastructure and public service facilities.

4. Planning authorities shall establish and implement minimum targets for intensification and redevelopment within built-up areas, based on local conditions.

The subject lands are located within an existing secondary settlement area, known as Malden, within the Town of Amherstburg and designated in the Town's Official Plan for neighbourhood commercial uses. The proposed redevelopment of the property will promote the efficient use of land, services and roads. The new PPS (2024) promotes complete communities, which is defined as:

*Complete communities: means places such as mixed-use neighbourhoods or other areas within cities, towns, and settlement areas that offer and support opportunities for equitable access to many necessities for daily living for people of all ages and abilities, including an appropriate mix of jobs, a full range of housing, transportation options, public service facilities, local stores and services. Complete communities are inclusive and may take different shapes and forms appropriate to their contexts to meet the diverse needs of their populations.*

The redevelopment of the subject property provides an opportunity for an increase in the number of commercial businesses within the Malden settlement area. The proposal provides for the most efficient use of the land, as past uses on the property would require that a change to a sensitive land use (such as a residential use) would need potentially extensive studies. The applicant is instead proposing that the subject site remain as a non-sensitive land use. The proposed Zoning By-law Amendment appears to be consistent with the PPS, 2024.

### **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 Zoning By-law 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 notes 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 3.2.5 Secondary Settlement Areas notes the following:*

- a) New development will be permitted to the boundaries of the Secondary Settlement Areas as shown on Schedule “A2” provided such development is consistent with the Provincial Policy Statement, the intent of this Plan, and the policies of the local Official Plan.*
- b) The local municipalities will be responsible for determining the hierarchy of Secondary Settlement Areas.*
- c) New development is encouraged on full municipal services unless there are interim servicing policies in the local Official Plan that are in effect at the time of approval of this Plan.*
- d) Expansions to the boundaries of a Secondary Settlement Area are not permitted. However, the County encourages local municipalities to undertake a Local Comprehensive Review in accordance with Section 3.2.3.1 that may result in the reduction of the boundaries in conjunction with the corresponding expansion of a Primary Settlement Area boundary. An amendment to this Plan and the local Plan shall be required to alter the boundary of any “Settlement Area”.*
- e) All types of land uses are permitted within the Secondary Settlement Areas designation subject to the specific land use policies of the local Official Plans.*
- f) In some cases Secondary Settlement Areas are unnamed and do not contain the basic elements that comprise a settlement area as defined by the PPS. The County encourages local municipalities to remove these areas from the land use schedule or permit no new development.*
- g) Secondary Settlement Areas, or portions thereof, that generally contain or are planned for non-employment uses, are subject to the following additional policies:*
  - i) They shall not be the focus of growth or public or private investment in a municipality, and they should, at most, retain their existing historic development patterns. In the interest of clarity, the County Official Plan permits growth and investment in these Secondary Settlement Areas, provided the Primary Settlement Area(s) in the municipality remains the focus of growth.*
  - ii) New development will generally be limited to infilling, redevelopment on existing lots of records, and limited residential intensification.*
  - iii) Residential intensification, outside of infilling, shall only occur on full municipal sewage services and municipal water services.*



- h) *Secondary Settlement Areas, or portions thereof, that generally consist of employment uses are subject to the following additional policies:*
  - i) *Cost effective development patterns and those which reduce servicing costs are encouraged.*
  - ii) *Land use patterns which may cause environmental, heritage preservation or public health and safety concerns shall be avoided.*
  - iii) *New development shall not have a negative impact on traffic movement, turning movement or the overall function of a Provincial Highway or County Road.*
  - iv) *New development on private or partial sewage services and water services shall generally be limited to dry industrial uses.*
  - v) *Local Official Plan policies will ensure the orderly and appropriate development of these areas.*
- i) *Cost effective development patterns and those which reduce servicing costs are encouraged. Land use patterns which may cause environmental, heritage preservation or public health and safety concerns shall be avoided.*

*Section 3.2.6 General Settlement Area Policies notes the following:*

*The following policies apply to all "Settlement Areas" identified on Schedule "A1" of this Plan:*

- a) *Local Official Plans are encouraged to establish land requirement needs based on the provision of sufficient land for industrial, commercial, residential, recreational, open space and institutional uses to promote employment opportunities and for an appropriate range and mix of housing, to accommodate growth projected for a time horizon of up to 20 years. Residential growth projections for local municipalities are to be in accordance with the population projections contained within this Plan.*
- b) *The County supports residential intensification within Primary Settlement Areas.*
- c) *The County supports the provision of housing which is affordable to low and moderate income households.*
- d) *Local Official Plans are encouraged to establish land requirement needs based on densities which meet the following:*
  - i) *Efficiently use land, resources, infrastructure and public service facilities.*
  - ii) *Avoid the need for unnecessary and/or uneconomical expansion of infrastructure.*
  - iii) *Support the use of public transit where available or where it can be provided in future years.*
  - iv) *Are appropriate to the type of sewage and water systems which are planned or available.*
- e) *Local Official Plans are encouraged to provide for an appropriate range of housing types and densities to meet projected requirements of current and future residents of the regional market area as outlined below:*
  - i) *Maintaining at all times the ability to accommodate residential growth for a minimum of 10 years through residential intensification, redevelopment and if necessary, lands which are designated and available as defined by Provincial Policy.*
  - ii) *Maintaining at all times, where new development is to occur, at least a 3 year supply of residential units available through lands suitably zoned to facilitate residential intensification and redevelopment, and land in draft approved and registered plans.*

- iii) *Permitting and facilitating all forms of housing, including special needs housing, required to meet the social, health and well-being requirements of current and future residents.*
- f) *Local Official Plans are encouraged to provide opportunities for redevelopment, intensification and revitalization in areas that have sufficient existing or planned infrastructure.*
- g) *It is the policy of this County Official Plan to ensure long term economic prosperity by encouraging local Official Plans to:*
  - i) *Make provision such that infrastructure and public service facilities will be available to accommodate projected growth.*
  - ii) *Provide a supply of land to meet long term requirements.*
  - iii) *Provide for an efficient, cost effective, reliable, multi-modal transportation system that is integrated with adjacent systems and those of other jurisdictions and is appropriate to address expected growth.*
  - iv) *Conserve energy and water by providing for energy and water efficiency.*
  - v) *Maintain the well-being of downtowns and mainstreets.*
  - vi) *Optimize the long term availability, viability and use of agricultural and other resources.*
  - vii) *Plan so that major facilities such as transportation corridors, sewage treatment facilities, waste management systems, industries and mineral aggregate resource activities and sensitive land uses are appropriately designed, buffered and/or separated from each other to prevent adverse effects from odour, noise and other contaminants.*
- h) *Local Official Plans are encouraged to develop growth management strategies as part of their Official Plans and to establish the type, amount, location and timing of growth and development including a servicing strategy that is in keeping with the servicing and growth projection policies contained within this Plan.*
- i) *Some of the policies contained within Section 3.4, Natural Environment, of this Plan may also pertain to lands designated "Settlement Areas".*

The proposed Zoning By-law Amendment will facilitate the redevelopment of an existing lot within a secondary settlement area. The lot is designated within the Town's Official Plan for Neighbourhood Commercial uses. The development will utilize a private septic system, which is permitted as the site is an existing commercial site that is proposed for redevelopment. Should municipal sanitary sewers become available in the future then the property owner will be required to connect. The application included a traffic impact assessment in order to ensure that there would be no negative impact on the existing traffic. The development will be required to go through the Site Plan Control process which will ensure that any additional stormwater from the increased paved surface is appropriately mitigated. The proposed Zoning By-law Amendment appears to conform to the County of Essex's 2014 Official Plan.

### **County of Essex Official Plan 2024**

The County of Essex adopted a new Official Plan on November 6, 2024. The Official Plan is awaiting final adoption by the Ministry of Municipal Affairs and Housing.

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 Zoning By-law Amendment include:

## *4.0 Growth and Settlement Areas*

### *Goals*

- a) Planning for the growth of population, housing and jobs in the County of Essex in keeping with the 30-year growth forecasts as set out in Tables 4-1, 4-2 and 4-3;*
- b) Working in partnership with Local Municipalities to accommodate forecasted growth for housing and jobs in a fiscally and environmentally responsible manner;*
- c) Ensuring the efficient use of land and optimizing the supply of land in settlement areas, and minimizing the use and conversion of agricultural land for urban purposes;*
- d) Planning for intensification with efficient use of existing land, infrastructure and services that supports the creation of: more affordable rental and ownership housing; walkable, bikeable, and transit-ready main streets, districts and corridors; and mixed income neighbourhoods;*
- e) Planning for densities and housing types that achieve a broader range of housing options for all household sizes, including affordable and market-based housing; and,*
- f) Ensuring that growth takes place in a sustainable manner that contributes to the long-term financial, social and environmental well-being of the County of Essex and its constituent Local Municipalities.*

### *4.A.3 – Secondary Settlement Areas*

*4.A.3.1. Secondary Settlement Areas do not meet the criteria outlined above for Primary Settlement Areas; however, they do have varying levels of community investment, such as full or partial municipal services or public buildings. These communities do not have public transit options and have fewer housing options, commercial and employment areas or public service facilities than Primary Settlement Areas.*

*4.A.3.2. Secondary Settlement Areas are characterized by the following:*

- a) A range in geographic area, but generally smaller than Primary Settlement Areas;*
- b) Full municipal piped sanitary sewer servicing may be provided; however, partial municipal servicing is more common;*
- c) A smaller mix of commercial uses and services intended to meet the daily needs of residents may be present. A commercial core or may also be present;*
- d) Employment lands may be included in Secondary Settlement Areas; and,*
- e) A limited range of institutional uses such as schools, health care, day care and some government services may be located in Secondary Settlement Areas.*

*4.A.3.3. New development will be permitted to the boundaries of the Secondary Settlement Areas as shown on Schedule “A2” provided such development is consistent with the Provincial Planning Statement, and it conforms with the intent and policies of this Plan, and the policies of the local Official Plan.*

*4.A.3.4. New development shall be on full municipal piped sanitary sewer and water services, unless there are interim servicing policies in the local Official Plan that are in effect at the time of approval of this Plan.*

*4.A.3.5. Expansions to the boundaries of a Secondary Settlement Area are not permitted. However, the County encourages Local Municipalities to undertake a Local Settlement Area Review in accordance with Section 4.A.9 that may result in the reduction and/or re-alignment of the boundaries in conjunction with the corresponding expansion of a Primary Settlement Area boundary. An amendment*

*to this Plan and the local Official Plan shall be required to alter the boundary of any "Settlement Area".*

*4.A.3.6. All types of land uses are permitted within the Secondary Settlement Areas designation subject to the specific land use policies of the local municipal Official Plans.*

*4.A.3.7. Secondary Settlement Areas, or portions thereof, that generally contain or are planned for non-employment uses, are subject to the following additional policies:*

*a) They shall not be the focus of growth or public or private investment in a municipality, and they should, at most, retain their existing historic development patterns. In the interest of clarity, the County Official Plan permits growth and investment in these Secondary Settlement Areas, provided the Primary Settlement Area(s) in the municipality remains the focus of growth.*

*b) New development will generally be limited to infilling, redevelopment on existing lots of records, and limited residential intensification.*

*c) Residential intensification, outside of infilling, shall only occur on full municipal sewage services and municipal water services.*

*4.A.3.8. Secondary Settlement Areas, or portions thereof, that generally consist of employment uses are subject to the following additional policies:*

*a) Cost effective development patterns, and those which reduce servicing costs, are encouraged.*

*b) Land use patterns which may be detrimental to the environment, to agricultural lands, and to the conservation of cultural heritage resources or public health and safety shall be avoided.*

*c) New development shall not have a negative impact on traffic movement, turning movement or the overall function of a Provincial Highway or County road.*

*d) New development on private or partial sewage services and water services shall generally be limited to dry industrial uses, if permitted by the policies of the local Official Plan and shall be consistent with all applicable provincial policies and regulations that apply to such development.*

*e) Local Official Plan policies will ensure the orderly and appropriate development of these areas, and where necessary will utilize phasing to ensure that development is timed to coincide with the availability of required infrastructure and servicing.*

The proposed Zoning By-law Amendment will facilitate the redevelopment of an existing lot within a secondary settlement area. The lot is designated within the Town's Official Plan for Neighbourhood Commercial uses. The development will utilize a private septic system, which is permitted as the site is an existing commercial site that is proposed for redevelopment. Should municipal sanitary sewers become available in the future then the property owner will be required to connect. The application included a traffic impact assessment in order to ensure that there would be no negative impact on the existing traffic. The development will be required to go through the Site Plan Control process which will ensure that any additional stormwater from the increased paved surface is appropriately mitigated. The proposed Zoning By-law Amendment appears to conform to the County of Essex's 2024 Official Plan.

It appears that the proposed Zoning By-law Amendment conforms to both the County of Essex's 2014 and 2024 Official Plan.

## **Town of Amherstburg Official Plan**

The subject lands are designated Neighbourhood Commercial in the Town of Amherstburg's Official plan. The applicable excerpts from the Official Plan are as follows:

### **4.4.1 Neighbourhood Commercial**

*The uses permitted in the Neighbourhood Commercial designation shall be limited to those commercial uses which provide for the sale of convenience goods and services to meet the daily living needs in foods, sundries and personal services, and may include business and professional offices.*

*The development of Neighbourhood Commercial areas may take place in the form of a small shopping plaza owned and operated as a unit or as individual establishments. The scale of development shall be guided by the population of the area to be served. The location of the site relative to abutting land uses and road classification. The actual size of the uses permitted will be specified by the Zoning By-law.*

*Adequate parking shall be provided for all permitted uses, and access points to such parking shall be limited in number and designed in a manner that will minimize the danger to both vehicular and pedestrian traffic.*

*No open storage shall be permitted in Neighbourhood Commercial areas.*

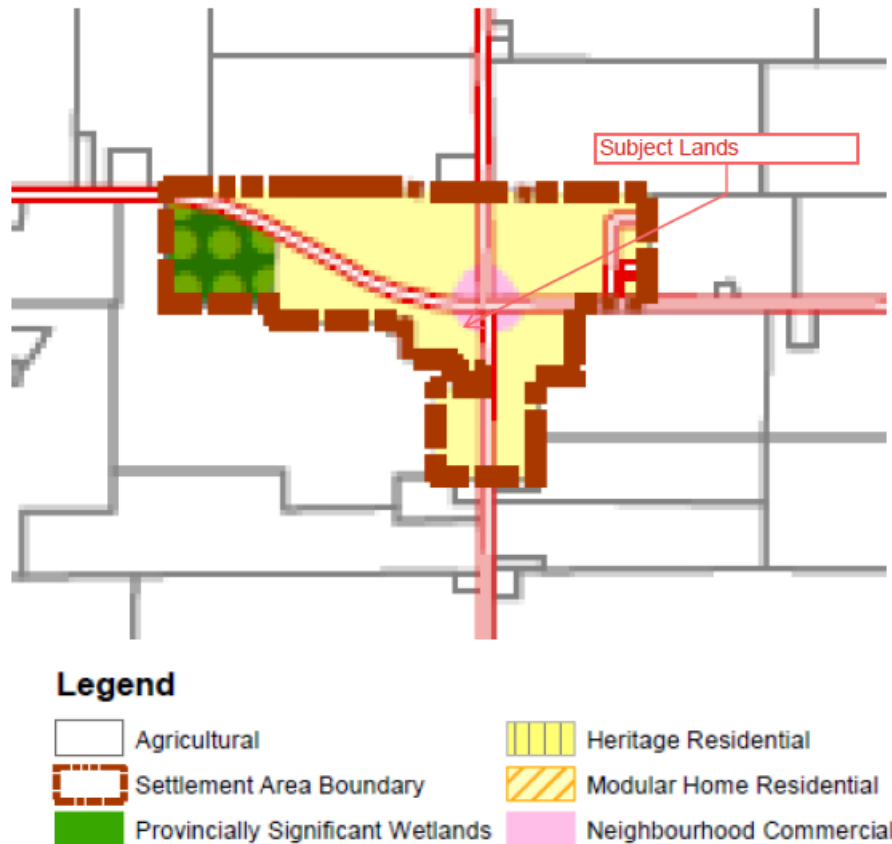
*The location of the Neighbourhood Commercial areas shall be in accordance with Schedules "A" and "B". Any new Neighbourhood Commercial facilities will require an amendment to this Plan and shall be sited to minimize its effect on adjoining Residential areas.*

*The building or buildings contained within a Neighbourhood Commercial area, and any lighting or signs, shall be designed and arranged so as to blend in with the character of the adjacent Residential area, and all development will be subject to Site Plan Control.*

*The Neighbourhood Commercial uses may be included in separate zoning classifications in the implementing Zoning By-Law.*

The proposed addition of a gas bar to the subject lands conforms to the Neighbourhood Commercial designation on the property. A gas bar and convenience store provide for the daily needs of those living in the area. The property will have 10 parking spaces plus a Type A accessible parking space, resulting in substantial parking for a small-scale use. The scale of the development is guided by the existing lot fabric within the area, as the proposal is limited to one existing lot of record that has traditionally had a commercial use on it. The subject lands have been used as a gas station in the past, however more recent uses on the subject lands included a car wash. The proposed Zoning By-law Amendment appears to be in conformity with the Town of Amherstburg Official Plan.

**Figure 1 - Subject lands designated Neighbourhood Commercial**

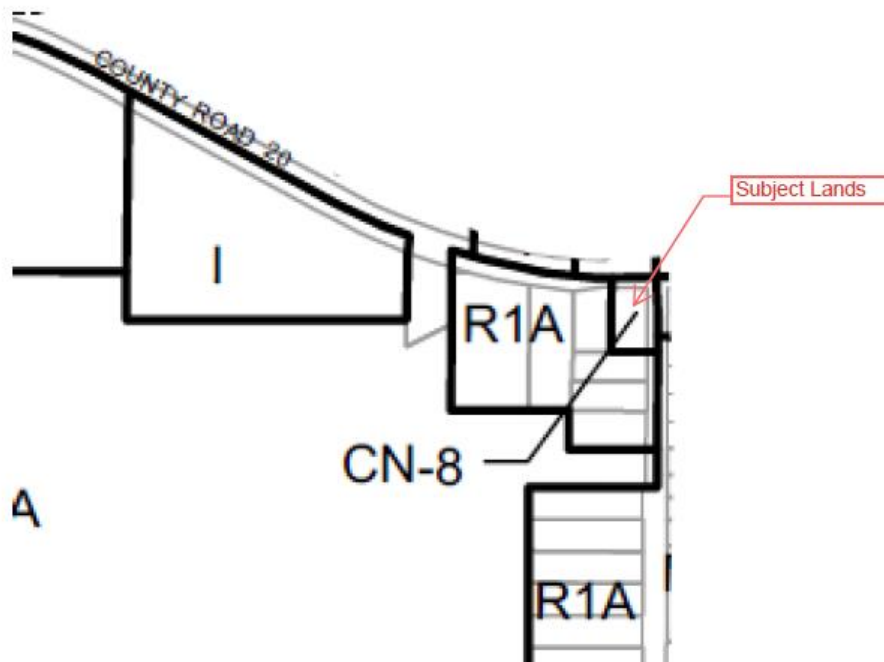


***Zoning By-law 1999-52, as amended***

The subject lands are zoned special provision Commercial Neighbourhood (CN-8) Zone. The following are the list of uses that are currently permitted within the site-specific CN-8 zone, which applies to this site:

- car wash (specific to CN-8 Zone);
- garden and landscaping centre (specific to CN-8 Zone);
- business office;
- day care;
- dry cleaner's distribution station;
- dwelling unit;
- medical/dental office;
- personal service shop;
- professional office;
- public use;
- retail store;
- convenience store;
- video rental establishment.

**Figure 2 - Subject Lands Zoned CN-8**



If approved, this rezoning would add “gas bar” to the list of permitted land uses at this location together with new site-specific zone regulations including:

- Reduction in the required number of parking spaces for the convenience store from 8 spaces to 7 spaces.
- Retain the requirement for 3 additional parking spaces for the gas bar and one Type A barrier free spot, resulting in a total of 11 parking spots provided on the site for the proposed use. The by-law identifies that any change of use or expansion of the building will require a review of the number of parking spots.
- Setback County Road 50 of 21.88 m from centerline, where 26 m is normally required.
- Maintain the existing interior side yard setback of 4.94 m for the existing commercial building. The required interior side yard setback is 10 m for a commercial lot abutting a residential lot.

The owner intends to redevelop the former car wash building that existed on the subject lands as a convenience store. It is noted that the convenience store is currently permitted use in the Commercial Neighbourhood zone. All other existing CN-8 regulations will be complied with including and not limited to lot coverage, maximum building height, etc.

The proposed reduction in parking spots reduces the required number of parking spots by 1 spot. The by-law is written so that any additions or changes of use on the site will require that parking be re-assessed. The proposal provides a fair amount of parking for a use that is typically short-term for most customers. The proposal also provides for a

loading space, in addition to the parking, which was not required by the zoning by-law. This means that deliveries will not need to block the parking spots and limit the usability of the on-site parking.

The reduced setback from County Road 50 provides for a structure that complies with the Town of Amherstburg’s setbacks. The structure that will encroach on the required setback is the gas bar canopy, which is an open structure. The County of Essex has been in communication with the Applicant and is satisfied with the proposed setback. Administration does not have concerns with the proposed setback.

The Applicant is also requesting a reduction in side yard setback to allow the existing structure to maintain its existing setback. This setback is a legal non-conforming setback and the wording in the by-law will bring it into conformity. The setback would be permitted to continue to exist as the building has legally existed for quite some time. The Applicant is proposing a 1.5 m tall privacy fence and the addition of plantings along the property lines abutting the residential uses to the west and south. The location of all plantings will be finalized through site plan control.

It should also be noted that the property will contain pavement within the required setback from the municipal drain. Pavement is permitted within the working corridor of a municipal drain, however any work on the drain could result in removal of the pavement and the cost of replacing the pavement would be the responsibility of the landowner. Language will be included in the site plan agreement indicating this responsibility.

The Applicant has submitted the following documents in support of this rezoning application:

- Site Plan
- Traffic Impact Brief
- Swept Path Analysis
- Planning Justification Report
- Soil Analysis Report

Administration has reviewed the Planning Analysis that is contained within the Applicant’s Planning Justification Report, with respect to the applicable policies as set out in the Provincial Policy Statement, and the County and Town Official Plans, and are satisfied that the Applicant has demonstrated that adding a “gas bar” to the list of already permitted commercial uses at this location is consistent with the applicable Provincial Policies and conforms to applicable County and Town Official Plan Policies.

**4. RISK ANALYSIS:**

There is a risk that a decision on a zoning matter is appealed to the Ontario Land Tribunal. The risks noted below provides further clarity on this depending on the recommendation and Council decision on the matter.

Administration’s Recommendation	Decision of Council	Who can appeal the decision to OLT.*	Costs to the Town if Appealed
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Recommend approval	Approve the Recommendation	The Applicant who requested the zoning amendment and the Minister.	Legal consulting and Administrative time to defend the decision before OLT.
Recommend to deny the application	Approve the Recommendation	The Applicant who requested the zoning amendment and the Minister.	Planning and legal consulting services to defend Council's decision and legal consulting and Administrative time to defend Administration's recommendation before OLT.
Recommend approval	Refuse the Recommendation  Note: The Planning Act defines a tied vote as a refusal.	The Applicant who requested the zoning amendment and the Minister.	Planning and legal consulting services to defend Council's decision and legal consulting and Administrative time to defend Administration's recommendation before OLT.
Recommend to deny the application	Refuse the Recommendation  Note: The Planning Act defines a tied vote as a refusal.	The Applicant who requested the zoning amendment and the Minister.	Legal consulting and Administrative time to defend the decision before OLT.
Recommend to approve (or deny)	Request to defer decision on the grounds of requiring additional information.	The Applicant who requested the zoning amendment and the Minister.	In this scenario it allows for the applicant to consider if the additional information requested by Council, rather than an OLT hearing is preferred. As OLT hearings are costly and time consuming the applicant may elect to provide the additional information. If that is the direction the Town may need to refund the application fee, noting the refund is also less costly for the Town than an OLT hearing.

**5. FINANCIAL MATTERS:**

All costs associated with the application are the responsibility of the Applicant. Should Council’s decision be appealed to the Ontario Land Tribunal, the Town will incur costs, as noted above. OLT appeals of any nature can be costly with estimated costs of a hearing at \$6,000/day, noting that those daily costs will likely be higher if Town Administration is required to be before OLT as both witnesses for an Applicant and defense of a decision.

**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 circulation list of property addresses and the aerial buffer map showing the circulated properties is attached as Appendix “I”.

**7. CORPORATE STRATEGIC ALIGNMENT:**

*Vision: Preserving our past while forging our future.*

<i>Amherstburg Community Strategic Plan 2022 - 2026</i>	
<p style="text-align: center;"><b>PILLAR 1</b> <b>Deliver Trusted &amp; Accountable Local Government</b></p> <ul style="list-style-type: none"> <li><input type="checkbox"/> Improve trust between council and staff, and residents, by strengthening governance and internal accountability structures.</li> <li><input type="checkbox"/> Deliver transparent and efficient financial management.</li> <li><input checked="" type="checkbox"/> Increase effective communication and engagement with residents.</li> <li><input type="checkbox"/> Develop our staff team, resources, and workplace culture.</li> <li><input checked="" type="checkbox"/> Continue to deliver strong core municipal services.</li> <li><input type="checkbox"/> Ensure Amherstburg is an inclusive accessible and welcoming community committed to reconciliation.</li> </ul>	<p style="text-align: center;"><b>PILLAR 3</b> <b>Encourage Local Economic Prosperity</b></p> <ul style="list-style-type: none"> <li><input checked="" type="checkbox"/> Encourage development of commercial and industrial lands.</li> <li><input type="checkbox"/> Continue to promote local tourism industry, especially overnight accommodation.</li> <li><input type="checkbox"/> Continue to facilitate downtown development for residents and visitors.</li> <li><input type="checkbox"/> Continue to leverage partnership opportunities with other provincial, federal, and local governments, agencies, and organizations.</li> </ul>
<p style="text-align: center;"><b>PILLAR 2</b> <b>Invest in Community Amenities and Infrastructure</b></p> <ul style="list-style-type: none"> <li><input type="checkbox"/> Maintain safe, reliable and accessible municipal infrastructure and facilities.</li> <li><input type="checkbox"/> Increase access to recreation opportunities for all ages.</li> </ul>	<p style="text-align: center;"><b>PILLAR 4</b> <b>Shape Growth Aligned with Local Identity</b></p> <ul style="list-style-type: none"> <li><input type="checkbox"/> Define and communicate a vision for the Town’s future and identity.</li> <li><input type="checkbox"/> Promote and plan for green and “climate change ready” development.</li> </ul>

<ul style="list-style-type: none"> <li><input type="checkbox"/> Finalize and execute plans for town-owned lands (e.g. Duffy’s site, Belle Vue)</li> <li><input type="checkbox"/> Create public access to water and waterfront</li> <li><input type="checkbox"/> Prioritize opportunities to reduce environmental impacts of Town operations and increase Town resilience to climate change.</li> </ul>	<ul style="list-style-type: none"> <li><input type="checkbox"/> Review and implement policies that promote greater access to diverse housing.</li> <li><input type="checkbox"/> Protect the Town’s historic sites and heritage.</li> <li><input type="checkbox"/> Preserve the Town’s greenspaces, agricultural lands, and natural environment.</li> </ul>
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**8. CONCLUSION:**

It is the opinion of administration that the Zoning By-law Amendment allows for the appropriate redevelopment of the subject lands, is consistent with the provisions of the Planning Act, is consistent with the policies of the Provincial Planning Statement, 2024, conforms with the policies of the County of Essex Official Plan and the Town of Amherstburg Official Plan and maintains the intent of the Town of Amherstburg Zoning By-law.




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Christopher Aspila  
**Manager of Planning Services**

**SF/CA**

## Report Approval Details

Document Title:	Zoning By-law Amendment ZBA-18-24 for 6754 County Road 50.docx
Attachments:	<ul style="list-style-type: none"><li>- Appendix A - ZBA-18-24 - Application_Redacted-RM.pdf</li><li>- Appendix B - Aerial Map-RM.pdf</li><li>- Appendix C - ZBA-18-24 Figures-RM.pdf</li><li>- Appendix D - Site Plan-RM.pdf</li><li>- Appendix F - Swept Path Analysis AutoTurn (MAY 29)-RM.pdf</li><li>- Appendix G - ZBA-18-24 Planning Rationale-RM.pdf</li><li>- Appendix H - Soil Analysis Report-RM.pdf</li><li>- Appendix I - Council Circulation List-RM.pdf</li><li>- Appendix J - ZBA-18-24 Site Photos-RM.pdf</li><li>- Appendix K - Summary of Correspondence Received on ZBA-18-24-RM_Redacted.pdf</li><li>- Appendix L - 2025-008- ZBA-6754 Cty Rd 50-RM.pdf</li></ul>
Final Approval Date:	Jan 30, 2025

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

### No Signature found

Chris Aspila



Melissa Osborne



Tracy Prince

**No Signature - Task assigned to Valerie Critchley was completed by assistant  
Melissa Osborne**

Valerie Critchley

A handwritten signature in black ink, appearing to read "Kevin Fox", written in a cursive style. The signature is positioned above a solid horizontal line that extends to the left and slightly below the signature.

Kevin Fox