



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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Author's Phone: 519 736-5408 ext. 2124	Date to Council: December 5, 2022
Author's E-mail: caspila@amherstburg.ca	Resolution #:

To: Mayor and Members of Town Council

Subject: Interim Control By-law – Howard Industrial Park District Secondary Plan Area

1. RECOMMENDATION:

It is recommended that:

1. The lands shown in Appendix A of December 5th report entitled Interim Control By-law – Howard Industrial Park District Secondary Plan Area **BE DESIGNATED** as an Interim Control By-law Area;
2. By-law 2022-111 being an Interim Control By-law for heavy industrial, light industrial and special industrial land uses within the designated area be taken as having been read three times and finally passed and the Mayor and Clerk **BE AUTHORIZED** to sign same; and
3. The Clerk **BE AUTHORIZED** to provide the required notice of the passage of this By-law.

2. BACKGROUND:

Council instructed Administration to prepare a Secondary Plan on August 8, 2022 for the area bounded by County Road 9 (Howard Avenue), North Side Road, 8th Concession Road and County Road 8 (Townline Road). This area is also known as the Howard Industrial Park District. The Secondary Plan process has been initiated with background work being prepared and the first of two planned public consultation meetings to obtain community input forthcoming early in 2023.

Section 38(1) of the Planning Act allows municipalities to pass an Interim Control By-law (ICBL) which puts a temporary freeze on some land uses while a municipality is

studying or reviewing its policies. The Interim Control By-law can be imposed for up to a year, with a maximum extension of another year. There is no ability to appeal an Interim Control By-law when it is first passed (other than the Minister of Municipal Affairs and Housing), however, an extension to a By-law may be appealed. The Planning Act provides that an Interim Control By-law remains in effect past the two-year period if the new zoning bylaw which replaces the Interim Control By-law is appealed to the Ontario Land Tribunal.

The Town of Amherstburg Official Plan provides for the use of an Interim Control By-law, specifically it states that:

An Interim Control By-Law may be used by the Town to restrict development in areas subject to certain studies such as servicing feasibility studies, parkland feasibility studies, etc.

There is no statutory requirement to provide any notice or hearing prior to the passing of an ICBL, thus enabling the municipality to act quickly to freeze development. However, after passing the ICBL, Section 38(3) requires that the Town give notice of passing of the ICBL in the manner and to the persons and public bodies and containing the information prescribed, within 30 days of the passing. Section 9 of the Ontario Regulation 545/06 describes how notice of passing of an ICBL shall be given.

Once an Interim Control By-law is in place, the area to which the By-law applies may be reduced as information becomes available throughout the study process provided the proper justification exists. An amendment to the Interim Control By-law to reduce the study area would be subject to appeal. Under the Ontario Planning Act, an interim control bylaw is directly related to the use of the land and not the specific development standards associated with the use. To ensure the proposed Interim Control By-law is sound and reflects the intent of the Planning Act, the recommendation to review the heavy industrial, light industrial and special industrial policies as part of the Howard Industrial Park District Secondary Plan within the area shown in Appendix A is described further below.

3. DISCUSSION:

The purpose of this report is to prohibit new industrial development in the Howard Industrial Park District Secondary Plan Area until such time as the Howard Industrial Park District Secondary Plan is completed. The estimated timeline for completion of the Secondary Plan, including review by the Approval Authority (County of Essex) is March 31, 2023, well before the allowable 1 year for the ICBL to be in place. As such, upon approval of the Secondary Plan Administration will recommend the removal of the ICBL for the area

Unstructured growth and current development pressure in the Howard Industrial Park District poses a financial risk to the Town of not obtaining the highest and best use for this district that has existing approved industrial-type designations in the Official Plan. The preparation of a Secondary Plan will inform the Town of the preferred industrial, agricultural and residential uses and the associated infrastructure required so that the Town can implement policies to optimize land use, mitigate potential land use impacts, inform future capital asset needs and take advantage of emerging economic development opportunities in the Essex-Windsor region.

The continued individual development requests/ proposals for the area has generated concern from other property owners opposed to additional industrial growth. Furthermore, the lack of clarity on what permitted uses should be allowed as well as how the full area should be developed increases the risk of opposition to the growth. The work completed by the Secondary Plan will provide for thoughtful development for the entire area, inclusive of current property owners concerns and input.

Scope of the Howard Industrial Park District Secondary Plan

The scope of the Howard Industrial Park District Secondary Plan as approved by Council on August 8th, 2022 is to provide more detailed use, transportation, infrastructure and servicing policies which will guide how future development and redevelopment takes place on these lands, creating new employment opportunities for Amherstburg residents and broadening the Town's economic base.

Scope of the Interim Control By-law

The Interim Control By-law will apply to new or current industrial development applications and building permits within the Interim Control By-law Area and designated in the Town of Amherstburg Official Plan as:

- Light Industrial;
- Special Industrial;
- Heavy Industrial; or
- Industrial Special Policy Area.

There are three incomplete Planning Act applications and four upcoming Planning Act applications that will be impacted by this Interim Control By-law. Due to confidentiality requirements, the details of these applications cannot be discussed unless the applicant(s) choose to make the details public.

The current applications at the following addresses are in the public domain and will be impacted by the Interim Control By-law:

- 7751 Howard Ave (Consent and Site Plan Control)
- 7551 North Townline Rd (Building Permit)
- N/W Corner of 8th Concession Rd N and North Side Rd (Zoning By-law Amendment)
- 7012 Smith Industrial Rd (Building Permit)

The impact on the above applications and potential applications, once deemed complete by the Planning Department will be delayed from obtaining approvals until the completion of the Howard Industrial Park District Secondary Plan, which as noted above is targeted for March 31, 2023.

It is **noted with emphasis** that any project with building permits issued on or before the day the Interim Control By-law is passed will be allowed to proceed subject to any conditions included with the permit.

4. RISK ANALYSIS:

The proposed Interim Control By-law will prohibit the development of structures, heavy industrial, light industrial, and special industrial uses for the area defined in Appendix A until the Howard Industrial Park District Secondary Plan is completed. The Planning Act does provide Council the authority to grant exceptions to the by-law while the study is being completed. There is a moderate risk that a property owner could face a delay to developing the above types of uses and structures during the time this Interim Control By-law is in force.

5. FINANCIAL MATTERS:

There is no financial impact with the initial enactment of this Interim Control By-law. Should the timeline of the Interim Control By-law be extended, there is a possibility of an appeal to the Ontario Land Tribunal and in such case the Town will incur legal and professional costs to defend its position.

6. CONSULTATIONS:

Chief Administrative Officer
Deputy Chief Administrative Officer / Director of Development Services
Chief Building Official

7. CONCLUSION:

Administration recommends that an Interim Control By-law, pursuant to Section 38(1) of the Planning Act be enacted to allow for the completion of the Howard Industrial Park District Secondary Plan.



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Appendix A – Interim Control By-law Area

