



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.*

Author's Name: Janine Mastronardi and Christopher Aspila	Report Date: January 6, 2023
Author's Phone: 519 736-5408 ext. 2134	Date to Council: January 23, 2023
Author's E-mail: jmastronardi@amherstburg.ca ; caspila@amherstburg.ca	Resolution #:

To: Mayor and Members of Town Council

Subject: Zoning By-law Amendment for 433 Sandwich Street South

1. **RECOMMENDATION:**

It is recommended that:

1. **By-law 2023-001** being a by-law to amend Zoning By-law No. 1999-52, to amend the zoning for the subject lands known as 433 Sandwich Street South 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 Lumed Management Inc. The subject lands are located on the east side of Sandwich Street South between Pickering Drive and McCurdy Drive and is municipally known as 433 Sandwich Street South (refer to Appendix A). The purpose of the application is to amend the CH-14 site-specific zone to reduce the front yard setback and reduce the number of required parking spaces. The site currently contains a commercial building being used as medical offices, retail/pharmacy and a healthcare business. The applicant is proposing a three-storey addition to the front of the existing building to expand the medical centre uses. A site picture is attached as Appendix B.

A Statutory Public Meeting under the Planning Act was held on December 5, 2022, at which comments were received from members of the community and Council. Following the December 5, 2022 meeting, Administration worked with the applicants to address comments and bring forward this report for Council's consideration.

The subject property is designated General Commercial and is zoned Special Provision Commercial Highway (CH-14) in the Town of Amherstburg Zoning By-law 1999-52. The site specific zone approved by Council on June 25, 2018 which permits the three storey height to a maximum of 14 m on the front (west side) of the existing building.

3. **DISCUSSION:**

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 433 Sandwich Street South.

Comment	Administration's Response
<p>Concern with decrease in front yard setback;</p> <ul style="list-style-type: none"> - what the distance will be between the traveled portion of the ROW and the new development, - possible visibility issues for egress from the site - how it will affect the aesthetic of the street line 	<p>An aerial view map is attached as Appendix C which illustrates the distance from the proposed building with the decreased front yard setback in relation to the traveled portion of the right-of-way (ROW). Within the ROW there is approximately 7 m of grassed area between the property line and the existing extra wide sidewalk.</p> <p>A site plan is attached as Appendix D, which illustrates the site triangles for the site's exits. Administration does not have any concerns with visibility exiting the site.</p> <p>The built form along the Town's commercial corridors will change as the Town grows. Intensification of sites and building up is promoted by both the Provincial Policy Statement (PPS) and the Official Plan. Parking in the side or rear of properties promotes walkability which also promoted by the PPS. A rendering of the proposed building attached as Appendix E.</p>
<p>Concerns regarding increased traffic on Sandwich Street South resulting from multiple development proposals for the area.</p>	<p>As densities and development occurs on Sandwich Street South the intent is to promote the walkability of the area. Decreasing the front yard setbacks, including pedestrian friendly pathways and entrances to buildings encourages more pedestrian traffic and encourages walking to amenities from the high density residential developments in the area.</p>
<p>Neighbours at 452 Linden Court – concerned about</p>	<p>Fence- the existing development agreement does not require a double-boarded fence as suggested by the</p>

existing fence, site lighting, garbage, noise, height of building.	<p>resident. The applicant has agreed to repair the existing fence and to add additional screening measures.</p> <p>Site Lighting- if deemed necessary by a photometric plan, the existing lighting will be replaced and/or altered to ensure directional lighting on site.</p> <p>Garbage- The applicant has agreed to address the garbage concerns with either increased screening of the garbage area and/or increase the frequency of pickups.</p> <p>Height of Building- The maximum height of any development on the site is already approved as per the 2018 amendment. The maximum height at the rear of the property is two storeys and the maximum height at the front of the property is three storeys.</p> <p>All required updates to the existing site will be addressed through the site plan control process in the amending development agreement and the amending site plan.</p>
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The applicants will be required to complete the site plan control process. Administration is the approval authority.

Planning Analysis

The submitted application seeks to amend the existing site specific Commercial Highway (CH-14) Zone to allow for a 0.9 m front yard setback for a proposed three storey addition to the front of the existing building. The applicant also request that a reduction in 5 parking spaces from the required 112 to a total of 107 required parking spaces be permitted to implement the final approved site plan.

Provincial Policy Statement

The Provincial Policy Statement was issued under Section 3 of the Planning Act and 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 particularly applicable to the subject application:

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.

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 3.2 Settlement Areas

Section 3.2.2 Goals set out the following policies:

- Support and promote public and private re-investment in the *Primary Settlement Areas*.
- 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.
- 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.
- 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.

Section 3.2.6 General Settlement Area Policies include the following:

- 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 *local municipalities* are to be in accordance with the population projections contained in this Plan.
- Local Official Plans are encouraged to provide opportunities for *redevelopment, intensification* and revitalization in areas that have sufficient existing or planned *infrastructure*.
- It is the policy of this County Official Plan to ensure long term economic prosperity by encouraging local Official Plans to:
 - Maintain the well-being of downtowns and main streets.

Town of Amherstburg Official Plan

The Official Plan currently designates the subject lands General Commercial. Section 4.4.2 of the Plan sets out the following policies:

GENERAL COMMERCIAL LAND USE DESIGNATION

The uses permitted in the General Commercial shall include those commercial establishments offering goods and services which primarily serve the whole of the municipality's market area and shall include such uses as retail commercial establishments, places of entertainment, assembly halls, eating establishments, hotels, motels, community facilities, public uses, recreational uses, convenience stores whether in the form of individual stores or in a shopping centre form of construction and/or ownership, and residential uses above the first floor.

Recreational uses, automobile service stations and automobile sales and service agencies, car washes, agencies for recreational vehicles, motels, drive-through restaurants or other drive through establishments shall be restricted to locations on Sandwich Street north of Alma Street or South of Pike Street or on Simcoe Street.

Adequate buffer planting shall be provided between the commercial use and any adjacent residential areas and such buffer planning may include provisions for grass strips, berms, screening and appropriate planting of trees shrubs, or distance, and all development will be subject to Site Plan Control and any lighting or signs shall be designed and arranged so as to be as least distracting as possible to adjoining residential uses. Every effort will be made to reduce the number of driveway entrances along Arterial Roads by ensuring that, wherever possible, mutual driveway entrances serving two or more lots or developments are provided or planned for through Site Plan Control.

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

Within the General Commercial designation abutting Sandwich Street, limited front yard parking may be permitted if sufficiently buffered by landscaped open space and setbacks. Implementing zoning regulations may set out different standards for different portions of this designation based on the existing development pattern.

The general location of the General Commercial areas shall be in accordance with Schedules “A” and “B” [of the Official Plan].

Any public works or private redevelopment within the area should take into account the Heritage Policies and Downtown Revitalization Policies of this Plan and should implement any applicable portion.

The General Commercial lands may be placed in separate zoning classifications in the implementing Zoning By-law.

4.4.3 (2) Gateway to Amherstburg

In order to ensure an aesthetically pleasing approach to the historic portion of Amherstburg and to protect the historic character, and as this area represents the Gateway to Amherstburg and a portion of this area is within the Town’s Downtown Tourist District, additional policies will apply to commercial development established along Sandwich Street between Texas Road and Fort Street and for the area along Sandwich Street South to Lowes Side Road. This policy will allow for, within this area, additional landscaping requirements at the time of site plan approval and special attention will be given to lighting, fencing, and location of garbage disposal. This policy will also allow Council to establish both minimum and maximum height regulations and setback regulations in the Zoning By-law. Council will seek the advice of Amherstburg’s Heritage Committee when dealing with development in this area on such matters as roof line, height, building material, and window placement in order to maintain the historic small town appearance.

Site Plans associated with any Zoning By-law amendments to a General Commercial Zone shall be subject to public consultation.

Within this area, Council may establish a setback that requires that at least 25% of the building fronting on to Sandwich Street be set back no less than 6 metres minimum and no more than 15 metres maximum. Council may also establish a minimum elevation at the 6 metre setback from front lot line of 6 metres and a maximum elevation of up to 15 metres. Council may also require an enhanced landscaping plan as part of the site plan approval that requires that deciduous trees be planted in the boulevard having 2.0 metres clear stem and head room for pedestrians and cyclists. In addition Council may require a minimum buffer or landscape strip of 3.0 metres established along Sandwich Street and that 20% of the landscaping be woody plant material that is capable of providing interest in all seasons. Fencing or dense hedge material shall be required to obscure the parking area if front yard parking is proposed. Chain link fences or wood construction fencing shall not be permitted unless they are fully screened from public view.

It is the opinion of planning staff that the language is set out in the Special Policy Area as additional policies and should not be viewed as designations separate and distinct from the General Commercial policies. The Special Policy Area describes what restrictions “may” be included in the zoning by-law and set out other restrictions with respect to commercial development. Since the intent of the Plan was to include the Special Policy areas for the purpose of adding additional policy direction for the development of those particular areas.

Section 6.7 of the Town of Amherstburg Official Plan – Planning Impact Analysis set out several areas that must be considered as part of an Official Plan Amendment or Zoning By-law amendment. These include:

6.7 PLANNING IMPACT ANALYSIS

It is a policy of the Official Plan that a Planning Impact Analysis will be used to evaluate applications for an Official Plan Amendment and, depending on the magnitude of the development, a Zoning By-law Amendment, to determine the appropriateness of the proposed change and to identify what measures are needed to reduce any adverse impacts on surrounding land uses. The Planning Impact Analysis will supplement the consideration of compliance with the permitted use, location, scale of development, and other criteria applicable to the relevant land use designation. Proposals for changes in the use of land which require the application of a Planning Impact Analysis will be evaluated based on:

- (1) Compatibility of proposed uses with surrounding land uses, and the likely impact of the proposed development on present and future land uses in the area on the character and stability of the surrounding neighbourhood.
- (2) The height, location and spacing of any buildings in the proposed development, and any potential impacts on surrounding land uses.

With respect to items 1 and 2 above the proposed development is located in the peripheral area adjacent to the downtown core of Amherstburg. The site is located as an infilling development in the commercial area that is peripheral to the downtown core. This area

of Sandwich Street South consists of commercial uses and mixed use developments transitioning to greater heights and densities as is permitted in the Town's Official Plan.

Amherstburg is experiencing an increase in demand for commercial uses that serve people by walk-up or bicycle or other accessible access means to the businesses. Furthermore, accessible access for all persons is a legislated requirement.

Town of Amherstburg Zoning By-law 1999-52

The Commercial Highway (CH) Zone provides for the following:

(1) SCOPE

The provisions of this Section shall apply in all Commercial Highway (CH) Zones except as otherwise provided in Schedule "A" hereto.

(2) USES PERMITTED

No person shall within any CH Zone, use any lot or erect, alter or use any building or structure for any purpose except one or more of the following CH uses, namely:

- (i) animal hospital;
- (ii) assembly hall;
- (iii) automobile service station;
- (iv) automotive use;
- (v) bake shop;
- (vi) bulk sales establishment;
- (vii) business office;
- (viii) catalogue store;
- (ix) clinic;
- (x) *drive-through facility; (By-law 2006-61)*
- (xi) dry cleaning establishment or distribution station;
- (xii) duplicating shop;
- (xiii) dwelling unit accessory to a permitted CH Zone;
- (xiv) financial establishment;
- (xv) florist shop;
- (xvi) funeral home;
- (xvii) furnishing store;
- (xviii) home appliance store;
- (xix) home and auto supply store;
- (xx) home improvement store;
- (xxi) hotel or motel;
- (xxii) liquor, beer and wine store;
- (xxiii) medical/dental office;
- (xxiv) nursery;
- (xxv) office, professional;
- (xxvi) office, service;
- (xxvii) office supply outlet;
- (xxviii) personal service establishment;
- (xxix) place of worship;
- (xxx) printing establishment;
- (xxxi) public use;
- (xxxii) recreational establishment;
- (xxxiii) repair and rental establishment;

- (xxxiv) restaurant;
- (xxxv) restaurant, *drive-through* or fast-food; (*By-law 2006-61*)
- (xxxvi) retail store;
- (xxxvii) variety store;
- (xxxviii) video rental establishment.

ZONE REQUIREMENTS

No person shall within any CH Zone, use any lot or erect, alter or use any building or structure except in accordance with the following provisions:

- | | | |
|-------|--|---------------------|
| (a) | Lot Area (Minimum) | |
| (i) | automobile services station
or motor vehicle service establishment | 1100 m ² |
| (i) | motels, hotels
plus an additional 45 m ² for each guest room
in excess of 4 | 700 m ² |
| (ii) | other | No Minimum |
| (b) | Lot Frontage (Minimum) | |
| (i) | automobile services station
or motor vehicle service establishment | 35 m |
| (ii) | motels, hotels | 20 m |
| (iii) | other | No Minimum |
| (c) | Front Yard Depth (Minimum) | |
| (i) | automobile services station
or motor vehicle service establishment | 15 m |
| (ii) | other uses | 7 m |
| (d) | Interior Side Yard Width (Minimum)
provided that where the interior side lot line abuts a
Residential Zone, the minimum interior side yard
width shall be 10 m. | 7 m |
| (e) | Exterior Side Yard Width (Minimum) | |
| (i) | automobile services station
or motor vehicle service establishment | 15 m
7 m |
| (ii) | other uses | |
| (f) | Rear Yard Depth (Minimum)
provided that where the rear lot line abuts a
Residential Zone, the minimum rear yard depth shall
be 10 m (<i>By-law 2016-32</i>) | 7 m |
| (g) | Lot Coverage (Maximum) | |
| (i) | automobile services station
or motor vehicle service establishment | 30% |
| (ii) | other uses | 50% |
| (h) | Landscaped Open Space (Maximum) | |

(i)	automobile services station or motor vehicle service establishment	5%
(ii)	other uses	10%
(i)	Dwelling Unit Area (Minimum)	55 m ²
(j)	Dwelling Units Per Lot (Maximum) but not accessory to an automotive service station or motor vehicle service establishment	1 only
(k)	Height (Maximum)	7.5 m
(l)	Accessory Uses, Parking, Home Occupation, etc. in accordance with the provisions of Section 3 hereof.	
(m)	Gross Leasable Floor Area (Maximum) Retail stores not specifically listed	800 m ²

SPECIAL PROVISIONS

CH-14 (433 Sandwich Street South)

Notwithstanding any other provisions of this By-law to the contrary including Section 3(23), within any area zoned CH-14 on Schedule "A" hereto, the zone requirements of Section 16 of the By-law shall apply with the exception of the following:

- (i) Interior Side Yard Width (Minimum) 0.2 m
provided that where the interior side lot line abuts a
Residential Zone, the minimum interior side yard/ rear yard
width shall be 7 m.
- (ii) Height Maximum 7.5 m
 - (i) within the front (west) 25 m of the Zone- 3 storeys to a maximum of 14 m
 - (ii) within the rear (east) 50 m of the Zone- 2 storeys to a maximum of 12 m
- (iii) Front Yard Depth (Minimum) for other uses 0.9 m
- (iv) Notwithstanding Section 3(23)(c) the minimum number of parking spaces
required shall be 107.
- (v) Notwithstanding Section 3(26)(a) the minimum front yard setback required
shall be 0.9 metres.

THAT all other appropriate regulations for the use of land and the character, location and use of buildings and structures conforms to the regulations of the Commercial Highway Zone, as applicable and all other general provisions or regulations of By-law 1999-52, as amended from time to time.

The submitted application does not facilitate a change in the established use of the property but instead seeks to establish a revised front yard setback and parking provisions to conform to the proposed site plan.

The Town's Zoning By-law currently zones the subject lands Special Provision Commercial Highway (CH-14). Within this zone category, a broad range of commercial land uses are permitted.

The Applicant is requesting that the current zoning regulations that apply to these lands be amended to allow for a 0.9 m front yard setback for a proposed three storey addition to the front of the existing building. The applicant is also request that a reduction in 5 parking spaces from the required 112 to a total of 107 required parking spaces be permitted to implement the final approved site plan.

In the event this application is approved by Council, the development would also be subject to the execution of a site plan control agreement to ensure orderly development of the site.

The proposed Zoning By-law Amendment is considered to be consistent with the 2020 PPS, in conformity with the County Official Plan and consistent with the policy direction as set out in the Town's Official Plan. The requested decrease in front yard setback and decrease in required parking spaces does not facilitate any negative impacts on surrounding properties. The application is considered to conform to good planning principles.

4. RISK ANALYSIS:

The recommendation presents little to no risk to the municipality.

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.

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.

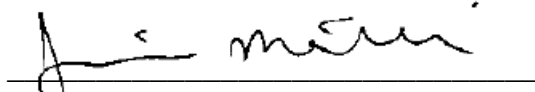
No further consultation is required.

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

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 2023-001 be approved by Council, given three readings and finally passed and the Mayor and Clerk be authorized to sign same.


Janine Mastronardi
Planner
Christopher Aspila
Manager, Planning Services

JM/CA

DEPARTMENTS/OTHERS CONSULTED:

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Report Approval Details

Document Title:	Zoning By-law Amendment for 433 Sandwich Street South.docx
Attachments:	<ul style="list-style-type: none">- Appendix A- ZBA-24-22 Aerial.pdf- Appendix B- ZBA-24-22 Site Pictures.pdf- Appendix C- Aerial with Setback from ROW.pdf- Appendix D- Site Plan Showing Site Triangles.pdf- Appendix E- Rendering.pdf- Appendix F- Summary of Correspondence Received on ZBA-24-22.pdf- Appendix G- ZBA-24-22 120 m Buffer.pdf- Appendix H- 2023-001- ZBA- 433 Sandwich St S- DRAFT.pdf
Final Approval Date:	Jan 9, 2023

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



Melissa Osborne



Tracy Prince



Valerie Critchley



Kevin Fox