



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: Sarah French	Report Date: January 6, 2023
Author's Phone: 519 736-5408 ext. 2145	Date to Council: January 23, 2023
Author's E-mail: sfrench@amherstburg.ca	Resolution #:

To: Mayor and Members of Town Council

Subject: Zoning By-law Amendment ZBA-26-22 for N-S Texas Road

1. **RECOMMENDATION:**

It is recommended that:

1. **By-law 2023-005** being a by-law to amend Zoning By-law No. 1999-52, to amend the zoning for the subject lands known as N/S Texas Road 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 Tri-M Holdings Corp. The re-zoning application affects approximately 5.29 hectares of land on the north side of Texas Road located between 436 and 440 Texas Road (Figure 1 in the attachments). The rezoning, if approved, will change the zoning from Residential Type 1A (R1A) Zone to Residential Second Density (R2) Zone. The lands are designated Low Density Residential in the Town's Official Plan (Figure 2 in the attachments).

A Statutory Public Meeting under the Planning Act was held on December 12, 2022, at which comments were received from members of the community and Council. Following the December 12, 2022 meeting, Administration worked with the applicants and their agents (Dillon Consulting) to address comments and bring forward this report for Council's consideration.

3. DISCUSSION:

The submitted application seeks to change the zoning for the proposed development's lot layout from Residential Type 1A (R1A) to Residential Second Density (R2) Zone to require a minimum lot frontage of 12 m and lot area of 460 m² for single detached dwellings, a minimum lot frontage of 15 m and lot area of 560 m² for duplex dwellings, a minimum lot frontage of 20 m and a lot area of 650 m² for semi-detached dwellings, and permit a maximum lot coverage of 35% for all permitted dwellings whereas the current zoning requires a minimum lot frontage of 20 m and lot area of 900 m² and permit a maximum lot coverage of 30% for single detached dwellings. Additionally, the current zoning does not allow duplex or semi-detached dwellings. This zone category is consistent with other developments in Town including Kingsbridge Phase 5 and 10 which are in close proximity to the subject lands.

The submitted application does not facilitate a change in the established use of the property but instead seeks to establish revised lot frontage, lot area and lot coverage provisions to conform to the proposed lot layout. The subject lands will be subject to the draft plan of subdivision process and comprise of approximately 48 single detached units. The proposed zone will conform to the Residential Second Density (R2) Zone and the submitted application does not require any special provisions in the R2 Zone.

The requested increase in lot coverage does not facilitate any negative impacts on surrounding properties. The application is considered to conform to good planning principles. The Applicants will be required to provide all approval authorities with an engineered Stormwater Management Plan during the Draft Plan of Subdivision approval phase.

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 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.
- 1.1.3.8 A planning authority may identify a settlement area or allow the expansion of a settlement area boundary only at the time of a comprehensive review and only where it has been demonstrated that:
- a) sufficient opportunities to accommodate growth and to satisfy market demand are not available through intensification, redevelopment and designated growth areas to accommodate the projected needs over the identified planning horizon;
 - b) the infrastructure and public service facilities which are planned or available are suitable for the development over the long term, are financially viable over their life cycle, and protect public health and safety and the natural environment;
 - c) in prime agricultural areas:
 - 1. the lands do not comprise specialty crop areas;
 - 2. alternative locations have been evaluated, and
 - i. there are no reasonable alternatives which avoid prime agricultural areas; and
 - ii. there are no reasonable alternatives on lower priority agricultural lands in prime agricultural areas;
 - d) the new or expanding settlement area is in compliance with the minimum distance separation formulae; and
 - e) impacts from new or expanding settlement areas on agricultural operations which are adjacent or close to the settlement area are mitigated to the extent feasible.

In undertaking a comprehensive review, the level of detail of the assessment should correspond with the complexity and scale of the settlement boundary expansion or development proposal.

- 1.1.3.9 Notwithstanding policy 1.1.3.8, municipalities may permit adjustments of settlement area boundaries outside a comprehensive review provided:
- a) there would be no net increase in land within the settlement areas;
 - b) the adjustment would support the municipality's ability to meet intensification and redevelopment targets established by the municipality
 - c) prime agricultural areas are addressed in accordance with 1.1.3.8 (c), (d) and (e); and
 - d) the settlement area to which lands would be added is appropriately serviced and there is sufficient reserve infrastructure capacity to service the lands.

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

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.

Town of Amherstburg Official Plan

The Official Plan currently designates the subject lands as Low Density Residential (refer to Figure 2).

Section 4.2.3 Policies – Applicable to All Residential Designations states:

(1) Residential Lot Creation

The creation of new lots for residential purposes will primarily occur by plan of subdivision. However, consents for residential lots will be permitted in accordance with the policies contained in Section 6.1 of this Plan, and in accordance with the requirements and guidelines of the Town and/or its designated agent under the Building code or Ministry of Environment under the Ontario Water Resources Act.

(2) Supply

It shall be a policy of this Plan that residential proposals be evaluated with the intent being to achieve a housing mix. The provision of a ten (10) year supply or at least 1700

residential dwelling units or individual lots through a combination of draft approved and/or registered lots and blocks on plans of subdivision and/or registered lots which have been created in accordance with Section 5.1 of this Plan shall be maintained and developed as permitted by the capacity of the Town's services.

(3) Established Low Density Residential Areas

In established low density residential areas, the indiscriminate mixing of different housing types shall not be permitted, in the interest of protecting the stability of existing neighbourhoods. Redevelopment proposals will, to the satisfaction of Council, ensure that the residential character of the area will be maintained or enhanced and not present a burden to existing facilities and services.

(4) 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;
- c) the development of pedestrian and bicycle pathways that bisect the community, providing the shortest distance between community and commercial facilities and the residential area.

In general, Council shall maintain a flexible attitude toward carefully designed experimental housing. Energy efficient construction of housing shall be encouraged in the Municipality, provided it meets the requirements of the Ontario Building Code.

New plans of subdivision within the Residential designation shall be designed so that continuous interior access roads will result between adjacent subdivisions. For larger blocks of lands adjacent to arterial roads, direct access to the arterial road may be limited.

Undeveloped lands that are designated Residential may be placed in a holding zone in the implementing Zoning By-Law. The holding symbol will be removed when appropriate sanitary sewage, water and any other necessary arrangements are made to the satisfaction of the Town and the Ministry of Environment and a plan of subdivision is approved, where required. Existing uses shall be permitted in the interim.

Section 4.3.1 Low Density Residential Areas states:

Areas designated as Low Density Residential shall be limited to single detached, semidetached, duplex, or converted dwelling units, home occupation uses and public uses.

Notwithstanding the above policy, vacant tracts of land greater than 5 hectares in size and designated Low Density Residential may be developed for Medium or High Density Residential uses if they can meet the criteria outlined in Subsection 4.3.1(3).

(1) Maximum Density

Although the existing densities within areas designated Low Density Residential are in the order of 6 to 12 units per hectare, smart growth encourages a more cost effective development pattern to better utilize services and the land base. In a desire to promote more efficient use of the land, the maximum density for single detached developments shall be 15 units per hectare and the maximum density for semidetached development and conversions shall be 22 units per hectare. The overall maximum density shall not exceed 19 units per gross hectare.¹ In keeping with the Provincial Policy Statement regarding intensification, in the older established portions of Amherstburg, a reduced lot frontage may be considered in the Zoning By-law where sufficient lot depth is available to accommodate new low density residential units/lots.

In areas where the criteria of Subsection 4.3.1(3) have been achieved, the density policies for the Medium Density Residential designation or the High Density Residential designation shall apply.

Low Density Residential may be placed in separate zoning categories in the implementing Zoning By-Law.

Section 6.7 of the Town of Amherstburg Official Plan – Planning Impact Analysis sets out several criteria 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.

The applicants have provided a Planning Justification Report from Dillon Consulting c/o Melanie Muir, provided in the attachments to this report. Administration concurs with the opinion of the planner for the applicants that the proposed development meets the general intent and purpose of the Official Plan and is compatible with the built form of the neighbouring subdivisions and residential uses. The proposed development provides for residential intensification within an area designated for residential development. The proposed amendment to the Zoning By-law will permit additional lots on the property, otherwise it will be in keeping with the current permitted uses. 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 N/S Texas Road.

Comment	Administration's Response
Traffic – does the Traffic Impact Analysis take into account current traffic in Kingsbridge that may utilize the proposed exit onto Texas Road?	Quote from the Traffic Impact Memo authored by Dillon Consulting: 'Given the location of the future Pettypiece Drive and Texas Road intersection, the internal road network, and the locations of the homes in the Kingsbridge subdivision, it's been assumed that 15% of the existing vehicles making the southbound right-turn and eastbound left-turn movements at the Knobb Hill Drive and Texas Road intersection will be diverted to the future Pettypiece Drive and Texas Road intersection.' The summary states: 'At the Texas Road and Pettypiece Drive intersection, the future (2029) analysis has confirmed that no capacity or delay issues are anticipated during the AM and PM peak hours, nor are there any sightline issues at this location. It was also found that an eastbound left-turn lane is not warranted.'
Concerns regarding density – how many lots would be permitted under current zoning?	There are 48 lots total proposed. Under the current R1A zoning the total number of lots permitted would range from 34-37 based on lot area and frontage. Therefore, approximately 11-14 more lots are being considered through the Zoning By-law Amendment.
Concerns regarding environmental factors including species at risk.	The applicants have completed an Environmental Impact Assessment and have been provided clearance by the Ministry of Environment, Conservation and Parks (MECP). All development activities will be required to comply with the permit issues by the MECP.

Neighbours at 447 Texas Road – concerned about headlights impacting their quality of life.	The applicants have agreed to install shrubs along the front of 447 Texas to block the glare of headlights.
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The applicants will be required to complete the Draft Plan of Subdivision process. The County of Essex is the approval authority, however the Town of Amherstburg will complete a subdivision agreement with the applicants. The subdivision agreement will return to Council for review. All studies required for the Draft Plan of Subdivision process will be provided to Council at that time.

4. RISK ANALYSIS:

The recommendation presents little to no risk to the municipality.

5. FINANCIAL MATTERS:

Costs associated with the application and planning processes 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 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 2023-005 be approved by Council, given three readings and finally passed and the Mayor and Clerk be authorized to sign same



 Sarah French
 Planner

SF

DEPARTMENTS/OTHERS CONSULTED:

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Report Approval Details

Document Title:	Zoning By-law Amendment ZBA-26-22 for N-S Texas Road.docx
Attachments:	<ul style="list-style-type: none">- ZBA-26-22 Aerials.pdf- ZBA-26-22 Site pictures.pdf- ZBA-26-22 Planning Justification Report.pdf- ZBA-26-22 Stormwater Management Report.pdf- ZBA-26-22 Drainage Act Status.pdf- ZBA-26-22 Draft Plan.pdf- ZBA-26-22- Summary of Comments Recieved.pdf- ZBA-26-22 Circulation Map and List.pdf- ZBA-26-22 Draft By-law.pdf
Final Approval Date:	Jan 18, 2023

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



Melissa Osborne



Tracy Prince



Valerie Critchley



Kevin Fox