



Meeting Date: May 18, 2022

Submitted by: Marion-Frances Cabral, Planner

Report No: PLA-30-2022

Subject: Application for Zoning By-law Amendment (ZBA-05-2022) for 108 St Clair Avenue; Filed by Craig White on behalf of TTW Properties Inc.

Recommendation:

THAT Report PLA-30-2022 for the purposes of Zoning By-law Amendment application (ZBA-05-2022), filed by TTW Properties Inc., to rezone the lands from 'Institutional' to a new site-specific 'Urban Residential Third Density (UR3-x)' zone for the land known municipally as 108 St Clair Avenue, Municipality of Middlesex Centre, be RECEIVED FOR INFORMATION.

Purpose:

The purpose of this report is provide Council with information regarding a rezoning application on the subject land from 'Institutional (I)' to a new site-specific 'Urban Residential Third Density (UR3)' zone. The rezoning application is to facilitate the conversion of an existing building (former church) to a 3 unit apartment building. The site-specific standards would address the existing building and lot. The land is located on the south corner of St Clair Avenue and Delaware Street in Komoka.

A location map is included as Attachment 1.

Background:

The Zoning By-law Amendment application requests to rezone to a new site-specific 'Urban Residential Third Density (UR3-x)' zone to permit an apartment building with the following site-specific provisions that recognize the existing building on the land:

- Minimum lot frontage: 24 m (78.7 ft)
- Minimum front yard setback: 4 m (13.1 ft)
- Minimum side yard setback: 2.9 m (9.5)
- Minimum rear yard setback: 8 m (26.2 ft)

The applicant proposes to convert an existing building (former church) into an apartment building with a maximum of 3 apartment dwelling units. Each unit will have an independent access from the exterior. Unit 1 would be located on north portion of the building on the first and second floor, Unit 2 would be located on the south portion of the building on the first floor, and Unit 3 would be located on the south portion of the building on the basement floor. Unit 1 is proposed to be a 3 bedroom unit, and Units 2 and 3 are proposed to be 2 bedroom units. Some exterior modification work to the building may be required to ensure compliance with the Building Code, however, no extensions or expansions to the existing building is proposed to accommodate the dwelling units. The existing parking area and access to Delaware St will be paved and delineated. Common amenity areas are located to the rear/south end of the building and on the north end between the parking lot and entrance to Unit 1. The applicant intends to close an existing driveway from St Clair Avenue and solely use the existing access off Delaware Street.

In support of the application and associated site plan application (File SP05-2022), the applicant provided the following reports and plans which are appended to this report:

- Site and Grading Plan
- Planning Justification Report
- Functional Servicing Brief
- Stormwater Run-off Coefficient
- Rail Noise and Vibration Feasibility study (draft)
- Floor Plans

The subject land is irregularly shaped and approximately 1, 183.6 m² (12, 740.1 ft²) in area, and located on the south corner of St Clair Avenue and Delaware Street. The lands have been as a place of worship since the late 1800s. Residential uses surround the property on each side. An active railway (Canadian National Railway) is located approximately 40 m (131 ft) to the north.

Policy Regulation:

The subject land is identified as part of the Komoka-Kilworth 'Settlement Area' in Middlesex County's Official Plan and designation as 'Residential' within Middlesex Centre's Official Plan. The property is zoned 'Institutional (I)' pursuant to the Middlesex Centre Comprehensive Zoning By-law. As such, the policies and provisions below are applicable to the land.

Provincial Policy Statement, 2020:

The *Planning Act* states that all decisions made by planning authorities "shall be consistent with the policy statements issued" under subsection 3. The Provincial Policy Statement, 2020 (PPS) document is comprised of several policy statements and summary of those that are applicable to the proposed development are noted below.

Section 1.0 – Building Strong Healthy Communities establishes policies that support long-term prosperity, environmental health and social well-being within communities.

Section 1.1 of the PPS identifies that healthy communities are sustained by accommodating an appropriate range and mix of uses, avoiding development patterns that cause environmental concerns, and promoting cost-effective development patterns that optimize the use of planned and future infrastructure.

Section 1.1.2 requires municipalities to accommodate an appropriate range and mix of land uses to meet projected land needs for a time horizon of up to 25 years. Within settlement areas land is to be made available through intensification and redevelopment.

Section 1.1.3 – Settlement Areas establishes that settlement areas can vary in size, population, and diversity and intensity of land uses. The PPS directs growth and development to settlement areas where new development varies in densities and land uses, and there are opportunities for intensification, redevelopment, and the efficient use of land. New development patterns are based on the efficient use of land that minimize negative impacts to the environment, support active transportation and are appropriate for the infrastructure and public service facilities.

Sections 1.1.3.4 and 1.1.3.6 promote intensification, compact development, varying uses and densities where it avoids or mitigates risks to public health and safety and is adjacent to the existing built-up area. Section 1.1.3.5 also allows municipalities to establish a minimum target for intensification within built-up areas subject to local conditions.

Section 1.4 – Housing speaks to the provision of housing within a municipality. The PPS promotes an appropriate range and mix of housing types and densities and directs development of new housing towards areas where there is an appropriate level of infrastructure. Municipalities are to provide opportunities for all forms of housing and intensification to meet the social, health and well-being needs of the current and future community.

Middlesex County Official Plan:

The County of Middlesex Official Plan (County Plan) identifies the subject land as within the Komoka 'Settlement Area'.

Section 2.3.8 – Growth Management-Settlement Areas of the County Plan recognizes that Settlement Areas will be the focus for future growth including commercial, industrial and residential uses. These areas are intended to have the highest concentration and a wide range of land uses and full municipal servicing in conjunction with 2.4.5 of the County Plan.

Additionally, section 2.3.7 – Growth Management-Housing Policies encourages a wide variety of housing types, sizes and tenure to meet market requirements and demand for current and future residents. Municipalities are responsible to determine and encourage a range of housing types, densities and options through local official plans that meet current and future needs. This can also include intensification and redevelopment in appropriate locations.

Section 3.2 – Settlement Areas provides additional development policies for lands within Settlement Areas. The County Plan further supports that Settlement Areas are developed in a manner that is phased and compact, and preserves the historic character of Settlement Areas and complements the positive elements of the existing built-form. The County Plan defers to the municipality to provide detailed direction on a variety of areas including addressing land supply and policies for land uses within urban areas including residential and commercial.

With regard to municipal sanitary sewers and water services, Section 2.4.5 – Sanitary Sewers and Water of the County Plan promotes efficient and environmentally responsible development that can be supported by full municipal systems servicing.

Middlesex Centre Official Plan:

The Middlesex Centre Official Plan (Official Plan) shows the land located within the Komoka-Kilworth Urban Settlement Area and Secondary Plan on Schedule A-2 and designated 'Residential'.

Section 5.2 – Residential Areas states that municipalities shall encourage a wide variety of housing types, sizes and tenures to meet the demographic and market requirements for current and future residents. The Municipality should encourage alternative forms of housing and support at least a three year supply of draft approved and registered plan of subdivision lots within the Municipality.

The Municipality shall support opportunities to increase the supply of housing through intensification, while considering issues of municipal service capacity, transportation issues, and potential environmental considerations. Specifically, the Municipality shall require that 15 percent of all development occur by way of intensification. The Official Plan definition of intensification includes the conversion or expansion of existing industrial, commercial and institutional buildings for residential use.

Residential development including intensification should reflect a high quality of residential and neighbourhood design, in keeping with the design policies included in Section 6.0 of this Plan and having regard for the Municipality's Site Plan Manual and Urban Design Guidelines.

Section 5.2.3 – Policies for Multiple Dwellings in Residential Areas permits townhouses, low and medium rise apartments and other forms of multiple dwellings subject to 6 criteria including location and proximity to parks and schools, compatible densities, proximity to major roadways, avoidance of clustering, proximity to village centres, and requirement for site plan approval.

Section 5.7.1 – Komoka-Kilworth Secondary Plan Goals establish the need to find a balance between a mix of land uses that serve key functions of a complete and vibrant community. Land uses include housing with different densities, local businesses, employment, institutions and recreation.

Section 6.3 – Design Policies-Site Plans and Infill Developments provides additional direction to guide infill development to ensure there is compatibility with existing residences and neighbourhoods. High quality site design and architectural design is encouraged for new medium density residential development. Setbacks, massing, location of parking, architecture and other design elements will be carefully reviewed to ensure new development is in keeping with the character of the neighbourhood. Parking areas should be de-emphasized through appropriate placement and through well designed landscaping.

Section 9.3.1 – Settlement Area Municipal Services and Section 5.7.11 – Komoka-Kilworth Servicing Policies both require full municipal services for all land use and development proposals within the urban settlement area. Services and utilities shall be provided in an orderly and coordinated manner.

Section 9.4.4 – Policies Relating to Railway Operations directs the Municipality when considering development within proximity to active railway rights-of-way. All proposed development within 300 metres of an active railway may be required to undertake noise studies, to the satisfaction of the Municipality and appropriate agencies in consultation with the appropriate railway. Further, appropriate measures to mitigate any adverse effects from noise shall be undertaken.

All proposed development within 75 m of an active railway may also be required to undertake a vibration study to the satisfaction of the Municipality and appropriate agencies in consultation with the appropriate railway. Further, appropriate measures to mitigate any adverse effects from vibration shall be undertaken.

All proposed development adjacent to active railways shall ensure that appropriate safety measures such as setbacks, berms, and security fencing are provided, to the satisfaction of the Municipality in consultation with the appropriate railway.

Middlesex Centre Zoning By-law:

The subject land is zoned ‘Institutional (I)’ which permits a variety of institutional uses including a place of worship, schools, a retirement home, and private clubs.

The request to rezone to a new site-specific ‘Urban Residential Third Density (UR3)’ zone will permit 3 apartment dwelling units and the existing building on the lot. A summary of the requested changes to the ‘Urban Residential Third Density (UR3)’ zone are shown in the table below:

	Required	Proposed
Permitted Uses	accessory use apartment dwelling multiple unit dwelling street townhouse dwelling townhouse dwelling	apartment dwelling

	Required	Proposed
Minimum Lot Area	250.0 m ² (2, 691 ft ²) for each of the first four (4) dwelling units and 100.0 m ² (1, 076 ft ²) for each additional dwelling thereafter	1, 183.60 m ² (12, 740.1 ft ²)
Minimum Lot Frontage*	30.0 m (98 ft)	24.013 m (78.8 ft)
Minimum Lot Depth	35.0 m (115 ft)	36. 74 m (120.5 ft)
Minimum Front Yard Setback*	6.0 m (20 ft)	4.17 m (13.7 ft)
Minimum Side Yard Setback*	10.0 m (33 ft)	2.99 m (9.8 ft)
Minimum Rear Yard Setback*	8.0 m (26 ft)	5.71 m (ft)
Minimum Floor Area	40.0 m ² (431 ft ²) per bachelor dwelling unit 55.0 m ² (592 ft ²) per one bedroom dwelling unit 65.0 m ² (700 ft ²) per two bedroom dwelling unit 85.0 m ² (915 ft ²) per three bedroom dwelling unit 85.0 m ² (915 ft ²) plus 9.0 m ² (97 ft ²) per each bedroom in excess of three (3) for dwelling units containing more than three (3) bedrooms	Average of 95.07 m ² (1, 023.3 m ²) per dwelling unit <i>*individual unit size to be confirmed by applicant*</i>
Maximum Height	20.0 m (66 ft)	<i>*to be confirmed by applicant*</i>

	Required	Proposed
Minimum Outdoor Amenity Area	45.0 m ² (484 ft ²) per dwelling unit	54.3 m ² (584.5 ft ²) per dwelling unit
Maximum Density	30 units per hectare	25 units per hectare
Maximum Lot Coverage	Main building – 35% All buildings including accessory buildings subject to Section 4.1 a) – 38%	Main building - 24.1%
Parking Spaces	Minimum parking space requirement: 1.5 spaces per apartment dwelling	6 parking spaces
Parking Regulation – Yard Where Permitted	In any Residential Zone, a driveway shall not exceed fifteen percent (15%) of the total area of the lot. Except as otherwise provided herein, uncovered surface parking areas and driveways shall be permitted in any part of any yard, provided that any part of a parking area located within a required yard shall be separated from any lot lines adjacent to such required yard by a planting strip not less than 1.0 metre (3.3 ft) in width.	1.5 m (4.92 ft) between parking area and lot line.

Consultation:

Notice of the revised application was posted and circulated to agencies and property owners in accordance with the *Planning Act* and Ontario Regulation 545/06.

Public Comments:

At the time of writing the subject report planning staff did not receive comments from the public regarding the proposed rezoning application.

Agency Comments:

The Municipality's Chief Building Official did not provide comments at the time of writing this report. However, additional comments will be provided related to the rezoning and during review of the site plan application.

The Municipality's Public Works and Engineering Department did not provide comments at the time of writing this report. However, additional comments will be provided related to the rezoning and during review of the site plan application.

Canadian National Railway reviewed the application and confirm that the subject land is within proximity to the CN Railway corridor. CN has concerns of developing/densifying residential uses in proximity to the CNR right-of-way. This is due to noise, vibration and potential trespass issues that will result. Development of sensitive uses in proximity to railway operations cultivates an environment in which land use incompatibility issues are exacerbated.

CNR refers to their Guidelines (www.proximityissues.ca) for the development of sensitive uses in proximity to railways. CN's Guidelines reinforce the safety and well-being of any existing and future occupants of the area. CN urges the Municipality pursue the implementation of the criterion as conditions of an eventual project approval. These policies have been developed by the Railway Association of Canada and Federation of Canadian Municipalities.

- The Owner shall engage a consultant to undertake an analysis of noise. At a minimum, a noise attenuation barrier shall be adjoining and parallel to the railway rights-of-way, having returns at the ends, and a minimum total height of 5.5 metres above top-of-rail. Acoustic fence to be constructed without openings and of a durable material weighing not less than 20 kg. per square metre of surface area. Subject to the review of the noise report, the Railway may consider other measures recommended by an approved Noise Consultant.
- Ground-borne vibration transmission to be evaluated in a report through site testing to determine if dwellings within 75 metres of the railway rights-of-way will be impacted by vibration conditions in excess of 0.14 mm/sec RMS between 4 Hz and 200 Hz. The monitoring system should be capable of measuring frequencies between 4 Hz and 200 Hz, ± 3 dB with an RMS averaging time constant of 1 second. If in excess, isolation measures will be required to ensure living areas do not exceed 0.14 mm/sec RMS on and above the first floor of the dwelling.
- The following clause should be inserted in all development agreements, offers to purchase, and agreements of Purchase and Sale or Lease of each dwelling unit within 300m of the railway right-of-way: "Warning: Canadian National Railway Company or its assigns or successors in interest has or have a rights-of-way within 300 metres from the land the subject hereof. There may be alterations to or expansions of the railway facilities on such rights-of-way in the future including the possibility that the railway or its assigns or successors as aforesaid may expand

its operations, which expansion may affect the living environment of the residents in the vicinity, notwithstanding the inclusion of any noise and vibration attenuating measures in the design of the development and individual dwelling(s). CNR will not be responsible for any complaints or claims arising from use of such facilities and/or operations on, over or under the aforesaid rights-of-way.”

- The Owner shall through restrictive covenants to be registered on title and all agreements of purchase and sale or lease provide notice to the public that the safety berm, fencing and vibration isolation measures implemented are not to be tampered with or altered and further that the Owner shall have sole responsibility for and shall maintain these measures to the satisfaction of CN.
- Any proposed alterations to the existing drainage pattern affecting railway property must receive prior concurrence from the Railway and be substantiated by a drainage report to the satisfaction of the Railway.
- The Owner shall enter into an Agreement with CN stipulating how CN's concerns will be resolved and will pay CN's reasonable costs in preparing and negotiating the agreement.
- The Owner shall be required to grant CN an environmental easement for operational noise and vibration emissions, registered against the subject property in favour of CN.

CNR anticipates to review a noise and vibration report and stormwater management report for the subject site. Staff provided CNR with the requested drawings and await further comments.

Financial Implications:

None.

Strategic Plan:

This matter aligns with following strategic priorities:

- Balanced Growth

Attachments:

Attachment 1 – Location Map

Attachment 2 – Site and Grading Plan

Attachment 3 – Planning Justification Report

Attachment 4 – Functional Servicing Brief

Attachment 5 – Stormwater Run-off Coefficient

Attachment 6 – Rail Noise and Vibration Feasibility study (draft)

Attachment 7 – Floor Plans