



April 11, 2023

James Hutson
Municipal Clerk
Municipality of Middlesex Centre
10227 Ilderton Road
Ilderton, ON, N0M 2A0
(by email at planning@middlesexcentre.ca)

RE: Comprehensive Zoning By-law Update (ZBA-04-2023)
Plan of Subdivision File 39T-MC0902 – South Winds Development Co. Inc.
Part of Lots 7 & 8, Concession 1, Municipality of Middlesex Centre

Dear Mr. Hutson:

In 2022, the Municipality of Middlesex Centre reviewed and updated the Middlesex Centre Official Plan. On May 18, 2022, Council adopted Official Plan Amendment No. 59 (OPA 59) and forwarded the Official Plan Amendment to the County of Middlesex for approval. The Municipality is now undertaking an update to its Comprehensive Zoning By-law to implement the Official Plan and address other housekeeping matters.

South Winds Development Co. Inc. owns a site legally described as Part of Lots 7 and 8, Concession 1 in the Municipality of Middlesex Centre. Our site is currently zoned Urban Residential 1 (UR -1), Urban Residential 1 (Holding (h) -1), Urban Residential 2-2 (h-1), Open Space (OS), and Parks and Recreation (PR). The UR2-2 Zone is a previous site-specific amendment that applies to a portion of the subject site and permits “Townhouse Dwellings” and “Street Townhouse Dwellings” in addition to single and semi-detached dwellings. Our proposed development consists of single-detached dwellings, semi-detached dwellings, and various types of townhouses including street townhouses fronting public streets and townhouses in private condominium blocks.

This proposal is subject to a major redline amendment application to a draft approved plan of subdivision (39T-MC0902) and a Zoning By-law Amendment application (ZBA 26-2018). The Zoning By-law Amendment application is currently under appeal to the Ontario Land Tribunal and an appeal of the draft plan of subdivision conditions is also before the Ontario Land Tribunal.

South Winds has been advised by its planning consultant that the draft Comprehensive Zoning By-law has significant implications for the development proposed for the South Winds site. In short, the draft Comprehensive Zoning By-law proposes to add a new use “Townhouse Dwelling, Cluster” without permitting this uses in the UR2-2 zone. This, in turn, means that South Winds’ proposed development would not be permitted as planned.

As such, South Winds requests that the draft Comprehensive Zoning By-law be revised to either (1) remove the definition of “Townhouse Dwelling, Cluster” from the By-law, or (2) permit “Townhouse Dwelling, Cluster” in the UR2-2 zone.

South Winds also requests certain revisions relating to Home Occupation and Additional Residential Units.

The basis for this submission is set out in detail below.

Draft Comprehensive Zoning By-law Definitions

The draft Comprehensive Zoning By-law proposes to add definitions for various types of townhouse dwellings, which may impact the proposed development approval process and concepts previously prepared.

The following definitions are proposed to be added and/or revised in the draft Comprehensive Zoning By-law:

- “Townhouse Dwelling, Cluster” means a townhouse dwelling situated on a lot in such a way that at least 1 dwelling unit does not have frontage on a public street.
- “Townhouse Dwelling, Street” means a townhouse dwelling with each dwelling unit having frontage on a public street.
- “Townhouse Dwelling, Back-to-Back” means the use of a building divided vertically into three or more dwelling units by common walls, including a common rear wall, which prevents internal access between dwelling units.
- “Townhouse Dwelling, Stacked” means a building consisting of at least six dwelling units, where individual dwelling units are separated both vertically and horizontally from other attached dwelling units.

“Townhouse Dwelling” is currently defined very broadly to permit different types of townhouses with only minor revisions proposed as follows:

- “Townhouse Dwelling” means a dwelling divided vertically by a common vertical wall into three or more dwelling units, each of which has independent entrances to the front and rear yards or front and side yards.

We also note that in the UR3 Zone of the draft Comprehensive Zoning By-law, “Townhouse Dwelling” is proposed to be removed as a permitted use, while “Cluster Townhouse Dwelling” is proposed to be added. However, this revision was not proposed to the UR2-2 Zone.

These changes, taken together, suggest that the new “Cluster Townhouse Dwelling” definition will now be the use definition for a traditional condominium townhouse dwelling unit.

Use Definition Concerns

Should the Comprehensive Zoning By-law be approved as drafted, if a proposed townhouse fits the definition of a newly defined type of townhouse, it will have to be specifically permitted under that particular zone category, in order to implement that type of townhouse as part of the development. Our concern is that the wording of the “Townhouse Dwelling, Cluster” as proposed, would likely be applied to the condominium townhouses that South Winds is proposing. The result of these changes is that the “Townhouse Dwellings” permitted in the UR2-2 Zone becomes obsolete, and that the form of townhouse that South Winds is proposing to development on the lands zoned UR2-2 will not be permitted.

It is not clear why this new definition of “Townhouse Dwelling, Cluster” is necessary. If the definition was removed, the “Townhouse Dwelling, Street” definition would be applicable to units that front onto a street, and then the “Townhouse Dwelling” definition would be applicable to townhouses that do not front onto a public street (i.e., condominium townhouses, which we are proposing).

We note that in Middlesex Centre, a common element driveway is not considered a public street unless it is part of a vacant land condominium. It is not anticipated that South Winds would develop under a vacant land condominium, as attached dwelling units are challenging to develop in vacant land condominium scenarios. Therefore, it cannot be assumed that the Street Townhouse Dwelling definition would apply to townhouse units on a private condominium driveway.

Home Occupations and Additional Residential Units

UR2 Zone

The UR2 Zone category permits a number of lower density residential dwelling types, and also includes “Home Occupations” and proposes to add “Additional Residential Units”. The definition of “Home Occupation” is proposed to remain the same. That definition reads:

Home Occupation means an occupation secondary to a residential use, conducted for profit or gain and located entirely within the dwelling unit, by a resident of the dwelling plus not more than one (1) assistant, at any given time, who may not be a resident of the said dwelling unit, but does not include or permit the following: a clinic, a retail store, a service shop, a restaurant, a bed and breakfast establishment, a funeral home, a dance school, a workshop, a storage yard, a parking area or site for any of the building or construction trades.

A new definition would be added for “Additional Residential Units”, which would mean “a dwelling unit that is self-contained, subordinate to and located within the same building or on the same lot of a primary dwelling unit.” However, these two uses are not currently permitted under our site-specific by-law (UR2-2).

UR2-2 Zone

In our site-specific exception, the UR2-2 Zone permits only “Street Townhouse Dwellings, Townhouse Dwellings, Semi-Detached Dwellings and Single Detached Dwellings.” Section 3.5 Exceptions for Defined Areas explains that if the exceptions establish one (1) or more specifically permitted uses, such permitted use or uses shall be the only permitted uses. This section goes on to explain that new uses must be added “in addition to”, in order to also facilitate the uses already permitted in the parent by-law. For this reason, “Home Occupations” and “Additional Residential Units” are not permitted in the UR2-2 Zone, even though they will be permitted in the UR2 Zone.

In our case, since the site-specific by-law does not state these permitted uses are in addition to existing permitted uses, only these four aforementioned uses are permitted within the UR2-2 Zone.

Conclusion

The core of the issue is that by introducing the definition "Townhouse Dwelling, Cluster" to the draft Comprehensive Zoning By-law, without having permission for this use in the UR2-2 Zone, we will not be able to develop our site as planned. A "Cluster Townhouse Dwelling" is not currently proposed to be a permitted use in the UR2-2 Zone and the definition of this use matches what we are proposing. Furthermore, it is not clear what the "Townhouse Dwelling" definition will now permit in the UR2-2 Zone.

We would also appreciate the permission of "Home Occupation" and "Additional Residential Units" in the UR2-2 Zone, similar to the UR2 Zone, as currently proposed. The suggested path forward could be as follows:

- Remove the "Cluster Townhouse Dwelling" definition from the draft Comprehensive Zoning By-law, as it is not clear how it differs from a "Townhouse Dwelling" that is not on a public street; or
- Add "Cluster Townhouse Dwelling" to the permitted uses in the UR2-2 Zone, to address the previously approved permission of condominium townhouses, not on a public street. The performance standards could be the same as the townhouse dwelling standards; or
- Amending the UR2-2 Zone to allow condominium townhouses. This approach would require a new definition, while this can be done it maybe a bit more challenging to implement (i.e., the need to differ between Condominium Townhouse Dwellings and the Cluster Townhouse Dwellings); and
- Add "Home Occupation" and "Additional Residential Units" as permitted uses in the UR2-2 Zone.

Thank you for the opportunity to comment and we welcome the opportunity to discuss further.

Sincerely,

A handwritten signature in black ink, appearing to be 'Stacey Graham', written over a white rectangular box.

Stacey Graham, President
South Winds Development Co. Inc.