



Meeting Date: May 17, 2023

Submitted by: Marion-Frances Cabral, Planner

Report No: PLA-33-2023

Subject: Application for Zoning By-law Amendment (ZBA-05-2023) for V/L Queen Street; Filed by Dentons Canada LLP behalf of Canadian National Railway Company

Recommendation:

THAT Zoning By-law Amendment application (ZBA-05-2023), filed by Dentons Canada LLP on behalf of Canadian National Railway Company, to rezone the lands from 'Existing Use (EU)' to 'Existing Use exception 3 (EU-3)' for the land known legally as Concession 2, Part of Lot 6 (geographic Township of Lobo), Municipality of Middlesex Centre, be APPROVED;

AND THAT the implementing By-law be forwarded to Council for consideration once a deposited reference plan has been provided to the satisfaction of the Municipality.

Purpose:

The purpose of this report is provide Council with a recommendation regarding a rezoning application on the subject lands from 'Existing Use (EU)' to a new site-specific 'Existing Use exception 3 (EU-3)' zone.

The rezoning application is to fulfill a condition of consent (File: B-20/2021) which severed the subject lands. The site-specific zone would pertain to the severed land and recognize a new minimum lot frontage and minimum lot area. No new uses or development is proposed.

Background:

The subject land are located on the northeast side of Queen Street, between Railway Avenue and Huron Avenue. The subject land abuts the CN Railway corridor to the north, and existing residential lands in the format of single detached dwellings to the southeast, south, southwest, and northwest. The lands are currently vacant and have been deemed surplus as part of the CN Rail corridor in Komoka.

A location map is included as Attachment 1.

The Zoning By-law Amendment application requests to rezone to a new site-specific 'Existing Use exception 3 (EU-3)' zone for the subject land. Specifically the provisions are as follows:

- Minimum lot frontage: 100 m (328.1 ft)
- Minimum lot area: 1.40 ha (3.5 ac)

The rezoning would not introduce new permitted uses and the subject land would continue to be vacant.

Policy Regulation:

The subject lands are identified within the Komoka Urban Settlement Area of the County of Middlesex Official Plan, designated 'Settlement Employment' within the Komoka-Kilworth Urban Settlement Area in Middlesex Centre's Official Plan, and zoned 'Existing Use (EU)' within 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 1.1.3 – Settlement Areas state that settlement areas shall be the focus for growth and development. Land use patterns within settlement areas shall be based on densities and a mix of land uses which (a) efficient use land 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) minimum 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.

Section 1.2.6 – Land Use Compatibility states that major facilities, including resource extraction activities, and sensitive land uses shall be planned and developed to avoid, or if avoidance is not possible, minimize and mitigate any potential adverse effects from odour, noise and other contaminants, minimize risk to public health and safety, and to ensure the long-term operations and economic viability of major facilities in accordance with provincial guidelines, standards and procedures.

Where avoidance is not possible in accordance with policy subsection 1.2.6.1 described above, municipalities shall protect the long-term viability of existing or planned industrial, manufacturing or other uses that are vulnerable to encroachment by ensuring that the planning and development of proposed adjacent sensitive land uses are only permitted if the following are demonstrated in accordance with provincial guidelines, standards and procedures: (a) there is an identified need for the proposed use; (b) alternative locations

for the proposed use have been evaluated and there are no reasonable alternative locations; (c) adverse effects to the proposed sensitive land use are minimized and mitigated; and (d) potential impacts to industrial, manufacturing or other uses are minimized and mitigated.

Section 1.3 – Employment states that municipalities shall promote economic development and competitiveness by: a) providing for an appropriate mix and range of employment, institutional, and broader mixed uses to meet long-term needs; b) providing opportunities for a diversified economic base, including maintaining a range and choice of suitable sites for employment uses which support a wide range of economic activities and ancillary uses, and take into account the needs of existing and future businesses; c) facilitating the conditions for economic investment by identifying strategic sites for investment, monitoring the availability and suitability of employment sites, including market-ready sites, and seeking to address potential barriers to investment; d) encouraging compact, mixed-use development that incorporates compatible employment uses to support liveable and resilient communities, with consideration of housing policy 1.4; and, e) ensuring the necessary infrastructure is provided to support current and projected needs.

Municipalities may permit conversion of lands within employment areas to non-employment uses through a comprehensive review, only where it has been demonstrated that the land is not required for employment purposes over the long term and that there is a need for the conversion.

Middlesex County Official Plan:

The County Official Plan identifies the lands within the Komoka settlement area. As such, the following policies apply:

Section 3.2 – Settlement Areas of the County Plan identifies urban areas such as Komoka are to direct a significant portion of the County's future growth in order to protect Agricultural Areas and Natural Systems, and promote deficient use of water and sewage services. Every effort shall be made to preserve the historic character of Settlement Areas by requiring new development to complement the positive elements of the existing built-form.

Local official plans are directed to provide detailed land use policies that permit a variety of uses in urban areas including: a) a variety of housing types; b) commercial uses; c) industrial uses; d) community facilities; e) natural system elements; f) recreation and open space, including active and passive recreation activities; and g) other specific land use designations necessary to reflect the unique needs and character of each Urban Area.

Section 2.4.2 – Transportation Network details policies of a network of roads, highways and railways within the County. The County shall ensure where possible, compatible land uses adjacent to railway corridors. New development may be required to provide appropriate safety measures such as setbacks, intervening berms, security fencing and noise and vibration studies satisfactory to the local municipality and in consultation with the railway company.

Middlesex Centre Official Plan:

The subject lands are located within the Komoka-Kilworth Urban Settlement Area and Secondary Plan on Schedule A-2 of the Official Plan. The lands are designated 'Settlement Employment' in the Official Plan.

Section 5.1.1 – Urban Settlement Areas identifies Komoka-Kilworth as one of the Urban Settlement Areas in the municipality. Urban Settlement Areas provide or have the potential to provide full municipal services and are expected to have the highest concentration and intensity of land uses. These are will be the focus for future growth by accommodate a significant portion of expected growth over the Official Plan's planning period.

Section 5.7 – Komoka-Kilworth Secondary Plan also establishes policies for the area to accommodate urban growth in Middlesex Centre. Section 5.7.2 – Land Use Plan contains policies for future land use and development proposals to establish a balanced mix of land uses to create a complete and vibrant community. Policies also speak to transportation and connectivity, public spaces, sparks and open spaces, and integration of sustainability measures.

The policies in Section 5.5 – Settlement Employment Areas encourage the development of industrial and business uses within settlement areas on full municipal services where possible, and development is subject to the municipality's site plan manual and urban design guidelines. Within urban settlement areas industrial land uses shall have access to public roads of reasonable construction and year round maintenance. Industrial uses shall be adequately buffered where adjacent to residential uses or other sensitive land uses.

New industrial operations that product significant amounts of noise, dust, odours, particulate emissions or heavy truck movements shall not be permitted to locate in proximity to existing residential areas or in locations within settlement areas that would negatively affect the quality of life or character of the settlement area. These types of uses are encouraged to be located within existing 'Rural Industrial' designations outside of settlement areas.

Section 5.7.6 – Komoka-Kilworth Settlement Employment Areas Policies are also applied to the subject lands are they are designated 'Settlement Employment' within the Komoka-Kilworth secondary plan. Additional policies within this section pertain to increasing connectivity to surrounding land uses to encourage active transportation, and for appropriate building orientation and screening of parking, storage and loading areas.

In addition to the 'Employment Area' policies of Sections 5.5 and 5.7.6, Section 5.6 – Protection of Employment Lands identifies that Municipal Council will support the protection of designated 'Settlement Employment – Strategic Employment Areas' in the Municipality, including lands that are designated for clusters of business and economic activities. Proposals to permit the conversion of lands within the 'Settlement Employment – Strategic Employment Areas' to non-employment uses may only be permitted through

a Comprehensive Review, only where it has been demonstrated that the land is not requirement for employment purposes over the long term and, there is a need for conversion.

Subsection 9.4.4 – Policies Relating to Railway Operations may require a noise study for all proposed development within 300 m of an active railway, and may require a vibration study for all proposed development within 75 m of an active railway. All proposed development adjacent to active railways shall ensure that appropriate safety measures such as setbacks, berms and security fencing are provided.

Middlesex Centre Zoning By-law:

The subject land is zoned 'Existing Use (EU)' which permits any uses existing as of the date of passing of the Zoning By-law. Further, the minimum lot area and lot frontage, the minimum front, side and rear yards, the maximum lot coverage, and the maximum building height shall remain as they lawfully existed as of the date of the passing of this By-law.

The amendment seeks to rezone the lands from 'Existing Use (EU)' to a new site-specific 'Existing Use exception 3 (EU-3)' zone as a result of the consent application. The site-specific zone would only address the Minimum Lot Area and Minimum Lot Frontage. No other changes to the zone or permitted uses are proposed at this time.

Minimum lot frontage: 100 m (328.1 ft)

Minimum lot area: 1.40 ha (3.5 ac)

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 the public meeting staff did not receive comments from area residents.

Agency Comments:

The Municipality's Chief Building Official did not provide comments related to the zoning by-law amendment application.

The Municipality's Public Works and Engineering Department did not provide comments related to the zoning by-law amendment application.

The Upper Thames River Conservation Authority has no objections or requirements for this application.

Analysis:

To consider the appropriateness of the requested zoning by-law amendment it must conform to the Official Plan and maintain the intent of its policies.

Staff consider the requested amendment appropriate for the lands as the requested rezoning does not amend or change the use of the land, and is being completed to fulfill a condition of consent to establish the minimum lot standards. Further, the Official Plan does not provide direction for vacant lands for future development. Any future development will require an amendment to the Zoning By-law and conform to the applicable policies in the Official Plan and County Official Plan. At such time, a more comprehensive evaluation of the proposed land use and compatibility will be considered.

Given the above, staff recommend to approve the Zoning By-law Amendment to rezone the lands from 'Existing Use (EU)' to 'Existing Use exception 3 (EU-3)' to recognize the minimum lot area and minimum lot frontage. Planning staff determined that the amended Zoning By-law Amendment is consistent with the Provincial Policy Statement, 2020, the County of Middlesex Official Plan, Middlesex Centre's Official Plan, and Middlesex Centre's Zoning By-law.

This opinion is provided prior to a public meeting. Should new information arise regarding this proposal, Council is advised to take such information into account when considering the application.

Financial Implications:

None.

Strategic Plan:

This matter aligns with following strategic priorities:

- Balanced Growth

Attachments:

Attachment 1 – Location Map