

March 12, 2024

Municipality of Middlesex Centre
10227 Ilderton Road
Ilderton, ON N0M 2A0

**Re: Application for Minor Variance – Block 56, Plan 33M-386 (Timberwalk Trail)
Preliminary Planning Review**

A. Introduction

I (Michael Barton) am a Registered Professional Planner (RPP) and full member of the Ontario Professional Planners Institute (OPPI). I am the President and Founder of MB1 Development Consulting Inc. (“MB1”) and a highly qualified land use planning and real estate development professional with extensive and diverse experience in all aspects of commercial and residential real estate development. I have practiced land use planning for over 20 years in communities across Ontario and Canada. I have been qualified as an expert in land use planning by the Ontario Land Tribunal (formerly Local Planning Appeal Tribunal (LPAT) and Ontario Municipal Board (OMB)), as well as the Toronto Local Appeal Body (TLAB).

I have been retained to prepare this Preliminary Planning Review with respect to the minor variance application submitted to the Municipality of Middlesex Centre to facilitate the proposed townhouse development on Block 56 of Plan 33M-386 for Timberwalk Trail in Ilderton (the “Subject Property”). This document has been prepared to analyze the land use planning rationale for the development proposal and requested minor variances with consideration for the following:

- The existing context based on current uses and built form on the Subject Property, adjacent properties and surrounding neighbourhood;
- The broader planned context set out by the applicable Provincial and municipal planning policies; and
- The minor variance tests set out in the Planning Act.

B. Executive Summary

- The Subject Property is located south of Arrowwood Path and west of Timberwalk Trail on Block 56 on Registered Plan 33M-386. The Subject Property is currently vacant land that has been prepared for future development.
- The Subject Property is located within an existing and planned residential community that includes the existing and planned single detached dwelling zoned “UR1-25 - Urban Residential First Density” and “OS - Open Space”. The UR1-25 zone permits only single detached dwellings, accessory uses and

home occupations on lots with minimum area of 450 m², which is consistent with the existing lots and dwellings constructed in the surrounding neighbourhood.

- The Subject Property is located at the periphery of the Ilderton Urban Settlement Area and designated “Residential” under the current Middlesex Centre Official Plan. This designation encourages a wide variety of housing types, sizes and tenures while seeking land use and built form at densities that are generally compatible with adjacent densities within existing residential areas. This includes locating multiple dwellings adjacent to or in close proximity to Village Centres where possible.
- The Subject Property is zoned “UR3-12 - Urban Residential Third Density exception 12”. Exception 12 limits permitted uses to single detached dwellings, semi-detached dwellings, townhouse dwellings and accessory uses. The effect of this exception is also to modify the underlying UR3 zoning to permit the following:
 - Lots as small as 170 m² in area and 6 metres in frontage where all uses are required to have a minimum lot area of 250 m² and lot frontage of 30 metres through the underlying UR3 zoning;
 - Reduction of the minimum lot depth from 35 metres to 26 metres;
 - Reduction in the minimum front yard setback to the dwelling from 6 metres to 2.5 metres;
 - Reduction to the minimum interior side yard setback from 3 metres to 1.2 metres; and
 - Reduction to the minimum rear yard setback from 8 metres to 6 metres.
- The proposal involves construction of 50 two-storey townhouse units in 10 blocks on a private road connecting to Timberwalk Trail. An application for the following minor variances to the to the applicable zoning regulations has been submitted to facilitate the development:
 1. To permit a minimum lot area of 160 m² for a townhouse dwelling while 170 m² is required through exception 12 to the underlying UR3 zone (which requires 250 m²);
 2. To permit a minimum lot depth of 24 metres while 26 metres is required through exception 12 to the underlying UR3 zone (which requires 35 metres);
 3. To permit a minimum front yard setback to the garage of 5.5 metres while 6 metres is required;
 4. To permit a minimum exterior side yard setback of 3 metres while 6 metres is required;
 5. To permit a minimum rear yard setback of 4.5 metres while 6.0 metres is required through exception 12 to the underlying UR3 zone (which requires 8 metres);
 6. To permit maximum density of 37 units per hectare while a maximum of 30 units per hectare is permitted; and
 7. To permit minimum outdoor amenity space of 35 m² while 45 m² is required.
- The purpose and effect of this minor variance application is to allow for further modifications to the requirements of the UR3 performance standards than already provided for under exception 12 to

accommodate additional reductions in lot area and depth, front, side and rear yard setbacks and outdoor amenity space in conjunction with an increase in the number of permitted units.

- It is my opinion that the requested minor variances, individually and cumulatively, will not maintain the general intent and purpose of the Middlesex Centre Official Plan. The Subject Property is a block within an existing plan of subdivision that is surrounded by single detached dwellings on individual lots. This property is located at the periphery of the Ilderton Urban Settlement Area and not adjacent to or in proximity to the Village Centre. The Municipality has adopted zoning permissions and performance standards intended to implement the Official Plan objectives and policies, including reductions to minimum lot areas, lot depths, building setbacks relative to the underlying UR3 zoning, which allow for land use and built form that is considerably more dense than the surrounding existing and planned residential area. The applicant has not demonstrated that additional density and intensification is required to achieve the intent and purpose of the Official Plan as it relates to the Subject Property.
- It is my opinion that the intent and purpose of the Zoning By-Law is to establish use permissions and performance standards that facilitate intensified and efficient land use that is also compatible with neighbouring properties and the adjacent lower density zones. This intent is illustrated not only through the UR3 zoning applied to the Subject Property, which allows a greater variety and density of residential built form than the surrounding UR1 zone, but also the adoption of exception 12, which provides for further reductions in required lot area, frontage, depth and side and rear setbacks. The Municipality has made a concerted effort to apply zoning permissions and performance standards to the Subject Property that allow for intensification and a greater variety of dwelling units than in the surrounding residential areas. The requested minor variances seek further reduction to accommodate a greater number of units at the expense of compatibility with and consideration for the neighbouring built form character and density. On this basis, it is my opinion that the requested minor variances, individually and cumulatively, will not maintain the general intent and purpose of the Zoning By-Law.
- It is my opinion that the requested minor variances are not minor as they will result in significant changes to the density and built form character permitted as-of-right under the prevailing zoning. The Municipality has adopted zoning performance standards that are intended to facilitate compatible and efficient land use and intensified built form relative to the surrounding residential areas, including through the adoption of exception 12 to the UR3 parent zoning. The requested minor variances will cumulatively allow for greater density than intended under the Zoning By-Law without any demonstrated enhancement of the use of the Subject Property relative to the objectives and policies of the Official Plan.
- The minor variances are requested for the purpose of increasing the number of dwelling units that can be constructed on the Subject Property with no clear enhancement of land use and built form relative to the objectives and policies of the Official Plan and the character of the surrounding residential areas. It is not desirable to allow further modifications to zoning performance standards that already facilitate more intense land use and built form than the adjacent residential area and

include exceptions to the underlying zoning. The Municipality has already determined the additional intensity and density that is appropriate for this area and implemented this intent through the UR3 zoning and exception 12. The proposal seeks only to achieve only a greater number of units with no identified benefit other neighbourhood or broader community relative to the current zoning performance standards and within the context of the Official Plan policies and objectives.

- The requested variances seek more intensified and dense land use than currently permitted in an area surrounded by single detached dwellings on much larger lots and located at the periphery of the Urban Settlement Area, as opposed to adjacent to or in proximity to the Village Centre. The proposal and requested variances seek only to achieve greater density on the Subject Property without consideration for compatibility with the lot and built form characteristics of the adjacent residential lands.
- The applicant has not demonstrated that they cannot reasonably meet the requirements of the Zoning By-Law and that the minor variances are required to achieve development of the Subject Property in a manner that more effectively implements the policies and objectives of the Official Plan and the intent of the current performance standards adopted through the UR3 zoning and exception 12. The Municipality has provided reasonable opportunity to develop the Subject Property for higher density than the surrounding residential area through adoption of the UR3 zoning and exception 12. The burden of demonstrating that it is not reasonable to develop within these performance standards lies with the applicant.

C. Background and Overview

C.1 Site Location and Existing Conditions

The Subject Property is located south of Arrowwood Path and west of Timberwalk Trail, as identified on **Figure 1**. The property is known municipally as Block 56 on Registered Plan 33M-386 and is part of the Timberwalk development. The Subject Property limits and existing conditions are illustrated on **Figure 2**. The Subject Property is currently vacant land that has been prepared for future development. The property is accessed from Timberwalk Trail to the east as illustrated in the street view included in **Figure 3**.

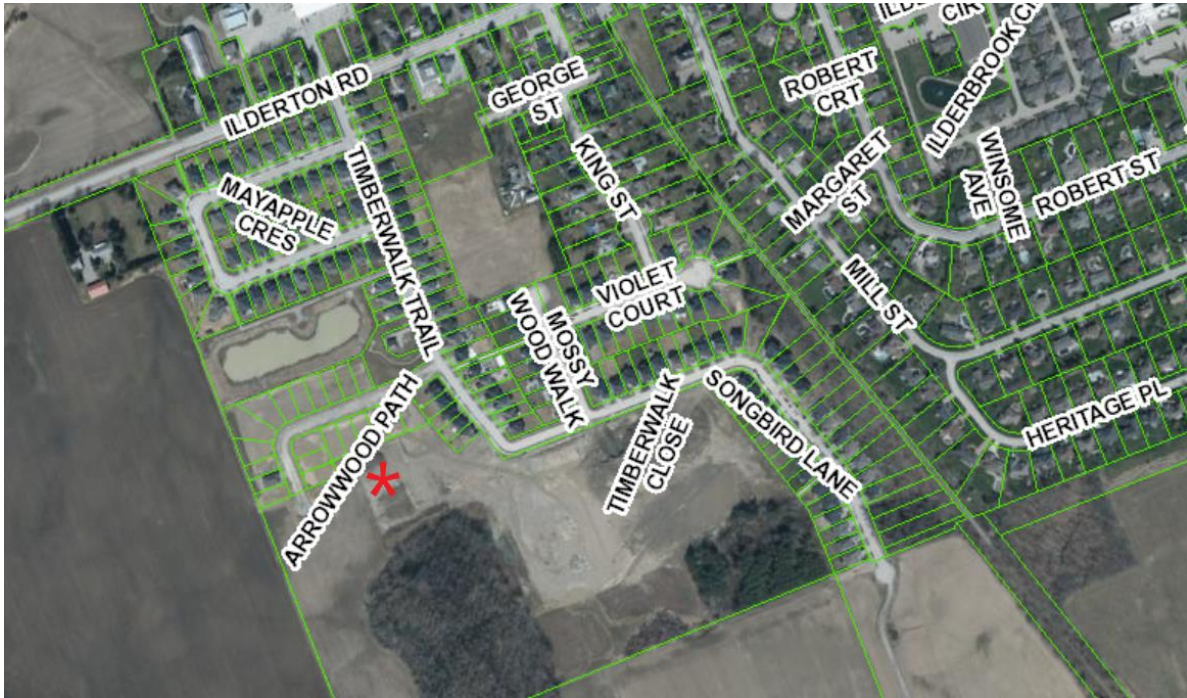


Figure 1 – Location of Subject Property



Figure 2 – Limits and Existing Conditions on Subject Property



Figure 3 – Street View of Subject Property from Timberwalk Trail

C.2 Surrounding Land Use and Built Form (Existing Context)

The Subject Property is located within an existing and planned residential community that includes the existing surrounding uses:

- To the west: existing and planned single detached dwellings on Arrowwood Path zoned “UR1-25 - Urban Residential First Density”;
- To the east: existing single detached dwellings on the east side of Timberwalk Trail zoned “UR1-25 - Urban Residential First Density”;
- To the south: heavily treed open space zoned “OS - Open Space”; and
- To the north: existing single detached dwellings on Arrowwood Path zoned “UR1 - 25 Urban Residential First Density”.

The UR1-25 zone permits only single detached dwellings, accessory uses and home occupations on lots with minimum area of 450 m². This zoning is consistent with the existing lots and dwellings constructed in the surrounding neighbourhood.

C.3 Existing Land Use Planning Framework (Planned Context)

C.3.1 Official Plan of the Municipality of Middlesex Centre

Section 1.5 of the Middlesex Centre Official Plan directs that the Plan is required to conform to the County of Middlesex Official Plan. The County Plan establishes broad policies involving County responsibilities and Provincial interests while the local Official Plan is intended to address local issues, unique characteristics, and special objectives and goals of Middlesex Centre. The Subject Property is designated “Residential” on Schedule A-1 (Ilderton Urban Settlement Area) of the current Middlesex Centre Official Plan (excerpt included in **Figure 4**).

Section 5.0 includes the Settlement Area Policies and Land Use Regulations, including the Ilderton Urban Settlement Area. The General Residential Policy articulated in section 5.2.1 includes the following:

- a) The Municipality will provide and encourage a wide variety of housing types, sizes and tenures to meet demographic and market requirements for the Municipality’s current and future residents.
- e) 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.
- f) 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.

As noted in Section 5.2.2, the permitted uses in Residential Areas include single detached, semi-detached, townhouses, duplex/triplex/fourplex dwellings, and low/medium rise apartments. Section 5.2.3 provides policies specifically for multiple dwellings, which include fourplexes, townhouses and low/medium rise apartments. The following policies are included:

- a) Locations should be proximate to adequate open space or park areas, schools, or Village Centre areas where possible.
- b) Densities proposed should be generally compatible with adjacent densities when proposed adjacent to or within existing residential areas.

d) The excessive clustering of multiple dwellings shall be avoided, and a general integration and distribution of such uses at appropriate locations within neighbourhoods or settlements is encouraged.

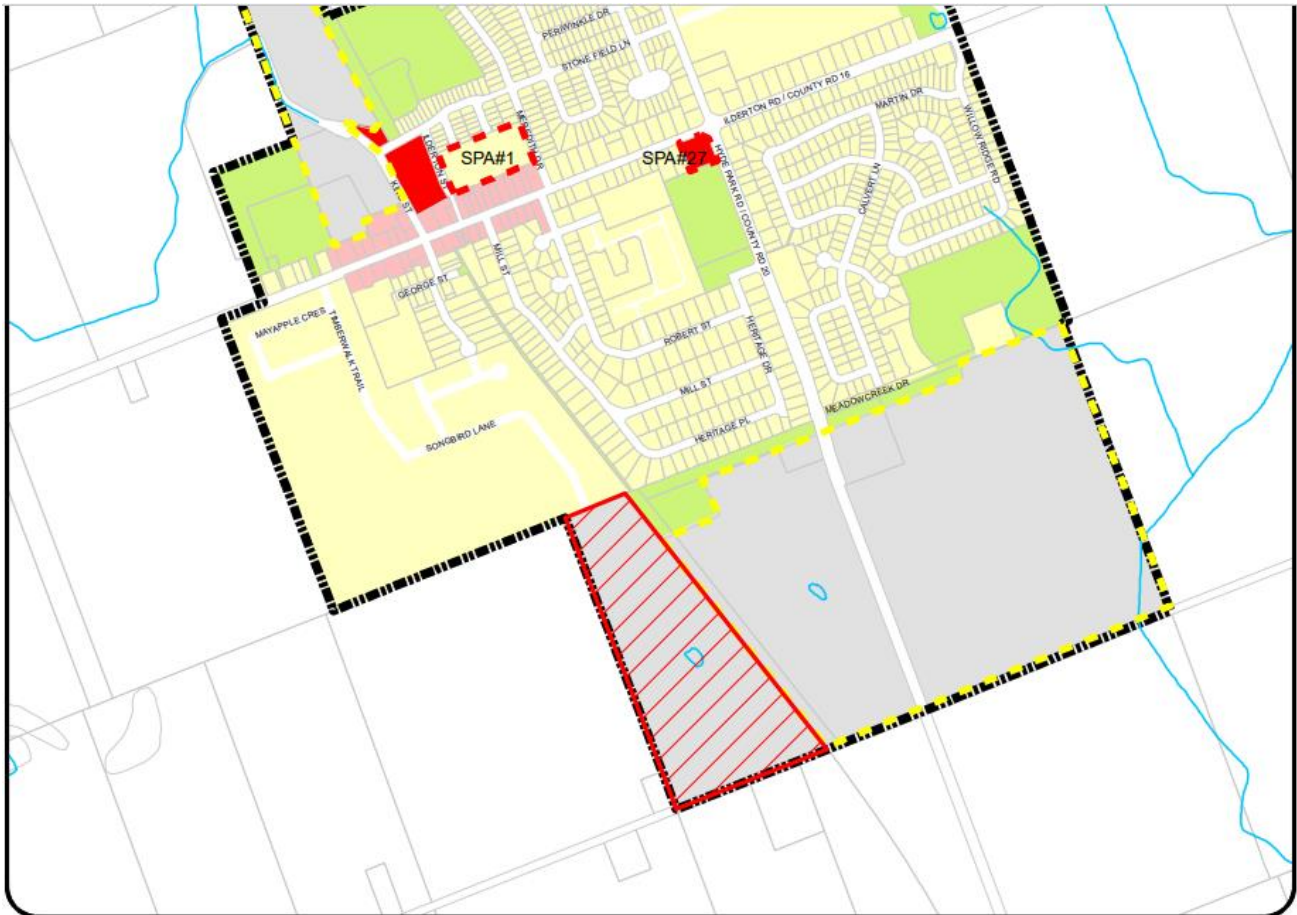
e) Notwithstanding Subsection (d) above, the siting of multiple dwellings adjacent to or in close proximity to Village Centres, is encouraged.

f) Townhouses and apartments shall be subject to the site plan approval requirements of Section 41 of the Planning Act, and Section 10.5 of this Plan and having regard for the Municipality's Site Plan Manual and Urban Design Guidelines.

Section 10.0 includes the Implementation and Interpretation policies of the Official Plan. Section 10.9 provides the policies for minor variances and states the following: "In circumstances where a development proposal may not meet one or more of the provisions of the comprehensive zoning by-law, a minor variance may be requested from one or more of the requirements of the zoning by-law. Municipal Council or its Committee of Adjustment may consider granting a minor variance which cannot reasonably meet one or more of the provisions of the zoning by-law, provided that the development meets sound planning principles, and provided that the following have been demonstrated:

- i) The proposal is compatible with the surrounding neighbourhood;
- ii) The proposal is in keeping with the general intent and purpose of the comprehensive zoning by-law;
- iii) The proposal is in keeping with the general intent and purpose of the Official Plan;
- iv) The proposal is an appropriate and desirable use of land;
- v) The variance is generally minor in nature. The interpretation of what is minor is not necessarily based on the extent by which the by-law is varied. Rather, it is based on whether the effect of the variance could be considered minor.
- vi) There are valid reasons as to why the by-law cannot or should not be complied with, and that reasonable alternatives that comply with the by-law have been considered."

Subsections ii) through v) reflect the minor variance tests set out in the Planning Act. Subsections i) and vi) are additional criteria set out by Middlesex Centre.



LEGEND



Figure 4 – Excerpt from Schedule A-1 of Middlesex Centre Official Plan

C.3.2 Municipality of Middlesex Centre Zoning By-Law 2005-005

Zoning By-Law 2005-005 has been adopted by the Municipality of Middlesex Centre to provide specific use permissions and regulations to implement the objectives and policies of the Official Plan. The Subject Property is zoned “UR3-12 - Urban Residential Third Density exception 12”. The underlying UR3 zone permits the following uses: apartment dwelling; multiple unit dwelling; street townhouse dwelling; townhouse dwelling; and accessory uses. Exception 12 limits permitted uses to the following: single detached dwelling; semi-detached dwelling; townhouse dwelling; and accessory uses. The effect of this exception is also to modify the underlying UR3 zoning to permit the following:

- Lots as small as 170 m² in area and 6 metres in frontage where all uses are required to have a minimum lot area of 250 m² and lot frontage of 30 metres through the underlying UR3 zoning;
- Reduction of the minimum lot depth from 35 metres to 26 metres;
- Reduction in the minimum front yard setback to the dwelling from 6 metres to 2.5 metres;
- Reduction to the minimum interior side yard setback from 3 metres to 1.2 metres;
- Reduction to the minimum rear yard setback from 8 metres to 6 metres.

The following table summarizes the applicable zoning regulations of the underlying UR3 zoning and the modifications implemented through exception 12.

Regulation	UR3 Zone	Exception 12
Minimum lot area (street townhouse, townhouse or multiple unit dwelling)	250 m ² per dwelling unit	single detached dwelling 320 m ² semi-detached dwelling 170 m ² townhouse dwelling 170 m ²
Minimum lot frontage (townhouse, apartment or multiple unit dwelling)	30 m	single detached dwelling 12 m semi-detached dwelling 6 m townhouse dwelling 6 m
Minimum lot depth	35 m	26 m
Minimum front yard setback	6 m	6 m to an attached garage 2.5 m to dwelling
Minimum interior side yard setback (street townhouse or townhouse dwelling)	3 m	1.2 m
Minimum exterior side yard setback (street townhouse or townhouse dwelling)	6 m	6 m
Minimum rear yard setback	8 m	6 m
Maximum density	30 units per hectare	30 units per hectare
Minimum outdoor amenity area	45 m ²	45 m ²
Maximum lot coverage	35% (38% including accessory buildings)	50% for single detached dwelling (53% including accessory buildings) 62% for semi-detached dwelling and townhouse dwelling (65% including accessory buildings)

C.4 Development Proposal

The proposal involves construction of 50 two-storey townhouse units in 10 blocks (Blocks A through I) on a private road connecting to Timberwalk Trail as illustrated in the proposed site plan in **Figure 5**. An application for the following minor variances to the applicable zoning regulations has been submitted to facilitate the development:

1. To permit a minimum lot area of 160 m² for a townhouse dwelling while 170 m² is required through exception 12 to the underlying UR3 zone (which requires 250 m²);
2. To permit a minimum lot depth of 24 metres while 26 metres is required through exception 12 to the underlying UR3 zone (which requires 35 metres);
3. To permit a minimum front yard setback to the garage of 5.5 metres while 6 metres is required;
4. To permit a minimum exterior side yard setback of 3 metres while 6 metres is required;
5. To permit a minimum rear yard setback of 4.5 metres while 6.0 metres is required through exception 12 to the underlying UR3 zone (which requires 8 metres);
6. To permit maximum density of 37 units per hectare while a maximum of 30 units per hectare is permitted; and
7. To permit minimum outdoor amenity space of 35 m² while 45 m² is required.

The purpose and effect of this minor variance application is to allow for further modifications to the requirements of the UR3 performance standards than already provided for under exception 12 to accommodate additional reductions in lot area and depth, front, side and rear yard setbacks and outdoor amenity space in conjunction with an increase in the number of permitted units.

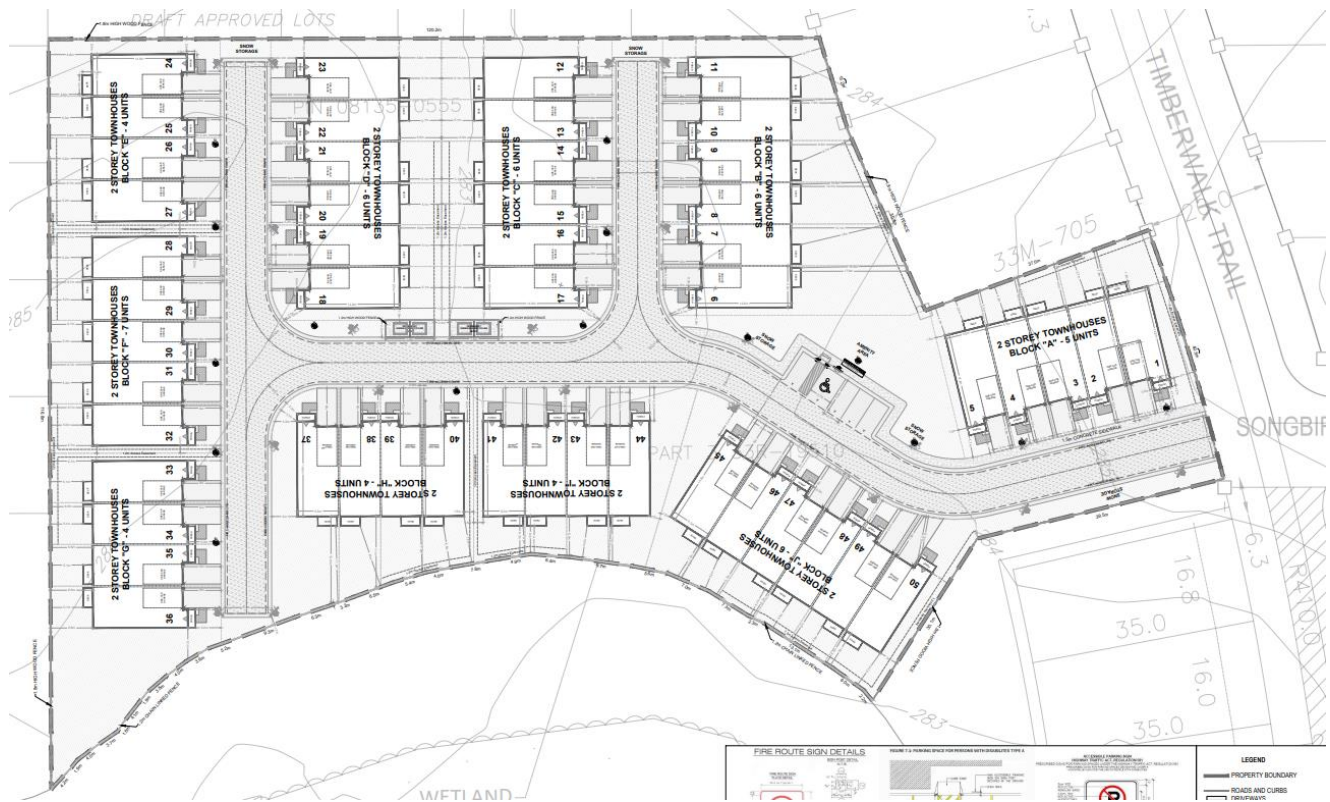


Figure 7 – Proposed Site Plan

D. Land Use Planning Analysis

Section 45(1) of the Planning Act provides the authority to the Committee of Adjustment to authorize minor variances and is as follows: The committee of adjustment, upon the application of the owner of any land, building or structure affected by any by-law that is passed under section 34 or 38, or a predecessor of such sections, or any person authorized in writing by the owner, may, despite any other Act, authorize such minor variance from the provisions of the by-law, in respect of the land, building or structure or the use thereof, as in its opinion is desirable for the appropriate development or use of the land, building or structure, if in the opinion of the committee the general intent and purpose of the by-law and of the official plan, if any, are maintained.

These tests are reiterated in section 10.9 (ii) through (v) of the Middlesex Centre Official Plan as follows:

- ii) The proposal is in keeping with the general intent and purpose of the comprehensive zoning by-law;
- iii) The proposal is in keeping with the general intent and purpose of the Official Plan;
- iv) The proposal is an appropriate and desirable use of land; and,

v) The variance is generally minor in nature. The interpretation of what is minor is not necessarily based on the extent by which the by-law is varied. Rather, it is based on whether the effect of the variance could be considered minor.

Section 10.9 also includes two additional tests for consideration in evaluating minor variance requests beyond those set out in the Planning Act:

- i) The proposal is compatible with the surrounding neighbourhood;
- vi) There are valid reasons as to why the by-law cannot or should not be complied with, and that reasonable alternatives that comply with the by-law have been considered.”

D.1 General Intent and Purpose of the Official Plan

It is my opinion that the general intent and purpose of the Official Plan as it relates to the Subject Property and surrounding community is to encourage intensified land use that incorporates a variety of residential dwelling types and built form that is generally compatible with the existing and planned built form and density in adjacent residential areas. The Official Plan policies for Residential Areas are intentionally broad in order encourage intensification throughout the Urban Settlement Area. However, zoning permissions and regulations are to be adopted to direct appropriate and compatible built form within specific areas of the Municipality.

It is my opinion that the requested minor variances, individually and cumulatively, will not maintain the general intent and purpose of the Middlesex Centre Official Plan. The Subject Property is a block within an existing plan of subdivision that is surrounded by single detached dwellings on individual lots. This property is located at the periphery of the Ilderton Urban Settlement Area and not adjacent to or in proximity to the Village Centre. The Municipality has adopted zoning permissions and performance standards intended to implement the Official Plan objectives and policies, including reductions to minimum lot areas, lot depths, building setbacks relative to the underlying UR3 zoning, which allow for land use and built form that is considerably more dense than the surrounding existing and planned residential area. The applicant has not demonstrated that additional density and intensification is required to achieve the intent and purpose of the Official Plan as it relates to the Subject Property.

D.2 General Purpose and Intent of the Zoning By-Law

It is my opinion that the intent and purpose of the Zoning By-Law is to establish use permissions and performance standards that facilitate intensified and efficient land use that is also compatible with neighbouring properties and the adjacent lower density zones. This intent is illustrated not only through the UR3 zoning applied to the Subject Property, which allows a greater variety and density of residential built

form than the surrounding UR1 zone, but also the adoption of exception 12, which provides for further reductions in required lot area, frontage, depth and side and rear setbacks. The Municipality has made a concerted effort to apply zoning permissions and performance standards to the Subject Property that allow for intensification and a greater variety of dwelling units than in the surrounding residential areas.

The requested minor variances seek further reduction to accommodate a greater number of units at the expense of compatibility with and consideration for the neighbouring built form character and density. On this basis, it is my opinion that the requested minor variances, individually and cumulatively, will not maintain the general intent and purpose of the Zoning By-Law.

D.3 Minor in Nature

It is my opinion that the requested minor variances are not minor as they will result in significant changes to the density and built form character permitted as-of-right under the prevailing zoning. The Municipality has adopted zoning performance standards that are intended to facilitate compatible and efficient land use and intensified built form relative to the surrounding residential areas, including through the adoption of exception 12 to the UR3 parent zoning. The requested minor variances will cumulatively allow for greater density than intended under the Zoning By-Law without any demonstrated enhancement of the use of the Subject Property relative to the objectives and policies of the Official Plan.

D.4 Desirable for Appropriate Use or Development of Land

The minor variances are requested for the purpose of increasing the number of dwelling units that can be constructed on the Subject Property with no clear enhancement of land use and built form relative to the objectives and policies of the Official Plan and the character of the surrounding residential areas. It is not desirable to allow further modifications to zoning performance standards that already facilitate more intense land use and built form than the adjacent residential area and include exceptions to the underlying zoning. The Municipality has already determined the additional intensity and density that is appropriate for this area and implemented this intent through the UR3 zoning and exception 12. Proposal seeks only to achieve only a greater number of units with no identified benefit other neighbourhood or broader community relative to the current zoning performance standards and within the context of the Official Plan policies and objectives.

D.5 Compatibility with Surrounding Neighbourhood

The requested variances seek more intensified and dense land use than currently permitted in an area surrounded by single detached dwellings on much larger lots and located at the periphery of the Urban Settlement Area, as opposed to adjacent to or in proximity to the Village Centre. The proposal and requested

variances seek only to achieve greater density on the Subject Property without consideration for compatibility with the lot and built form characteristics of the adjacent residential lands.

D.6 Valid Reasons Not to Comply with Zoning By-Law

The applicant has not demonstrated that they cannot reasonably meet the requirements of the Zoning By-Law and that the minor variances are required to achieve development of the Subject Property in a manner that more effectively implements the policies and objectives of the Official Plan and the intent of the current performance standards adopted through the UR3 zoning and exception 12. The Municipality has provided reasonable opportunity to develop the Subject Property for higher density than the surrounding residential area through adoption of the UR3 zoning and exception 12. The burden of demonstrating that it is not reasonable to develop within these performance standards lies with the applicant.

E. Conclusions and Recommendations

It is my opinion that the proposal and requested minor variances:

- Do not maintain the general purpose and intent of the Municipality of Middlesex Centre Official Plan;
- Do not maintain the general purpose and intent of the Zoning By-Law;
- Are not minor; and
- Are not desirable for the appropriate development of the Subject Property.

It is also my opinion that the requested minor variances will not facilitate land use and built form that is compatible with the surrounding neighbourhood and that applicant has not demonstrated valid reasons not to comply with the prevailing zoning standards.

Regards,



Michael Barton, MCIP, RPP