



Meeting Date: December 18, 2024

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Report No: PLA-66-2024

Subject: Application for Zoning By-law Amendment (ZBA-7-2024) for Kilworth Heights West Subdivision; Filed by Baker Planning Group on behalf of Melchers Developments Inc., 2428812 Ontario Limited, Kilworth Heights West Ltd.

Recommendation:

THAT Zoning By-law Amendment Application (ZBA-7-2024), filed by Baker Planning Group on behalf of Melchers Developments Inc., 2428812 Ontario Limited, Kilworth Heights West Ltd., to amend the site-specific 'Urban Residential First Density exception 36 (UR1-36)', 'Urban Residential First Density exception 37 (UR1-37)' and 'Urban Residential First Density exception 38 (UR1-38)' zones, for the lands known as Concession 1 Part of Lot 7 Part of Lot 8 RP 33R18800 Part of Part 1, and 33M-840, be APPROVED.

Purpose:

The purpose of this report is to provide Council with a recommendation regarding the proposed Zoning By-law Amendment for Phases 3, 4 and 5 of the Kilworth Heights West subdivision.

The applicant requests to amend the existing provisions for the Minimum Exterior Side Yard Setback to attached garages which will affect the development of corner lots.

A location map is included as Attachment 1.

Background:

The subject lands are located within the Kilworth-Komoka Urban Settlement Area. The Zoning By-law Amendment application affects Phases 3, 4, and 5 of the Kilworth Heights West subdivision.

The subject lands are approximately 33.51 ha (82.8 ac) in area, however, the proposed amendment to the zoning provisions apply to less than 50 lots (corner lots) zoned 'Urban Residential First Density exception 36 (UR1-36)', 'Urban Residential First Density exception 37 (UR1-37)' and 'Urban Residential First Density exception 38 (UR1-38)' within the subdivision.

The subject lands abut residential land to the south and east, medium density and commercial lands to the north and natural features to the west.

Proposal:

The applicant requests to amend the provisions for the Minimum Exterior Side Yard Setback for attached garages within the 'Urban Residential First Density exception 36 (UR1-36)', 'Urban Residential First Density exception 37 (UR1-37)' and 'Urban Residential First Density exception 38 (UR1-38)' zones. A summary of the request is shown below in the following table:

	Existing Zones	Proposed Zones
UR1-36	Minimum Exterior Side Yard Setback for attached garages	Minimum Exterior Side Yard Setback for attached garages
UR1-37	(iii) 6 m (19.7 ft)	(iii) 2.5 m (8.2 ft) provided the wall of the garage is not closer to the exterior side yard than the habitable portion of the dwelling
UR1-38		

The applicant provided a sketch of a typical building site plan for a corner lot (Attachment 2). When implementing the current Zoning By-law, the Exterior Side Yard Setback provision would prevent the construction of a 1.5 or 2-car garage with access and a driveway in the front yard while the building met all other zoning provisions.

Policy Regulation:

The Middlesex County Official Plan identifies Kilworth as a Settlement Area and defers to municipal official plans to delineate the settlement area and provide greater policy direction for new development. The lands are within the Kilworth Urban Settlement Area and are designated as 'Residential' within Middlesex Centre's Official Plan. Further, the property is currently zoned 'Urban Residential First Density exception 36 (UR1-36)', 'Urban Residential First Density exception 37 (UR1-37)' and 'Urban Residential First Density exception 38 (UR1-38)' within the Middlesex Centre's Comprehensive Zoning By-law. As such, the policies and provisions below are applicable to the lands.

Provincial Planning Statement, 2024:

The Planning Act states that all decisions made by planning authorities “shall be consistent with the policy statements issued” under subsection 3. The Provincial Planning Statement, 2024 (PPS) document is comprised of several policy statements and those that are applicable to the proposed development are noted below:

Generally, the PPS promotes healthy, liveable and safe communities by supporting efficient land use patterns that facilitate economic growth, create liveable communities, and protect the environment and public health and safety.

Section 2.1 – Planning for People and Homes directs planning authorities to forecast growth and determine land needs accordingly. Planning authorities should support the achieve of complete communities by accommodating an appropriate range and mix of land uses, housing options, transportation options, recreation, parks and open space and other uses to meet long-term needs.

Section 2.2 – Housing states that planning authorities shall provide for appropriate range and mix of housing options to meet projected needs of current and future residents of the regional market area. This can be fulfilled by establishing and implementing minimum targets for the provision of housing that is affordable to low and moderate income households; and, by permitting and facilitating all housing options.

Section 2.3.1 – General Policies for Settlement Areas establishes settlement areas shall be the focus of growth and development. Land use patterns within settlement areas should be based on densities and a mix of land uses which efficient use land and resources; optimize existing and planning infrastructure and public service facilities; support active transportation; are transit-supportive (as appropriate); and are freight-supportive.

Middlesex County’s Official Plan:

The County of Middlesex Official Plan (County Plan) identifies the subject property as within the Komoka ‘Settlement Area’.

Section 2.3.8 – Settlement Areas of the County Plan recognizes that Settlement Areas will be the focus for future growth including residential uses. These areas are intended to have 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 – Housing Policies encourages a wide variety of housing types, sizes and tenure to meet market requirements and demand for current and future residents.

Section 3.2.4 – Urban Areas provides additional development policies for lands within Urban Settlement Areas. The County Plan further supports that Urban Settlement Areas should permit a variety of using including all forms of housing types and other specific land uses that reflect the needs and character of the Urban Area.

Middlesex Centre's Official Plan:

The Middlesex Centre Official Plan (Official Plan) designates the subject property as 'Residential' within the Kilworth-Komoka Urban Settlement Area on Schedule A-2.

Section 5.2 – Residential Areas pertains to lands designated 'Residential' within Settlement Areas. The Official Plan encourages a variety of housing types, sizes and tenures to meet demographic and market requirements for current and future residents. This includes supporting opportunities for intensification where there is sufficient municipal service capacity and transportation networks, and consideration of the environment. New development should reflect a high quality of residential and neighbourhood design that is sustainable and oriented to pedestrians.

The Municipality shall support opportunities to increase the supply of housing through intensification in consideration of the environment, and municipal servicing and transportation capacity. Specifically, the Municipality shall require that 15 percent of all development occur by way of intensification.

The 'Residential' designation permits all residential dwelling types such as single detached, semi-detached, townhouses, duplex, triplex, fourplex and low-medium rise apartments. Residential units, other than single detached are encouraged to be serviced by municipal water and sewage systems. Additionally, this designation may permit complementary uses such as institutional uses such as schools or churches, municipal uses, and parks and open space.

Section 5.7.4 – Komoka-Kilworth Residential Area Policies identify types of housing, density of development and targeted housing mix within the Residential and Medium Density Residential designations on Schedule A-2 (Secondary Plan for Komoka-Kilworth). Low density residential development is targeted to make up 60% of housing and medium density residential development is targeted to make up 40% of housing. Medium density residential development is described to have a net density of 20 to 50 units per hectare. Notwithstanding the housing mix targets and net density provisions, multiple dwellings shall be permitted in the Residential designation in accordance with Section 5.2.3 of the Official Plan.

All residential development shall ensure appropriate orientation and massing of residential buildings to provide adequate private and public open spaces and to facilitate the penetration of sunlight into these spaces.

Private garages for residential development shall not be located closer to the street than the habitable portion or porch on the main floor of the building in order to limit the visual and streetscape impacts of garages and encourage a positive street frontage oriented toward pedestrians.

Middlesex Centre Zoning By-law:

The subject lands are currently zoned 'Urban Residential First Density exception 36 (UR1-36)', 'Urban Residential First Density exception 37 (UR1-37)' and 'Urban Residential First Density exception 38 (UR1-38)'. The zones permit a single detached dwelling, home occupation and accessory uses.

The amendment would revise the provisions for the Minimum Exterior Side Yard Setback applicable to corner lots within the subdivision. Specifically, the applicant is requesting a reduced setback for attached garages of 2.5 m to match the setback of the dwelling provided the wall of the garage is not closer to the exterior side yard than the habitable portion of the dwelling. All other provisions of the UR1-36, UR1-37 and UR1-38 zones would continue to apply.

Consultation:

Notice was distributed to applicable agencies, notice was posted on the site, and made available online due to the ongoing Canada Post strike.

Public Comments:

Prior to writing this Staff Report, staff did not receive written comments from area residents.

Agency Comments:

At the time of writing the subject report, the following comments were received:

The Municipality's Chief Building Official reviewed the application and has no objections.

The Municipality's Public Works and Engineering Department reviewed the application and provided comments with respect to ensuring that a driveway will not be permitted within the 2.5m exterior side yard, if someone were to flip the driveway and garage opening to the sideyard. The wording of the by-law was revised to address this, and to ensure the 2.5m sideyard setback only applies if there is no driveway access within the external side yard.

Upper Thames River Conservation Authority has no objections or requirements to the rezoning application.

Analysis:

The requested Zoning By-law Amendment is generally supported by policies of the PPS, 2024 and County Plan where there is direction for residential development in serviced, urban areas.

The current Zoning By-law provisions for the Minimum Exterior Side Yard Setback were initially established to consider alternative building plans where the orientation of the dwelling and/or garage and driveway would be accessed from the side yard. Similar to the Front Yard Setback provisions in most zones, the intent of this Minimum Exterior Side Yard Setback is to site the garage further from the exterior side lot line to provide enough space to access and park a vehicle in the driveway where the primary access is off the side yard. However, when applying the regulations to a typical building plan as shown in the applicant's sketch, the garage must be setback 6 m from the front lot line and 6 m the exterior side lot line. This would lead to the landowner to request other variances, reduce the size of the garage or significantly modify the building plan whereas it would be permitted on interior lots in the rest of the subdivision.

The requested Zoning By-law Amendment generally maintains the intent of the Middlesex Centre Official Plan for new development within the Residential designation and the Kilworth-Komoka Secondary Planning Area. Specifically, Section 5.7.4 of the Middlesex Centre Official Plan addresses the presence of garages to encourage a positive pedestrian-friendly streetscape. The requested Zoning By-law Amendment does not appear to conflict with this requirement as the existing provisions within the Zoning By-law limit the appearance of garages within the front yard.

Planning Staff note that the requested zone provisions reflect a typical building plan where the dwelling and garage are oriented towards the front yard. However, flexibility should continue to be provided if the building plan changes while maintaining the intent of the Official Plan policies and the original intent of the zoning standards. As such, Planning Staff recommend adding the provisions to allow a garage to be built 6 m from the side lot line if it is accessed by a driveway from the side yard.

To summarize, Planning Staff recommend approval of the following provisions in the UR1-36, UR1-37 and UR1-38 zones:

- MINIMUM SIDE YARD SETBACKS

Exterior side yard for attached garages:

2.5 m (8.2 ft) to an attached garage on the side abutting the street provided there is no driveway access from the exterior side yard and provided the wall of the garage is not closer to the exterior side yard than the habitable portion of the dwelling;

6 m (19.7 ft) to an attached garage on the side abutting the street if there is driveway access from the exterior side yard

Given the above, Planning Staff recommend that the Zoning By-law Amendment application be approved, as amended by staff, as the proposal is consistent with the Provincial Planning Statement, 2024, the County of Middlesex Official Plan and Middlesex Centre's Official Plan.

This opinion is provided prior to the public meeting and without the benefit of potentially receiving all comments from agencies or members of the public. Should new information arise regarding this proposal prior to or at the public meeting, Council is advised to take such information into account when considering the application.

Financial Implications:

None.

Attachments:

Attachment 1 – Location Map

Attachment 2 – Applicant's Sketch