



Report to Council

Department: Development Services
Division: Planning
Date: December 16, 2024
Prepared by: Ian Rawlings, Junior Planner
Report Number: Planning-2024-35
Subject: ZBA-10-24 (0 Maidstone Avenue West, Essex Centre)
Number of Pages: 10 plus attachments

Recommendation(s)

That Planning Report Planning-2024-35- entitled ZBA-10-24 (0 Maidstone Avenue West, Essex Centre) prepared by Ian Rawlings, Junior Planner, dated December 16, 2024 be received, and

That By-Law 2400, being a By-law to amend By-law 1037, the Comprehensive Zoning By-Law for the Town of Essex, to permit additional main uses and to request relief from subsection 18.1 b) ii) of the Zoning By-law, be read a first and second time on December 16, 2024.

Purpose

To recommend the adoption of site-specific Zoning By-law amendments for the lands municipally known as 0 Maidstone Avenue West in the Essex Centre, Ward 1 designated as Parts 1, 5 through 8, on the **attached** draft reference plan, to permit the following site-specific uses and regulations:

- A Bakeshop, defined as a retail store for the sale of bakery products;
- A Drive-through Restaurant, defined as a restaurant having a drive-through food outlet;

- A Drive-through Food Outlet, defined as a retail store for the sale of prepared foods to persons remaining in a motor vehicle;
- A Health Studio, defined as a building used for athletic or physical fitness instruction, exercise, or athletic training;
- A Micro-brewery, defined as a facility not exceeding 300 square metres used for the manufacture and retail sale of beer or wine, produced for consumption off-site except when in combination with a restaurant or entertainment lounge;
- A Veterinary Office, defined as the office of a veterinarian and may include the indoor temporary accommodation of animals for observation but does not include any outdoor facilities for accommodation or provisions for boarding;
- A Wholesale Store, defined as a building for the sale of goods exclusively for resale, manufacture or construction but does not include the processing, manufacturing or assembling of those goods; and
- Relief from Subsection 18.1 b) ii) of the Zoning By-law which limits the Maximum Gross Floor Area of a business, financial or medical office, light repair shop, personal service shop, professional studio, retail store, restaurant and takeout food outlet to 250 sqm (2,700 sqft).

Background and Discussion

An application for a site-specific amendment to the Comprehensive Zoning By-law for the Town of Essex, By-Law 1037, has been received by the Town for the commercial lands located in the Primary Settlement Area of Essex Centre (Ward 1) at the southwest corner of the intersection between Maidstone Ave W, and Peters Street.

The lands are municipally known as 0 Maidstone Avenue West, otherwise identified as Parts 1, 5 through 8, on the provided draft reference plan, and are herein referred to as the “Subject Lands”. The location of the Subject Lands is identified in *Figure 1*.



Figure 1. Location of Subject Lands

The Subject Lands measure \pm 5,925 sqm (1.46 acres) in total land area. The Subject Lands are designated “Highway Corridor Commercial Area 1” on Schedule “A-2” of the Town of Essex Official Plan and are zoned “Commercial District 1.1” (C1.1) under the Town of Essex Zoning By-law 1037, Map “3”. The subject property remains vacant, and development of the site will require Site Plan Control in accordance with section 9.13 of the Town of Essex Official Plan.

The Proposal:

The Applicants are requesting a site-specific zoning amendment to By-law 1037 for the subject lands to permit additional site-specific main uses such as a Bakeshop, a Drive-through Restaurant, a Drive-through Food Outlet, a Health Studio, a Micro-brewery, a Veterinary Office,

a Wholesale Store, and to request relief from subsection 18.1 b) ii) of the Zoning By-law which limits the Maximum Gross Floor Area of a business, financial or medical office, light repair shop, personal service shop, professional studio, retail store, restaurant and takeout food outlet to 250 sqm (2,700 sqft).

The proposed amendments are being requested as the applicant is looking to increase the development potential for the subject property and has therefore applied to amend the Zoning By-law to permit additional site-specific uses and request relief from certain building regulations.

The applicants have provided two (2) conceptual site plans detailing potential building footprints, associated parking, and access areas. The conceptual plans are **attached** to the report. A development layout has not been finalized and is pending the approval of the Zoning By-law Amendment and subsequent Site Plan Control application. Accordingly, matters concerning building and parking area layout, traffic impact and servicing and stormwater management concerns will be addressed at the time of Site Plan Control approval.

Proposal Conformity with the Provincial Planning Statement 2024 (PPS, 2024), County of Essex Official Plan 2024 (COP, 2024), and Town of Essex Official Plan 2009 (OP, 2009)

Provincial Planning Statement 2024 (PPS)

Section 2.8.1.1 of the PPS details that *planning authorities 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;*
- e) *addressing land use compatibility adjacent to employment areas by providing an appropriate transition to sensitive land uses.*

The PPS does not detail policy direction for specific uses or regulations with respect to the requested amendments. However, permitting the requested site-specific uses provides for a broader range of employment uses for the subject site as it increases its viability and development potential. Furthermore, removing the gross floor area maximum would facilitate development of the site as it allows the development to respond to market demands and economical shift.

Development of the site with respect to neighbouring commercial and residential uses will be handled through the site plan control process. The Zoning By-law details setbacks and buffering requirements when developing adjacent to sensitive land uses. Therefore, land use compatibility will be addressed more appropriately at the time of Site Plan Control.

County of Essex Official Plan 2024 (COP)

The subject property is located in the Primary Settlement Area known as Essex Centre, as identified on Schedule A1 of the County of Essex Official Plan. Section 4.C of the Official Plan details policies related to employment within the County of Essex.

4.C.1.1 b) Population Related Employment that are businesses and services to fulfill the needs of citizens of the County of Essex.

4.C.1.2 Local Municipalities will plan for the full range of employment uses in their Official Plans and Zoning By-Laws.

Similarly to the PPS, the County of Essex Official Plan (COP) does not detail policy direction for specific employment uses and regulations, and instead relies on lower-tiered municipalities to regulate uses and regulations. However, the COP encourages the development of population related employment land uses for which the applicant is requesting for the subject property.

Town of Essex Official Plan 2009 (OP)

The land use designation for the subject property is Highway Corridor Commercial Area 1 as identified on Schedule A-2 of the Town of Essex Official Plan.

Section 5.14 details permitted uses within the Highway Corridor Commercial Area 1 as the following:

- i) *small scale retail, office, day care and personal service uses and such other uses intended to serve the daily needs of the surrounding residential neighbourhood.*

Section 5.14 of the Official Plan contains respective goals for Highway Corridor Commercial Areas which encourages the following when developing in the respective land use designation:

- a) *to capitalize on the inherent strengths of this area to attract regional consumers;*
- b) *to strengthen and enhance the Town's existing economic base by supporting automobile oriented commercial development;*
- c) *to recognize that commercial areas are dynamic in nature, and must be able to evolve, adapt and redevelop as market conditions, consumer needs and preferences and retail trends change over time, and to provide a corresponding policy environment that will permit these changes to occur in a manner which is beneficial to the Town of Essex ratepayers;*
- d) *to facilitate retail and wholesale commercial uses, which require large sites for their operations, and other compatible uses primarily serving the motoring public;*

The additional site-specific permitted uses requested by the applicant reflects the permitted uses as detailed within section 5.14 of the Official Plan. Permitting these additional uses would remove development barriers which would increase the potential for this site to attract regional consumers and allow the subject property to respond market conditions and consumer needs.

The site would remain small-scale due to its smaller lot area being ± 5,925 sqm (1.46 acres) and its proximity to County Road 8 and neighbouring residential land uses, each providing additional setbacks and buffering requirements based on the intended uses of the site.

Permitting drive-through facilities on the subject lands is reasonable given the land’s proximity to Highway 3 and adjacent Highway Commercial Areas.

Town of Essex Zoning By-law, By-law 1037

The subject property is designated Commercial District 1.1 (C1.1) on Map 3 of the Town of Essex Zoning By-law, By-law 1037. Section 18.1 of the Zoning By-law detail the permitted uses and regulations within the C1.1 District as identified in *Figure 2* below.

Neighbourhood Commercial Uses	
a) Permitted Uses	
i. Main use	Bed and Breakfast Dwelling Business Office Commercial School Day Nursery Financial Office Light Repair Shop Medical Office Personal Service Shop Professional Studio Retail Store, exclusive of a retail store for the sale of motor vehicles or heavy machinery Restaurant Take-out Food Outlet
ii. Accessory use	Any use accessory to the main use, not including an outdoor storage yard
b) Regulations	
i. Building Height – Maximum	10m (32f) for a main building 1 storey for an accessory building
ii. Gross Floor Area – Maximum	250m ² (2700f ²) for each business, financial or medical office, light repair shop, personal service shop, professional studio, retail store, restaurant or takeout food outlet

Figure 2. Commercial District 1.1 permitted uses and regulations

As stated, the applicant is requesting relief from section 18.2 b) ii. which permits a maximum gross floor area for specific uses as detailed in **Figure 2** above. The intent of this regulation is to prevent large scale population related employment uses in neighbourhood commercial areas because these areas are typically located within or adjacent to residential development.

Drive-through food outlets and restaurants must conform with section 11.10 of the Town of Essex Zoning By-law. These regulations include buffering from neighbouring land uses, the number and size of required stacking spaces, and provisions for associated outdoor loudspeaker systems. Compliance with these regulations will be assessed at the time of Site Plan Control approval when a more detailed concept plan is proposed.

Comments:

A statutory public meeting will be held on Monday, December 16, 2024, to hear public comments on the application prior to Council rendering a decision on the application. Notice of public meeting and information regarding the Zoning By-law Amendment Application was sent to all property owners within 120 m of the subject lands as required under the Planning Act.

No formal comments from members of the public have been provided at the time of writing this report, 12/11/2024. Phone correspondence was received from neighbouring residents. Concerns were expressed regarding the location of access areas and drainage capabilities of the site.

No objections to the proposal were received from the following Departments and Agencies:

Town of Essex Infrastructure Services	No Objections
Town of Essex Building/Bylaw Enforcement Division	Circulated/no comments

Town of Essex Community Services	Circulated/no comments
Town of Essex Corporate Services	Circulated/no comments
Town of Essex Fire Services	Circulated/no comments
Town of Essex Accessibility Committee	Circulated/no comments
Essex Region Conservation Authority	No Objections
Chippewa of the Thames First Nation	No Objections
County of Essex	The setbacks from the County Road (Maidstone Ave) are 26 m (85 ft) from the Centre of the right of way. Permits required for any changes to existing entrances and structures, or the construction of new entrances and structures.

Attachments

Comments from the Essex Region Conservation Authority dated 11/20/2024.

Comments from the Chippewas of the Thames First Nation dated 12/04/2024.

Comments from the County of Essex dated 12/10/2024.

Next Steps

Council may:

- Approve the proposed By-law where notice of approval will be sent to the applicant and all persons requesting to be notified of the decision, and a 20-day appeal period takes effect.
- Deny the proposed By-law where notice of denial will be sent to the applicant and all persons requesting to be notified of the decision and a 20-day appeal period takes effect.
- Defer the decision to a later date if further information is required.

The recommendation of Administration is that By-Law 2400, attached to this Report, be read a first and second time.

Financial Impact

Notwithstanding an appeal, there is no financial impact associated with costs to undertake normal administrative operations for notifying the applicant and interested parties of the decision of Council and revising planning documents to reflect the amendments. Costs are recouped 100% through the application fee.

Consultations

Notice of the application for Zoning By-law Amendment was circulated to all persons and public bodies required to be notified under subsection 5(9) of Ontario Regulation 545/06, including staff members from each Town of Essex department.

Link to Strategic Priorities

- Embrace asset management best practices to build, maintain, and continuously improve our municipally owned infrastructure.
- Leverage our Town's competitive advantages to promote jobs and economic investment.
- Take care of our natural environment and strengthen the sense of belonging to everyone who makes Essex "home".
- Deliver friendly customer service in an efficient, effective, and transparent manner while providing an exceptional working environment for our employees.
- Build corporate-level and community-level climate resilience through community engagement and partnership and corporate objectives.

Report Approval Details

Document Title:	ZBA-10-24 - 0 Maidstone Avenue West - Planning-2024-35.docx
Attachments:	<ul style="list-style-type: none">- ZBA-10-24 - By-law 2400.pdf- Draft Referance Plan.pdf- ZBA-10-24 - Conceptual Site Plans.pdf- ERCA Comments ZBA-10-24.pdf- response--zba-10-24--zba-10-24-0-maidstone-ave-w--from--chippewas-of-the-thames-first-nation.pdf- CR8-St-Onge_ZBA-1037-24Dec10.pdf
Final Approval Date:	Dec 13, 2024

This report and all of its attachments were approved and signed as outlined below:

No Signature - Task assigned to Rita Jabbour, Manager, Planning Services was completed by workflow administrator Cassandra Lauzon, Legislative Clerk

Rita Jabbour, Manager, Planning Services - Dec 13, 2024 - 1:47 PM

No Signature - Task assigned to Lori Chadwick, Director, Development Services was completed by workflow administrator Cassandra Lauzon, Legislative Clerk

Lori Chadwick, Director, Development Services - Dec 13, 2024 - 1:48 PM



Doug Sweet, Chief Administrative Officer - Dec 13, 2024 - 2:07 PM