



## TOWN OF AMHERSTBURG SPECIAL COUNCIL MEETING

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<https://www.amherstburg.ca/livestream>

Monday, March 27, 2023

5:00 PM

Council Chambers

271 Sandwich Street South, Amherstburg, ON, N9V 2A5

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Pages

1. CALL TO ORDER
2. ROLL CALL
3. DISCLOSURE OF PECUNIARY INTEREST & GENERAL NATURE THEREOF  
*(Public Council Meeting Agenda Items)*

#### 4. LAND ACKNOWLEDGEMENT

We will begin by acknowledging that the land on which we gather is the traditional territory of the Three Fires Confederacy of First Nations (comprising the Ojibway, the Odawa, and the Potawatomie Peoples), and of the Huron-Wendat and Wyandot Peoples. We recognize the land as an expression of gratitude to those whose traditional territory we reside on, and a way of honouring the Indigenous people who have been living and thriving on the land since time immemorial. We value the significant historical and contemporary contributions of local and regional First Nations and all of the Original Peoples of Turtle Island.

#### 5. ORDER OF BUSINESS

##### 5.1 Statutory Public Meeting to Consider a Zoning By-law Amendment for 38 Victoria Street South 3

It is recommended that:

1. Comments from the public, municipal departments, agencies and Council with respect to the proposed Zoning By-law Amendment for lands municipally known as 38 Victoria Street South (File ZBA-06-23) **BE RECEIVED and SUMMARIZED** in a future report to Council.

##### 5.2 Continuation of Statutory Public Meeting for 639 Front Road North Zoning By-law Amendment 16

It is recommended that:

1. Comments from Council with respect to Zoning By-law Amendment for 639 Front Road N (File ZBA-20-22) **BE RECEIVED and SUMMARIZED** in a future report to Council.

#### 6. ADJOURNMENT

That Council rise and adjourn at     p.m.



## THE CORPORATION OF THE TOWN OF AMHERSTBURG

### OFFICE OF DEVELOPMENT SERVICES

*MISSION STATEMENT: Committed to delivering cost-effective and efficient services for the residents of the Town of Amherstburg with a view to improve and enhance their quality of life.*

Author's Name: Janine Mastronardi	Report Date: March 9, 2023
Author's Phone: 519 736-5408 ext. 2134	Date to Council: March 27, 2023
Author's E-mail: jmastronardi@amherstburg.ca	Resolution #:

**To: Mayor and Members of Town Council**

**Subject: Statutory Public Meeting to Consider a Zoning By-law Amendment for 38 Victoria Street South**

#### 1. **RECOMMENDATION:**

It is recommended that:

1. Comments from the public, municipal departments, agencies and Council with respect to the proposed Zoning By-law Amendment for lands municipally known as 38 Victoria Street South (File ZBA-06-23) **BE RECEIVED and SUMMARIZED** in a future report to Council.

#### 2. **BACKGROUND:**

The Town is in receipt of an application for a Zoning By-law Amendment to By-Law 1999-52 from Trifilio Ventures Ltd. The subject lands are located on the north west corner of Victoria Street South and Fort Street and is municipally known as 38 Victoria Street South (refer to Appendix A).

The purpose of the application is to amend the existing site-specific Commercial Neighbourhood Zone to permit a studio as an additional permitted use on the subject lands. Zoning By-law 1999-52 defines studio as "a building or part thereof, used as the workplace of a photographer, craftsman or artist, or for the instruction of art, music, dancing, languages or similar disciplines. The sale of any artifacts produced therein shall be permitted only as an accessory use." All other provisions of the site-specific Commercial Neighbourhood Zone will continue to apply. The property is designated Neighbourhood Commercial in the Official Plan. Site pictures are attached as Appendix B.

### 3. DISCUSSION:

The subject lands are designated Commercial Neighbourhood in the Official Plan and is within the Settlement Area.

Section 4.4.1 of the Official Plan states, “The uses permitted in the Neighbourhood Commercial designation shall be limited to those commercial uses which provide for the sale of convenience goods and services to meet the daily living needs in foods, sundries and personal services, and may include neighbourhood business and professional offices.

The development of Neighbourhood Commercial areas may take place in the form of a small shopping plaza owned and operated as a unit or as individual establishments. The scale of development shall be guided by the population of the area to be served, the location of the site relative to abutting land uses and road classification. The actual size of the uses permitted will be specified by the Zoning By-law.

Adequate parking shall be provided for all permitted uses, and access points to such parking shall be limited in number and designed in a manner that will minimize the danger to both vehicular and pedestrian traffic.”

The submitted application does not facilitate a change in the established Neighbourhood Commercial use of the property but instead seeks to add an additional use. A studio would assist in meeting the daily recreational needs of the neighbourhood.

The Zoning By-law zones the lands Special Provision Commercial Neighbourhood (CN-9). Currently at this location the following uses are permitted in the Town’s Comprehensive Zoning By-law:

- (i) business office;
- (ii) day care;
- (iii) dry cleaner's distribution station;
- (iv) dwelling unit;
- (v) medical/dental office;
- (vi) personal service shop;
- (vii) professional office;
- (viii) public use;
- (ix) retail store;
- (x) convenience store;
- (xi) video rental establishment;
- (xii) *Hardware Store*;
- (xiii) *Home Improvement Store*.

The purpose of this initial public meeting is to provide an opportunity for the Applicant to present information and outline the purpose of the application to Council and to hear all comments regarding the rezoning. As Council is aware, notice for the proposed rezoning was circulated in accordance to the provisions of the Planning Act. All comments received to date will be provided to Council prior to the Statutory Public Meeting and all will be attached to the subsequent Council report.

Following this public meeting, staff will review all of the comments submitted as part of this application and prepare a report for a subsequent Council meeting. The second staff report will summarize all of the comments received and make recommendation(s) regarding the proposed rezoning and any applicable conditions if required.

**4. RISK ANALYSIS:**

The recommendation presents little to no risk to the municipality.

**5. FINANCIAL MATTERS:**

All costs associated with the application are the responsibility of the applicant. Should the decision be appealed to the Ontario Land Tribunal then the Town will incur costs.

**6. CONSULTATIONS:**

The Notice of Public Meeting was published in the local newspaper and circulated to the required agencies, property owners and municipal departments in accordance with the requirements of the Planning Act, R.S.O. 1990, c.P. 13 and associated regulations. The circulation map and list of properties within the 120 m circulation radius are attached for information.

**7. CONCLUSION:**

Following the statutory public meeting, planning staff will be preparing a subsequent report for Council that will include a comprehensive analysis of all of the comments and recommendations received, and will provide a professional planning opinion and a staff recommendation with respect to the requested zoning by-law amendment.



Janine Mastronardi  
**Planner**

JM

**DEPARTMENTS/OTHERS CONSULTED:**

**Name: Office of Engineering and Public Works**  
**Phone #: 519 736-3664 ext. 2313 & 2314**

**Name: Building Services**  
**Phone #: 519 736-5408 ext. 2136**

**Name: Fire Services**

**Phone #: 519 736-6500**

**Name: Union Gas**

**Email: [ONTUGLandsINQ@uniongas.com](mailto:ONTUGLandsINQ@uniongas.com)**

**Name: Ontario Power Generation**

**Email: [Executivevp.lawanddevelopment@opg.com](mailto:Executivevp.lawanddevelopment@opg.com)**

**Name: Essex Region Conservation Authority**

**Phone #: 519 776-5209**

**Name: Windsor Essex Catholic District School Board**

**Phone #: 519 253-2481**

**Name: Greater Essex County District School Board**

**Phone #: 519-255-3200**

## Report Approval Details

Document Title:	Statutory Public Meeting to Consider a Zoning By-law Amendment for 38 Victoria St S.docx
Attachments:	<ul style="list-style-type: none"><li>- Appendix A- ZBA-06-23- Aerial.pdf</li><li>- Appendix B- ZBA-06-23- Site Photos.pdf</li><li>- Appendix C- Summary of Correspondence Received on ZBA-06-23.pdf</li><li>- Appendix D- ZBA-06-23- 120 m Circulation Map and List.pdf</li><li>- Appendix E- 2023-042- ZBA- 38 Victoria St S- DRAFT.pdf</li></ul>
Final Approval Date:	Mar 13, 2023

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

### No Signature found

Chris Aspila



Melissa Osborne



Tracy Prince



Valerie Critchley



Kevin Fox





ALMA ST





**ZBA/06/23- 38 Victoria Street South- Site Photos**

Corner of Victoria Street South and Fort Street



View of Plaza from Victoria Street South



Parking Lot on North Side of Property





## Summary of Correspondence Received on Proposed ZBA for Housekeeping Amendment

Below is a summary of the comments received by the Planning Services Division on ZBA/06/23, 38 Victoria St S.

### Windsor Police:

Please be advised the Windsor Police Service has no concerns or objections with this application. The proposed Zoning By-law amendment for this property to allow a studio use will not have any negative impact on public safety or police service delivery capability in any way.

### Building Department:

No concerns.

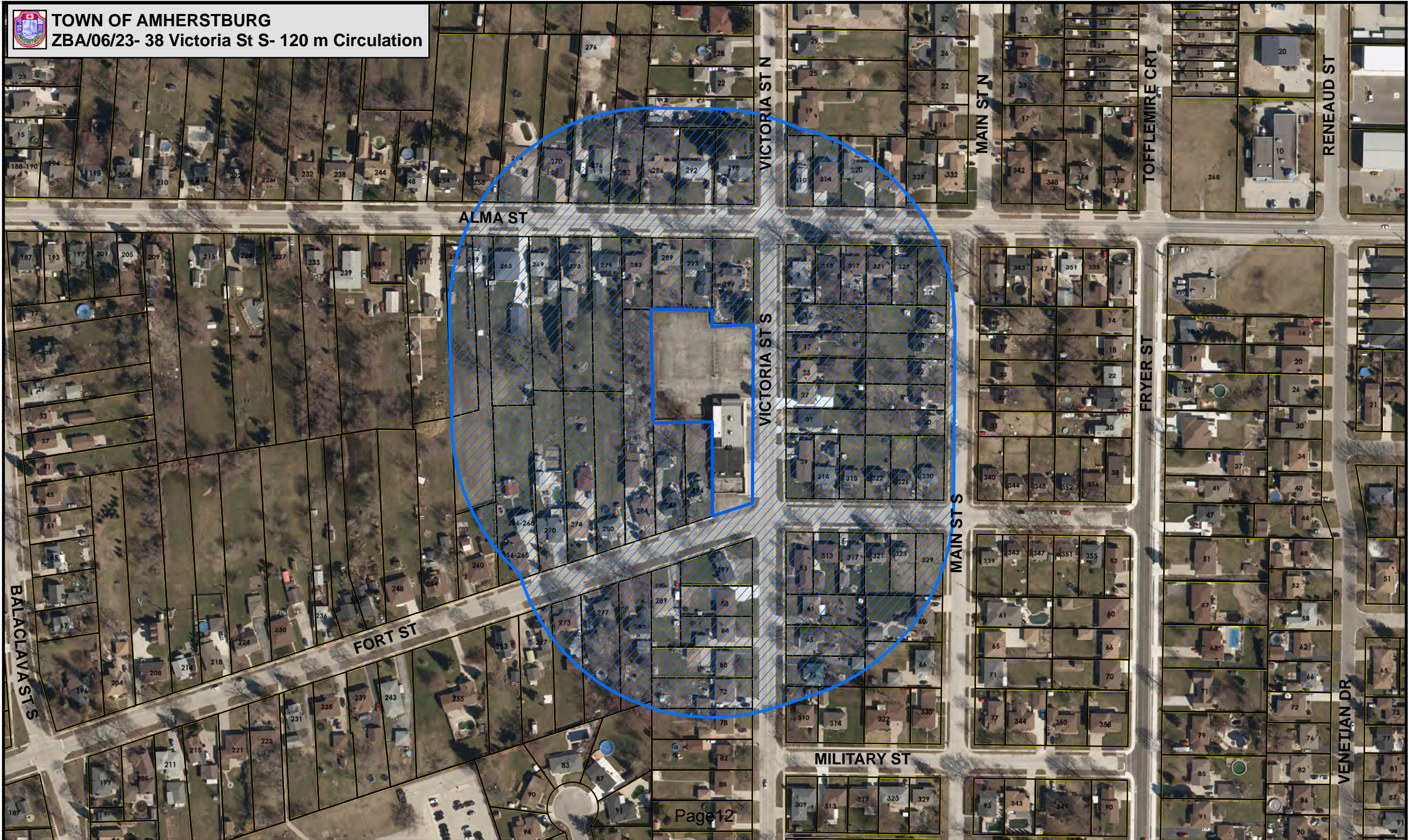
### Infrastructure Services:

No concerns.





**TOWN OF AMHERSTBURG**  
**ZBA/06/23- 38 Victoria St S- 120 m Circulation**





## ZBA/06/23- 38 Victoria St. S, 120 m Circulation List

ARN	ADD1	STREETNAME
37292800000900	19	VICTORIA ST N
372929000002700	282	ALMA ST
372929000002300	258	ALMA ST
372928000001200	320	ALMA ST
372928000001201	324	ALMA ST
372928000001300	328	ALMA ST
372929000002500	270	ALMA ST
372929000002800	286	ALMA ST
372929000002900	292	ALMA ST
372929000003100	18	VICTORIA ST N
372929000003000	298	ALMA ST
372928000001000	310	ALMA ST
372928000001100	314	ALMA ST
372929000002400	264	ALMA ST
372929000002600	276	ALMA ST
372927000003700	279	ALMA ST
372927000003600	283	ALMA ST
372927000003800	273	ALMA ST
372927000003000	288	FORT ST
372927000003300	299	ALMA ST
372927000004300	251	ALMA ST
372927000004200	255	ALMA ST
372927000003200	38	VICTORIA ST S
372927000002900	284	FORT ST
372927000003500	289	ALMA ST
372927000003100	294	FORT ST
372927000003400	293	ALMA ST
372927000002400	260	FORT ST
372927000004000	265	ALMA ST
372927000002300	254	FORT ST
372927000002800	280	FORT ST
372927000004100	259	ALMA ST
372927000003900	269	ALMA ST
372927000002700	274	FORT ST
372927000002600	270	FORT ST
372927000002500	266	FORT ST
372922000003800	68	VICTORIA ST S
372922000004300	283	FORT ST
372922000003900	64	VICTORIA ST S
372922000004400	277	FORT ST
372922000004500	273	FORT ST
372922000004600	267	FORT ST
372922000004200	289	FORT ST

372922000003700	72	VICTORIA ST S
372922000004000	58	VICTORIA ST S
372922000004100	297	FORT ST
372922000002900	87	WILKINSON CRT
372922000003600	78	VICTORIA ST S
372921000001100	310	MILITARY ST
372921000003600	30	MAIN ST S
372921000001600	313	FORT ST
372921000001700	317	FORT ST
372921000003800	326	FORT ST
372921000003700	330	FORT ST
372921000003500	26	MAIN ST S
372921000004200	329	FORT ST
372921000004400	66	MAIN ST S
372921000001500	53	VICTORIA ST S
372921000003900	322	FORT ST
372921000004300	60	MAIN ST S
372921000004100	325	FORT ST
372921000001900	314	FORT ST
372921000002300	23	VICTORIA ST S
372921000004000	321	FORT ST
372921000002100	31	VICTORIA ST S
372921000002200	27	VICTORIA ST S
372921000003000	325	ALMA ST
372921000001000	314	MILITARY ST
372921000001300	65	VICTORIA ST S
372921000002800	317	ALMA ST
372921000001400	61	VICTORIA ST S
372921000002600	9	VICTORIA ST S
372921000001200	71	VICTORIA ST S
372921000002700	313	ALMA ST
372921000002400	17	VICTORIA ST S
372921000003100	6	MAIN ST S
372921000002500	15	VICTORIA ST S
372921000003200	14	MAIN ST S
372921000001800	318	FORT ST
372921000002900	321	ALMA ST
372921000003400	22	MAIN ST S
372921000003300	18	MAIN ST S
372921000002000	39	VICTORIA ST S

**CORPORATION OF THE TOWN OF AMHERSTBURG  
BY-LAW NO. 2023-042**

**By-law to amend Zoning By-law No. 1999-52  
38 Victoria Street South, Amherstburg**

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**WHEREAS** By-law 1999-52, as amended, is a land use control by-law regulating the use of lands and the character, location and use of buildings and structures within the Town of Amherstburg;

**AND WHEREAS** the Council of the Town of Amherstburg deems it appropriate and in the best interest of proper planning to amend By-law 1999-52, as herein provided;

**AND WHEREAS** this By-law conforms to the Official Plan for the Town of Amherstburg;

**NOW THEREFORE** the Council of the Corporation of the Town of Amherstburg enacts as follows:

1. THAT Section 17(4)(i)(i) of By-law 1999-52, as amended, is hereby amending by adding the following permitted use;  
  
"4. Studio"
2. THAT all other appropriate regulations for the use of land and the character, location and use of buildings and structures conforms to the regulations of the Commercial Neighbourhood Zone, as applicable and all other general provisions or regulations of By-law 1999-52, as amended from time to time.

THIS By-law shall take effect from the date of passage by Council and shall come into force in accordance with Section 34 of the Planning Act, R.S.O. 1990.

Read a first, second and third time and finally passed this --<sup>th</sup> day of April, 2023.

\_\_\_\_\_  
MAYOR- MICHAEL PRUE

\_\_\_\_\_  
CLERK- KEVIN FOX



## THE CORPORATION OF THE TOWN OF AMHERSTBURG

### OFFICE OF DEVELOPMENT SERVICES

*MISSION STATEMENT: Committed to delivering cost-effective and efficient services for the residents of the Town of Amherstburg with a view to improve and enhance their quality of life.*

<b>Author's Name: Melissa Osborne</b>	<b>Report Date: March 15, 2023</b>
<b>Author's Phone: 519 736-5408 ext. 2137</b>	<b>Date to Council: March 27, 2023</b>
<b>Author's E-mail: mosborne@amherstburg.ca</b>	<b>Resolution #:</b>

**To: Mayor and Members of Town Council**

**Subject: Continuation of Statuary Public Meeting for 639 Front Road North Zoning By-law Amendment**

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#### **1. RECOMMENDATION:**

It is recommended that:

1. Comments from Council with respect to Zoning By-law Amendment for 639 Front Road N (File ZBA-20-22) **BE RECEIVED and SUMMARIZED** in a future report to Council.

#### **2. BACKGROUND:**

The Town is in receipt of an application for a Zoning By-law amendment to By-law 1999-52 from 2833983 Ontario Limited. In accordance with the Planning Act a Statutory Public Meeting (SPM) was scheduled for March 13, 2022 and notifications of the meeting mailed out to property owners within a 120 m radius of the property as well as posted in the River Town Times. The Act allows for written communication to be received and read out loud at the meeting to ensure those who are not able to be in attendance have the opportunity to share their comments and concerns.

Written submissions from the public were read aloud at the meeting on March 13, 2022 and those in attendance who requested to speak on the matter at the SPM were provided the opportunity to do so. Administration captured all written and verbal comments from the public on this matter in accordance with the Planning Act. Under the Planning Act, all statutory requirements for notice and public input were met during the Statutory Public Meeting on March 13, 2023.



The Statutory Public Meeting (SPM) held on March 13, 2023 started at 5:00 pm and there were 3 reports to be addressed, including this one. The Regular Council meeting was scheduled to start at 6pm that same evening. Public input on this matter, as required within the Planning Act, was achieved through the reading of the written communication received as well as hearing delegations from those in attendance. Time constraints did not allow for Council questions to be asked, unless the Regular Council meeting was cancelled. The decision was made by Council to refer Council's questions to March 27<sup>th</sup>, 2023 to avoid cancellation of the Regular Council meeting for March 13, 2023.

The meeting on March 27, 2023 is solely to hear Council's questions and comments. To ensure open and transparent communication regarding the meeting, on March 15, 2023 all residents within 120 m of the subject lands were mailed a notice of the meeting. This will ensure those residents are aware of the meeting so that they can attend to hear what questions and comments Council has on this rezoning request.

### **3. DISCUSSION:**

While SPM allows for public input, it is equally important to understand that once the obligation is met there is a duty to the applicant to proceed in a timely fashion with their file. In accordance with Bill 23, Administration has 90 days from a receipt of a complete zoning application to provide a decision. This particular file was submitted in November and included the following studies; Planning Justification Report; Environmental Impact Assessment; and Traffic Impact Study. Based on review of the submission Administration requested an Archaeological Study and updated Planning Justification Report. These documents were provided and reviewed by Administration prior to deeming the application complete on January 30, 2023.

Once a zoning amendment application is deemed complete the 90-day timeframe to decide on the application starts and the Statutory Public Meeting can be held. The 90-day timeframe places the date on which a decision must be made as April 30, 2023. Based on the Council meeting schedule April 24<sup>th</sup> is the latest Council date on which Administration can provide our report and recommendations on the matter to Council for approval.

Obligations under the Planning Act to allow for public input on the matter were addressed at the March 13, 2023 meeting. Compliance with the Planning Act with respect to when notification is provided, who receives notification and allowance for written and verbal correspondence have also been met. Multiple comments from residents were received through written and verbal submissions, including but not limited to email, phone calls and letters prior to the Statutory Public Meeting on March 13, 2023. In addition, many residents attended the meeting and spoke about their concerns.

A summary of the residents concerns on the matter noted by Administration through this information, and in accordance with the Planning Act are:

- Traffic – concerns regarding increased traffic on Front Road N
- Drainage – concerns regarding White Drain and past replacements
- Environmental features – concerns about the conservation of the land and the wildlife residing on the lands

- Servicing for the development including sanitary services
- Heritage houses abutting the property

Administration's role in the SPM is to receive and summarize comments and concerns. That information is then reviewed and considered by Administration and addressed in the follow up report to Council providing Administration's professional planning opinion on the matter, and recommendation on whether to approve or refuse the resulting by-law. Residents who want to follow the process beyond the SPM will need to monitor the bi-weekly Council agendas to know when Administration's professional planning recommendation and by law will be brought to Council. Once the decision on the by law is made, those who attended and signed in at the SPM, and those who provided written communication to Clerks Office on the matter, up to the date of the decision, will be provided notice of the decision on the by law, providing them the opportunity to appeal a decision to approve the by law to the Ontario Land Tribunal (OLT).

The various studies provided by the applicant will be used to inform Administration's report and response on the zoning amendment. It is equally important to note that there are additional requirements and approvals to be met before this project is able to move to construction. Involvement from departments such as building, fire, infrastructure services and other external agencies, including but not limited to ERCA, Canada Post and Utilities is part of the next step. Each will provide a review of the studies specific to their areas of expertise and will comment on obligations the applicant will need to meet to obtain their approval for the project. In this particular case, since it is a subdivision, the application for subdivision is made to the County. The County will have carriage of the final approval for the subdivision after receiving input from all parties noted, and others as the County deems necessary. The discussions during the SPM will confirm or amend the types of studies already provided, planned or anticipated to be required.

The public meeting on March 27, 2023 will allow Council to provide comments and questions on this matter. Any new concerns and comments not already identified at the March 13, 2023 meeting will be noted by Administration and included in the follow up report and recommendation on the by-law. Residents are permitted to write and send correspondence and emails to the Clerk's Office up until the date of the decision on the by-law. All written comments will be circulated by the Clerks Office to Administration and Council prior to the meeting for awareness and consideration in the matter. Residents can maintain their appeal rights by either providing written comments or attending and speaking at the Statutory Public Meeting. All written comments should be taken into consideration when deciding on the by-law and Administration will attempt to address all comments in the follow-up Council report.

#### **4. RISK ANALYSIS:**

The recommendation presents little to no risk to the municipality.

#### **5. FINANCIAL MATTERS:**

The Town bares the costs related to meeting notifications, including the mailing and River Town Times notice. These costs are generally offset by the revenue collected from the applicant for their zoning amendment application.

Unplanned financial costs for second mailings, and or refunding application fees, and or costs to defend an appeal to the Ontario Land Tribunal are not offset by those planned revenues. The additional mailing for March 27, 2023 meeting was approximately \$100, in postage and paper as well as approximately 15 hours of combined staff time redirected from other active files to prepare for the continuation of the SPM on March 27<sup>th</sup>. The Town is also at risk of refunding \$1,145 to the applicant should a decision on the zoning application not be provided by April 30, 2023 and if delayed until August 30, 2023, full reimbursement of \$2,290.

**6. CONSULTATIONS:**

The notice for the March 13, 2023 Statutory Public Meeting was published in the local newspaper and circulated to the required agencies, property owners and municipal departments in accordance with the requirements of the Planning Act, R.S.O. 1990, c.P. 13 and associated regulations. The circulation map and list of properties within the 120m circulation radius are attached for information.

The notice for the March 27, 2023 meeting was mailed on March 15, 2023 to the properties within the 120 m circulation radius.

Manager of Planning – Chris Aspila  
Planner – Sarah French

**7. CONCLUSION:**

Planning staff will be preparing a subsequent report for Council that will include a comprehensive analysis of all of the comments and recommendations received, and will provide a professional planning opinion and a staff recommendation with respect to the requested zoning by-law amendment.



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Melissa Osborne  
**Director of Development Services / Deputy CAO**

## Report Approval Details

Document Title:	Continuation of Public Meeting for 639 Front Road Zoning By-law Amendment.docx
Attachments:	
Final Approval Date:	Mar 22, 2023

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

### No Signature found

Sarah French

### No Signature found

Chris Aspila



Melissa Osborne



Tracy Prince



Valerie Critchley



Kevin Fox