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Date: August 3, 2017

To: Mayor and Council

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Interim Town Planner

RE: Zoning By-law Amendment (ZBA/14/16) &
Site Plan Approval (SPA/14/16)
1298466 Ontario Ltd.
364 County Road 34 West, Part of Lot 275, Concession NTR

Report No.: PDS-2017-034

AIM

To provide the Mayor and Council with information on a requested zoning by-law amendment and site plan approval to permit a stand-alone parking lot, proposed to be used by the commercial operations (Dairy Freez) on the abutting parcel.

BACKGROUND

The subject lands are comprised of a 0.29 ha (0.72 ac.) vacant lot containing a gravel parking area for the commercial operation (Dairy Freez) on the abutting lot to the west, and a 0.13 ha (0.33 ac.) portion of the abutting parcel to the east. Recently this 0.13 ha (0.33 ac.) portion was severed and conveyed (B/23/16) from 358 County Road 34 West as a lot addition to the subject parcel to better reflect the actual lot configuration and extent of use. Finalization of the lot addition will be a requirement of site plan approval.

The newly configured subject lands have been developed to accommodate an expanded parking area servicing the Dairy Freez operation on the abutting parcel. In order to continue to use the subject lands for parking two Planning Act applications are required: 1) a Zoning By-law Amendment in order to rezone the lands to an appropriate commercial classification which will permit a stand-alone parking lot; and 2) Site Plan approval to formalize the parking lot layout, access and ongoing operation.

DISCUSSION

1) Provincial Policy Statement (PPS), 2014:

There are no issues of Provincial significance raised by the requested site plan approval or zoning by-law amendment.

2) County of Essex Official Plan

There are no issues of County significance raised by the subject applications.

3) Town of Kingsville Official Plan

The subject property is designated 'Rural Residential', and further, the Rural Residential policies as found in Section 3.6.5 of the Official Plan do not contemplate commercial uses within this designation.

However, prior to the approval of the Kingsville Official Plan in February of 2012, and as evidenced by aerial photographs dating back to 2004, a parking lot servicing the abutting Dairy Freez business next door was present, which under Section 8.7.1, Existing Land Use and Buildings would be considered to conform to the Official Plan. As such, when the Kingsville Official Plan came into effect, the parking area was considered to be a Non-Conforming Land Use.

Section 8.7.2, Non-Conforming Land Uses, of the Kingsville Official Plan therefore provides the policies to consider in this case. Specific excerpts from these policies, with comments, are as follows:

As a general rule, such a use should cease to exist in the long term. In special circumstances, however, it may be desirable to permit the extension or enlargement of such non-conforming use in order to avoid unnecessary hardship. It is the intention of this Plan that extensions and enlargements be handled without an amendment to this Plan. When considering an application for the extension or enlargement of a use which does not conform to the implementing Zoning By-law, Council or the Committee of Adjustment shall decide if the special merits of the individual case make it desirable to grant permission for the extension or enlargement of the non-conforming use, and in so doing shall have regard to the following matters:

a) the proposed extension or enlargement of the established non-conforming use shall not unduly aggravate the situation created by the existence of the use, especially in regard to the policies of this Official Plan and the implementing Zoning By-law applying to the area;

Comment: the proposed parking lot use was developed prior to the start of the Highway 3 Bypass reconstruction in 2015 as County Rd 34 was being used as a detour route and the County was restricting parking along the roadway. Historically, overflow parking for the business had been along both sides of the County Road. This posed a problem for the business but also created an opportunity to improve what had been reported for many years as an extremely unsafe method of

addressing the overflow the parking. With the enlarged parking lot the historical issue would be resolved and would not unduly aggravate the situation created by the existence of the use as at least a portion of the lot had been used for many years as informal overflow parking.

b) the proposed extension or enlargement shall be in an appropriate proportion to the size of the non-conforming use established prior to the passing of the implementing Zoning By-law;

Comment: the proposed parking lot is in an appropriate proportion to the parking lot that existed at the time of approval of the Official Plan and Zoning By-law.

c) an application which would affect the boundary areas of different land use designations will only be processed under these policies if it can be considered as a "minor adjustment" permitted under the interpretation clause, subsection 8.11.2 of this Plan, without the need for an amendment. Any major variance will require an amendment to this Plan;

Comment: no land use designation change is proposed.

d) the characteristics of the existing non-conforming use and the proposed extension or enlargement shall be examined with regard to noise, vibration, fumes, smoke, dust, odours, lighting and traffic generation;

Comment: no issues which can be considered noxious are anticipated to be created as a result of the proposal.

e) the neighbouring non-conforming uses will be protected, where necessary, by the provision of areas for landscaping, buffering or screening, appropriate setbacks for buildings and structures, devices and measures to reduce nuisance, and where necessary, by regulations for alleviating adverse effects caused by outside storage, lighting, advertising signs, etc. Such provisions and regulations shall be applied to the proposed extension or enlargement, and where feasible, also extended to the established use in order to improve its compatibility with the surrounding area;

Comment: appropriate measures for buffering, etc., have been provided as per the attached site plan. Site plan approval and the subsequent agreement will ensure that compatibility between the parking lot use and the surrounding residential and agricultural uses will remain.

f) traffic and parking conditions in the vicinity shall not be adversely affected by the application, and traffic hazards will be kept to a minimum by appropriate designs of ingress and egress points to and from the site and improvement of sight conditions, especially in proximity to intersections;

Comment: the ingress / egress points on the lot are required to comply with County regulations governing these items. County permitting in this regard is required.

g) adequate provisions have been, or will be made for off-street parking and loading facilities;

Comment: the purpose of the parking lot is to provide adequate parking for the neighbouring use particular during peak times during the summer season.

h) applicable municipal services such as storm drainage, sanitary sewage collection and disposal and potable water treatment and supply are adequate and meet with the approval of the Ministry of the Environment and/or the applicable statutory approval authority having jurisdiction.

Comment: a storm water management plan has been submitted to the Town and is deemed to be appropriate. The proposed parking lot does not require sanitary sewage collection or potable water.

Comprehensive Zoning By-law – Town of Kingsville

The parcel of land subject of this application is zoned 'Rural Residential, (RR)', which as per the Zoning By-law, does not permit the proposed parking lot use. In order to accommodate the parking lot use it is proposed that the subject lands be rezoned to a site-specific 'Transitional Commercial, (C3-1)' zone which shall solely permit a parking lot accessory to an existing restaurant use on abutting lands zoned 'Transitional Commercial, (C3)'.

Comment: As reported earlier a parking area/lot servicing the Dairy Freez operation on the abutting parcel has existed on the subject parcel for many years. As such the parking use is considered to be non-conforming under the current residential zoning. During this time the parking use has proven to be compatible with the surrounding residential and agricultural areas.

Further, based on the Official Plan discussion, justification for the rezoning can only be provided for the proposed expanded parking area and not any additional commercial uses normally associated with the C3 Zone. As such, the proposed amending by-law will only permit the parking use when used in conjunction with the existing restaurant use on the abutting lot.

Should the existing restaurant use change (or cease) in the future then Administration and Council will have an opportunity to review the parking lot's compatibility with the new use.

4) Site Plan

The formal development of the site consists of the construction of an expansion to the existing gravel parking area, installation of new landscaping features, and the development of onsite storm water run-off storage. These details, as well as existing features, appear on the site plan drawing attached as Appendix 'A'. Standard conditions of site plan approval will apply and are provided in the Recommendation below.

LINK TO STRATEGIC PLAN

Support growth of the business community.

FINANCIAL CONSIDERATIONS

There will be some minimal change in the assessment of the property with the change from residential to commercial.

CONSULTATIONS

Public Consultations

In accordance to O. Reg 545/06 of the *Planning Act*, property owners within 120 m of the subject site boundaries received the Notice of Open House/ Public Meeting by mail.

No comments based on this circulation had been received at the time of writing.

Agency & Administrative Consultations

In accordance with O. Reg 545/06 of the *Planning Act*, Agencies and Town Administration received the Notice of Public Meeting by email.

Agency or Administrator	Comment
Essex Region Conservation Authority Watershed Planner	<ul style="list-style-type: none">• Full comment is attached as Appendix 'A';• ERCA has noted that the subject parcel is not in a regulated area• They have expressed no concerns with the application
County of Essex	<ul style="list-style-type: none">• Full comment is attached as Appendix 'B'• County compliance and permitting is required re construction activities and access
Town of Kingsville Management Team	<ul style="list-style-type: none">• Municipal Services has indicated that the storm water management plan is acceptable

RECOMMENDATION

That Council approve zoning amendment application ZBA/14/16 to amend the zoning of the subject property to a site-specific 'Transitional Commercial Exception 1 (C3-1)' to permit a stand-alone parking lot accessory to an existing restaurant use on abutting lands zoned 'Transitional Commercial, (C3)' and adopt the implementing by-law; and approve the proposed site plan, subject to the conditions outlined in the site plan agreement, for the construction of a gravel parking area and authorize the Mayor and Clerk to sign the site plan agreement and register said agreement on title.

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