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**Date:** April 10, 2018

**To:** Mayor and Council

**Author:** Robert Brown, H. Ba, MCIP, RPP  
Manager, Planning Services

**RE:** Zoning Amendment Application – ZBA/05/18  
Alium Investments (Kingsville) Limited  
Part of Lot 3, Concession 1, ED  
Part 2, RP 12R 9964 & Part 2, RP 11009

**Report No.:** PDS 2018-019

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## **AIM**

To provide Council with information on a requested zoning by-law amendment to grant relief from Section 8.4 d) iii) to permit a drive-thru restaurant on an interior lot when adjacent to residential land use.

## **BACKGROUND**

The subject property is a 5.47 ha (13.5 ac.) commercial lot with an existing commercial building containing a variety of commercial retail units and one stand-alone retail building (LCBO). Site plan approval was granted on the subject property in 2012 for the initial stage of development for the existing buildings on the site and a potential third building. The plan also included a second phase of development which was intended to be for a second multiple unit commercial building. (See Appendix A)

The property owner is requesting an amendment to the existing plan. The revised plan shows construction of the third building from phase one with a reconfiguration of the parking. The second part of the revised plan is the development of a 409 sq. m (4,400 sq. ft.) building for a restaurant with a drive-thru. (See Appendix B)

The final phase would be the completion of a 2,179 sq. m (29,900 sq. ft.) multiple unit building. (See Appendix C) Overall the requested revisions total 3,186.5 sq. m (34,300 sq. ft.) which is down considerably from the original 5,173 sq. m (55,660 sq. ft.) of the 2012 plan.

As a result of the revised development plan, a zoning amendment is required to grant relief from Section 8.4 d) iii) of the Zoning By-law which states, 'a drive-through restaurant or drive-through food outlet shall not be permitted on an interior lot when adjacent to a residential land use.' At present the lands to the immediate west of the subject property are zoned 'General Commercial, C4' however still contain a residential use in the form a single detached dwelling.

## **DISCUSSION**

### **1) Provincial Policy Statement (PPS), 2014:**

There are no issues of Provincial significance raised by the proposed zoning by-law amendment.

### **2) County of Essex Official Plan**

There are no issues of County significance raised by the application.

### **3) Town of Kingsville Official Plan**

The subject property is designated 'Highway Commercial'. The proposed amendment conforms with the Kingsville Official Plan policies and goals.

### **4) Comprehensive Zoning By-law – Town of Kingsville**

The subject parcel is zoned 'General Commercial Exception 1, (C4-1)' by the Kingsville Zoning By-law. The site-specific zoning was implemented to require a 10 m setback from the greenway. The relief requested by the amendment is from Section 8.4 d) iii) which prohibits a drive-thru restaurant or more specifically the drive-thru lane on an interior lot abutting a residential land use. Although the abutting lands to the west are also zoned for commercial use, at present, they contain a single detached residence that is still under active use.

Comment: The concern with drive-through uses, especially restaurants, is the order board and the drive-thru lane itself. The order board can generate noise and the drive-thru through lane can generate noise, lights, pollution from idling and litter that could have a negative impact on a neighbouring residential use. With the exception of the pollution issue these items can be addressed through site plan control with the use of buffering, fencing and landscaping as well as setting noise limits. What is unique about this regulation is that it applies only to interior lots abutting a residential use. The same use on a corner lot abutting a residential use would be permitted and would likely face all of the same compatibility issues with the resolution of those issues being through site plan control.

The property owner has been in contact with the neighbouring owner of the lot with the residential use. The owner has confirmed via e-mail that he has no objection to the requested amendment.

## LINK TO STRATEGIC PLAN

Support growth of the business community.

## FINANCIAL CONSIDERATIONS

The proposed development will be subject to the collection of development charges and will result in an increase in assessment on the property as the proposed buildings are completed.

## CONSULTATIONS

### Public Consultations

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

At the time of writing, no public comments had been received.

### 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.

<b>Agency or Administrator</b>	<b>Comment</b>
Essex Region Conservation Authority Watershed Planner	<ul style="list-style-type: none"><li>• Full comment is attached as Appendix D</li><li>• The property, like many of the lands along Main St E., in this area drain into the former Kraus Drain which is located on the ERCA Greenway. ERCA's concern is that a formal agreement/easement should be in place with the Town prior to further approvals of development.</li><li>• The Town is working with ERCA to complete the agreement and easement which will be in place prior to construction.</li></ul>
Town of Kingsville Management Team	<ul style="list-style-type: none"><li>• There are no issues with the requested zoning amendment. The Town will continue to work with the applicant on the requested site plan amendment prior to it returning to Council for approval.</li></ul>

## RECOMMENDATION

It is recommended that Council approved zoning amendment application ZBA/05/18 to amend the existing site –specific 'General Commercial Exception 1, (C4-1)' zone to grant relief from Section 8.4 d) iii) and permit a drive-thru restaurant on an interior lot abutting a residential use and adopt the implementing by-law.

*Robert Brown*

Robert Brown, H. Ba, MCIP, RPP  
Manager, Planning Services

*Peggy Van Mierlo-West*

Peggy Van Mierlo-West, C.E.T.  
Chief Administrative Officer