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STAFF REPORT

TO: Members of Council
Village of Newbury

FROM: Marion-Frances Cabral, Planner

**SUBJECT: Zoning By-law Amendment ZBA 01-23, and Official Plan Amendment OPA 01-23
1788 and 1792 Concession Drive, Newbury
Storey, Denomme & Ross Dentistry Professional Corp. and 1974516
Ontario Limited (Agent: Lassaline Planning Consultants)**

Recommendation:

AND FURTHER THAT official plan amendment application OPA 01-23 (OPA 15), as amended, filed by Lassaline Planning Consultants on behalf of Storey, Denomme & Ross Dentistry Professional Corp. and 1974516 Ontario Limited, in order to re-designate the lands from 'Commercial' to 'Commercial - Special Policy Area' be adopted and forwarded to the County of Middlesex for consideration and approval;

AND FURTHER THAT zoning by-law amendment application ZBA 01-23, as amended, filed by Lassaline Planning Consultants on behalf of Storey, Denomme & Ross Dentistry Professional Corp. and 1974516 Ontario Limited, in order to rezone the lands from 'Highway Commercial (C2)' to 'Highway Commercial exception 1 (C2-1)' be **APPROVED**.

Purpose:

The purpose of the official plan amendment application (File: OPA-01-2023) is to redesignate the lands from "Commercial" to "Commercial – Special Policy Area" to permit residential uses in addition to commercial uses.

The purpose of the zoning by-law amendment application (File: ZBA-01-2023) is to rezone the lands from "Highway Commercial Zone (C1)" to a new site-specific "Highway Commercial exception 1 Zone (C2-1)" to permit residential uses (townhouses) in addition to commercial uses. The site-specific zone would also address zoning regulations to facilitate the proposed development plan.

A location map and sketch of the proposal are attached to this staff report.

Background:

The subject lands are a corner lot and is located on the north side of Concession Drive (County Road 14), and east of Hagerty Road (County Road 1) in Newbury. Residential lands are located immediately to the north, commercial uses to the west, and institutional uses to the east. Residential and agricultural lands are located on the south side of Concession Drive in the Municipality of Southwest Middlesex.

The subject lands comprises an area of 2, 703 m² (29, 099.2 ft²) and 52.5 m (172.2 ft) of frontage on Concession Drive and 44.0 m (144.4 ft) of frontage on an unopened road allowance located on the east side of the parcel. The subject property contains 1 building that was previously used for a commercial use (dentist) and has remained vacant for the last 2+ years. The existing building will be removed to facilitate new development on the land.

The applicant is seeking to redesignate and rezone the lands to facilitate the development of 6 townhouse dwelling units. The development would have a single access to Concession Drive and have an internal driveway to access all units. The units are proposed to be a minimum of 113.2 m² (1, 218 ft²) in area and have a 1 car garage for the exclusive use of each owner. Each unit will have a backyard that will have privacy fencing between each unit. The proposed form of servicing (water and sanitary) is municipal servicing. The proposed site plan is attached to this staff report.

The applicant has not applied for a plan of subdivision or condominium at this time. However, it is their intention to apply for consents to create new lots for each unit. An easement will be requested for access to the rear yards for each unit. As well, an easement will be created for shared access for each lot while maintaining one entrance from Concession Drive. This approach will allow for the owners to maintain it for rental/leasehold or to sell at a later date.

Policy and Regulation Background:

The Official Plan designates the subject lands within the “Commercial” designation, and is zoned “Highway Commercial (C2)” in the Zoning By-law.

Provincial Policy Statement, 2020

The Provincial Policy Statement, 2020 (PPS), the County Official Plan, and the Newbury Official Plan all encourage development in settlement areas on full municipal services provided the development is compatible with the surrounding area and represents an orderly and efficient use of land and infrastructure.

Section 1.3 (“Employment”) of the PPS states that planning authorities shall promote economic development and competitiveness by providing an appropriate mix and range of employment including commercial and industrial lands, and by facilitating the conditions for economic investment within the municipality. Additionally, planning authorities shall plan for, protect and preserve employment areas for current and future uses. Planning Authorities may permit conversion of lands within employment areas to non-employment uses through a comprehensive review, only where it has been demonstrated that the land is not required for employment purposes over the long term and that there is a need for the conversion.

Further planning authorities shall protect employment areas in proximity to major goods movement facilities and corridors for employment uses that require those locations.

Section 1.4 (“Housing”) states that planning authorities shall provide for an appropriate range and mix of housing options and densities to meet projected market-based and affordable housing needs of current and future residents.

Middlesex County Official Plan

Economic development is an important function of the County’s Growth Management policy framework. Many long-term goals and objectives depend on economic activity and the opportunity for residents to live and work within the County.

Local municipalities, through their official plans, shall prepare detailed policies to guide redevelopment of areas in transition or land that is underutilized.

Urban Areas in the County shall demonstrate the potential to accommodate future growth. Local municipalities shall develop Growth Management Strategies to rationalize the type, amount, location and timing of growth and development and to establish the basis for the provision of the services and the necessary infrastructure.

The County Plan also identifies minimum road right-of-way widths throughout the County. Concession Drive is classified as an Arterial Road constructed to an urban standards within a settlement area. Concession Drive is to have a minimum right-of-way width of 30 metres. Building setbacks are to be established within the local zoning by-law.

The County shall discourage development which would inhibit traffic movement along the County road system including multiple private accesses. For high volume arterial roads, access shall be strictly controlled and where such roads abut residential areas, reverse frontage is encouraged. Agricultural, industrial, commercial and open space land uses are considered appropriate uses adjacent to arterial County roads.

Village of Newbury Official Plan

Section 3.4 (“Commercial and Industrial”) of the Official Plan establishes policies related to Commercial and Industrial lands within the Village. The piecemeal creation of ribbon development of commercial, industrial and/or institutional uses along major roads shall be discouraged. Wherever possible, industrial, institutional and commercial uses should also be encouraged to locate in proximity to one another. A residential unit may be included within a proposed commercial, industrial or institutional use if such unit is necessary to the operation and/or maintenance of the proposed use.

Section 3.3 (“Residential”) of the Village of Newbury Official Plan states that “new residential development shall normally take place on lots of a registered plan of subdivision or on lots created by consent of the authority having jurisdiction. Consents shall only be granted when a registered plan of subdivision is not necessary to ensure the effective implementation of the policies of this Plan.” Further, “where residential areas are designated, development shall be restricted to residential and institutional uses. New residential development in the Village shall be limited in scale and restricted to low density, single family and two family dwellings.”

With respect to the Zoning By-law, the 'Highway Commercial (C2)' zone permits a variety of commercial uses such as a bus depot, drive-in restaurant, fuel station, green house, motor vehicle sales establishment, and a variety of retail, office and service uses. Within this zone, residential uses are not permitted. Further, the zoning requires a minimum lot frontage of 30 m (98.4 ft) and lot area of 2, 000 m² (21, 527.8 ft²).

Consultation:

Notice of the application and public meeting was circulated to agencies, as well as property owners in accordance to the requirements of the *Planning Act*.

Public Comments:

At the time the subject report was completed, no comments had been received.

Agency Comments:

The County of Middlesex Engineer reviewed the subject application and requests that the owner will be required to dedicate lands up to 15 m from the centreline of construction of County Road 14 (Concession Road) across the severed and retained parcels to the County of Middlesex for the purposes of road widening if the right-of-way is not already 30 metres.

A single access will only be granted to Concession Drive and the County would prefer to see a shared driveway established through a plan of condominium. The County Engineer will need to see more detail around the proposed access and land use as 6 units would require a left-turn slip and right turn taper along Concession Drive.

St. Clair Region Conservation Authority is reviewing the applications and will provide comments as needed.

Analysis:

Official Plan Amendment

It is the opinion of staff that the lands can be supported for standalone residential uses in addition to commercial uses that are currently permitted on the site. Further, staff support a mixed-use development with complimentary uses (e.g. office or retail use on ground floor with residential units on second and third stories), or standalone commercial or residential uses.

The applicant did not undertake a comprehensive review to support the application to effectively convert the lands from commercial to residential, however, the lands are underutilized and there appears to be sufficient land available for general commercial uses in other areas of the Village. The subject lands and nearby properties along Concession Drive provide unique opportunities for more intense commercial uses to establish due to their proximity to the County road network and separation from sensitive land uses. As such, staff found it appropriate to continue the current Commercial designation to provide flexibility in uses for the subject lands.

The proposed uses can be supported on full municipal services and have year round access to a public roadway. Staff are supportive of the higher density infill development and new housing form proposed by the applicant. As such, planning staff support the provision of new residential uses to meet the needs of current and future residents.

To reflect planning staff's recommendation to permit both commercial and residential uses, staff, a special policy area is proposed to apply both commercial and residential policies to the subject lands.

With regard to the proposal to establish new lots through consents, staff have iterated to the applicant that the preferred form of lot creation is through a plan of subdivision or plan of condominium for the orderly division of land and to comprehensively review the development of 6 lots and address matters including, but not limited to, access and maintenance of the access and shared driveway/private internal street, servicing extensions, and County road requirements.

In compliance with provincial Environmental Protection Act and its regulations, the conversion of lands from an employment use (e.g. industrial, commercial) to a more sensitive use such as residential requires the completion of a Record of Site Condition. A Record of Site Condition can be completed prior to new development as a requirement through the Ontario Building Code. The applicant may be required to complete a Record of Site Condition in accordance with Ontario Regulation 153/04 prior to the issuance of a building permit.

Section 3.5 of the Official Plan has policies pertaining to 5 percent land dedication or cash in lieu for the purposes of creating a new park when approving new residential development. The policy enables the Village to impose this policy if appropriate for the application. Village staff and Council can determine if the 5 percent land dedication or cash in lieu for a new park is necessary for this scale of development.

Zoning By-law Amendment

It is the opinion of staff that the requested rezoning can be supported on the subject lands. Staff has worked with the applicant to establish a site-specific zone to permit both commercial and residential units as permitted within the Official Plan Amendment. As such, staff recommend that a site-specific "Highway Commercial exception 1 (C2-1)" zone be established and that new definitions be added to the Zoning By-law for townhouse dwelling units.

Two (2) new definitions for townhouse dwelling units are recommended to be included within the Zoning By-law and applicable to all lands that permit the uses.

2.25b DWELLING, STREET TOWNHOUSE means a townhouse with each dwelling unit having frontage on a public street.

2.25c DWELLING, TOWNHOUSE means a dwelling divided vertically into three or more dwelling units with a maximum of eight units, each of which has a separate entrance at grade to the front and rear yards or front and side yards

A “Street Townhouse Dwelling” unit are for instances where townhouse abut a municipal road and not considered part of a condominium or block style townhouse development. The tenure of the units are generally freehold.

A “Townhouse Dwelling” would apply to block style townhouse developments or condominium style developments where private services and accesses are proposed.

The new “Highway Commercial exception 1 (C2-1)” zone will permit the following uses. Some incompatible uses, like fuel station and bus depot, are not included to avoid long-term human health hazards on site and on abutting residential properties.

- Drive-in restaurant, business/procession office
- Farm Equipment Sales
- Farm Supplies
- Financial Institution
- Funeral Home
- Four-Plex Dwelling
- Garden Supply Centre
- Green House
- Home occupation
- Motel
- Motor Vehicle Sales Establishment
- Personal Service Shop
- Private Garage
- Restaurant/Tavern
- Retail Store
- Semi-Detached Dwelling
- Street Townhouse Dwelling
- Townhouse Dwelling
- Veterinary Services

Staff also recommend approval of the following standards for the development of the site. If commercial uses are proposed to be developed on the site, the general provisions of the “Highway Commercial (C2)” zone shall apply:

- Minimum Lot Area 145.0 m² per unit for residential uses
- Minimum Lot Frontage 8.0 m per unit for residential uses
- Maximum Lot Coverage 45% for residential uses
- Maximum Building Height 10.5 m for residential uses
- Minimum Floor Area 90.0 m² per unit for residential uses
- Front Yard Depth 7.5 m for residential uses
- Side Yard Depth 3.0 m for residential uses and 0.0 m along the

Location Map:



