

## THE MUNICIPALITY OF LAMBTON SHORES

**Report PL 26-2024**

**Council Meeting Date: October 1, 2024**

**TO:** Mayor Cook and Members of Council  
**FROM:** Will Nywening, Senior Planner  
**RE:** Zoning By-law Amendment Application Z15-2024 – Plan 1 East ½ Lot 18 & Plan 2, Lots 37 & 38 – 141 Main St, Thedford – Karen Alberti

### **RECOMMENDATION:**

**THAT** Report PL 26-2024, relating to a Zoning By-Law Amendment Application, submitted by Karen Alberti, be received;

**THAT** Zoning By-Law Amendment Application Z15-2024, requesting an amendment to Zoning By-Law 1 of 2003 to rezone 141 Main St, Thedford to a residential zone, be approved; and

**THAT** By-Law 79 of 2024 to implement the zoning by-law amendment be approved.

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### **SUMMARY**

This report relates to a Zoning Amendment application, submitted by Karen Alberti, affecting lands known as 141 Main St, Thedford. The applicant proposes to amend Zoning By-Law 1 of 2003 by changing the zoning of the subject lands from the “Exception 6 to the Commercial-1 (C1-6) Zone” to a residential zone.

### **BACKGROUND**

The County Official Plan designates Thedford as “Urban Settlement”. The Lambton Shores Official Plan designates this property “Downtown Commercial”. Other properties on this block also abutting Main St are also designated “Downtown Commercial”. The back side of the block is designated “Residential” (see OP map excerpt in attached Report PL 28-2019).

The Official Plan was just updated to add provisions with more flexibility for residential uses in the Downtown Commercial designation, particularly in Thedford and Arkona, but this was for multiple dwellings, not single detached dwellings. These amendments are awaiting County approval and not yet in force.

The subject lands are not within an area regulated by a Conservation Authority and contain no identified natural heritage features.

In Zoning By-Law 1 of 2003, the subject lands are designated as “Exception 6 to the Commercial-1 (C1-6) Zone”. The lands were zoned this way in 2019 by By-law 83-2019 upon an application submitted by the current owner. Prior to that, the lands were zoned “Mixed Commercial/Industrial-1 (CM1) Zone”. The other lots on this block facing Main St are still zoned CM1. The balance of the block is zoned either “Residential-1 (R1)” (low density) or “Residential-3 (R3)” (multiple dwelling).

The current C1-6 Zone was established for the purpose of permitting a single detached dwelling and bed and breakfast development. The C1-6 Zone provisions are:

**f) Exception 6 to the Commercial – 1 Zone**

*Notwithstanding any other provisions of the By-law to the contrary, on lands zoned Commercial-1.6 (C1-6) on Schedule “A-7” to this By-law, being part of lands described as Plan 1, East ½ Lot 18 & Plan 2, Lots 37 & 38 (Thedford) and located on Main Street, the following provisions shall apply:*

- i) A Single Detached Dwelling shall be Permitted in addition to the Uses Permitted in Section 20.1, provided the Single Detached Dwelling includes a Bed and Breakfast Establishment with 3 or more Guest Rooms.*
- ii) The limit of 3 Guest Rooms for a Bed and Breakfast shall not apply.*
- iii) The following site regulations shall apply:*
  - a. Minimum Front Yard Setback 3m*
  - b. Minimum Interior Side Yard 1.2m or 3m where abutting a Lot with a Residential Main Use*
  - c. Minimum Rear Yard Setback 7m*
  - d. Maximum Height 11m*
  - e. Maximum Lot Coverage 50%*
  - f. Minimum Landscaped Open Space 35%*
- iv) Buildings, Structures and Uses Accessory to a Single Detached Dwelling or Bed and Breakfast are Permitted subject to the provisions applicable to Lots in Residential Zones under Section 3.3.*

Property Description: Prior to the 2019 rezoning, the property was vacant. It has now been developed pursuant to the C1-6 Zone. The building plans for the existing house are attached to the agenda. The building is a single detached dwelling with 3 guest rooms on the main floor and a separate apartment dwelling occupying part of the basement. The applicant advises that the property serves as her primary residence and that there is a tenant in the basement apartment. The property is functioning as a bed and breakfast as intended, however some of the guest rooms are let to longer-term boarders as opposed to the travelling public.

## **DISCUSSION**

The applicant has advised that the commercial zoning has prevented her from obtaining residential mortgage rates, which has been a financial burden. This is her reason for the rezoning application. Staff has become aware that commercial zoning is a challenge for other residential properties as well – e.g. those purchasing legal non-conforming homes in commercial zones and also the 7352 Arkona Road example noted below.

Staff Report PL 28-2019 supported the 2019 rezoning of the subject lands from CM1 to C1-6 and is attached for Council's reference.

When the property was rezoned in 2019 to permit a single detached dwelling, this was supported by staff because the property is on the fringe of the downtown with a mix of abutting residential uses, including another house within the commercial designation. This new single detached dwelling was supported within the commercial designation because the proposed building contained a commercial element in the bed and breakfast. Because of the commercial designation in the Official Plan, the zone designation recommended by staff was a commercial zone exception (the C1-6 Zone).

Comparable situations: Staff is aware of two other rezonings in the last six years that permitted a residential zone notwithstanding a commercial designation in the Official Plan, one preceding this property's rezoning and one following.

6603 East Parkway Drive, Ipperwash is located on the corner of Ipperwash Road. It is located within the "Commercial" designation of the Official Plan that extends along both sides of Ipperwash Road. On March 5, 2019 (BL 14-2019) it was rezoned from Commercial-6 (C6) to Residential-6 (R6) to permit the replacement of an existing legal non-conforming dwelling with a new single detached dwelling. The rezoning to residential was supported by Staff despite the Ipperwash Road corridor's commercial designation in the Official Plan because the commercial designation is primarily a residential area, with most of the properties zoned residential. Staff concluded the intent of this area, despite the commercial designation, is to recognize existing commercial uses and allow additional commercial uses but not require that existing residential uses cease over time.

7352 Arkona Road, Arkona is located on the east side of Arkona Road towards the north end of Arkona's "Downtown Commercial" designation in the Official Plan. On June 23, 2020 (BL 29-2020) it was rezoned from Commercial-1 (C1) to Residential-1 (R1) permitting the replacement of an existing dwelling with a new single detached dwelling. Staff supported this rezoning because of the property being on the periphery of the downtown, the existing residential use, its proximity to other residential uses, the difficulty of the terrain to develop the property for commercial use, policies in the Official Plan allowing the zoning by-law to recognize legal non-conforming uses, and the existence of a number of other dwellings and R1 Zones around the fringes of the downtown commercial designation in Arkona.

Draft Amendment: The applicant has requested that the property be rezoned to a residential zone. A number of lots within the same block as the subject lands are zoned as the standard R1 Zone. The R1 Zone permits a single detached dwelling and home occupations. Home occupations include a bed and breakfast. A bed and breakfast is defined in the Zoning By-law as a dwelling in which a resident of that dwelling offers up to three rooms within the dwelling unit as guest rooms. Section 3.8 of the Zoning By-law also permits a separate, second dwelling unit (apartment) in any zone where a single detached dwelling is permitted. Except for the front yard setback, the existing building and its uses would comply with the provisions of the R1 Zone.

A draft amending by-law is included in the By-Law section of the agenda. The by-law, as drafted, would change the zone designation of the subject lands from C1-6 to a new R1-19 Zone. The amendment would add new R1-19 provisions very similar to the C1-6 Zone provisions except that the uses permitted in the standard downtown commercial C1 Zone would no longer be permitted on the subject lands. Finally the amendment would delete the C1-6 Zones, which would no longer apply to any property within the Municipality.

Planning Opinion: The property is designated “Downtown Commercial” in the Official Plan. Although another rezoning would be possible to reverse the present rezoning request, the as-of-right potential for commercial uses would be lost from the property through the requested rezoning. This situation has aspects similar to other situations where staff supported a rezoning to residential despite a commercial designation in the Official Plan – the property is in a fringe area and surrounded by a number of other residential uses. The details are not entirely the same however, making this application a step harder to justify on a policy basis than the others. The land use has merits in the context of surrounding uses and the amendment does not change the use, it simply eliminates the as-of-right potential for other commercial uses.

In some respects the challenge of this request is more of a philosophical and policy concern than a practical concern. The existing use is already established and would continue to contain a commercial component in a bed and breakfast, despite a rezoning to residential. The applicant could apply to amend the Official Plan designation from downtown commercial to residential to eliminate any question of the rezoning’s conformity to the Official Plan and there would be some merit to that, however this would place a gap in what is otherwise designated entirely as a commercial block. Although it is not directly a land-use or Municipal concern, Staff was not aware of the difficulties of obtaining a mortgage with commercial zoning when the property was rezoned in 2019 and acknowledges the situation the applicant is in.

All things taken together, Staff hesitantly offers no objection to the application as presented. Staff does not object to approval of the Zoning Amendment application and passing of the implementing by-law as presented.

### **ALTERNATIVES TO CONSIDER**

None at this time.

**RECOMMENDED ACTIONS**

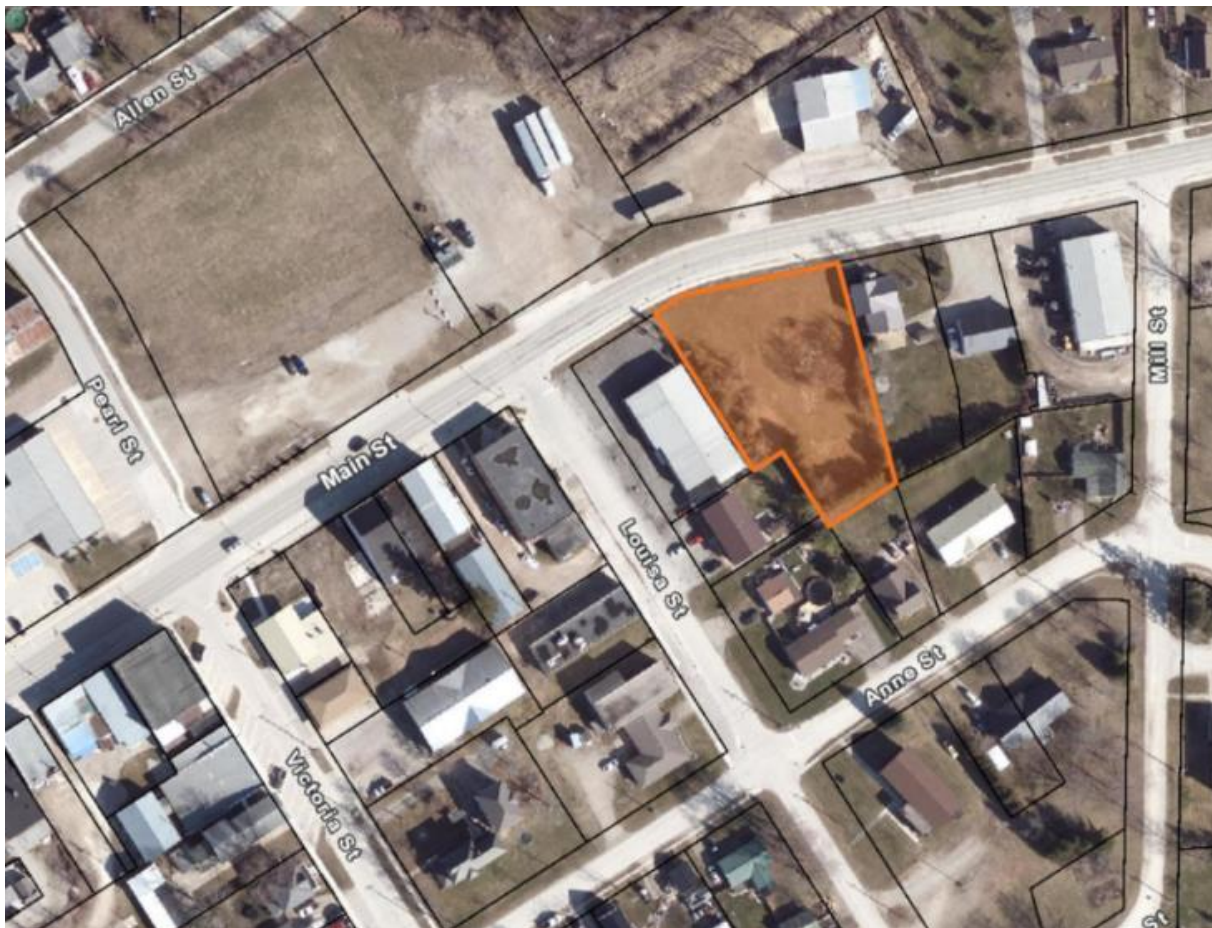
Staff recommend that Report PL 26-2024 be received, the zoning by-law amendment application be approved, and the implementing by-law be passed.

**FINANCIAL IMPACT**

The applicant has paid the Municipality a \$1300 zoning amendment application fee.

**CONSULTATION**

The Applicant



**SUBJECT PROPERTY**