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PLANNING JUSTIFICATION REPORT

274-286 DALHOUSIE ST.
TOWN OF AMHERSTBURG

ZONING BY-LAW AMENDMENT
OFFICIAL PLAN AMENDMENT

27 Princess Street, Unit 102
Leamington, ON N8H 2X8
t. 519.326.6161

www.crozierbaird.ca

CROZIER BAIRD ENGINEERS
IS A DIVISION OF
MATTHEW J. BAIRD
CONSULTING SERVICES INC.

TABLE OF CONTENTS

- 1. INTRODUCTION**
 - 1.1 Purpose of the Report**
 - 1.2 Location of Subject Lands**
- 2. BACKGROUND**
- 3. PROPOSAL**
 - 3.1 Application for Official Plan Amendment**
 - 3.2 Application for Zoning By-law Amendment**
 - 3.3 Application for Strata Title Plan**
 - 3.4 Renderings and Site Plan**
- 4. LAND USE**
 - 4.1 Subject lands**
 - 4.2 Neighbourhood**
- 5. HERITAGE CONTEXT**
- 6. PROVINCIAL POLICY STATEMENT**
- 7. COUNTY OF ESSEX OFFICIAL PLAN REVIEW**
- 8. TOWN OF AMHERSTBURG OFFICIAL PLAN REVIEW**
 - 8.1 Current Land Use Designation**
 - 8.2 Downtown Revitalization Policies**
 - 8.3 Official Plan Amendment**
- 9. ZONING BY-LAW REGULATIONS**
 - 9.1 Zoning By-law Regulations - Dwelling Units**
 - 9.2 Zoning By-law Regulations – Rear Yard**
 - 9.3 Zoning By-law Specific Regulations**
 - 9.4 Zoning By-law Amendment**
- 10. CONCLUSIONS**

1.0 INTRODUCTION

Crozier Baird: Engineers, Planners and Architects have been retained to undertake a planning justification review and report on the feasibility of an Official Plan Amendment and Zoning By-law Amendment that will authorize a proposed development to be located at 274-286 Dalhousie Street in the Town of Amherstburg.

A pre-consultation meeting was held at town hall with the Town Planner and the Director of Asset Management and Development Economics for the Town of Amherstburg as well as a pre-consultation meeting held with the Manager of Planning Services for the County of Essex.

Crozier Baird has prepared this justification report to support, explain and justify the requested Official Plan Amendment and Zoning By-law Amendment.

1.1 Purpose of the report

The applicant is requesting an Official Plan Amendment and a Zoning By-law Amendment to establish parameters for the proposed building style and permitted use of the subject lands. The applicant is proposing the development of the site for a freehold strata title plan with 6 commercial freehold units on the ground floor and 6 residential freehold units located above the commercial units with ground floor access. Underground parking will be provided for each residence.

Since access and the frontage associated with the residential freehold units is interpreted as residential land use it must be identified as a permitted use. The Official Plan Amendment and the Zoning By-law Amendment will therefore establish a policy framework and provide for regulations to allow for the style of development that includes access to the residential units located above the commercial units. In addition, through definition of the strata title plan for the commercial units, the commercial units will have lot frontage but the rear lot line is the back of the building and therefore will not have a rear yard requiring the by-law amendment to provide for a reduced rear yard.

1.2 Location of the Subject Lands

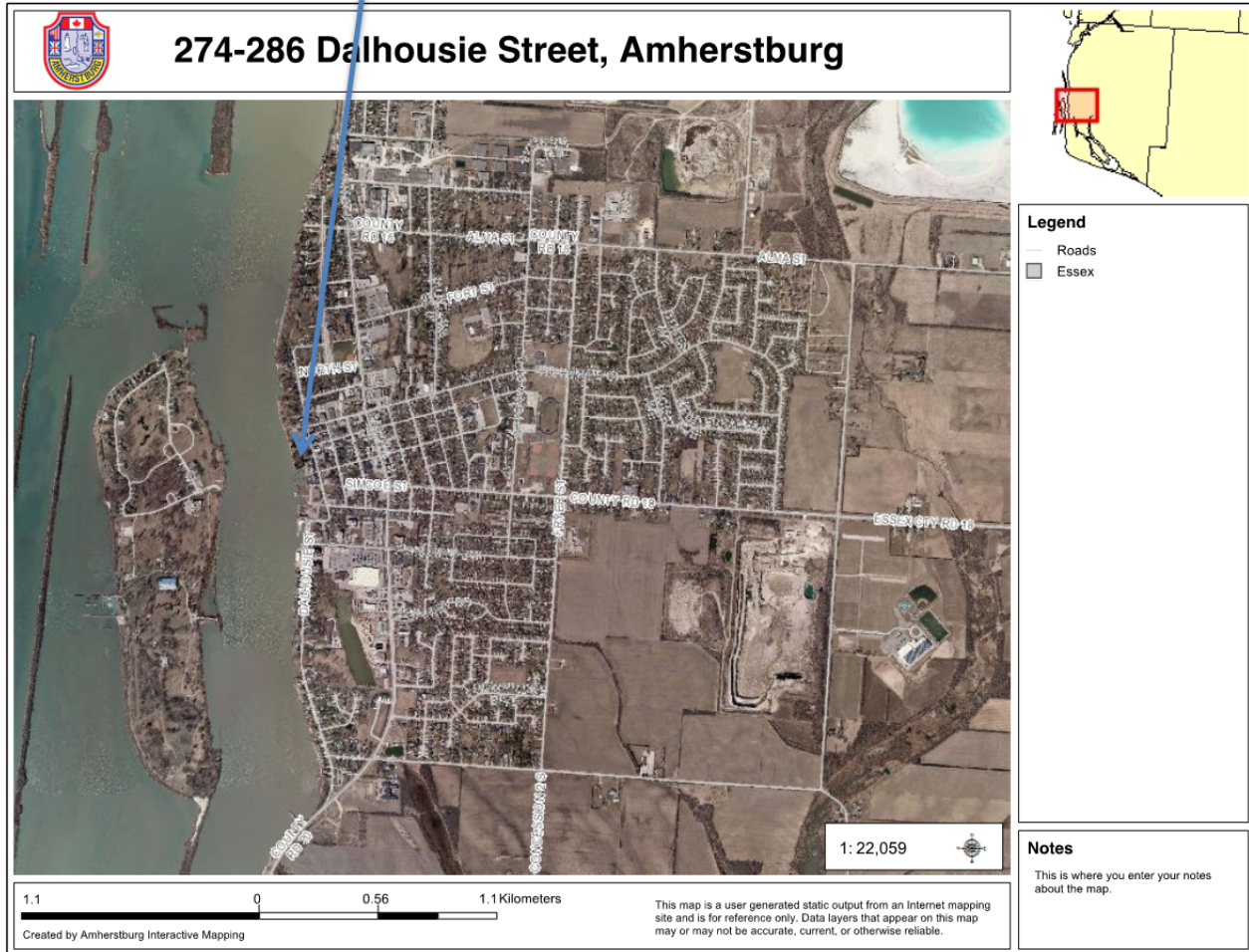
Subject lands are located within the central business district area in the Town of Amherstburg and known municipally as 274-86 Dalhousie Street.

The parcels are also known legally as Part of Lots 5 and 6, (being on the westside of Dalhousie Street) of Registered Plan 1 in the Town of Amherstburg. Designated as Parts 1, 2, 3, 4, 5 on Plan 12R-25822 in the Town of Amherstburg. In addition, acquired lands from the Town of Amherstburg under P.I.N. 70566-0169 and P.I.N. 70566-0173.

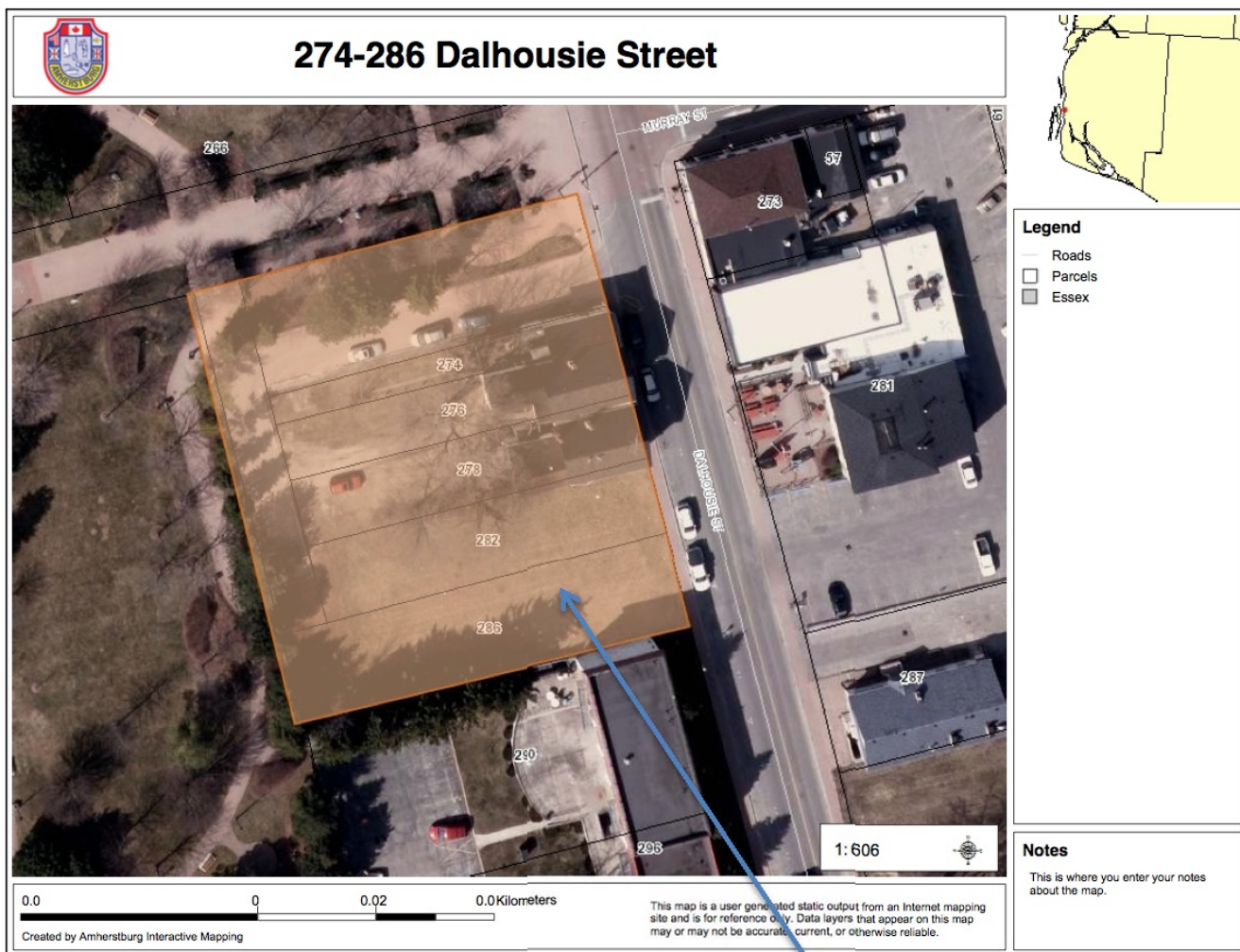
See below for the location of the subject site and the additional site selection map of the site.

LOCATIONAL MAP

Subject lands: 274-286 Dalhousie Street, Amherstburg



SITE LOCATION



Site selection of 274-286 and laneway on Dalhousie Street

2.0 BACKGROUND

The subject lands comprise part of a lot on a historical plan of subdivision that was the original plan for the development of the downtown area of the Town. The plan of subdivision created the original land fabric for the downtown area of Amherstburg with the creation of lots for commercial and residential mixed use development.

The buildings that were originally located on the subject lands comprised individual, attached structures on each parcel.

The land owner will apply for a part lot control exemption by-law to create individual, free hold units - a commercial main floor unit and a residential unit above with 2 floors and underground parking below the commercial.

The strata title plan, through part lot control exemption by-law, will re-establish the individual buildings on each parcel with a vertical division of the building on six property lines and then horizontally to identify the commercial spaces as separate freehold units and the residential spaces as separate freehold units.

Parking for the residential units will be via a rear driveway with access to an individual private underground parking unit.

3.0 PROPOSAL

3.1 Application for Official Plan Amendment

An Official Plan Amendment will be submitted to apply a site specific policy to the subject lands. The Official Plan Amendment will provide for the allowance of a residential staircase and a residential door/access with street frontage on the ground floor.

Specifically, the requested policy will recognize the residential land use of access to the second floor residential dwelling units as a permitted use on the ground floor of the building. The policy will not otherwise permit residential dwelling units on the ground floor.

3.2 Application for Zoning By-law Amendment

Through the development of a strata plan, the residential units will be located above the commercial units but will have a doorway/stairway access and frontage associated with each residential unit on the ground floor. The requested zoning by-law amendment will be site specific to allow for the entrance and frontage of a residential unit located on the ground floor. Further, the by-law amendment will also include wording that ensures residential dwelling units shall be located on the second floor with residential access and frontage only permitted on the ground floor.

The strata plan will define the commercial freehold units with front lot lines on Dalhousie Street and the rear lot lines being the rear wall of the building. The site specific amendment will address the zero rear lot line for the commercial units.

3.3 Application for Strata Plan

The land owner will apply for a part lot control exemption by-law to use the strata title plan to create individual, free hold units with a commercial main floor unit and a residential unit above with 2 floors and underground parking below the commercial.

Thus the individual buildings will be established on each parcel with a vertical division of the building on six property lines and then horizontally to create the commercial as separate freehold units and the residential as separate freehold units.

3.4 Renderings and Site Plan

Please refer to **Appendix C – Renderings and Site Plans**

4.0 LAND USE

4.1 Subject lands

Please refer above to **Locational Map**

4.2 Neighbourhood uses

- a) **East** – Commercial/Residential mixed use
- b) **South** – Commercial/Residential mixed use and a commercial hotel
- c) **West** – Old Navy Yard Park and the Detroit River further west
- d) **North** – Commercial/Residential mixed use

Please refer above to **Site Selection Map**

5.0 HERITAGE CONTEXT

The subject property is located within the Dalhousie Street Heritage area, a neighbourhood identified as containing a high concentration of heritage architecture significant to the cultural heritage of the Town. The lands subject to the OPA and ZBLA are vacant with the proposed development infilling between existing developments.

The applicant recognizes the high level of heritage within the neighbourhood and has designed the new development to be sensitive to the existing heritage infrastructure of Dalhousie Street. The proposed building will be a mixed-use development with the commercial main floor and residential second floor, similar to other buildings within the neighbourhood. The massing and height of the building is comparable to the neighborhood heritage buildings and will create a similar building mass as the adjacent structures. The proposed building will infill a presently vacant parcel with a structure that is heritage sensitive and will complete the street view of a significant heritage neighbourhood, providing a positive addition to the Dalhousie Street Heritage District.

Subsection 6.4.1 Heritage Downtown policies provides direction that “All new development within the Heritage Area will be carried out in such a manner as to respect the existing historical character while every effort will be made to preserve existing structures, building sites, as well as the overall character and atmosphere within the area.”

Please refer to attached **APPENDIX C – ELEVATIONS/RENDERINGS**

6.0 PROVINCIAL POLICY STATEMENT

When reviewing a planning application to determine if the request makes sound planning, it is imperative that the proposed development is consistent with the Provincial Policy Statements (PPS): "The Provincial Policy Statement provides policy direction for appropriate development while protecting resources of provincial interest, public health and safety, and the quality of the natural environment. It (PPS) recognizes that the wise management of development may involve directing, promoting or sustaining growth. Land use must be carefully managed to accommodate appropriate development to meet the full range of current and future needs, while achieving efficient development patterns."

"Section 1.1.3.3 Planning authorities shall identify appropriate locations and promote opportunities for intensification and redevelopment where this can be accommodated taking into account existing building stock or areas, including brownfield sites, and the availability of suitable existing or planned infrastructure and public service facilities required to accommodate projected needs."

"Section 1.3.1 Planning authorities shall promote economic development and competitiveness by:

- a) providing for an appropriate mix and range of employment and institutional uses to meet long-term needs;*
- b) providing opportunities for a diversified economic base, including maintaining a range and choice of suitable sites for employment uses which support a wide range of economic activities and ancillary uses, and take into account the needs of existing and future businesses;*
- c) encouraging compact, mixed-use development that incorporates compatible employment uses to support liveable and resilient communities; and*
- d) ensuring the necessary infrastructure is provided to support current and projected needs."*

The requested Official Plan Amendment and Zoning By-law Amendment support the development of a mixed use building containing both commercial and residential uses. The development supports the intensification of land use in the downtown core of the Town of Amherstburg. The proposal supports the live-work objective purported by the Provincial Policy Statement.

The requested Official Plan Amendment and Zoning By-law Amendment are consistent with the Provincial Policy Statements.

7.0 COUNTY OF ESSEX OFFICIAL PLAN REVIEW

The requested Official Plan Amendment and Zoning By-law Amendment will create a technical change affecting only the policy and regulatory framework within the local documents and on a site specific basis. The site specific amendments do not impose changes that will have any impact beyond the allowance for a residential entrance on the same level as a commercial unit in the main core area.

In accordance with Subsection 3.2.7 Intensification & Redevelopment:

“The County encourages well-planned intensification development projects in the Settlement Areas to encourage more efficient use of land and municipal infrastructure, renew urban areas and to facilitate economic and social benefits for the community. The County also specifically encourages residential intensification and redevelopment within Primary Settlement Areas in order to increase their vitality, offer a range of housing choices, efficiently use land and optimize the use of infrastructure and public service facilities.”

Further Subsection 4.4 Local Plans specifies that *“Any amendment to a local Official Plan must be in conformity with the policy direction contained within this Plan.”*

The requested amendments will be supporting the development of a mixed use building comprising commercial uses on the main level and residential development on the second floor.

Local official plan policies and zoning regulations require residential dwelling units above the commercial development in the central business district. The amendments are technical in nature and site specific to amend the policy and regulatory framework to accommodate a residential entrance and frontage on the ground level. The dwelling units will be above the commercial units and will result in a mixed use development as intended by the local Official Plan policies and zoning regulations.

The requested amendments are technical in nature and only an amendment to the local official plan is required to support the proposed development. The amendments conform with the policy direction of the local official plan and the County of Essex Official Plan.

8.0 TOWN OF AMHERSTBURG OFFICIAL PLAN

8.1 Current Land Use Designation

The subject property is presently designated 'General Commercial' in the Official Plan for the Town of Amherstburg.

Subsection 4.4.2 General Commercial Areas permitted uses are defined as:

"The uses permitted in the General Commercial designation shall include those commercial establishments offering goods and services which primarily serve the whole of the municipality's market area and shall include such uses as retail commercial establishments, places of entertainment, assembly halls, eating establishments, hotels, motels, community facilities, public uses, recreational uses, convenience stores whether in the form of individual stores or in a shopping centre form of construction and/or ownership, and residential uses above the first floor."

The proposed mixed use development with commercial freehold units on the main and residential units on the upper floors conforms with the intent of the Official Plan policies.

The residential units above the main floor will have residential access on the ground floor, adjacent to the commercial uses. The freehold ownership of the units will result in the residential land use having frontage at the lot line on the ground level and technically not 'above the first floor.' It appears that the residential entrance on main floor together with the residential frontage at the lot line result in the required Official Plan Amendment.

In the historic areas of downtown Amherstburg entrances and stairways are located on the ground level to the commercial uses. The proposed development is consistent with the existing format of commercial on the main floor and residential above with an access door and stairways on the main floor as part of the building profile.

Official Plan Amendment will not be permitting new uses in the downtown area but rather will be recognizing the entrance and frontage of the residential units on the ground level.

The OPA will be supporting the development of the subject lands with a building design and style that is compatible and consistent with the existing neighbourhood. Existing adjacent mixed use commercial/residential buildings have the commercial use on the main floor with the residential above in the second and third floor as being proposed for this property. Each of these mixed use buildings will have a residential entrance on the ground floor. This historically sensitive mixed use building will be supporting the heritage design and profile of the significant heritage area.

8.2 Policies for Downtown Revitalization

Policies of the downtown revitalization specify:

6.2.1 Description

- (1) The Central Business Area shall comprise those lands adjacent to Richmond Street, west of Sandwich Street and Dalhousie Street from Rankin to Gore.
- (2) The uses permitted in the Central Business Area shall consist primarily of those general commercial uses described in Section 4.4 hereof, but shall also include some mixed types of residential uses located primarily on the fringe of the Central Business Area.

6.2.3 Residential Uses

- (1) Accessory residential uses and limited height apartments may be permitted in those areas designated General Commercial within the Central Business Area.

The proposed mixed use development with commercial main floor and residential units above conform to the intent of the policies of the Downtown Revitalization plans for the Town.

The technical aspect of the amendment to recognize the entrance, stairway and lot frontage as residential uses on the main floor is consistent with the policies to support design and styles consistent with the heritage district and to support the mix use of development being proposed.

8.3 Official Plan Amendment

It is recommended that following policy be applied on a site specific basis to the subject lands:

“4.4.3 Commercial Special Policy Areas

- (6) Lands known as 274-286 Dalhousie Street may be developed with a strata title plan with a mixed use development containing commercial main floor freehold commercial units and second floor freehold residential units. The residential units may have frontage and main floor street access to Dalhousie Street.”

The Official Plan Amendment conforms to the policies of the Official Plan by setting out a site specific policy permitting a residential use in the form of an entrance, stairways and frontage are permitted on the ground floor of these units.

9.0 ZONING BY-LAW REGULATIONS

The subject property is currently zoned 'Commercial General Exception 4 (CG-4)' in the Comprehensive Zoning By-law 1999-52 for the Town of Amherstburg.

9.1 Commercial General (GC) Zone – Residential units

Section 15 General Commercial (CG) provides for a list of permitted uses (please refer to attached **APPENDIX B – ZONING BY-LAW REGULATIONS** that include: "(xvii) dwelling units restricted to above the first floor;"

Subsection 2 (109) defines "DWELLING": "means a building, occupied or designated to be occupied exclusively as a home, residence or sleeping place by one (1) or more persons, but shall not include hotels, boarding, lodging, or rooming houses, tourist homes, nursing homes, motels, institutions, or travel trailers."

The dwelling units of the proposed building are to be located on the second floor above the commercial uses in compliance with the intent of the by-law regulations. As part of the design of the building, the strata plan will result in the residential unit having an access door and stairway on the ground floor: through a technical interpretation of the restriction that residential use must be restricted to above the first floor, an amendment is proposed to recognize the entrance and door as permitted uses in the (CG-4) zone.

The requested zoning by-law amendment will be site specific to allow for the entrance and frontage of a residential unit located on the ground level. Further, the by-law amendment will also include wording that ensures residential dwelling units shall be located on the second floor with residential access and frontage only permitted on the ground floor.

9.2 Commercial General (GC) Zone – Rear Yard

Subsection 15(3)(f) Rear Yard Depth (Minimum) defines the required rear yard for the structure as 7.5 m.

The strata plan will define the commercial freehold units with front lot lines being on Dalhousie Street and the rear lot lines being the rear wall of the building. The site specific amendment will address the zero rear lot line for the commercial units.

9.3 Draft Zoning By-law Amendment

The subject property has a site specific by-law applied to the property through the (CG-4) by-law:

Subsection 15(4)(d) CG-4 (PARKING SPECIAL PROVISION):

Notwithstanding the parking requirements of Section 21(a) (b) or (c), the parking requirements for any area zoned CG-4 on Schedule "A" for residential units shall be 0.33 per unit and there shall be no parking

requirements for non-residential land uses. All other parking regulations shall apply. (By-law No. 2002-51)

The minimum height shall be 7 metres and the maximum height shall be 18 metres. (By-law No. 2012-65)

The proposed amendment will be a minor modification to the existing by-law regulations for clarity of application.

9.4 Draft Zoning By-law Amendment

The following highlighted wording identifies the recommended site specific regulations to the site specific (CG-12) by-law:

Subsection 15(12)(d) CG-12 (DALHOUSIE STREET STRATA PLAN):

“Notwithstanding any provisions of this By-law to the contrary within any lands zoned CG-12 and as shown on Schedule A, Map 37 attached hereto, the requirements of Subsection 15 of this By-law shall apply with the exception of the following special provisions:

i. Parking Provision:

Notwithstanding the parking requirements of Section 21(a) (b) or (c), the parking requirements for any area zoned CG-12 on Schedule “A” for residential units shall be 0.33 per unit and there shall be no parking requirements for non-residential land uses. All other parking regulations shall apply. (By-law No. 2002-51)

ii. Height of Building:

The minimum building height shall be 7 metres and a maximum height shall be 18 meters.

iii. Rear yard for commercial uses:

0m minimum rear yard is permitted for commercial uses.

iv. Residential units:

The location of residential units is restricted to above the commercial units. Entrances and stairways for the residential units are permitted to be located on the ground floor of the structure. The residential units may have road frontage associated with the units.”

The requested zoning by-law amendment is consistent with the intent of the Comprehensive Zoning By-law for the (GC) zone to require commercial use on the ground floor and restrict

residential dwelling units on the second floor while allowing for site specific refinements such as the ground floor entrance and frontage and the 0m rear yard for the commercial unit.

10.0 CONCLUSIONS

In my professional opinion, the requested Official Plan Amendment and Zoning By-law Amendment:

- 1) is consistent with the policies of the Provincial Policy Statements;
- 2) conforms with the relevant policies of the Town of Amherstburg Official Plan,
- 3) Maintains the intent of the Comprehensive Zoning By-law 1999-52;
- 4) Makes sound planning.



Jackie Lassaline BA MCIP RPP
Principal Planner, Crozier Baird

APPENDIX A

OFFICIAL PLAN POLICIES FOR GENERAL COMMERCIAL

APPENDIX B

ZONING BY-LAW 1999-52 - COMMERCIAL GENERAL (CG)

APPENDIX C
RENDERINGS