

# MEMORANDUM

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**DATE:** AUGUST 13, 2021

**TO:** TOWNSHIP OF EDWARDSBURGH CARDINAL – COUNCIL

**FROM:** NOVATECH

**RE:** 32 DAVID STREET– MADISON MULDER ENTERPRISES ZONING  
BY-LAW AMENDMENT

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## Background

A Zoning By-law amendment application has been received for a property located at Part of Lot 5, Plan 40, Township of Edwardsburgh Cardinal, known locally as 32 David Street. The purpose of the application is to rezone the property from Main Street Commercial/Residential (MCR) to Residential Third Density - Special Exception (R3-x) in order to fulfill conditions of consent related to severing the existing townhouse dwelling into freehold residential units.

The subject property has a lot area of approximately 920 m<sup>2</sup> and a lot frontage of approximately 30.8m along David Street. The property is located on the north side of David Street within the Spencerville Settlement Area. The property is presently developed with a four-unit townhouse dwelling, as permitted by the MCR zone, constructed such that each dwelling unit has an attached garage and private driveway. The property is currently serviced by Township sanitary services and four individual wells for each dwelling unit. The property is designated on Schedule A of the Township's Official Plan as Settlement Policy Area and is zoned Main Street Commercial/Residential (MCR) by the Township's Zoning By-law.

On January 7, 2021, the United Counties of Leeds and Grenville Consent Granting Authority conditionally approved four consent applications (B-43-20, B-44-20, B-45-20, B-48-20) which were filed to divide the subject lands to create freehold land parcels for each of the four dwelling units and to establish required easements. One of the conditions (Condition #4) imposed by the Township and Consent Granting Authority required that the applicant apply for a zoning by-law amendment, as necessary, to provide zoning by-law compliance for the townhouse units. As such, the zoning by-law amendment application has been filed to fulfill conditions of consent.

It should be noted that all four consent applications were appealed to the Ontario Land Tribunal and are subject to an upcoming Tribunal hearing. Although the severance applications were appealed, the applicant is proceeding with the zoning amendment to fulfill conditions of consent and ensure the subject lands are appropriately zoned to account for the existing use established on the property. This report addresses the zoning by-law amendment application filed with the Township by providing a brief description of the application, a planning policy analysis, a summary of comments received and provides a recommendation on the proposed zoning amendment application.

## Applicant's Proposal

As noted, the application proposes to rezone the lands from MCR to R3-x. The application proposes to implement certain zone provisions as they relate to creating individual freehold land parcels for each townhouse dwelling unit. The applicant is proposing the Residential Third Density (R3) zone for the subject lands as this zone category permits townhouse dwellings. Exceptions to the minimum R3 zone standards for the existing townhouse dwelling and associated lands, as they relate to creating freehold ownership lands, are requested by the applicant as follows:

- To permit a reduced Front Yard setback from 6m to 5.9m for Units B & C;
- To permit a reduced Interior Yard Setback (western lot line) from 3m to 1.7m;
- To permit a reduced Rear Yard Setback from 6m to 5.2m;
- To permit a reduced Lot Area for a townhouse on partial services from 350 m<sup>2</sup> to 281 m<sup>2</sup> for Unit A, 219 m<sup>2</sup> for Units B & C, and 304 m<sup>2</sup> for Unit D.

As further described in this report, the proposed zoning by-law implements the above noted exceptions. Additional provisions are also included to ensure that the lots are appropriately zoned to accommodate freehold ownership and to address other aspects of the Zoning By-law not captured in the application. The recommended zoning is also necessary to ensure commercial uses of the MCR zone are not permitted on the subject lands and to fulfil the conditions of consent.

## Planning Discussion

The proposed zoning by-law amendment application has been reviewed against the following planning policy documents:

### 2020 Provincial Policy Statement (PPS)

The PPS states that settlement areas shall be the focus of growth and development (Section 1.1.3.1). It is a policy that land use patterns within settlement areas shall be based on densities and a mix of land uses which efficiently use land and resources, infrastructure and public servicing facilities (Section 1.1.3.2). The PPS further provides policy to ensure planning authorities provide for an appropriate range and mix of housing options and densities to meet projected requirements of current and future residents of the regional market area (Section 1.4.1). The proposed zoning by-law amendment is required to provide appropriate zoning that would support the creation of freehold lots for the existing townhouse dwelling on the property and remove commercial uses from being permitted on the property. The constructed townhouse dwelling meets the intent of the PPS as the lands are situated within a settlement area and are appropriately serviced by municipal sanitary services and private wells (partial services).

### United Counties of Leeds and Grenville Official Plan

The subject property is designated as Rural Settlement Area on Schedule A of the United Counties of Leeds and Grenville Official Plan. Similar to the PPS, the Counties' Plan encourages growth and development towards settlement areas and acknowledges that rural settlement areas will continue to experience limited growth and development will occur on vacant lots or through lot creation (Section 2.3.3). The Counties Plan also encourages a mix of housing types (Section 2.3) and supports residential intensification to increase housing choice and to efficiently use lands and public services (Section 2.4.1).

### Township of Edwardsburgh Cardinal Official Plan

The subject property is designated as Settlement Policy Area on Schedule A of the Township of Edwardsburgh Cardinal Official Plan. The Township's Official Plan encourages growth and development to be located within the Township's settlement areas. It is an objective of the Township's plan to ensure there is an adequate supply of residential land and to provide for a range and mix housing types (Section 3.1.3.1). The Township's Official Plan also encourages residential infill and redevelopment provided there is sufficient infrastructure to support the development and that residential areas will be identified in the Zoning By-law (3.1.3.6). The subject lands are developed with a four-unit townhouse dwelling which meets the Township's goals of encouraging infill, intensification and redevelopment within settlement areas. The Zoning By-law amendment proposes to rezone the subject lands from MCR to R3-x to account for the existing development located on the subject lands. The subject property fronts onto David Street which is characterized as a residential area within the village of Spencerville. The proposed residential zoning will maintain the residential character of the area as it will remove the MCR zone which permits a variety of commercial uses more suited for the village's main streets (Centre Street and Spencer Street).

### Township of Edwardsburgh Cardinal Zoning By-law 2012-35

The subject lands are zoned Main Street Commercial/Residential (MCR) as identified on Schedule C of the Township's Zoning By-law. This zone category has been in place on the subject lands since the Township's Zoning By-law was approved in 2012. The property was also zoned MCR under the Township's former Zoning By-law 97-30. The Main Street Commercial/Residential (MCR) zone on the property permits a variety of residential and commercial uses including a townhouse dwelling. In 2020, a building permit was issued to construct the existing four-unit townhouse dwelling on the subject lands on the basis of the zone provisions for the MCR zone.

The proposed Zoning By-law amendment application proposes to rezone the subject lands to Residential Third Density – Special Exception (R3-x). The Residential Third Density (R3) zone permits a townhouse dwelling and establishes zone provisions for a townhouse dwelling on partial services. The application requests exceptions to the R3 zone provisions such as lot area and yard setbacks to reflect what is currently constructed on the subject lands and to establish zone provisions that would be consistent with the lot fabric proposed in the consent applications for freehold ownership. The exception zones are also necessary as the existing dwelling was constructed on the basis of the zone provisions for the MCR zone which are different than the zone provisions for the R3 zone.

While the applicant provided a list of proposed zoning exceptions that would apply to the subject lands, upon further review of the Zoning By-law, revised or additional exceptions are proposed in the draft by-law. A draft by-law has been prepared that includes the following zone category and zone provisions:

"R3-6, Part of Lot 5, Plan 40, 32 David Street

Despite the provisions of 6.3(a), (b) and (c), on the lands zoned R3-6, permitted uses shall be limited to a townhouse dwelling on partial services, subject to the following provisions:

Minimum Lot Area	219 m <sup>2</sup> per unit
Minimum Lot Frontage	6m per unit
Minimum Front Yard	5.9m

Minimum Rear Yard	5.2m
Minimum Interior Yard	1.7m (a)

(a) The minimum interior side yard shall not apply to the party wall of a townhouse dwelling or shared garage appurtenant thereto.

Despite the requirements of this By-law, maximum lot coverage and minimum amenity area provisions for a townhouse dwelling shall not apply.”

The above recommended provisions will provide appropriate zoning that would allow the division of the lands for freehold ownership within the context of the structure of the Township’s Zoning By-law as the lands are already developed. Furthermore, the recommended zoning would only allow a townhouse dwelling as a permitted use on the property.

### Public Comments

A public meeting was held on Thursday July 29<sup>th</sup>, 2021 at a Township Community Development Committee meeting to gather public and agency comments on the proposed zoning by-law amendment application. Written comments were also received by the Township both for and against the proposed zoning by-law amendment. A brief summary of oral and written planning related comments received are provided in Attachment A. Copies of written submissions are provided in Attachment B.

No written or oral comments were received from public agencies on the proposed amendment.

### **Recommendation**

It is our opinion that the proposed Zoning By-law amendment is consistent with the 2020 Provincial Policy Statement and conforms to both the United Counties’ and Township of Edwardsburgh Cardinal Official Plan policies regarding development within settlement areas.

While comments have been received in opposition to the proposed amendments, the proposed amendment is necessary to ensure the lands are provided with appropriate zoning to permit the establishment of freehold lots for each townhouse dwelling unit and accompanying lands. The amendment will also remove commercial uses currently permitted on the property through the existing Main Street Commercial Residential (MCR) zone. The Residential Third Density (R3) zone is more aligned to the existing residential character of existing development along David Street. The proposed amendment also limits permitted uses to a townhouse dwelling which is constructed on the property. Furthermore, the amendment will allow the applicant to fulfill conditions of consents, should the Ontario Land Tribunal agree to the Counties’ decision on the consent application.

It should be noted that the Township recommended approval of the applications filed to divide the subject lands into freehold ownership, subject to the recommended zoning by-law amendment condition. The proposed amendment will assist the applicant in fulfilling conditions of consent.

The amendment has been drafted to rezone the subject lands from Main Street Commercial Residential (MCR) to Residential Third Density Special Exception (R3-6) to establish zone provisions for a townhouse dwelling on an individual lot, as shown on Schedule A of the draft by-law.

Sincerely,

**NOVATECH**



Jordan Jackson, RPP, MCIP  
Planner

Attachment A: Summary of Public & Agency Comments  
Attachment B: Written Submissions

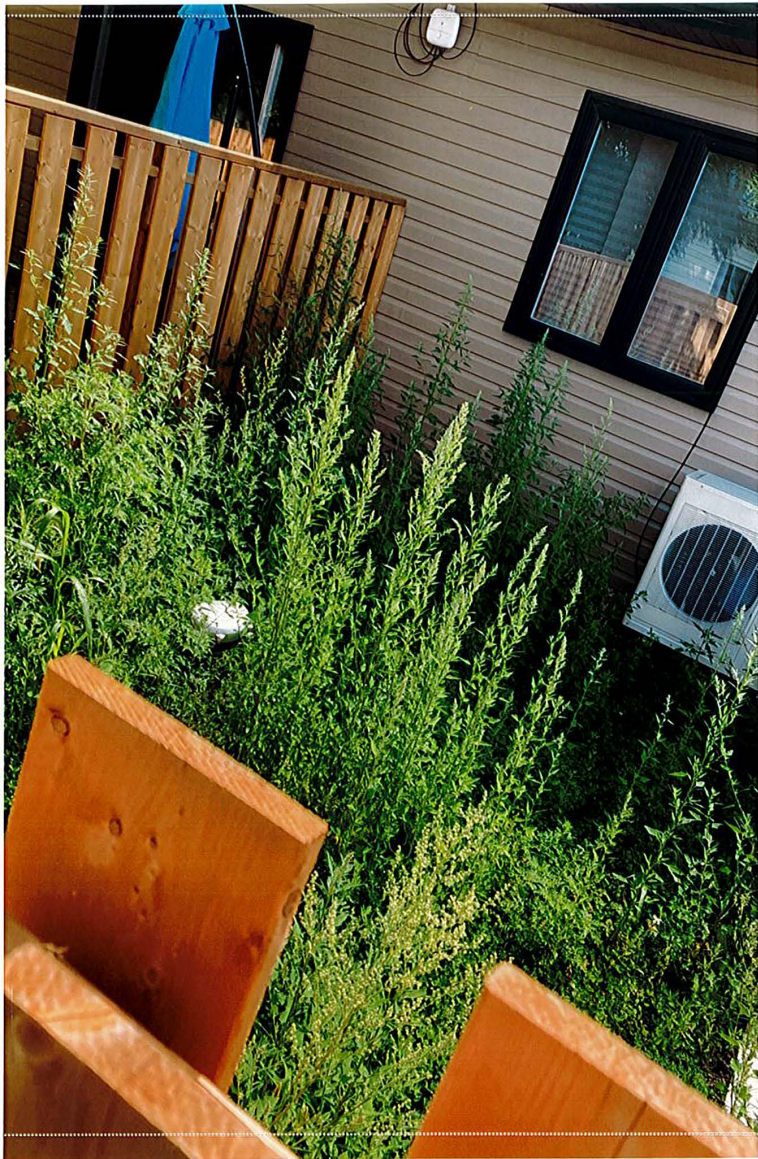
## Attachment A: Summary of Public Comments

Public Comment	Comment Response
Can the Zoning By-law amendment be applied for even through the consent applications are in the appeal process?	A Zoning By-law amendment was made a condition of the consent applications (Condition No. 4). In order for the townhouse dwelling to be divided into freehold ownership, the owner must apply for a zoning by-law amendment to provide zoning conformity for the proposed lots. To clear the condition, the zoning by-law amendment application must be through the approval process.
Rezoning of the subject lands contradicts the Township's Official Plan.	<p>The Township's Official Plan designates the subject lands as Settlement Policy Area. The Settlement Policy Area permits a variety of housing forms including low density, medium density and high-density residential development, provided any proposed development can be appropriately serviced.</p> <p>The proposed zoning by-law amendment will allow the lands to be appropriately zoned to reflect what is currently constructed on the property and allows the lots to be divided for freehold ownership.</p>
Concerns expressed regarding drainage of the development on the site.	<p>Lot grading and drainage is not directly related to the proposed zoning by-law. Lot grading and drainage is addressed at the building permit review stage.</p> <p>It should be noted that one of the conditions of the related consent applications requires that the applicant provide the Township a Servicing Plan and a Lot Grading and Drainage Plan for each of the proposed lots and that storm water management be provided to the satisfaction of the Township.</p> <p>Under the <i>Drainage Act</i>, property owners are responsible for the drainage on their property.</p>
If the severances are contingent on a zoning amendment, why was a severance considered in the first place?	The subject lands are currently zoned MCR which permits a townhouse dwelling and establishes zone provisions for the MCR zone. Consent applications were filed to permit freehold ownership of each dwelling unit and

	accompanying lands. The MCR zone does not provide zone provisions that contemplate the division of the townhouse dwelling in terms of smaller lot sizes and lot frontage. A Zoning By-law amendment was made a condition of consent to ensure the zoning on the property is consistent with the development on the lands.
Decrease in property values.	Property values are not considered a planning matter under the <i>Planning Act</i> .
Type of development proposed does not fit within the character of the neighbourhood.	The subject lands are presently zoned MCR which permits a townhouse dwelling and a number of other commercial uses. The townhouse dwelling is a permitted use on the property.

**Attachment B: Written Submissions**







Our opposition is also based on these potential/probable negative effects:

The loss of neighborhood and community character

Increased traffic congestion adding to an already dangerous situation at 32 David Street

This type of apartment complex does not fit into the single family neighborhood , R2 zoned street

No drainage plan in place . Flooding already witnessed from run-off

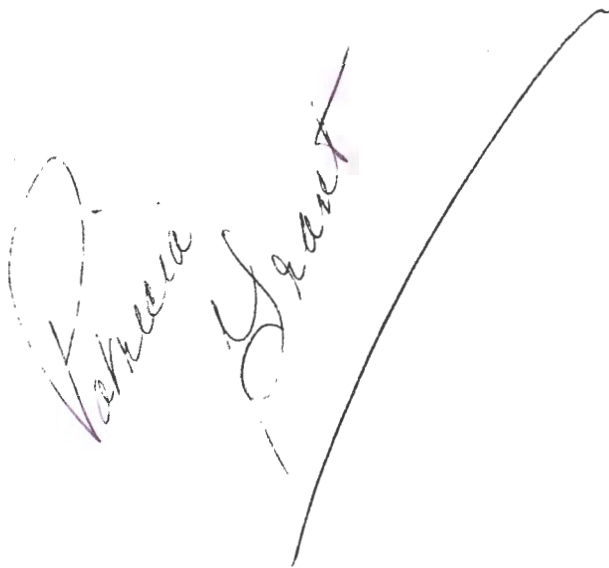
Once the property is rezoned, the developer can change the original concept within the R3 ex zoning

Built by an unregistered/unlicensed builder

A decrease in the market value of our homes

People and the department of Labor were misled as to the intent of the builder re # of buildings

Severance applications were wrong and incomplete

A handwritten signature in purple ink, reading "Vanessa Grant", followed by a long, sweeping horizontal line.

**From:** [Anna Michaud](#)  
**To:** [Wendy Van Keulen](#)  
**Subject:** Against the zoning change  
**Date:** July 29, 2021 7:02:11 PM

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Hello,

I attended the meeting tonight, I didn't speak up and say that I was against the zoning amendment.

All of my neighbours made statements and I agreed with them all, didn't know that I needed to voice my opinion.

I am against the zoning bylaw amendment application for the property at 32 David Street,

Thank you  
Anna Michaud  
10 Cook st

Sent from my iPhone

Attention: Zoning Committee of Edwardsburgh / Cardinal

Please accept this letter on behalf of Brenda and John Mulder, as private citizens of Spencerville, in favour of the zoning amendment for 32 David Street in relation to its severance into four individual properties. If Severance is approved this would allow the units to be sold and no longer rented.

John and I attended the township zoning meeting on July 29, 2021 to represent our son Madison as he could not be there due to a prior commitment.

John and I were to make a statement on Madison's behalf in favour of the zoning amendment for 32 David Street. However, throughout the meeting, Pat Grant constantly made false accusations about our son and the construction of his 4-Plex. As a result, we were unable to speak without wanting to rebut all the illogical arguments that were made throughout the evening. At one point, I did ask if these claims were relevant to the zoning amendment in question. There are always two sides to every story and false accusations have corrupted the perspectives of other citizens.

Please see the following:

**The building at 32 David Street was legally constructed with all the appropriate permits, and was properly zoned at that time.**

**The severances to divide the building onto separate lots have been approved, and the zoning amendment is just to satisfy a condition of severance approval.**

**On separate lots, the units do not quite comply with the zoning provisions, hence the need for the zoning amendment.**

**There is no new development or construction that will result from the zoning amendment application.**

Thank you for your time and consideration.

Kind Regards,



Brenda Mulder

Attention: Zoning Committee of Edwardsburgh / Cardinal

My name is Madison Mulder and, as a private citizen of Spencerville, I am sending this letter in favour of the zoning amendment for 32 David Street in relation to its severance into four individual properties.

**The building at 32 David Street was legally constructed with all the appropriate permits, and was properly zoned at that time.**

**The severances to divide the building onto separate lots have been approved, and the zoning amendment is just to satisfy a condition of severance approval.**

**On separate lots, the units do not quite comply with the zoning provisions, hence the need for the zoning amendment.**

**There is no new development or construction that will result from the zoning amendment application.**

I would think that the neighbours of the 4-Plex at 32 David Street would be in favour of the zoning amendment and severance into four separate lots. If the units are individually sold, the buyers would have an investment in the property in comparison to renters who may not maintain the building in the same fashion as a homeowner.

Thank you for your time and consideration.

Kind Regards,



Madison Mulder