



Special Council Meeting Agenda

Monday, April 1, 2019 – 5:00 PM

Essex Civic Centre, County Council Chambers

360 Fairview Avenue West, Essex, Ontario

1. Roll Call

Present:

Mayor Larry Snively

Deputy Mayor Richard Meloche

Ward 1 Councillor Joe Garon

Ward 1 Councillor Morley Bowman

Ward 2 Councillor Kim Verbeek

Ward 3 Councillor Chris Vander Deolen

Ward 3 Councillor Steve Bjorkman

Ward 4 Councillor Sherry Bondy

Also Present:

Chris Nepszy, Chief Administrative Officer

Doug Sweet, Director, Community Services

Jeffrey Morrison, Director, Corporate Services/Treasurer

Jeff Watson, Policy Planner

Rita Jabbour, Planner

Sarah Aubin, Planning Assistant

Rob Auger, Town Solicitor/Clerk

This statutory public meeting is being held for the purpose of amending the General Zoning By-Law 1037 under the provisions of the Planning Act, R.S.O. 1990 to permit the use of the subject property for the storage of fireworks, a use which is not currently permitted under the existing A1.1, General Agricultural Zoning.

2. Declarations of Conflict of Interest

3. Adoption of Published Agenda

a) April 1, 2019 Special Council Meeting Agenda

Moved by

Seconded by

That the published agenda for the April 1, 2019 Special Council Meeting be adopted as presented.

4. Reports from Administration

a) Planning Report 2019-10

RE: Victor and Deborah Anber Rezoning Application
6954 6th Concession (Ward 3)

b) Correspondence to be received

- Sheila Goegebeur
- Merrie Day & Pat Conrad
- Steven Mayer

Moved by

Seconded by

That Planning Report 2019-10, entitled "Victor and Deborah Anber Rezoning Application", prepared by Jeff Watson, Policy Planner and submitted by Chris Nepszy, CAO, Director, Infrastructure and Development, dated April 1, 2019, along with the PowerPoint presentation presented by Mr. Watson, together with correspondence from Sheila Goegebeur, Merrie Day and Pat Conrad, and Steven Mayer be received.

5. Public Presentations

The Chair is to call for public delegations if any.

6. Adjournment

Moved by

Seconded by

That the meeting be adjourned at

Report to Council

Department:	Planning
Date:	April 1, 2019
Prepared by:	Jeff Watson, Policy Planner
Submitted by:	Chris Nepszy, P.Eng. CAO, Director, Infrastructure and Development
Report Number:	PLANNING2019-10
Subject:	Victor and Deborah Anber Rezoning Application 6954 6th Concession (Ward 3)

Number of Pages: 4

RECOMMENDATION(S)

It is recommended that:

1. Planning report Planning 2019-10, entitled "Victor and Deborah Anber Rezoning Application" (Ward 3) be received for the information of Council.

REASON FOR REPORT

A rezoning application has been received to permit the use of the subject property for the storage of fireworks, a use which is not currently permitted under the existing A1.1, general agricultural zoning.



With reference to the site, shown below, the property is used for the production of field crops. It is also occupied by a woodlot (which is not provincially significant). The square box

indicates the portion of the property occupied by 26 storage containers used primarily for the storage of fireworks. Transportation to and from the property for the movement of fireworks is one truck (18-26 feet) per day during the high season from May to mid-July.



It is the intention of the proponents, Victor and Deborah Anber, to build a 15,000 square foot pole barn built to Federal government standards that would permit licensing of the facility to accommodate the storage of fireworks. The area circled roughly represents the proposed location of the pole barn and pond; the latter would serve as an on-site water source. It is

proposed that the pole barn would be setback approximately 1000 feet from the front lot line providing an 850 ft to 900 ft separation from adjacent dwellings.

The pole barn must meet Federal licensing regulations, including for example, the walls being of concrete or cement block construction to a height of 8 feet above ground, limited to one entrance, no internal air conditioning or heating and restrictions on who can access the building. The pond would serve as a water source. In approximately one year, the applicants intend to construct a dwelling which will be constructed closer to the front of the property to serve as their residence.

The property and surrounding area are designated Agricultural in the Town of Essex Official Plan, permitting a variety of agricultural operations and farm serving activities, such as food processing and farm supply services. The property and surrounding area are zoned A1.1, general agricultural, reflecting the provisions of the Official Plan (OP).

While farm related storage is permitted in barns, the zoning by-law does not generally permit the full time storage of goods not related to the farm operation or permitted farm support or secondary use. The Official Plan does permit secondary activities intended to supplement the income of the farmer, such as the indoor storage of boats and trailers over the winter, but the storage of fireworks, as a permanent activity, is a unique situation.

Under the Agricultural designation, special provision exists for the accommodation of certain non-farm uses. It provides that an existing dry industry (one not dependent on a piped water supply, which becomes inappropriate in a settlement area, usually because of the encroachment of new urban development, may be relocated in an area designated Agricultural by site specific zoning amendment if approved by Council. This operation experienced that situation in the Town of Tecumseh and the encroachment of urban development forced its relocation.

While it may be determined that this property is of a size sufficient to accommodate the proposed use, namely the storage of fireworks in licensed facilities, Council should be satisfied that there can be adequate separation from adjacent dwellings. If ultimately acceptable to Council, the site specific zoning should include setback provisions from lot lines to ensure that adequate buffering is maintained. This would only apply to a new building and to the storage containers specifically used for the storage of fireworks.

As noted, there are presently 26 steel storage containers at the north end of the woodlot. With the construction of the pole barn, the number of storage containers is proposed to be reduced to less than 10 containers. The zoning by-law permits a maximum of 2 storage containers on a farm and they must be screened from view from areas zoned Residential, which

does not apply in this instance. Having them placed north of the woodlot does keep them from view from the adjoining residents though. Council should decide if more than 2 containers is reasonable and if so what measures should be taken to regulate their location and screening on the property. Consideration should be given to the impact of container storage in the woodlot. Storage and truck movements can compromise its integrity and resistance.

If approved by Council, the proposed use should be limited to storage as an ancillary use to the farm only, without permitting the discharge or disposal of fireworks on site. All other buildings devoted to farm operations, as well as the proposed dwelling, would need to conform to the general provisions of the A1.1 zoning.

Provincial Policy Statement (PPS) Provisions:

The PPS strictly limits the encroachment of non-farm activities on prime agricultural lands. However, it provides that planning authorities may permit non-agricultural uses for mineral and petroleum extraction and other non-residential uses, provided that it can be demonstrated that:

1. the land does not compromise a specially crop area - it does not;
2. the proposed use complies with the minimum distance separation formulae - it does;
3. there is an identified need within the planning horizon for additional land to be designated to accommodate the proposed use - re-designation not required;
4. there are no reasonable alternative locations which avoid prime agricultural areas
- almost all lands outside of our settlement areas are prime agricultural lands;
5. impacts from any new non-agricultural use on surrounding agricultural operations are to be mitigated to the extent feasible - see below.

With regard to policy 5 above, the proposed pole barn would be located immediately south of the internal road, within the circle shown on the air photo above, and the remaining storage containers are at the edge of the woodlot (within the boxed in area on the air photo). Potential impacts would be mitigated by separation from other agricultural operations and dwellings and by the woodlot. While not provincially significant, its preservation is important, both as a buffer and for its benefits as a natural environment feature.

FINANCIAL IMPACT

Not applicable.

LINK TO STRATEGIC PRIORITIES

Not applicable.

Statutory Public Meeting
April 1, 2019
Victor and Deborah Anber Rezoning Application
Frank Saroli, solicitor



Lands affected: 6954 6th Concession Road

Existing land use: Field crops and woodlot, storage containers and trailer on site

Lot frontage, depth and area: 860 feet, 2200 feet and 52 acres +/-

Official Plan designation: Agricultural, no change required

Existing zoning: A1.1, general agricultural

Zoning change requested: Add supplementary provisions to permit the storage of fireworks on the property in a proposed pole barn and in shipping containers

The lands that are subject to this rezoning application are located on the north side of 6th Concession, at the intersection with Johnson Road, west of Arner.



6th Concession looking west from the property entrance



6th Concession looking east from the property entrance



**West side of site from 6th toward the woodlot.
Shipping containers in woodlot not visible from the road.**



House at 6950 6th surrounded by the subject site.



East side of site at the property entrance. Trailer and shipping containers visible.



Entrance to site at the east limit of the property. Service road into property turns east at the tree line. Access road is in poor condition.



Containers visible from the road approximately 1000 feet from the road.



Dwelling next east of the site at 6958 6th Concession. A 40' wide farm parcel, forming part of the surrounding Ethier farm, separates this property from the subject property.



It is proposed that a new 150'x100' pole barn be constructed roughly in the area circled at the end of the existing internal driveway, exclusively the storage of fireworks, and that 6-10 shipping containers be retained in the area circled at the north limit of the existing woodlot, primarily for the storing of fireworks. The pole barn is proposed to be a minimum of 1000 feet from 6th Concession.



A pole barn of the size proposed is permitted under the current A1.1 zoning.

It is the use of the barn for the storage of fireworks that requires zoning approval.

The barn must meet federal licensing regulations related to its construction and accessibility over and above the normal provisions of the Ontario Building Code.

2 storage (shipping) containers are also permitted under the A1.1 zoning.

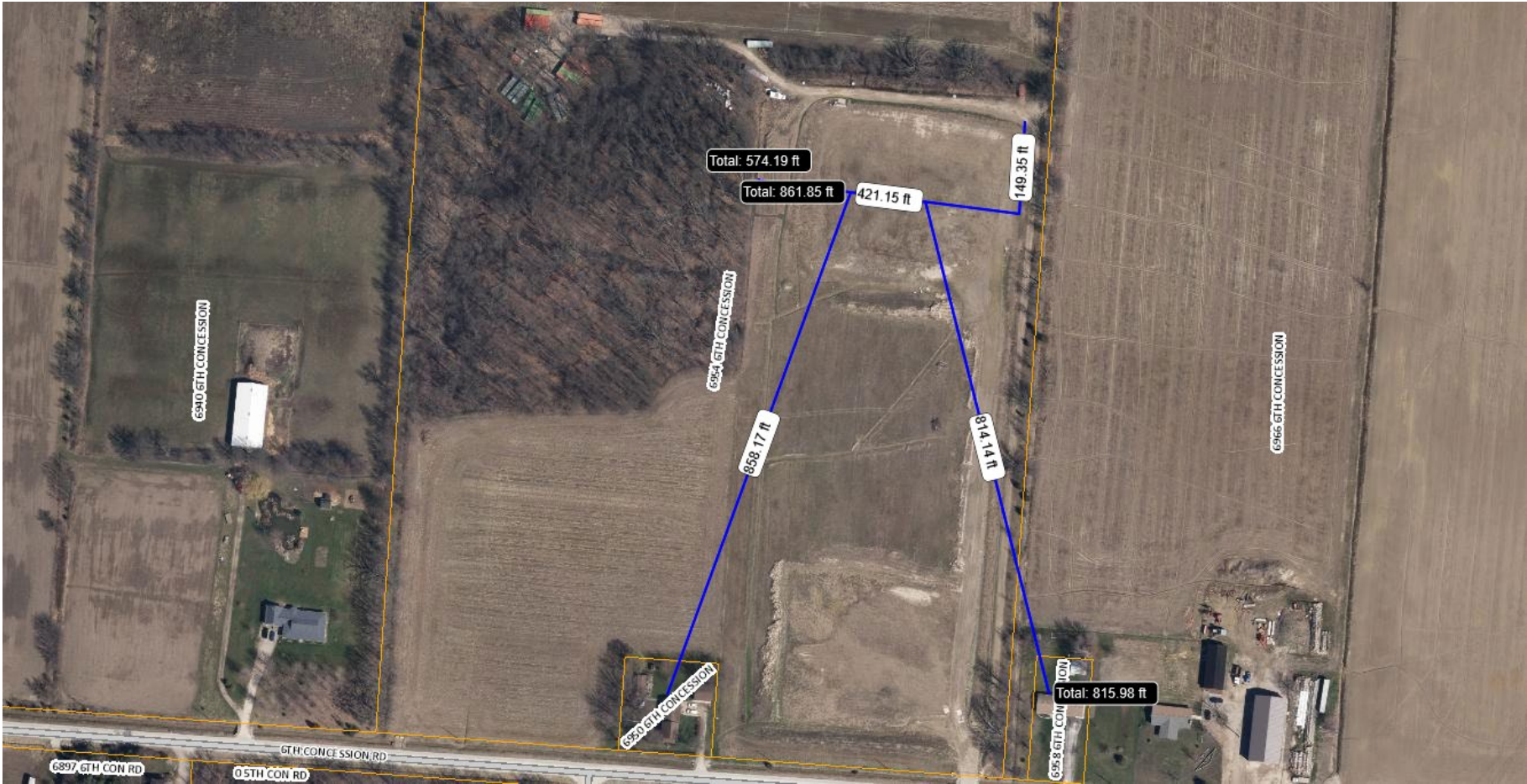
It is proposed that 6-10 containers be permitted, mostly for the storage of fireworks.

The balance of containers are proposed to be removed from the property.

A pond is also proposed to be placed in front of the pole barn for an on site water supply.



Relative distance to existing dwellings based on a 150 foot deep pole barn placed at the access road



Official Plan provisions:

As noted in the accompanying report to Council, the Official Plan provides that, for lands designated Agricultural, special site specific rezoning provision may be approved by Council to accommodate uses that are excluded from settlement areas due the encroachment of expanding urban land uses that are or may be incompatible with the existing use.

The Anbers have applied for site specific rezoning for purpose of storing fireworks in a new 15,000 square foot pole barn and in shipping containers.

Provincial Policy Statement provisions (PPS):

It must be demonstrated that the lands affected are not specialty crop lands – they are not;

there is an identified need for re-designation in the Official Plan – no OPA required, if this is a relocation from a settlement area and the current location will cease as a storage facility for fireworks;

there is no reasonable alternative to using prime agricultural lands – almost all lands outside of our settlement areas are prime agricultural lands;

impacts of the proposed use on agricultural operations are to be mitigated to the extent feasible – the site is large enough to provide separation from abutting agricultural operations.

(Note: as shown above, the site borders residential properties too; mitigation measures would need to be in the form of physical separation and a prohibition on the discharge of fireworks.)

For consideration by Council:

Is this a relocation of an established business, not an expansion of one?

Is the property of sufficient size to accommodate the proposed use?

Can impacts on adjacent agricultural operations and residential uses be mitigated satisfactorily?

Are storage containers an appropriate means of storing fireworks in addition to the pole barn? If so how many and where should they be placed?

Should the development be the subject of site plan control approval?

A rezoning by-law would:

permit the storage of fireworks (but not the discharge of fireworks);

**set out lot line setbacks for the pole barn as a means of physical separation
e.g. 1000 feet from 6th Concession;**

**regulate the number of storage containers (if more than 2) and their
approximate location;**

**set the location of the access road to maintain a buffer from the dwellings
at 6950 (surrounded by the subject lands) and 6958 6th (on the east side of
the subject site).**

Site Plan Control approval would:

fix the location of the pole barn, pond and access road;

fix the location of entry doors and loading area;

fix the location of the storage containers;

delineate the woodlot as a no build area.

Next Steps:

- 1. Subsequent to this public meeting, on April 15, or such other date determined by Council, Planning will submit a report to Council with recommendations with regard to this development.**
- 2. Should Council endorse this development proposal, a rezoning by-law will be presented to Council for approval.**
- 3. Notice of approval will be sent to all persons previously notified of the application for rezoning with an explanation of the effect of the rezoning by-law and the public appeal procedures.**
- 4. A 20 day public appeal period takes effect.**

QUESTIONS?



Hall, Robin

From: Watson, Jeff
Sent: Tuesday, March 26, 2019 1:38 PM
To: Auger, Robert
Subject: FW: Re zoning on concession 6

For the April 1 special meeting.

Jeff Watson
Policy Planner
Town of Essex
Tel: 519-776-7336 x 1116
jwatson@essex.ca

From: Sheila Goegebeur [mailto:sheila.goegebeur@gmail.com]
Sent: Tuesday, March 26, 2019 12:53 PM
To: Watson, Jeff; Vander Doelen, Chris; Garon, Joe; Verbeek, Kim; Snively, Larry; Meloche, Richard; Bjorkman, Steve; Bondy, Sherry
Subject: Re zoning on concession 6

Hello Everyone,

This email is in regards to the rezoning application by Victor Anbar. I live at 6950 Concession 6 .Which is not only next door but is right in the middle of Mr Anbar's property,because his property "Horseshoes" around us.This can be seen clearly on the aerial map.Which means that if Mr Anbar decides at a later date to expand his business,we will be totally impacted on all sides of our property.Which in turn will destroy the value of it.

We wholeheartedly concur with everything stated in Steve Mayer's email , who is on the east side of Mr Anbar's property.

This rezoning is not environmentally friendly, & will be a huge loss of property values to the people around it.

Sincerely,

Sheila Goegebeur.

From: [Watson, Jeff](#)
To: [Auger, Robert](#)
Cc: [Jabbour, Rita](#); [Aubin, Sarah](#)
Subject: FW: Victor and Deborah Anber Rezoning Application 6954 6th Concession Ward 3 Essex
Date: Tuesday, March 26, 2019 2:19:42 PM

For the Apr 1 special meeting.

Jeff Watson

Policy Planner

Town of Essex

Tel: 519-776-7336 x 1116

jwatson@essex.ca

From: merrie [mailto:merrieandpat@aol.com]

Sent: Tuesday, March 26, 2019 2:16 PM

To: Watson, Jeff; Snively, Larry; Meloche, Richard; Garon, Joe; Verbeek, Kim; Vander Doelen, Chris; sbiorkman@essex.ca; tracey.ramsey.c1b@parl.gc.ca

Subject: Victor and Deborah Anber Rezoning Application 6954 6th Concession Ward 3 Essex

Dear Mr Watson;

We are writing to complain about the proposed rezoning on the property at 6954 Concession 6 in Essex. We live at 6045 Arner Townline and the 6th concession.

We are angry that we were not notified about this like some of our neighbours. We are a close knit neighbourhood, and we are apposed to any rezoning away from

agriculture. We DO NOT approve of storing explosives like fireworks in an area that is NOT designated for that. They are also renting out storage bins to people and

who knows what else they are sneaking back there. The people involved are in violation of the current restrictions, and don't live any where around here. They have a

huge inventory they are planning to move from county road 42 and that is not welcome. We wish to be advised as to what options my fellow friends and neighbours

have that will help stop this proposal. This proposal could ruin the property value, ruin the natural habitat with chemical explosive material, endanger the forested area

and increase truck traffic immensely on our already over taxed roads.

Who will pay for an accident that wipes out the trees that cover acres and acres immediately around this huge fire hazard? Tax payers? or the idiot who didn't

care, and stored boxes and boxes of Chinese manufactured fireworks? Next they will need the road paved, and fire hydrants and then there's the

issues of the noise. Aren't there enough problems in the county with the Leamington light issue, the reek

of marijuana plants, the not-green windmills and the

enormous greenhouses that slipped in under the old bylaws back when a greenhouse was a small glass building and not a 35' tall giant that boxes in country

homes? We do not want to see one of the few places in Essex County that still showcases the natural beauty of the landscape turned into an ugly commercial zone.

Don't allow the travesty of what's happening to the Kingsville/Leamington area (Windmills and greenhouses) reach into our neighbourhood too. It's a horrible

eye sore that should never have been allowed. There was no consideration for the people in the homes in those areas. Business owners don't have more rights

than the people that have lived there for years. Where are the preservation laws? There has been an 80% reduction in wild animals around the planet which is

more like a mass extinction. Mostly due to the fact that the habitat is insensitively torn away. Since the stripping of the ditch on the Kingsville side of the

Arner Townline, we have had an incredible increase in raccoons and possums moving into our agricultural buildings. There have also been huge trees cut down

in a forested lot across from our property on the 6th concession. Why doesn't ERCA enforce environmental protection in these cases?

It's disgusting that people just rip and shred "their property" with no regard for neighbours, wildlife and the law. The people that own this property on 6954 Conc 6 have

cleared trees in order to try to hide the storage containers. Just look at google earth and the you will clearly see the evidence. I am sick of the bullies in the world,

and there had better not be a meeting where every council member already has there meeting so well planned, that they even know who will second motions before

it begins like the last farce of a meeting I attended. The people from the public who attend meetings had better be able to speak and use that voice, and not just allowed

to witness the already decided issue at hand.

KEEP AGRICULTURE ALIVE!

Agriculture and tourism. Those are our best assets. Protect them.

Thank you,

Merrie Day & Pat Conrad

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From: Steven Mayer [<mailto:mayersteven1983@gmail.com>]

Sent: Sunday, March 24, 2019 3:06 PM

To: Watson, Jeff; Meloche, Richard; Snively, Larry; Garon, Joe; Vander Doelen, Chris; Bjorkman, Steve; Bondy, Sherry

Subject: Re: Anber rezoning report

This email is in regards to the rezoning application by Victor Anbar as noted in the attachment at 6954 Concession 6. I live next door at 6958. Please read through the attachment. I strongly appose against the rezoning as it will effect everybody's quality of life that live out here. The application is worded very softly. Victor currently owns and operates K&H Distributing, a company specializing in fireworks. Mr. Anbar plans to build a storage facility next to me for all of his fireworks. He also has a portable storage container business called Windsor Portable Storage. He has told me in person that he plans to bring all 60 plus of his storage containers to the property in addition of all of his fireworks. Mr. Anbar is currently running as a commercial business out of the property noted. He personally told me that if this storage building is constructed at the property, he plans to run both businesses at the property. I think there is not only a safety concern, but to the adjoining land owners, a concern of severe property devaluation.

The letter states that Mr. Anbar currently has 26 storage containers on the property. Town bylaws state that agricultural properties can only have 2 storage containers. Furthermore, some of the storage containers have been rented out as onsite storage to the public. I know this because strangers that rent them have come onto my yard and told me. I have also witnessed people living in the onsite camper for several months at the back of the property. Victor also disposes of air bag detonators. By this I mean he blasts them off on the property beside me and they are very loud like a gun. When he disposes the air bag detonators, he does hundreds during a session. The re zoning application letter also states that we can expect no more than a truck a day of traffic to and from the site. Some days I see dozens of vehicles in and out. Mr. Anbar is currently breaking several bylaws and will continue to do so. The letter states that they may allow him up to 10 storage containers on site. If he currently has 13 times too many, how many will he have if they allow him 10?

Nothing about Mr. Anbars current operations are agricultural and he plans on expanding out here on the 6th Concession. I personally don't see any end in site. He bought an agricultural peace of property and is currently running a commercial business on it, and wants to expand. Currently, the rezoning application letter states that the Town of Tecumseh is relocating Mr. Anbars business because of the encroachment of urban development. If the Town of Tecumseh feels the storage of fireworks are unsafe for its residents, why would the Town of Essex? I encourage you to drive by his business on County Road 42 or look at an aerial photo. He is running out of room at his current site at 11684 County Road 42. The storage area at his current location on County Rd 42 is 32,000 square feet. I don't see how he can fit 32,000 square feet into a 15,000 square foot barn.

I would like to make a formal complaint about all of the bylaws Mr. Anbar is breaking.

On Fri, Mar 22, 2019 at 1:08 PM Watson, Jeff <jwatson@essex.ca> wrote:

Hi Steve here is the rezoning report for the public meeting on April 1. As I said this is to hear public comment. No decisions will be made by Council. I will also have a powerpoint presentation to show Council at the meeting to give them a better idea of what it is like in the area.

Jeff

Jeff Watson

Policy Planner

Town of Essex

Tel: 519-776-7336 x 1116

jwatson@essex.ca