



## THE CORPORATION OF THE TOWN OF AMHERSTBURG

### OFFICE OF DEVELOPMENT SERVICES

***Mission Statement:*** As stewards of the Town of Amherstburg, we strive to improve the quality of life of all residents through the delivery of effective, efficient, and affordable services.

Author's Name: Janine Mastronardi and Christopher Aspila	Report Date: May 15, 2024
Author's Phone: 519 736-5408 ext. 2134	Date to Council: June 10, 2024
Author's E-mail: <a href="mailto:jmastronardi@amherstburg.ca">jmastronardi@amherstburg.ca</a> and <a href="mailto:caspila@amherstburg.ca">caspila@amherstburg.ca</a>	Resolution #:

**To: Mayor and Members of Town Council**

**Subject: Zoning By-law Amendment for Lands Severed from 6387-6391 Concession 6 N**

#### 1. **RECOMMENDATION:**

It is recommended that:

1. **By-law 2024-039** being a by-law to amend Zoning By-law No. 1999-52, to amend the zoning for the subject lands known as retained farm parcel severed from 6387-6391 Concession 6 N, be taken as having been read three times and finally passed and the Mayor and Clerk **BE AUTHORIZED** to sign same.

#### 2. **BACKGROUND:**

The Statutory Public Meeting was held at 5:00 p.m., May 13, 2024 to hear public comments on an application for a Zoning By-law Amendment for the retained farm parcel severed from 6387-6391 Concession 6 N (Conc 6, Pt Lot 5), Amherstburg. The Zoning By-law Amendment (ZBA) will change the zoning for the subject lands from the "Agricultural (A) Zone" to "Special Provision Agricultural (A-36) Zone". The parcel was the subject of an application for consent (File B/06/24) to sever a dwelling which is surplus to the needs of the farming operation. The rezoning of the subject property to A-36 is a condition of the consent decision.

#### 3. **DISCUSSION:**

At the statutory public meeting there were no public comments. Administration outlined the Provincial requirement for prohibiting dwellings on the remnant farm parcel.

As noted above, the applicant severed a parcel of land being 109 m ± frontage by 112 m ± depth with an area of 1.22 ha ± which includes a single detached dwelling and five accessory structures (one which is a secondary dwelling unit) which are surplus to the needs of the farming operation. The residences which were the subject of the severance is located at 6387-6391 Concession 6 N, is not subject to this rezoning. At the conclusion of the severance, the remaining farm parcel subject of the recommended ZBA will have a total area of 27.32 ha ±.

The subject parcel is zoned Agriculture in the Zoning By-Law and Agriculture in the Town's Official Plan. The effect of the ZBA will allow for general agricultural uses on the subject property and prohibit any new dwelling units on the remnant land.

The application is consistent with the Provincial Policy Statement, specifically Section 2.3.4.1(c) which provides for lot creation for a residence surplus to a farming operation as a result of farm consolidation provided that new residential dwellings are prohibited on any vacant remnant parcel created by the severance. The application is also in conformity with the Town's Official Plan, specifically Section 3.2.2(14) which provides for surplus dwelling severances subject to the remnant parcel being rezoned to ensure no new dwelling units will be permitted. The proposed lot size as well as the intended land use for the subject parcel complies with the zone requirements for the Special Provision Agricultural Zone.

#### **4. RISK ANALYSIS:**

There is a risk that a decision on a zoning matter is appealed to the Ontario Land Tribunal. The risks noted below provides further clarity on this depending on the recommendation and Council decision on the matter.

<b>Administration's Recommendation</b>	<b>Decision of Council</b>	<b>Who can appeal the decision to OLT.*</b>	<b>Costs to the Town if Appealed</b>
Recommend approval	Approve the Recommendation	Parties who provided written and or verbal communication on this matter at the Statutory Public Meeting (SPM) or public meeting of Council, and or signed in and provided their contact information at the SPM.	Legal consulting and Administrative time to defend the decision before OLT.
Recommend to deny the application	Approve the Recommendation	The Applicant who requested the zoning amendment.	Planning and legal consulting services to defend Council's decision and legal consulting and Administrative time to defend Administration's recommendation before OLT.
Recommend approval	Refuse the Recommendation  Note: The Planning Act defines a tied vote as a refusal.	The Applicant who requested the zoning amendment.	Planning and legal consulting services to defend Council's decision and legal consulting and Administrative time to defend Administration's recommendation before OLT.

Recommend to deny the application	Refuse the Recommendation  Note: The Planning Act defines a tied vote as a refusal.	Parties who provided written and or verbal communication on this matter at the Statutory Public Meeting (SPM) or public meeting of Council, and or signed in and provided their contact information at the SPM.	Legal consulting and Administrative time to defend the decision before OLT.
Recommend to approve (or deny)	Request to defer decision on the grounds of requiring additional information.	The Applicant who requested the zoning amendment.	In this scenario it allows for the applicant to consider if the additional information requested by Council, rather than an OLT hearing is preferred. As OLT hearings are costly and time consuming the applicant may elect to provide the additional information. If that is the direction the Town may need to refund the application fee, noting the refund is also less costly for the Town than an OLT hearing.

\*In all matters the Municipality, the Minister of Municipal Affairs and Housing, any Prescribed Person has the right to appeal a zoning decision. The table above is to provide clarity on other parties who can appeal.

As a result of changes in the *Planning Act*, which resulted from amendments made by Bill 109 and Bill 23, a decision on a zoning matter must be made within 90 days from when the application is deemed complete. If Council does not make the decision within the required 90-days, including if the matter is deferred placing the decision past the 90 days, the Applicant would be allowed to appeal to the Ontario Land Tribunal (OLT) on the grounds of failure to make a decision as per s. 34 (11) of the Planning Act. In addition to the costs incurred for an appeal, the Town would need to refund the zoning application fee. This risk is mitigated by the following measures:

- Amherstburg’s OP was amended in 2022, section 7.20, stating in part “deemed complete when a letter is issued to the applicant indicating that the application is complete”. This was put in place to ensure submission date of an application was not the date it was deemed complete, due to previous lack of clarity on this matter;
- Holding the SPM as soon as possible after deeming an application complete. This allows for appropriate time to summarize and consider the feedback for the recommendation report, which is the report for Council to make a decision on the application.

For this particular zoning amendment application, it was deemed complete on April 10, 2024, setting the 90-day timeframe by which a decision of Council must be made before close of business on July 9, 2024.

**5. FINANCIAL MATTERS:**

All costs associated with the application are the responsibility of the applicant. Should Council’s decision be appealed to the Ontario Land Tribunal, the Town will incur costs.

**6. CONSULTATIONS:**

No further consultations are required on this application. All statutory notice requirements and consultations were met through the planning process.

**7. CORPORATE STRATEGIC ALIGNMENT:**

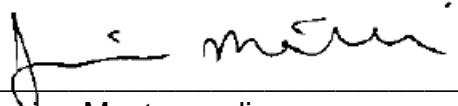
*Vision: Preserving our past while forging our future.*

<i>Amherstburg Community Strategic Plan 2022 - 2026</i>	
<p style="text-align: center;"><b>PILLAR 1</b> <b>Deliver Trusted &amp; Accountable Local Government</b></p> <ul style="list-style-type: none"> <li><input type="checkbox"/> Improve trust between council and staff, and residents, by strengthening governance and internal accountability structures.</li> <li><input type="checkbox"/> Deliver transparent and efficient financial management.</li> <li><input type="checkbox"/> Increase effective communication and engagement with residents.</li> <li><input type="checkbox"/> Develop our staff team, resources, and workplace culture.</li> <li><input checked="" type="checkbox"/> Continue to deliver strong core municipal services.</li> <li><input type="checkbox"/> Ensure Amherstburg is an inclusive accessible and welcoming community committed to reconciliation.</li> </ul>	<p style="text-align: center;"><b>PILLAR 3</b> <b>Encourage Local Economic Prosperity</b></p> <ul style="list-style-type: none"> <li><input type="checkbox"/> Encourage development of commercial and industrial lands.</li> <li><input type="checkbox"/> Continue to promote local tourism industry, especially overnight accommodation.</li> <li><input type="checkbox"/> Continue to facilitate downtown development for residents and visitors.</li> <li><input type="checkbox"/> Continue to leverage partnership opportunities with other provincial, federal, and local governments, agencies, and organizations.</li> </ul>
<p style="text-align: center;"><b>PILLAR 2</b> <b>Invest in Community Amenities and Infrastructure</b></p> <ul style="list-style-type: none"> <li><input type="checkbox"/> Maintain safe, reliable and accessible municipal infrastructure and facilities.</li> <li><input type="checkbox"/> Increase access to recreation opportunities for all ages.</li> <li><input type="checkbox"/> Finalize and execute plans for town-owned lands (e.g. Duffy’s site, Belle Vue)</li> <li><input type="checkbox"/> Create public access to water and waterfront</li> </ul>	<p style="text-align: center;"><b>PILLAR 4</b> <b>Shape Growth Aligned with Local Identity</b></p> <ul style="list-style-type: none"> <li><input type="checkbox"/> Define and communicate a vision for the Town’s future and identity.</li> <li><input type="checkbox"/> Promote and plan for green and “climate change ready” development.</li> <li><input type="checkbox"/> Review and implement policies that promote greater access to diverse housing.</li> <li><input type="checkbox"/> Protect the Town’s historic sites and heritage.</li> </ul>

<input type="checkbox"/> Prioritize opportunities to reduce environmental impacts of Town operations and increase Town resilience to climate change.	<input checked="" type="checkbox"/> Preserve the Town's greenspaces, agricultural lands, and natural environment.
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**8. CONCLUSION:**

Administration recommends that Zoning By-law 2024-039 be approved by Council, given three readings and finally passed and the Mayor and Clerk be authorized to sign same.

  
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Janine Mastronardi  
**Planner**

  
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Christopher Aspila  
**Manager, Planning Services**

## Report Approval Details

Document Title:	Zoning By-law Amendment for Lands Severed from 6387-6391 Concession 6 N.docx
Attachments:	- 2024 05 13 Statutory Public Meeting- ZBA- Lands Severed from 6387-6391 Conc 6 N- ATTACHMENTS-RM.pdf
Final Approval Date:	May 30, 2024

This report and all of its attachments were approved and signed as outlined below:



Melissa Osborne



Tracy Prince

**No Signature - Task assigned to Valerie Critchley was completed by assistant  
Melissa Osborne**

Valerie Critchley

**No Signature - Task assigned to Kevin Fox was completed by workflow  
administrator Sarah Sabihuddin**

Kevin Fox