



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.

Table with 2 columns and 3 rows containing author information and report details.

To: Mayor and Members of Town Council

Subject: Temporary Zoning By-law Amendment for 865 Front Road South

1. RECOMMENDATION:

It is recommended that:

- 1. By-law 2025-010 being a by-law to amend Zoning By-law No. 1999-52, to amend the zoning for the subject lands known as 865 Front Road South be taken as having been read three times and finally passed and the Mayor and Clerk BE AUTHORIZED to sign same.

2. BACKGROUND:

The lands are the subject of a decision of the Committee of Adjustment for Application B-16-19, which approved the creation of a new residential building lot with associated conditions. The rezoning of the subject property to a temporary special provision R2 zone to temporarily allow for the existing accessory structure without a main use is a condition of the consent decision. Condition (10) of the decision states:

10. The severance application B/16/19 is denied unless the applicant removes the existing accessory structure or is successful in obtaining a temporary use-by-law prior to the stamping of the deeds.

On September 13, 2021 Council approved the temporary zoning by-law amendment 2021-043 (Appendix D) which satisfied Condition 10 of the COA decision. The consent certificate was then stamped and registered to finalize the creation of the lot. The temporary zoning by-law amendment had an expiry of August 9, 2024 with the option to

renew for an additional three years. At this time By-law 2021-043 has expired and the property owner is requesting the approval be extended for an additional three years.

A Statutory Public Meeting under the Planning Act was held on December 16, 2024, at which comments and questions were received from members of the public and questions were received from Council that are addressed in the Discussion portion of this report.

### **3. DISCUSSION:**

The Town is in receipt of an application for a Temporary Use Zoning By-law Amendment, under Section 39 of the Planning Act from LE Group Developments for property described as Part of Lot 6, Concession 1, Part 1 on 12R28767, municipally known as 865 Front Rd S. The residential building lot subject of the Zoning By-law Amendment has a lot frontage of 48.5 m (159.12 ft) and an irregular depth with a total area of 0.37 hectares (0.91 acres) ±. The applicant is requesting extension of the re-zoning in order to allow the existing accessory structure to remain on the property without a dwelling unit, to continue to be used until the dwelling is constructed.

The proposed amendment to the Zoning By-law would change the zoning for the subject lands noted above from the “Residential Second Density (R2) Zone” to “Temporary Special Provision Residential Second Density (T-R2-7) Zone”. The land is designated Low Density Residential in the Town’s Official Plan. The parcel was the subject of an application for consent (File B/16/19) to sever a residential building lot with an existing accessory structure on the lot. The temporary use rezoning of the subject property will allow the accessory structure to remain without a main use.

The effect of the requested renewal of the Temporary Use By-law amendment proposes to allow for an accessory structure to temporarily remain on the lot without a single detached dwelling unit for an additional three-year period from the original temporary zoning by-law amendment expiry of August 9, 2024.

#### ***Statutory Public Meeting Follow-up***

Administration has addressed the questions and concerns raised at the Statutory Public Meeting through a table located below. No members of the public attended the meeting.

**Table 1:** Comments from the Statutory Public Meeting regarding the Zoning By-law Amendment proposed for 365 Sandwich Street South.

<b>Comment</b>	<b>Administration’s Response</b>
Is the process for a temporary ZBA the same as the process for a standard zoning by-law amendment?	Yes, consistent with Planning Act notification requirements, the notice of public meeting was circulate to all neighbours within 120 m of the subject property, a sign was posted on site, the notice was published in the River Town Times and on the Town website.  No comments or calls were received from residents on this application.
Confirmation was requested on how many times an extension	Section 39 of The <i>Planning Act, R.S.O. 1990</i> , speaks to extensions of temporary zoning by-law

of a temporary zoning by-law amendment could be applied for.	amendments, with subsection 39(3) speaking to extensions. An analysis of Section is found below under the Planning Analysis.
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#### 4. Planning Analysis

##### Planning Act (R.S.O. 1990)

The purposes of The *Planning Act* are;

- “(a) to promote sustainable economic development in a healthy natural environment within the policy and by the means provided under this Act;
- (b) to provide for a land use planning system led by provincial policy;
- (c) to integrate matters of provincial interest in provincial and municipal planning decisions;
- (d) to provide for planning processes that are fair by making them open, accessible, timely and efficient;
- (e) to encourage co-operation and co-ordination among various interests;
- (f) to recognize the decision-making authority and accountability of municipal councils in planning. 1994, c. 23, s”

The proposal is consistent with Section 2 of The *Planning Act* which requires that the Council have regard to matters of provincial interest including (the following are excerpts from Section 2 of the Planning Act that apply to this development):

- the orderly development of safe and healthy communities;
- the promotion of built form that,
  - o is well-designed,
  - o encourages a sense of place, and
  - o provides for public spaces that are of high quality, safe, accessible, attractive and vibrant;

Section 39 states;

##### **Temporary use provisions**

**39 (1)** *The council of a local municipality may, in a by-law passed under section 34, authorize the temporary use of land, buildings or structures for any purpose set out therein that is otherwise prohibited by the by-law. R.S.O. 1990, c. P.13, s. 39 (1).*

*(1.1), (1.2) REPEALED: 2002, c. 17, Sched. B, s. 11 (1).*

##### **Area and time in effect**

*(2) A by-law authorizing a temporary use under subsection (1) shall define the area to which it applies and specify the period of time for which the authorization shall be in effect, which shall not exceed three years from the day of the passing of the by-law. 2002, c. 17, Sched. B, s. 11 (2).*

##### **Extension**

*(3) Despite subsection (2), the council may by by-law grant further periods of not more than three years each during which the temporary use is authorized. R.S.O. 1990, c. P.13, s. 39 (3).*

##### **Non-application of cl. 34 (9) (a)**

*(4) Upon the expiry of the period or periods of time mentioned in subsections (2) and (3), clause 34 (9) (a) does not apply so as to permit the continued use of the land, buildings or structures for the purpose temporarily authorized. R.S.O. 1990, c. P.13, s. 39 (4).*

The Planning Act does not put a limit on the number of times a temporary zoning by-law amendment can be extended. However, being the entire zoning by-law amendment application and notification process is required with each extension, ending with required approval from Council.

In this case the temporary zoning by-law amendment was originally approved to satisfy a condition of consent supporting the creation of a building lot at 865 Front Road South. Administration's report from 2021 stated, "The Committee of Adjustment placed a condition on the severance with an option to remove the accessory structure or obtain a Temporary Use-By-law to allow the structure to remain. This is a standard condition in residential zones, where severances occur, and buildings are located on the retained and severed parcels. In some circumstances, the accessory structure is not in good condition or is demolished. In this instance, the accessory structure was constructed in 2015, and in good condition to remain on the property as an accessory structure."

A three-year extension from the original by-law is a reasonable amount of time to provide the applicant to determine if a dwelling (main use) will be constructed or if the accessory structure will be relocated.

### Provincial Planning Statement

The Provincial Planning Statement provides policy direction on matters of provincial interest related to land use planning and development. As a key part of Ontario's policy-led planning system, the Provincial Planning Statement sets the policy foundation for regulating the development and use of land province-wide, helping achieve the provincial goal of meeting the needs of a fast-growing province while enhancing the quality of life for all Ontarians.

The Provincial Planning Statement is a policy statement issued under the authority of section 3 of the Planning Act and came into effect on October 20, 2024. The Provincial Planning Statement applies to all decisions in respect of the exercise of any authority that affects a planning matter made on or after October 20, 2024.

In respect of the exercise of any authority that affects a planning matter, section 3 of the Planning Act requires that decisions affecting planning matters shall be consistent with policy statements issued under the Act.

When reviewing a planning application to determine if the requested Zoning By-law Amendment makes sound planning, it is imperative that the proposed development is consistent with the Provincial Planning Statement (PPS).

The PPS provides policy direction for appropriate development while protecting resources of provincial interest, public health and safety, and the quality of the natural environment. The 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.

The following policy excerpts from the PPS are particularly applicable to the subject application:

#### *2.3 Settlement Areas and Settlement Area Boundary Expansions*

### 2.3.1 General Policies for Settlement Areas

1. Settlement areas shall be the focus of growth and development. Within settlement areas, growth should be focused in, where applicable, strategic growth areas, including major transit station areas.
2. Land use patterns within settlement areas should be based on densities and a mix of land uses which:
  - a) efficiently use land and resources;
  - b) optimize existing and planned infrastructure and public service facilities;
  - c) support active transportation;
  - d) are transit-supportive, as appropriate; and
  - e) are freight-supportive.
3. Planning authorities shall support general intensification and redevelopment to support the achievement of complete communities, including by planning for a range and mix of housing options and prioritizing planning and investment in the necessary infrastructure and public service facilities.
4. Planning authorities shall establish and implement minimum targets for intensification and redevelopment within built-up areas, based on local conditions.

The subject lands are located within an existing settlement area within the Town of Amherstburg and designated in the Town's Official Plan for low density residential uses. The applicant is requesting the temporary zoning by-law amendment be extended to allow additional time for the low-density residential use of a single detached dwelling to be established and to allow for the existing 10 year old structure which is in good condition to remain. The proposed temporary zoning by-law amendment appears to be consistent with the PPS, 2024 as it facilitates development within the existing settlement and growth area, allowing for efficient use of an infill parcel.

### County of Essex Official Plan

The County of Essex Official Plan was adopted on February 19, 2014 and was approved by the province on April 28, 2015. All lower tier Official Plans or amendments must comply with the policies of the upper tier Official Plan (County). The applicable County policies that should be considered when assessing the merits of the subject Official Plan Amendment include:

Section 1.5 Goals for a Healthy County outline the following:

- To direct the majority of growth (including *intensification* and *affordable housing*), and investment (*infrastructure* and community services and facilities) to the County's *Primary Settlement Areas*. These *Primary Settlement Areas* will serve as focal points for civic, commercial, entertainment and cultural activities.
- To encourage reduced greenhouse gas emissions and energy consumption in the County by promoting built forms and *transportation systems* that create more *sustainable*, efficient, healthy, and liveable communities.
- To create more mixed use, compact, pedestrian-oriented *development* within designated and fully serviced urban *settlement areas*.

- To provide a broad range of housing choices, employment and leisure opportunities for a growing and aging population.
- To prohibit urban forms of *development* outside of designated “*Settlement Areas*” and discourage urban *development* in areas with partial municipal services.

Section 3.2.4.1 Primary Settlement Areas Policies outline the following:

The following policies apply to Primary Settlement Areas:

- a) Primary Settlement Areas shall be the focus of growth and public/private investment in each municipality.
- b) Primary Settlement Areas shall have full municipal sewage services and municipal water services and stormwater management services, a range of land uses and densities, a healthy mixture of housing types including affordable housing options and alternative housing forms for special needs groups, and be designed to be walkable communities with public transit options (or long-term plans for same).
- c) Local municipal Official Plans shall establish appropriate land uses in accordance with the policies of this Plan.
- d) All new development within Primary Settlement Areas shall only occur on full municipal water services and municipal sewage services, unless there are interim servicing policies in the local Official Plan that are in effect at the time of approval of this Plan.
- e) Expansions of the boundaries of a Primary Settlement Area shall only occur in accordance with the Local Comprehensive Review policies in Section 3.2.3.1 of this Plan. An amendment to this Plan and the local Plan shall be required to alter the boundary of any “Settlement Area”.
- f) Downtown/Uptown areas should maintain and/or enhance the existing character of these areas. Mixed-use development and an accessible pedestrian oriented streetscape are encouraged. The preparation of Community Improvement Plans are also encouraged.
- g) The County encourages the redevelopment of brownfield properties.
- h) All types of land use are permitted within the “Settlement Areas” designation subject to the specific land use policies of the local Official Plans.
- i) Cost effective development patterns and those which will minimize land consumption and reduce servicing costs are encouraged. Land use patterns which may cause environmental, heritage preservation or public health and safety concerns shall be avoided.
- j) The County supports universal physical access and encourages the building industry to incorporate such features into new structures.

The subject lands are located within the settlement area in the County of Essex Official Plan. Section 3.2.3 of the County Plan states that future growth and development is encouraged to locate within the settlement areas designation.

The proposed amendment appears to be in conformity with the County of Essex Official Plan as it provides for development within the existing settlement area.

#### Town of Amherstburg Official Plan

The subject property is designated Low Density Residential in Amherstburg’s Official Plan. The applicant has identified that the proposed use for the subject property will be

for residential building lot to contain a single detached dwelling and the existing accessory structure. The Town's Official Plan Section 4.3.1 states that: *'Areas designated as Low Density Residential shall be limited to single detached, semidetached, duplex, or converted dwelling units, home occupation uses and public uses.'*

The requested temporary zoning by-law amendment will provide additional time for the applicant to determine if a dwelling will be constructed or the accessory structure removed from the property. Therefore, the proposed amendment appears to be consistent with the Official Plan.

Zoning By-law 1999-52, as amended

With the expiry of the original temporary zoning by-law amendment the subject lands are currently zoned Residential Second Density (R2) Zone. The effect of the rezoning is to change the zoning to Temporary Special Provision Residential Second Density (T-R2-7) Zone, expiring on August 9, 2027.

Accessory is defined in the Zoning By-law as, "when used to describe a use, a building or a structure, means a use, a building or a structure that is incidental, subordinate and devoted to a main use, building or structure and located on the same lot therewith, and includes a private garage which is not attached to the main building in any way but does not include a single unit dwelling in an Agricultural Zone." An accessory use or structure is permitted when a main use exists. The existing accessory structure existed on the subject property prior to the residential building lot being created. Due to the age and good quality of the structure extending the temporary zoning by-law amendment to allow the structure to remain for three additional years is being proposed.

Upon expiry of the temporary zoning by-law amendment a main use of a single detached dwelling will be required on the property or the accessory structure will be required to be removed.

**5. 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	The Applicant who requested the zoning amendment, the property owner, the Minister, specified persons and public bodies.	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, the property owner, the	Planning and legal consulting services to defend Council's decision and

		Minister, specified persons and public bodies.	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, the property owner, the Minister, specified persons and public bodies.	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.	The Applicant who requested the zoning amendment, the property owner, the Minister, specified persons and public bodies.	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, the property owner, the Minister, specified persons and public bodies.	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.

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

## **6. 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, as noted above. OLT appeals of any nature can be costly with estimated costs of a hearing at a minimum \$6,000/day, noting that those daily costs could be substantially higher depending on the specific nature of an appeal, the hearing, and should Town Administration be required to be before OLT as both witnesses for an Applicant and defense of a decision.



**7. CONSULTATIONS:**

The Notice of Public Meeting was published in the local newspaper and circulated to the required agencies, property owners and municipal departments in accordance with the requirements of the Planning Act, R.S.O. 1990, c.P. 13 and associated regulations.

A summary of correspondence received is attached for Council consideration as Appendix “F”.

No further consultation is required.

**8. CORPORATE STRATEGIC ALIGNMENT:**

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

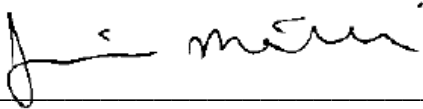
<i>Amherstburg Community Strategic Plan 2022 - 2026</i>	
<p style="text-align: center;"><b>PILLAR 1</b> <b>Deliver Trusted &amp; Accountable Local Government</b></p> <ul style="list-style-type: none"> <li>✓ Improve trust between council and staff, and residents, by strengthening governance and internal 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>✓ 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 type="checkbox"/> Preserve the Town’s greenspaces, agricultural lands, and natural environment.
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**9. CONCLUSION:**

It is the opinion of administration that the temporary Zoning By-law Amendment allows for reasonable amount of time to consider the future use of the subject lands, is consistent with the policies of the Provincial Planning Statement, 2024, and conforms with the policies of the County of Essex Official Plan and the Town of Amherstburg Official Plan.

Administration recommends that Zoning By-law 2025-010 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**

**JM/CA**




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Christopher Aspila  
**Manager, Planning Services**

## Report Approval Details

Document Title:	Temporary Zoning By-law Amendment for 865 Front Road South.docx
Attachments:	<ul style="list-style-type: none"><li>- Appendix A- ZBA-23-24- Notice of Statutory Public Meeting- 865 Front Rd S-RM.pdf</li><li>- Appendix B- Aerial Map-RM.pdf</li><li>- Appendix C- ZBA-23-24 - Application_Redacted-RM.pdf</li><li>- Appendix D- 2021-043- ZBA- 865 Front Rd S- Temp Use-RM.pdf</li><li>- Appendix E- ZBA-23-24- Circulation Map and List-RM.pdf</li><li>- Appendix F- Summary of Correspondence Received on ZBA-23-24-RM.pdf</li><li>- Appendix G- 2025-010- ZBA- 865 Front Rd S- Temp Use-DRAFT-RM.pdf</li></ul>
Final Approval Date:	Jan 30, 2025

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



Kevin Fox