

January 21, 2025

Sarah French, Planner
Town of Amherstburg

Delivered via email

REGARDING: Zoning Bylaw Amendment (ZBA) Application
6321 Essex County Road 20, Amherstburg
Pit's Fresh Veggies

INTRODUCTION:

This Planning Memo (Planning Impact Analysis) has been prepared by Lassaline Planning Consultants Inc. in support of an application by my client, Chantale Bouchard (the Applicant), to amend The Corporation of the Town of Amherstburg Zoning By-law No. 1999-52 (By-law 1999-52). The existing Pitt's Fresh Veggies, in my professional opinion, comprises a Rural Home Occupation use in a Single Detached Dwelling on the rural residential property known municipally as 6321 Essex County Road 20 (the subject site), Town of Amherstburg.

A site specific ZBA is required to recognize that the retail sales for the Home Occupation-Rural comprises 50% of the floor area of the rural home occupation: the amendment will allow for 50% of the floor area of the home occupation be dedicated to retail sales of produce and the sales of pre-made foods sold at the market. In addition, the site specific amendment will recognize the retail sales of goods that are produced both on the property through the rural home occupation (pre-made foods) and acquired from off the property from local farms and business to be sold in the roadside stand.

Through the site specific ZBA, the use will comply with the Home Occupation-Rural bylaw. The ZBA will allow for the retail sales of goods produced both on the property through rural home occupation and from off the property through local farms and businesses. In addition, the retail sales of goods produced on site will comprise 50% of the floor area of the rural home occupation.

The Planning Impact Analysis has been prepared, as required by Policy 6.7 - Planning Impact Analysis of The Corporation of the Town of Amherstburg Official Plan (the Official Plan), to provide a professional planning opinion which describes how the requested Zoning By-law Amendment (ZBA) is consistent with the Provincial Policy Statement 2024 (PPS), conforms with the policy direction of the Official Plan, is compatible with existing and permitted uses in the surrounding area, and constitutes good planning.

SUBJECT SITE:

The subject site is a rectangular shaped parcel of land created by consent and used for rural residential purposes with an approximate lot area of 0.5 hectares and lot frontage of 72.0 metres. The subject site is located on the north side of Essex County Road 20 between St Therese Avenue and Concession Road 7 in a rural area of the Town of Amherstburg.



Figure 1 - Location Map (Subject Site)



Figure 2 - Location Map (Subject Site - Close up)

The subject site contains a Single Detached Dwelling (rural residence) as a single storey residence with 204.4 m² total ground floor area that includes a garage with 22.3 m² for storage of materials used for the fresh fruit stand (ie: boxes, etc) and a kitchen with 22.3 m² used for preparation of pre-made foods and preserves.



Figure 3 – Double driveway access for lot



Figure 4 – Residence on site

As shown in the aerials above, the site has an existing double driveway for people to pull onto the property and then pull off the property without having to park on the side of the County Road or back onto the County Road to leave the property. There are multiple parking spaces (6 +) located at the fresh fruit stand for people attending on site.

Pit's Fresh Veggies is an existing roadside farm sales selling fresh local produce from area farms, prepared foods produced within the Home Occupation (e.g., baked goods, bread, preservatives, salads, soups, etc) and plants grown on the subject site. The vegetables and fruit for sale are acquired from local farms and local greenhouses. These products are used in the preparation of pre-made meals, soups, and preserves that are sold on site.

The remainder of the subject site is maintained as landscaped open space and includes a long-paved horseshoe shaped driveway off Essex County Road 20. Also, there are 12 raised planter boxes, each at 12'x4' for the growing of herbs used in the preparation of the pre-made meals, soups and preserves (Refer to Figures 1 & 2 above).

SURROUNDING LAND USES:

North:

- Agricultural Uses (crop land)

East:

- Agricultural Uses (crop land)

South:

- Agricultural Uses (crop land)

West:

- Malden Centre (Low density residential)

PROPOSAL:

The applicant is requesting a Zoning By-law Amendment (ZBA) to establish a regulatory framework to support the continuation of a roadside stand (Pit's Fresh Veggies) as a Home Occupation-Rural associated with a rural residence.

Pit's Fresh Veggies is considered an accessory Rural Home Occupation together with accessory buildings and structures being used as a roadside stand (Pit's Fresh Veggies). The fresh fruit and vegetable stand existed for a number of years without concern until a complaint was received by the municipality last year about the existence of the fresh fruit and vegetable market roadside stand.

The owner of Pitt's Fresh Veggies was issued a number of approvals necessary for the operation of the vegetable stand and the provision of pre-made foods:

- 1) **Food Shop Business License** from the **Town of Amherstburg** for Pit's Fresh Veggies on October 23, 2023 (Attached as Appendix C).

- 2) The facilities have been inspected and passed inspection by the **Windsor-Essex Health Unit** for **Pit's Fresh Veggies** and the Home Occupation on April 11, 2024 (attached as Appendix A).
- 3) Pit's Fresh Veggies received a **Ministry of Health and Long-term Care Food Handler Training Certificate** from the **Windsor-Essex Health Unit** on March 7, 2024 (Attached as Appendix B) for the **preparation of food using the fresh vegetables that are sold at the fruit and vegetable stand.**

The following are accessory structures used for the vegetable stand:

- (1) The fresh fruit and vegetables are stored and displayed on a **mobile cart** that is moved to provide access to the different produce for sale. The mobile cart is approximately **4.6m x 4.6m (21.2 m²) mobile vegetable stand** (Refer to Figure 3 below);



Figure 3 - Mobile Food Stand

The following items are sold on the vegetable cart from the property and local farmers grown and supplied when in season:

- 1) Tomatoes;
- 2) Cucumbers;
- 3) Peppers;

- 4) Carrots;
- 5) Onions;
- 6) Radishes;
- 7) Beans;
- 8) Potatoes;
- 9) Carrots;
- 10) Lettuce;
- 11) Eggplants;
- 12) Onions;
- 13) Mushrooms;
- 14) Herbs;
- 15) Strawberries;
- 16) Spinach;
- 17) Flowers;
- 18) Honey;
- 19) Maple syrup;
- 20) Lakeside pickles;
- 21) Green Heart bread.

- 2) There is a walk-in cooler that is used to store pre-made foods. The walk-in cooler is **2.4m x 3.0m (7.2m²) exterior walk-in cooler** (Refer to Figure 4)



Figure 4 – Walk in cooler

Prepared Food prepared by the certified kitchen:

- 1) Cookies;
- 2) Pies;
- 3) Tarts;
- 4) Salads;
- 5) Pasta salads;
- 6) Dips, hummus;
- 7) Jams;
- 8) Bruschetta;
- 9) Soups;
- 10) Loaves and squares.

- 3) **3.0m x 4.0m (12.0 m²) EuroShed** used for storage of preserves and refrigerated food items (Refer to Figure 5).



Figure 5 – Euro-shed

PROVINCIAL POLICY STATEMENTS 2024 (PPS 2024)

The PPS provides direction on matters of provincial interest related to land use planning and development and sets the policy foundation for regulating the development and use of land in Ontario. The following policies of the PPS 2024 are considered relevant in discussing provincial interests related to the requested Zoning Bylaw Amendment (ZBA):

2.5 - Rural Areas in Municipalities		
Policy No.	Policy	Planner's Opinion
2.5.1	Healthy, integrated and viable rural areas should be supported by:	
e)	promoting diversification of the economic base and employment opportunities through goods and services, including value-added products and the sustainable management or use of resources;	Pit's Fresh Veggies provides another avenue for area farms to sell their fresh produce.
h)	providing opportunities for economic activities in prime agricultural areas, in accordance with policy 2.3.	Refer to responses provided to Policy 2.3 herein.
2.6 - Rural Lands in Municipalities		
Policy No.	Policy	Planner's Opinion
2.6.1	On rural lands located in municipalities, permitted uses are:	
d)	agricultural uses, agriculture-related uses, on-farm diversified uses and normal farm practices, in accordance with provincial standards;	Pit's Fresh Veggies meets the definition of an agriculture-related use, providing another avenue for area farms to sell their fresh produce. Pit's Fresh Veggies also meets the definition of an on-farm diversified use through producing prepared foods for sale on the subject site.
e)	Home occupations and home industries	Pit's Fresh Veggies can be considered a home occupation. The ZBA will recognize a larger home occupation.

2.6.2.	Development that can be sustained by rural service levels should be promoted.	There are no additional services required than what is used by the rural residence.
4.3 - Agriculture		
4.3.2 - Permitted Uses		
Polic No.	Policy	Planner's Opinion
4.3.2.	<p>In prime agricultural areas, permitted uses and activities are: agricultural uses, agriculture-related uses and on-farm diversified uses based on provincial guidance.</p> <p>Proposed agriculture-related uses and on-farm diversified uses shall be compatible with, and shall not hinder, surrounding agricultural operations. Criteria for these uses may be based on provincial guidance or municipal approaches, as set out in municipal planning documents, which achieve the same objectives.</p>	<p>Pit's Fresh Veggies is complimentary to the surrounding rural landscape in terms of scale, massing, height, siting, orientation, and setbacks.</p> <p>Pit's Fresh Veggies will not hinder surrounding agricultural operations.</p> <p>Essex County Road 20 is more than sufficient to handle the minimal traffic generated from Pit's Fresh Veggies.</p>
4.3.5 - Non-Agricultural Uses in Prime Agricultural Areas		
Polic No.	Policy	Planner's Opinion
4.3.5.	Planning authorities may only permit non-agricultural uses in prime agricultural areas for:	
b)	limited non-residential uses, provided that all of the following are demonstrated:	
1.	the land does not comprise a specialty crop area;	it's Fresh Veggies does not infringe on a specialty crop area.

It is my professional opinion that the ZBA is consistent with the PPS to support and promote economic prosperity for the rural and agricultural area of the municipality.

OFFICIAL PLAN TOWN OF AMHERSTBURG

The subject site is located within the Agricultural land use designation on Schedule “A” - Land Use Plan to the Official Plan. The following policies are considered relevant in discussing this amendment’s conformity with the Official Plan.

Section 3 - Resource Based Land Use Policies		
Section 2 - Land Use Management Strategy for Development		
2.15 - Accessory Uses		
Policy No.	Policy	Planner’s Opinion
2.15	Wherever a use is permitted in a land use classification, it is intended that uses, buildings, or structures normally incidental, accessory, and essential to that use are also permitted.	refer to the responses provided to the Zoning By-law section herein
3.2 - Agricultural Land Uses		
3.2.2 - Policies		
Policy No.	Policy	Planner’s Opinion
(16)	Residential uses on existing lots of record shall be permitted in the Agricultural designation. The Zoning By-Law shall only permit one residence per lot (lot as defined in the Zoning By-Law)	he Single Detached Dwelling as a rural residential use is a permitted use.

It is my professional opinion that the requested ZBA conforms with the policy direction of the Official Plan municipality

ZONING BY-LAW:

The subject site is zoned 'Agricultural (A) Zone' of By-law 1999-52.

The Applicant is requesting a ZBA to By-law 1999-52 to add a site-specific provision to allow a roadside stand as an accessory use to a rural residential Single Detached Dwelling, subject to the applicable provisions of the Home Occupation - Rural General Provisions of By-law 1999-52.

It should be noted that By-law 1999-52 does not define a farm. The Britannica Dictionary defines a farm as *"a piece of land used for growing crops or raising animals."*

It is my professional opinion that the use and size of the operation of Pitt's Fresh Veggies complies with the roadside stand use and can be considered an appropriate use of these lands.

By-law 1999-52 defines a "Home Occupation" as *"the use of part of a dwelling unit for an occupation which provides gain or support, for at least one (1) of the permanent residents of such dwelling unit and which is clearly secondary to the main use of the dwelling unit as a private residence."*

Section (10) iv) of the **Home Occupation - Rural** General Provisions of By-law 1999-52 (iv) states that: *"a rural occupation may be located within an accessory building or structure to the main residential or agricultural use. The rural occupation shall be wholly contained **within buildings and structures that shall not exceed ten percent coverage of the lot area or a total of 930 square metres of gross floor area, whichever is the lesser.** Any open storage shall be considered as part of the lot coverage and shall not exceed the maximum permitted"*.

Section (10) viii) of the **Home Occupation - Rural** General Provisions of By-law 1999-52 states that: *"**Retail sales are restricted to goods manufactured as part of the rural occupation.** The area devoted to retail sales shall be no more than **10 percent of the floor area of the rural occupation.**"*

The parcel has approximately 5,000 m² lot area. The area of the residence used for storage (garage at 22.3 m²) and for cooking of meals (kitchen at 22.3 m²) is a total of 44.6 m² of the residence used for the retail sales outlet. In addition, accessory structures of the cart (21.2 m²); the cooler (7.2 m²) and the shed (12 m²) for a total of 40.4 m² accessory structures used for the veggie stand. Therefore the total GFA of 85m² associated with Pitt's Fresh Veggies is equivalent to **1.7% Total Lot Coverage** of the lot and **meets the bylaw requirement of less than 10% of the floor area**. In my professional opinion, the land use of a fresh vegetable stand with pre-made foods and preserves for sale complies with the 'Home Occupation – Rural' for the size of the Home Occupation.

The acquisition of the farm fruit and vegetables from local farms and greenhouses for sale at the market is considered 'off-site'. All pre-made foods and preserves are produced on site using fresh produce. It is fair to say that over half of the income for Pitt's Fresh Veggies is from the pre-made foods and preserves produced on site, therefore 50% of the produce (sales) is from off-site produce while 50% of the sales is from on-site products.

The sales of fruit and vegetables grown locally and used in the preparation of foods sold on the rural residential lot and the surplus fruit and vegetables sold at the vegetable stand, in my professional opinion, complies with the intent of the CZB 'Agriculture (A)' zone. Specifically, the land use is permitted as a roadside stand and is consistent with the 'Home Occupation-Rural Bylaw' with the exception that the amount of floor area used for retail for the provision of product sold.

A site specific ZBA is required to recognize that the retail sales for the Home Occupation-Rural comprising 50% of the floor area of the rural home occupation: the amendment will allow for 50% of the floor area of the home occupation be dedicated to retail sales of produce and the sales of pre-made foods sold at the market. In addition, the site specific amendment will recognize the retail sales of goods that are produced both on the property through the rural home occupation (pre-made foods) and acquired from off the property from local farms and business to be sold in the roadside stand.

It is my professional opinion that the licensed preparation of food and a fresh fruit and vegetable stand are permitted uses in the 'Agriculture (A)' zone and on the subject lands.

In my professional opinion, the licensed preparation of food, sale of fresh produce as the land use of Pitt's Veggies complies with the roadside stands provisions of the bylaw.

With the passing of the site specific ZBA, it is my professional opinion that the additional land use of Pitt's Veggies can be considered to comply with all aspects of the Home Occupation-Rural bylaw.

CONCLUSION:

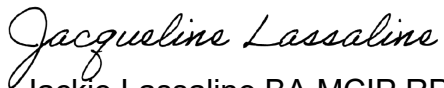
It is my professional opinion that the requested Zoning Bylaw Amendment (ZBA) to allow for the continuation of Pitt's Fresh Veggies as a roadside stand as a Home Occupation-Rural:

1. is consistent with the policies of the PPS;
2. conforms with the relevant policies of the Official Plan;
3. complies with the regulations of By-law 1999-52; and
4. constitutes good planning.

I hereby certify that this report was prepared by Jackie Lassaline RPP MCIP, a Registered Professional Planner within the meaning of the Ontario Professional Planners Institute Act, 1994.

Regards,

Lassaline Planning Consultants


Jackie Lassaline BA MCIP RPP

Principal planner, Owner

APPENDIX A: HEALTH UNIT CERTIFICATION FOR COOKING FACILITIES



APPENDIX B – FOOD HANDLING CERTIFICATION – CHANTALE BOUCHARD



APPENDIX C – BUSINESS LICENCE 2024 – TOWN OF AMHERSTBURG

No: 2023-40
Expiry:

Corporation of the Town of Amherstburg
LICENCE

To All Whom it May Concern:

This License is granted toChantale Bouchard.....
of ...Pits Fresh Veggies @ 6321 County Rd 20 West.....
to carry on the (a)BUSINESS..... of.....Food Shop.....
within the limits of the Town of Amherstburg.

Provided the said **Pits Fresh Veggies** shall duly observe all such By-laws, Rules and Regulations, matters and things as are, or may be enacted by the Municipal Council of the **Town of Amherstburg** or legally constituted Board of Commissioners thereof to govern within their jurisdiction.

Issued at **Amherstburg, Ontario** this ...23rd..day of ...October...2023.....


Luisa Kempster, Licensing Officer