



## THE CORPORATION OF THE TOWN OF AMHERSTBURG

### OFFICE OF DEVELOPMENT SERVICES

**MISSION STATEMENT:** *Committed to delivering cost-effective and efficient services for the residents of the Town of Amherstburg with a view to improve and enhance their quality of life.*

<b>Author's Name:</b> Janine Mastronardi	<b>Report Date:</b> April 24, 2025
<b>Author's Phone:</b> 519 736-5408 ext. 2134	<b>Date to Committee:</b> April 30, 2025
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**To:** Chair and Members of the Committee of Adjustment

**Subject:** B/18/25 and B/11/25, 168 Texas Road, Winstar Homes Inc.

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#### 1. RECOMMENDATION:

It is recommended that:

1. Subject to the Committee's consideration of written and oral submissions at the public meeting that application B/18/25 be approved subject to the recommended conditions; and,
2. Subject to the Committee's consideration of written and oral submissions at the public meeting that application B/11/25 be approved subject to the recommended conditions.

#### 2. PROPOSAL:

Purpose of Consent Application B/18/25: The applicant is proposing to sever a parcel of land being 68 ft ± width by 225 ft ± depth with an area of 30 600 sq ft ± to merge with 158 Texas Road for purposes of a lot addition.

The retained parcel being 68 ft ± of frontage by 225 ft ± depth with an area of 30 600 sq ft ± is a vacant residential building lot.

Purpose of Consent Application B/11/25: The applicant is proposing to sever a parcel of land being 34 ft ± frontage by 225 ft ± depth with an area of 15 300 sq ft ± to create a new residential semi-detached building lot. The retained parcel being 34 ft ± frontage by 225 ft depth with a total area of 15 300 sq ft ± will contain a semi-detached dwelling unit.

The subject property is designated Low Density Residential in the Town's Official Plan and zoned Residential Second Density (R2) Zone in the Town's Zoning By-law.

### **3. BACKGROUND:**

At the January 26, 2021 Committee meeting the Committee approved B/05/21 for the purpose of the creation of a new single detached building lot. The conditions have been fulfilled and the consent certificate was stamped on May 10, 2021. The lot is currently under new ownership. The owner would like to move forward with decreasing the lot size through the proposed lot addition to merge with 158 Texas and erecting a semi-detached dwelling on the property.

### **4. PLANNING INFORMATION:**

Official Plan designation: Low Density Residential

By-law No. 1999-52: Residential Second Density (R2) Zone

Existing Use: Residential

Neighbouring Uses: Residential

Access: Texas Road

### **5. PLANNING ANALYSIS:**

In the review of the subject application, a number of points have been reviewed:

#### **1. *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 Committee of Adjustment 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 adequate provision and efficient use of communication, transportation, sewage and water services and waste management systems;
- the orderly development of safe and healthy communities;
- the adequate provision of a full range of housing, including affordable housing;
- the appropriate location of growth and development;

The proposed severance for a lot addition and proposed severance for lot creation are within a settlement area with existing services and accesses. The conditions of consent are proposed to ensure orderly development of the severed and retained lots.

When considering the severance application, under Section 53 of the Planning Act, R.S.O. 1990, as amended, the Committee may consider an application for consent if they are satisfied that a plan of subdivision is not necessary for orderly development of the land. In this case, the applicant is applying for a lot addition to merge with an existing parcel and the creation of one infill residential building lot for a semi-detached dwelling within an existing settlement area on an existing right-of-way with municipal water and sanitary sewers. A plan of subdivision is not necessary.

## **2. PROVINCIAL PLANNING STATEMENT:**

The Planning Act R.S.O 1990, C.P.13, requires that the Council of a local Municipality and Committees of a local Municipality shall have regard to matters of Provincial interest in carrying out applications such as a severance application. Items of Provincial interest are outlined in the Provincial Planning Statement (PPS) issued by the Ministry of Municipal Affairs and Housing.

### *“Legislative Authority*

*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.*

*Comments, submissions or advice that affect a planning matter that are provided by the council of a municipality, a local board, a planning board, a minister or ministry, board, commission or agency of the government shall be consistent with the Provincial Planning Statement.”*

The Provincial Planning Statement provides for appropriate development while protecting resources of provincial interest, public health and safety, and the quality of the natural and built environment. The Provincial Planning Statement supports improved land use planning and management, which contributes to a more effective and efficient land use planning system.

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

In Chapter 1, the Introduction summarizes the vision for the province and includes the following statement, “Ontario’s land use planning framework, and the decisions that are made, shape how our communities grow and prosper. Prioritizing compact and *transit-supportive* design, where locally appropriate, and optimizing investments in *infrastructure* and *public service facilities* will support convenient access to housing, quality employment, services and recreation for all Ontarians.”

Chapter 2 discusses housing and is entitled, Building Homes, Sustaining Strong and Competitive Communities.

## **2.2 Housing**

1. Planning authorities shall provide for an appropriate range and mix of *housing options* and densities to meet projected needs of current and future residents of the *regional market area* by:

- a) establishing and implementing minimum targets for the provision of housing that is *affordable* to *low and moderate income households*, and coordinating land use planning and planning for housing with Service Managers to address the full range of *housing options* including *affordable* housing needs;
- b) permitting and facilitating:
  - 1. all *housing options* required to meet the social, health, economic and wellbeing requirements of current and future residents, including *additional needs housing* and needs arising from demographic changes and employment opportunities; and
  - 2. all types of residential *intensification*, including the *development* and *redevelopment* of underutilized commercial and institutional sites (e.g., shopping malls and plazas) for residential use, development and introduction of new *housing options* within previously developed areas, and *redevelopment*, which results in a net increase in residential units in accordance with policy 2.3.1.3;
- c) promoting densities for new housing which efficiently use land, resources, *infrastructure* and *public service facilities*, and support the use of *active transportation*; and
- d) requiring *transit-supportive* development and prioritizing *intensification*, including potential air rights development, in proximity to transit, including corridors and stations.

## **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.

5. Planning authorities are encouraged to establish density targets for *designated growth areas*, based on local conditions. *Large and fast-growing municipalities* are encouraged to plan for a target of 50 residents and jobs per gross hectare in *designated growth areas*.

6. Planning authorities should establish and implement phasing policies, where appropriate, to ensure that development within *designated growth areas* is orderly and aligns with the timely provision of the *infrastructure* and *public service facilities*.

## **2.4 Strategic Growth Areas**

### **2.4.1 General Policies for Strategic Growth Areas**

1. Planning authorities are encouraged to identify and focus growth and development in *strategic growth areas*.

2. To support the achievement of *complete communities*, a range and mix of *housing options*, *intensification* and more mixed-use development, *strategic growth areas* should be planned:

- a) to accommodate significant population and employment growth;
- b) as focal areas for education, commercial, recreational, and cultural uses;
- c) to accommodate and support the transit network and provide connection points for inter-and intra-regional transit; and
- d) to support *affordable*, accessible, and equitable housing.

3. Planning authorities should:

- a) prioritize planning and investment for *infrastructure* and *public service facilities* in *strategic growth areas*;
- b) identify the appropriate type and scale of development in *strategic growth areas* and the transition of built form to adjacent areas;
- c) permit *development* and *intensification* in *strategic growth areas* to support the achievement of *complete communities* and a *compact built form*;
- d) consider a student housing strategy when planning for *strategic growth areas*; and
- e) support *redevelopment* of commercially-designated retail lands (e.g., underutilized shopping malls and plazas), to support mixed-use residential.

The consent for a lot addition is a minor lot boundary adjustment to enlarge an existing parcel which contains a single detached dwelling. The consolidated parcel is serviced with municipal water, municipal storm sewers and municipal sanitary sewers with existing frontage on a municipal right-of-way.

The proposed severed and retained lots for a semi-detached dwelling are within a settlement area. The severed and retained lots are/will be serviced with municipal water,

municipal storm sewers and municipal sanitary sewers. The severance application will create one new residential lot within an existing settlement area and allows for infill development of a semi-detached dwelling unit supported by the PPS.

In the opinion of the author of this report the requested consents are consistent with the Provincial Planning Statement.

### **3. COUNTY OF ESSEX OFFICIAL PLAN:**

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. Section 4.6.4 states that applications to create lots through the consent to sever process will continue to be the responsibility of local municipalities in accordance with the policies contained in local Official Plans.

The severed and retained lots are within a settlement area and can be accessed by a municipal road.

### **4. TOWN OF AMHERSTBURG OFFICIAL PLAN:**

The subject property is designated Low Density Residential in Amherstburg's Official Plan.

The requested consent conforms with relevant policies of the Official Plan specifically Section 6.1.2 being the Land Severance policies, Section 4.2.3(1) which provides for the residential lot creation and Section 4.2.3(3) which states that infill housing should be compatible with surrounding land uses. The consolidated development lands are planned for low density residential development which is consistent with the surrounding land uses.

The applicant has identified that the proposed use for the severed parcel in application B/18/25 will be for a residential lot addition which contains an existing single detached dwelling. The applicant has identified that the proposed use for the severed and retained parcels in application B/11/25 will be for residential building lots for a semi-detached dwelling. This will result in two new dwelling units being constructed. 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.'* Therefore, the proposed uses on the land are in conformity with the Official Plan.

In the opinion of the author of this report the proposed consent maintains the intent of the Official Plan.

### **5. COMPREHENSIVE ZONING BY-LAW 1999-52:**

The subject property is proposed to be zoned Residential Second Density (R2) Zone in Bylaw 1999-52, as amended. The lot addition proposed by application B/18/25 is not in contravention of the Zoning Bylaw. The creation of a new lot for a semi-detached dwelling

unit by application B/11/25 is also not in contravention of the Zoning By-law. Section 8(2) permits a range of residential uses in the R2 Zone including single detached and semi-detached dwellings.

The minimum lot frontage required in the R2 Zone for a semi-detached dwelling unit is 9.5 m. The minimum lot area required in the R2 Zone for a semi-detached dwelling unit is 310 sq.m.

The applicant is proposing the following lot frontages and lot areas for the severed and retained parcels in application B/11/25. These parcels also will have access from Texas Road.

	Lot Frontage		Lot Area	
	<i>Required</i>	<i>Proposed</i>	<i>Required</i>	<i>Proposed</i>
Severed Parcel	9.5 m (31.17 ft)	10.36 m (34 ft)	310 sq m (3336.81 sq ft)	1421.42 sq m (15,300 sq ft)
Retained Parcel	9.5 m (31.17 ft)	10.36 m (34 ft)	310 sq m (3336.81 sq ft)	1421.42 sq m (15,300 sq ft)

In the opinion of the author of this report the proposed consent for a lot addition and the creation of a residential building lot for a semi-detached dwelling unit is in conformity with the Zoning By-Law 1999-52, as amended.

## **6. AGENCY COMMENTS:**

See attached.

## **7. RISK ANALYSIS:**

As with all Committee of Adjustment decisions there is a risk that the decision is appealed. As a result of changes in Bill 23, decisions by a CoA can no longer be appealed by a third party. Decisions which are to support or refuse the consent or minor variance request, can only be appealed by the applicant, the Municipality, the Minister, a specified person or any public body. In the case of a consent decision the appeal must be filed within 20 days after the giving of notice of the decision of the committee, whereas for a minor variance an appeal must be filed within 20 days of the making of the decision of the committee. It is important to note that a tied vote is deemed to be a decision to deny the consent or minor variance request. If there is an appeal to the OLT the Town will incur costs.

## **8. RECOMMENDATIONS:**

Based on the foregoing and subject to the Committee's consideration of written and oral submissions at the public meeting it is recommended that application **B/18/25 be approved** subject to the following conditions:

1. That a Reference Plan of the subject property satisfactory to the municipality be deposited in the Registry Office; a copy to be provided to the municipality.

2. The applicant to submit to the municipality the deed acceptable for registration in order that consent may be attached to the original and a copy be provided to the municipality.
3. That all property taxes be paid in full.
4. Subsection 3 of Section 50 of the Planning Act applies to any subsequent conveyance or transaction of or in relation to the parcels of land being the subject of the consent (severed and retained parcels).
5. That prior to the stamping of deeds the owner is to provide satisfactory evidence that the adjacent parcel is under consolidation relative to the parcels which are the subject of the consent.
6. The applicant/owners are required to enter into a reapportionment of the drainage assessment for the subject lands in accordance with Section 65 of the Ontario Drainage Act, R.S.O. 1990 as amended and provide the Town of Amherstburg, a signed agreement and that any associated cost of same be borne solely by the applicant. The reapportionment for any affected Municipal Drains be required and are to be assessed against the affected lands in accordance with any past, current or future drainage bylaws, until such time as otherwise determined under the provisions of the Drainage Act. The severance shall not be granted until a Council resolution is passed to execute the reapportionment agreement. Consult Amherstburg's Drainage Superintendent for further information. (Jeths Drain)
7. That a grade design demonstrating that the retained parcel will maintain its own surface water be submitted and implemented to the satisfaction of the municipality.
8. This consent will be deemed to be refused in accordance with the Planning Act if the above noted conditions are not met within two years from the date of this notice.

Based on the foregoing and subject to the Committee's consideration of written and oral submissions at the public meeting it is recommended that application **B/11/25 be approved** subject to the following conditions:

1. That a Reference Plan of the subject property, which indicates the common wall of the semi-detached dwelling, satisfactory to the municipality be deposited in the Registry Office; a copy to be provided to the municipality.
2. The applicant to submit to the municipality the deed acceptable for registration in order that consent may be attached to the original and a copy be provided to the municipality.
3. That all property taxes be paid in full.
4. That a parkland fee be paid to the Town of Amherstburg prior to the stamping of the deeds in an amount of \$1070 for the severed lot.



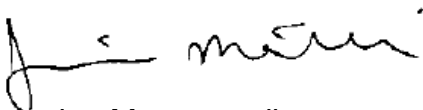
5. That one (1) tree per newly created lot shall be planted within the municipal right-of-way. Coordination with the Infrastructure Services department is required to confirm species and caliper to be planted. Cash in lieu may also be provided to satisfy this requirement in the amount of \$500.00 per lot created.
6. That the applicant be required to obtain a Right-of-Way Permit from Infrastructure Services according to Town policy for any work required within the limits of the Town right-of-way. All permitting costs will be borne entirely by the applicant.
7. That the applicant confirm and install separate sanitary sewer connections, water services and storm sewer connections to the severed and retained lots in accordance with and under the supervision of the municipality at the applicant's expense.
8. That the applicant must install a driveway access to the severed and retained parcels to the satisfaction of the municipality.
9. That the applicant provide to the municipality Private Drain Connection (PDC) sheets once installation of new services is completed.
10. The applicant/owners are required to enter into a reapportionment of the drainage assessment for the subject lands in accordance with Section 65 of the Ontario Drainage Act, R.S.O. 1990 as amended and provide the Town of Amherstburg, a signed agreement and that any associated cost of same be borne solely by the applicant. The reapportionment for any affected Municipal Drains be required and are to be assessed against the affected lands in accordance with any past, current or future drainage bylaws, until such time as otherwise determined under the provisions of the Drainage Act. The severance shall not be granted until a Council resolution is passed to execute the reapportionment agreement. Consult Amherstburg's Drainage Superintendent for further information. (Jeths Drain)
11. That the applicant submit a lot grading plan for the severed lot to the satisfaction of the municipality.
12. This consent will be deemed to be refused in accordance with the Planning Act if the above noted conditions are not met within two years from the date of this notice.

**NOTE:** All conditions are subject to the approval of The Town of the Amherstburg, but at no cost to the municipality.

## **9. CONCLUSION:**

In the opinion of the author of this report the request for one lot addition and the creation of a new semi-detached dwelling lot is in conformity with Sections 6.1.2 and 6.1.2(6) of Amherstburg's Official Plan and is consistent with the Provincial Planning Statement.

Respectfully submitted,



Janine Mastronardi



## Report Approval Details

Document Title:	B-11-25 and B-18-25, 168 Texas Road, Winstar Homes Inc.docx
Attachments:	<ul style="list-style-type: none"><li>- Appendix A- B-11 and 18-25- Notice- 168 Texas Rd- RM.pdf</li><li>- Appendix B- B-18-25- Application_Redacted-RM.pdf</li><li>- Appendix C- B-11-25- Application_Redacted-RM.pdf</li><li>- Appendix D- B-11-25 - Aerial map-RM.pdf</li><li>- Appendix E- B-11 18-25- Site Photos-RM.pdf</li><li>- Appendix F- Summary of Correspondence Received on B-11-25- RM.pdf</li><li>- Appendix G- B-11-25 B-18-25 PowerPoint.-RM.pdf</li></ul>
Final Approval Date:	Apr 25, 2025

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

Chris Aspila