

THE MUNICIPALITY OF LAMBTON SHORES

Report PL 06-2025

Council Meeting Date: March 18, 2005

TO: Mayor Cook and Members of Council

FROM: Will Nywening, Senior Planner

RE: ZBA Application Z02-2025 – 9820 Lakeshore Road – Brandon Desrochers

RECOMMENDATION:

THAT Report PL 06-2025, relating to a Zoning By-Law Amendment Application, submitted by Brandon Desrochers, be received;

THAT Zoning By-Law Amendment Application Z02-2025, requesting an amendment to Zoning By-Law 1 of 2003 to rezone portions of 9820 Lakeshore Road to permit a Residential 6 (R6) Zone permitting a single dwelling residence and building and contracting establishment, be denied; and

THAT amending By-law 17 of 2025 instead be passed, rezoning portions of the property to a site-specific zone permitting a single detached dwelling and detached accessory buildings in a front yard and rezoning the balance of the property to a conservation zone.

SUMMARY

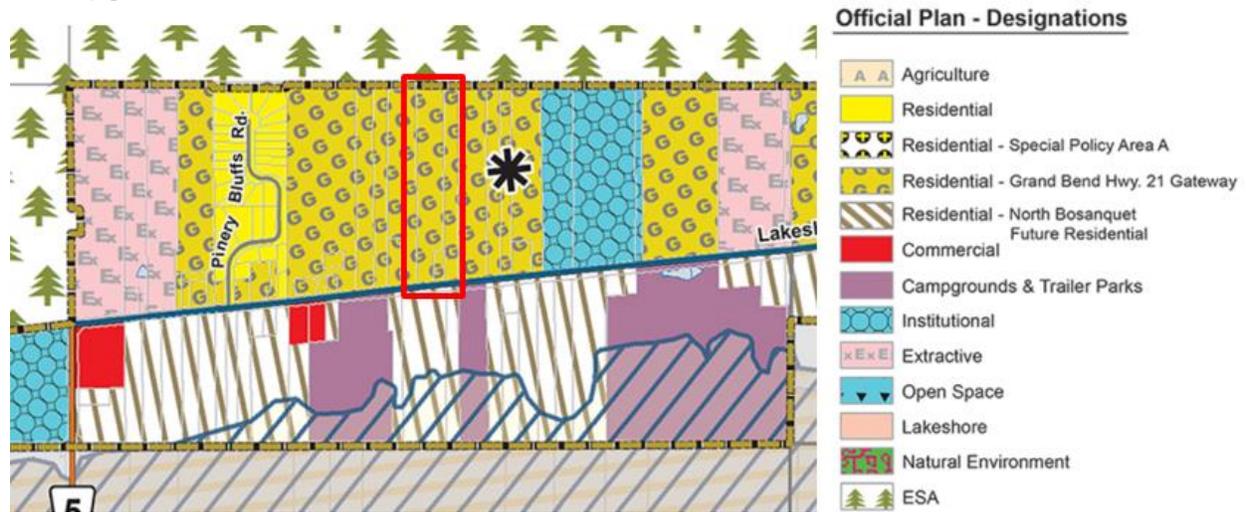
This report relates to a Zoning Amendment application, submitted by Brandon Desrochers, affecting lands known as 9820 Lakeshore Road. The applicant proposes to amend Zoning By-Law 1 of 2003 by changing the zoning on a portion of the subject lands from the “Future Development (FD) Zone” to a “Residential 6 (R6) Zone” permitting a “single dwelling residence” and a “building for contracting establishment” [sic]. In this respect, the applicant seeks a zoning that will recognize illegally constructed/placed structures including a single detached dwelling, a 1200 square feet “cover all” building, and several shipping containers.

BACKGROUND

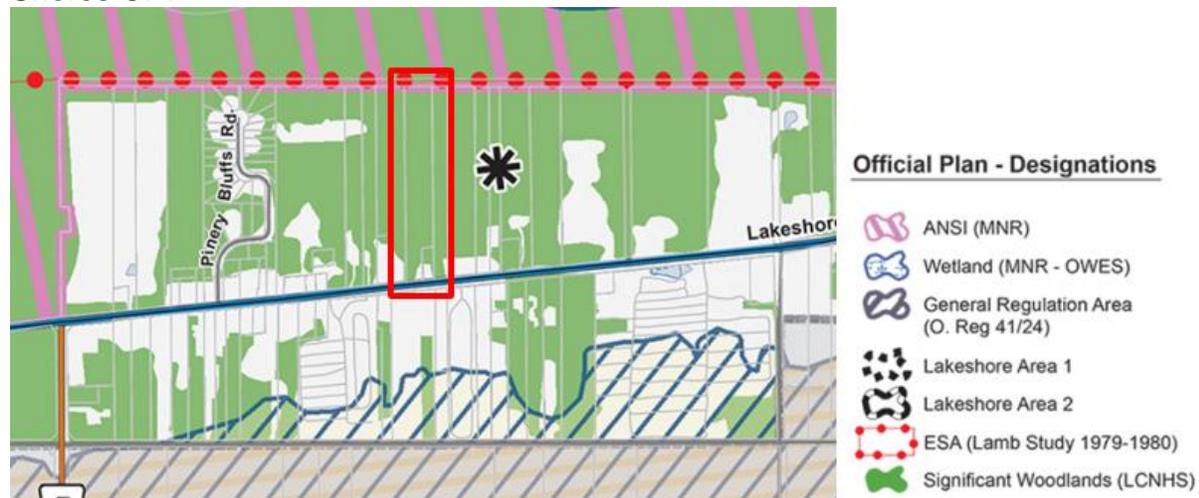
County Official Plan: the subject lands are designated “Urban Settlement” on Map 1 Growth Strategy. On Map 2, Natural Heritage System, they are designated as being within a Primary (Natural Heritage) Corridor and abut the Pinery Provincial Park, which is designated as an Area of Natural and Scientific Interest (ANSI), Carolinian Canada Site, Life Science Site, Environmentally Sensitive Area (ESA), Wilderness Area, and part of the primary of four Core (Natural Heritage) Areas in the County. The wooded portion of

the property meets the definition of a “Significant Woodland” under Section 8.4 of the County Official Plan.

Lambton Shores Official Plan: the subject lands and properties to either side are designated “Residential – Grand Bend Highway 21 Gateway” on Schedule A (excerpt below). The abutting Pinery Park is designated “ESA”. Properties on the opposite side of Lakeshore Road are designated “Residential – North Bosanquet Future Residential” and “Campground and Trailer Parks”.



On the Natural Heritage Schedule of the Lambton Shores OP (excerpt below), almost the entirety of the subject lands is designated as part of a large “Significant Woodland” that covers much of the surrounding area. The abutting Pinery Provincial Park is also designated as an “Area of Natural and Scientific Interest” and “ESA” in the Lambton Shores OP.



The “Residential – Grand Bend Highway 21 Gateway” designation is specific to this area located between Lakeshore Road and Pinery Provincial Park. Applicable policies are contained at section 5.7.3 of the Lambton Shores Official Plan, which is cited in full below:

5.7.3 Grand Bend Highway 21 Gateway

Residential Lands designated as “Residential – Grand Bend Highway 21 Gateway”, as shown on Schedule A2 (North Bosanquet) of the Official Plan, are located within an environmentally sensitive area. This area is not needed for development over the next 25 years and due to the significant environmental features and sensitivity may never be developed. In addition to functioning as a buffer area for Pinery Provincial Park this area will also function as a treed, sand dune gateway into Grand Bend, to showcase the area’s best environmental features. Applicable policies include:

5.7.3.1 Permitted Uses and Policies

Permitted uses include:

- the existing residential and commercial uses;

New development will consist of minor residential and commercial infilling only, including one residence/commercial use per lot, with no new lot creation. Any new development proposal shall be accompanied by an EIS in compliance with Section 3.5.

Infilling must not adversely affect the future development potential of the area by constraining future road or lot layout

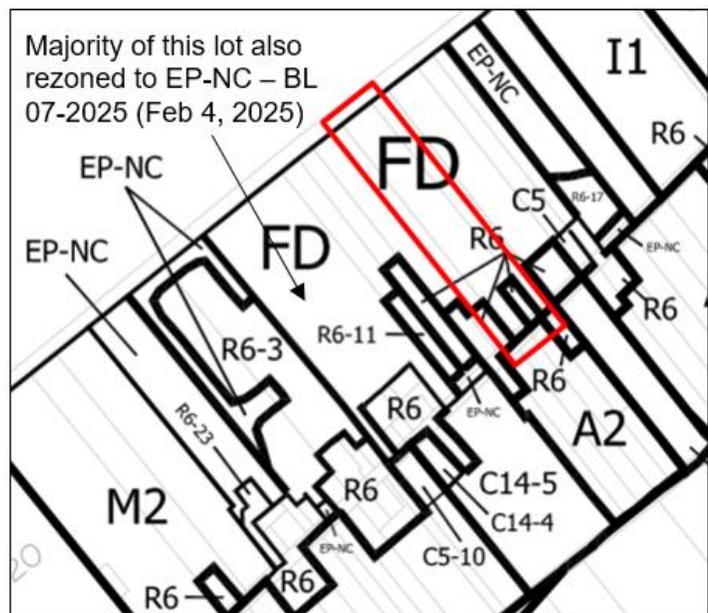
Only the minimum amount of tree and natural vegetation clearing is permitted for infilling, with the rest remaining in a natural state.

A 23 metre treed buffer must be maintained along Highway 21, with no tree clearing, landscaping or accessory residential buildings or structure allowed in the buffer.

Individual on-site sewage services are allowed, subject to the approval of the Lambton County Building Services Department.

All infill development is subject to MTO’s corridor control powers for Highway 21

Zoning By-Law 1 of 2003: the subject lands are zoned “Future Development (FD) Zone”. See Zoning map excerpt to right. The FD Zone permits only existing, legally established uses. As there are no legally established uses on the lot, the FD Zone functions as a holding zone, requiring a rezoning before any use of the property is permitted.



The separate lot in the southeast corner of the subject lands is also owned by the applicant and is zoned “Residential 6 (R6)”, which permits the existing single detached dwelling on that lot.

Other lots in this area between Lakeshore Road and the Pinery include a mix of FD, R6, and “Environmental Protection – Natural Conservation (EP-NC) Zones”. (The rezoning of 9780 Lakeshore Road to EP-NC is not yet shown on the zoning schedule). The EP-NC Zone permits no site alteration and is intended to conserve natural heritage features. The Zoning map shows a number of examples of properties that have had a 23m buffer along Lakeshore Road rezoned to EP-NC, had building envelopes established at the front of the lots as R6 Zones or R6 Zone Exceptions, and/or had the balance (rear) of the property rezoned to EP-NC for conservation purposes.

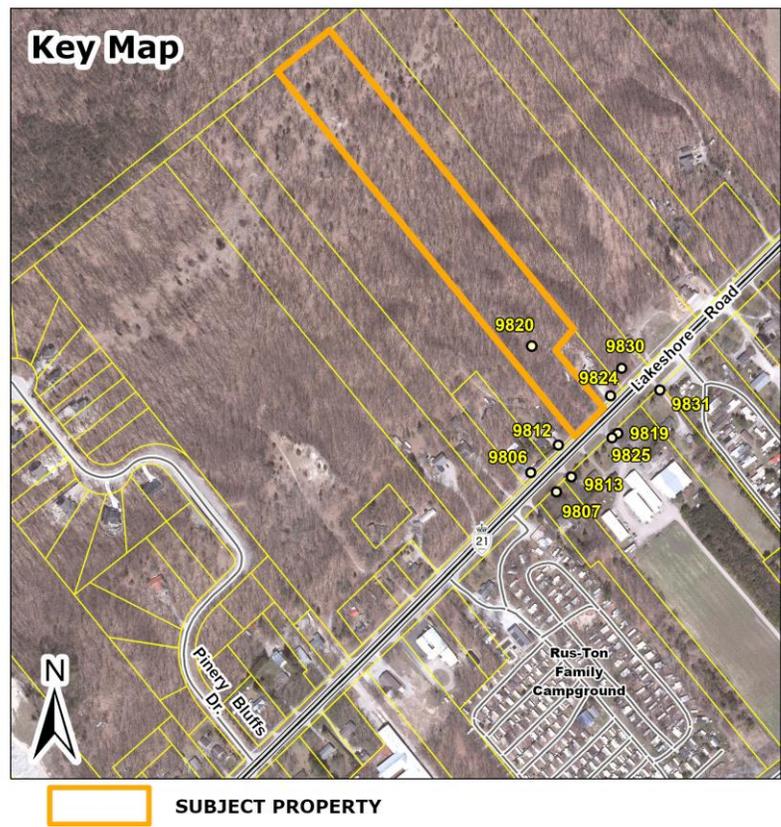
Section 3.3.3 a) of the Zoning By-law prohibits a detached accessory building in a residential zone from being located in a front yard (i.e. closer to the road than the house itself). Section 3.3.4 limits accessory building lot coverage to 93 square metres (1001 square feet) in lot coverage and 6.1m (20 feet) in height.

Section 3.18 a) ii) of the Zoning By-law prohibits more than one recreational vehicle (e.g. travel trailer or camper) from being stored in the open on a residentially-zoned lot.

Property Standards By-law 67 of 2001 (Section 3.11) prohibits the use of storage containers for any use other than storage, and prohibits their use entirely within residential zones. With the property being rezoned to residential, an amendment to the Property Standards By-law would be required to accommodate the request to keep the shipping containers or to use them in the construction of any kind of building.

Property Context: The image to the right shows the subject lands in 2020, prior to any tree removal. The lands are 9.85 acres.

The subject property is one of a number of relatively long and narrow properties fronting on



Lakeshore Road and backing onto the Pinery Provincial Park (separated only by an unopened road allowance).

The applicant also owns 9824 Lakeshore Road, a 0.7 acre parcel containing a single detached dwelling and located in the southeast corner of the subject lands.

Properties on this side of this section of Lakeshore Road generally have residential uses located close to the Lakeshore Road and the areas stretching back to the Pinery continuing as forested dunes. There are a smattering of businesses and campground/trailer parks in the general area. Pinery Bluffs is a residential plan of subdivision that commenced under a previous policy regime and likely not receive approvals if commenced under current provincial policies.

Lakeshore Road, at this location is a Provincial Highway, governed by the Ministry of Transportation (MTO). Entrances and land uses for the subject lands are subject to MTO approval.

Compliance Issues: In 2020 (while staff were working from home due to COVID-related legislation) the Municipality was advised of vegetation grubbing and tree removal on the property. The County Woodlands officer inspected and discussed with staff and determined to take no action. The officer's report is attached to Council's agenda as background. An area of approximately 0.89 acres was grubbed at the front of the property (and another area at the rear). Staff estimates approximately 0.35 acres of trees were removed from of the front grubbed area.

On November 14, 2024, MTO staff received a request for permission to work within their road allowance for a commercial hydro connection. MTO contacted the Municipality wondering how buildings came to be established on the subject lands.

Building and By-law Enforcement staff immediately attended the property investigate and advise the owner of various violations of the Ontario Building Code (constructing without a permit), Property Standards By-law, and Zoning By-law with respect to:

- A single detached dwelling erected on the subject lands
- A 1200 square feet "coverall" building erected on the subject lands
- Multiple shipping containers (sea cans) located on the subject lands
- Multiple camping trailers located on the subject lands.

Planning staff then met with the owner to discuss the need and process for a zoning by-law amendment, if the owner wished to pursue building permits to legalize the buildings. Staff also communicated what zoning amendments they would and would not be able to support.

The property owner eventually submitted a zoning by-law amendment application on January 10, 2025. Staff advised the applicant that there was an urgency to address the OBC and Property Standard violations and that the request as submitted would require

an Environmental Impact Study, which would delay the zoning amendment application from being considered a complete application.

January 29, 2025, the owner revised the application to what is now before Council. After obtaining preliminary comments from the MTO, staff determined that a Traffic Impact Study was not required, deemed the application complete on February 21, 2025, and set a public meeting date.

It seems that the applicant has removed additional woodlot since 2020. This seems to be the case after reviewing the rezoning application, GPSing the woodlot edge for zoning schedules, and comparing that to the affected area diagrammed in the 2020 Woodland Conservation Officer's report. Staff estimates an area of approximately 0.25 acres of woodlot has been cleared beyond the impacted area diagrammed in the 2020 report. Altogether staff's best estimate is that 0.6 acres of woodlot have been removed from what is shown in 2020 air photos. The County Woodlands Conservation Officer advises that too much time has passed to lay charges under the County Woodlands Conservation By-law.

Proposed Development: The applicant proposes a R6 Zone that would recognize the illegally constructed/placed structures: the single detached dwelling, 1200 square feet coverall structure; and shipping containers. Specifically, the applicant is requested a zoning that would permit a "single dwelling residence" and a "building for contracting establishment".

The dwelling is labelled "portable" on the applicant's site sketch (attached) and is the furthest back building, close to the edge of the remaining woodlot.

The main building associated with the building/contractor use would be the 1200 square feet fabric-covered "coverall", labelled "storage" on the applicant's sketch. The applicant indicates he intends to clad the coverall building and has provided a photo (see application) showing how he intends to modify the coverall building.



The owner also proposes to convert two of the storage containers into a building that would be used as part of an on-site business. It is labelled on the applicant's site sketch as "service store" and the applicant has provided an image of a building as an example of what he intends to do.

The following excerpts from correspondence with the applicant give his description of the nature of the proposed businesses and the use of the buildings that would be associated with these businesses. Initial description:

The sea containers will be converted to the rendering I submitted. The containers themselves hold my contracting supplies (drywall, plywood, lumber) and some tools. The actual proposed nursery/firewood would be between the containers, 1-2 employees will be required and hours of operation would be Weekends only. My contracting business involves using equipment such as backhoe, excavator, skid steer, dump trailer, sawmill and multiple tool equipped cargo trailers. My services are based on referrals and I do not rely on any public advertising. I need the 1200s/f space to maintain my equipment, the other rendering I submitted is how the (tent) will look once permits are approved.

Follow-up description:

There isn't much construction work done on site, maybe with the exception of an employee pre cutting some lumber or assembling/loading a pre fabricated shed. The saw mill I own is portable and sometimes I will mill logs for firewood or the odd live edge slab . My children want to run a little side business selling plants and vegetables from our gardens, the camp fire wood would be another small business for them, mainly just selling bagged sticks and kindling from around the yard.

Agency Comments: The Building Inspector provided the following comments:

Building Department has reviewed this site. Please note applicable Building orders have been issued for the buildings built without a permit.

County Building Services comments from the perspective of private sewage disposal are attached to Council's agenda. They advise that permits for private sewage system(s) through either the County or Ministry should be required as a condition of any approval. These concerns would be dealt with as a condition of any building permits eventually issued to recognize the dwelling unit.

Ausable Bayfield Conservation Authority comments (not attached) advise that the property is outside their regulated area and ABCA has no concerns with the application.

At the time of submitting this report, only informal comments by email have been received from MTO. MTO's comments indicate that the location does not meet criteria for and is ineligible for a commercial use. Any use of a commercial nature would have to be limited

in scale to what could be classified as a home occupation. For this reason, no traffic impact study was required at this time. MTO comments:

MTO has reviewed the proposal (contractor business and new house - existing) in accordance with the Public Transportation and Highway Improvement Act and MTO's highway access management guidelines. The following outlines our comments.

Highway 21 at this location is classified as a 2B Arterial in MTO's Access Management Classification System. As such, all requirements, guidelines and best practices in accordance with this classification shall apply.

The subject property does not meet MTO's requirements for a commercial access.

Home occupations located on provincial highways require the approval of the Ministry of Transportation (MTO). MTO will require that the property owner obtain an entrance (MTO Building and Lands Use Permit will be required for any above or below work, inclusive of grading, demolition, and new construction). As a condition of these permits, the MTO requires the property owner to acknowledge that the use of their existing entrance cannot be converted to a commercial entrance in the future and that an additional entrance will not be permitted to accommodate the home occupation. In addition, the MTO would not support a future severance where a property owner wishes to separate the home occupation from the property where a new entrance from the highway for the new lot of record would be required.

The property owner needs to demonstrate how the home occupation will remain a secondary use on the property – primary use being residential.

MTO will require the following:

- 1. Site plan and grading/drainage plan
 - 1. MTO requires a 14 m setback for all building, structures and anything integral to the site.**
- 2. Traffic information
 - 1. MTO will require details of the proposed contractor business.*
 - 2. Will there be a retail component*
 - 3. Number of employees*
 - 4. Anticipated daily patrons (trips to/from site)*
 - 5. Anticipated shipments/delivers incoming/outgoing per day**

MTO will provide additional comments upon review of the above information.

DISCUSSION

The applicant has removed woodlot, grubbed vegetation, and erected buildings in an area of natural heritage significance with no regard for required permits or applicable law.

In staff's opinion, permitting a residential use would be consistent with the local Official Plan policies for the "Grand Bend Highway 21 Gateway Residential" designation and with abutting property uses. Staff can support a residential zone, similar to that on abutting properties, to recognize the illegally constructed dwelling and to bring it into conformity with OBC and private sewage disposal requirements.

Staff cannot however support the proposed commercial use. Although the Official Plan policies potentially permit commercial uses, the designation (and abutting properties) are firstly a residential designation/area. Commercial uses must be compatible with residential uses in terms of activity and aesthetics. This is a moot point however, as the MTO will not issue an entrance or use permit for a commercial use in this location.

In staff's opinion, any business and detached buildings out of which they may be conducted should be limited to what can be accommodated by the zoning provisions that are already in place with respect to accessory building size restrictions and home occupation provisions. The scale of the proposed commercial use and the size and character of the associated buildings exceed what is permitted by the Zoning By-law for home occupations.

In staff's opinion, the shipping containers and coverall structure are unsightly and inappropriate for a residentially designated area. This is a reason why shipping containers are prohibited in residential areas by the Property Standards By-law.

The coverall building (1200 square feet) is larger than what the zoning provisions permit (1001 square feet) for accessory lot coverage in a residential zone. If staff were assessing a minor variance for an oversized accessory building, staff would not support a building of this non-residential character or type of construction. Staff doubts the feasibility of cladding the existing coverall to meet Ontario Building Code and look like the example provided by the applicant. Staff believes it would be more practical and appropriate to construct a new building from scratch and in compliance with the zoning provisions already in place for accessory buildings.

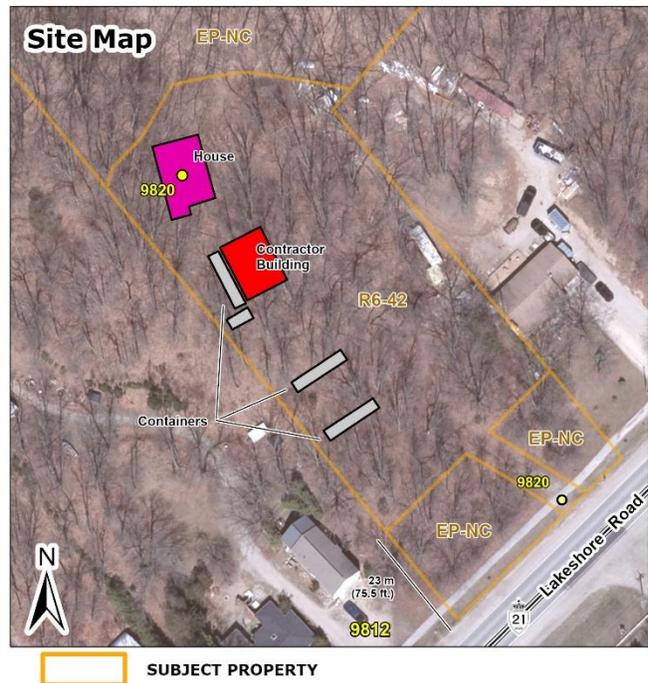
The detached buildings sit closer to the road than the dwelling (in the front yard), which is not normally permitted in a residential zone. In this case, the house sits well back from the road with minimal room to the rear because of the woodlot. Any accessory buildings would be well separated from the road and screened by the treed buffer along the road. Staff can support a site-specific provision in this case to allow an exception to the front yard location prohibition for accessory buildings, provided any accessory buildings are constructed in accordance with the size restrictions in the Zoning By-law for accessory uses in residential zones.

Official Plan policies speak of a 23m wooded buffer along Lakeshore Road to preserve a treed corridor. They also speak of the sensitivity of the natural heritage features in this area and preserving the bulk of these features on a lot as a buffer to the Pinery. The Zoning By-law typically uses the “Environmental Protection – Natural Conservation (EP-NC) Zone” to identify areas that are to be conserved in a natural state.

Draft Amendments: As noted above, Staff supports only partial approval (residential, not commercial) of the requested amendment, subject to incorporating modifications to address relevant policies.

As drafted by staff, the zoning amendment would add text to the Zoning By-law establish a new site-specific Residential-6 (R6-42) Zone, which permits a single detached dwelling like the standard R6 Zone that applies to neighbouring lots. It would also permit a detached accessory building in a front yard. In all other respects, the R6-42 Zone would be like the standard R6 Zone.

The amendment would also amend the map schedules by changing the cleared area at the front of the subject lands from the existing FD Zone to the new R6-42 Zone. The balance (rear) of the parcel would be rezoned from FD to the existing EP-NC Zone. The front 23m of the property abutting the road allowance (except the driveway) would also be rezoned to EP-NC.



The proposed zone designation boundaries are shown on the above image (provided earlier in this report also), overlaid with the 2020 air photos from before any woodlot removal occurred.

Planning Opinion: The proposed commercial use and the existing buildings associated with it are not appropriate in this location in Staff’s opinion and not permitted by the MTO. Staff can however support residential use and permission for an accessory building to be located in a front yard, provided it meets other accessory use restrictions in the Zoning and Property Standards By-laws, and provided the rezoning addresses Official Plan policies respecting natural heritage features and a treed highway corridor.

Based on the foregoing, it is Staff’s opinion that the proposed Zoning amendment, as presented by Staff, represents good planning and conforms to the County and Lambton Shores Official Plans. Staff supports approval of the Zoning Amendment application and passing of the implementing by-laws as presented.

ALTERNATIVES TO CONSIDER

The MTO has indicated they may find some form of limited-scale commercial use (i.e. home occupation) appropriate at this location. The MTO's definition of what constitutes a home occupation may differ from the Municipality. Determining the scale of commercial use the MTO would permit as a home occupation and whether the Municipality would support that would require further discussions and assessment.

The applicant's zoning amendment initially proposed a use of the wooded portion of the property that would trigger the need for an Environmental Impact Study, which could take months or more than a year to complete and would have delayed determining the application complete and bringing it before Council.

There is urgency to address and rectify ongoing property standards and building code compliance issues. In any event, Staff does not support any scenario that would permit retention of the current detached buildings or shipping containers. Rectifying the compliance issues for the house however requires zoning approvals, which should not be unduly delayed. If the applicant wishes to do the EIS work required to justify a use in the wooded area or wishes to discuss what scale of home occupation would be acceptable to the MTO and Municipality, the applicant can come back for further approvals.

RECOMMENDED ACTIONS

Staff recommend that Report PL 06-2024 be received, that the zoning by-law amendment application be denied as presented, and that an alternative amending by-law be passed permitting only a dwelling, conserving natural heritage areas and a treed corridor, and permitting accessory buildings in a front yard.

FINANCIAL IMPACT

The applicant has paid the Municipality a \$1300 zoning amendment application fee.

CONSULTATION

Ryan Mentley, Ministry of Transportation Ontario
Tim Payne, County Woodland Conservation By-law Officer
Samantha Vermeiren, Building Inspector
Lambton Shores By-law Enforcement Officers
Steve McAuley, CAO, Municipality of Lambton Shores