



Report to Council

Department: Development Services

Division: Planning

Date: May 6, 2024

Prepared by: Ian Rawlings, Junior Planner

Report Number: Planning-2024-10

Subject: Site-Specific Zoning Bylaw Amendment – 206 Chester Road (ZBA-02-24)

Number of Pages: 14 - (plus attachments)

Recommendation(s)

That Planning Report-2024-10 entitled Site-Specific Zoning By-Law Amendment – 206 Chester Road (ZBA-02-24) prepared by Ian Rawlings, Junior Planner, dated May 6, 2024 be received; and

That By-Law 2326, being a By-Law to amend By-Law 1037, the Comprehensive Zoning By-Law for the Town of Essex, to permit the use of an existing Single Detached Dwelling to be used as a new Short Term Rental Unit (STRU) through a site-specific zoning amendment located at 206 Chester Road, be denied.

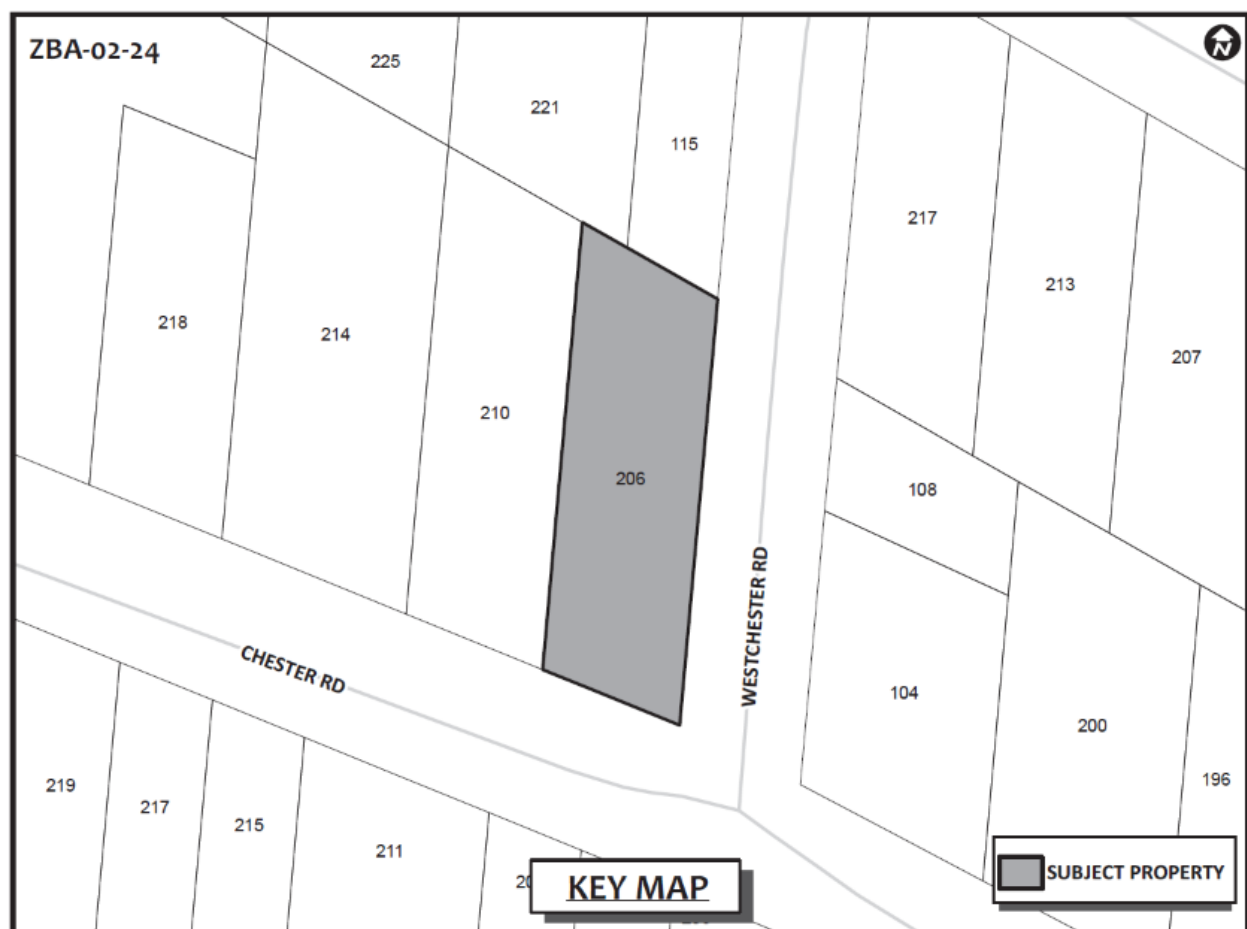
Purpose

To recommend denial of a site-specific zoning amendment for the property identified as 206 Chester Rd, Colchester South (Ward 3). The zoning amendment is required to permit the use of an existing Single Detached Dwelling to be used as a new Short Term Rental Unit (STRU).

Background and Discussion

An application for a site-specific zoning amendment to the Comprehensive Zoning Bylaw, Bylaw 1037, was received by the Municipality for the lands located at 206 Chester Rd, Colchester South (Ward 3), herein referred to as the “Subject Lands”. The owners, herein referred to as the “Applicants,” own the subject property and intend to use the existing single detached dwelling as a short term rental unit, shown on the location map provided below:

Figure 1 – Key Map



The Subject Lands measure 1,585.56 square metres in total land area. The Subject Lands are designated “lakeshore Residential” on Schedule A-3 of the Town of Essex Official Plan and are zoned “Residential District 1.1” (R1.1) under the Town of Essex Zoning Bylaw 1037, Map 16.

The subject property contains one (1) single detached dwelling and one (1) accessory structure in the rear yard. The subject property is a corner lot, located on the north west corner of the intersection between Chester Road and Westchester Road. Access to the subject property is located on Westchester Road. The subject lands are fully serviced by municipal potable water, and sanitary sewers. The subject property is not identified under the natural heritage overlay, floodplain development control area, or a parking exemption area.

The Proposal:

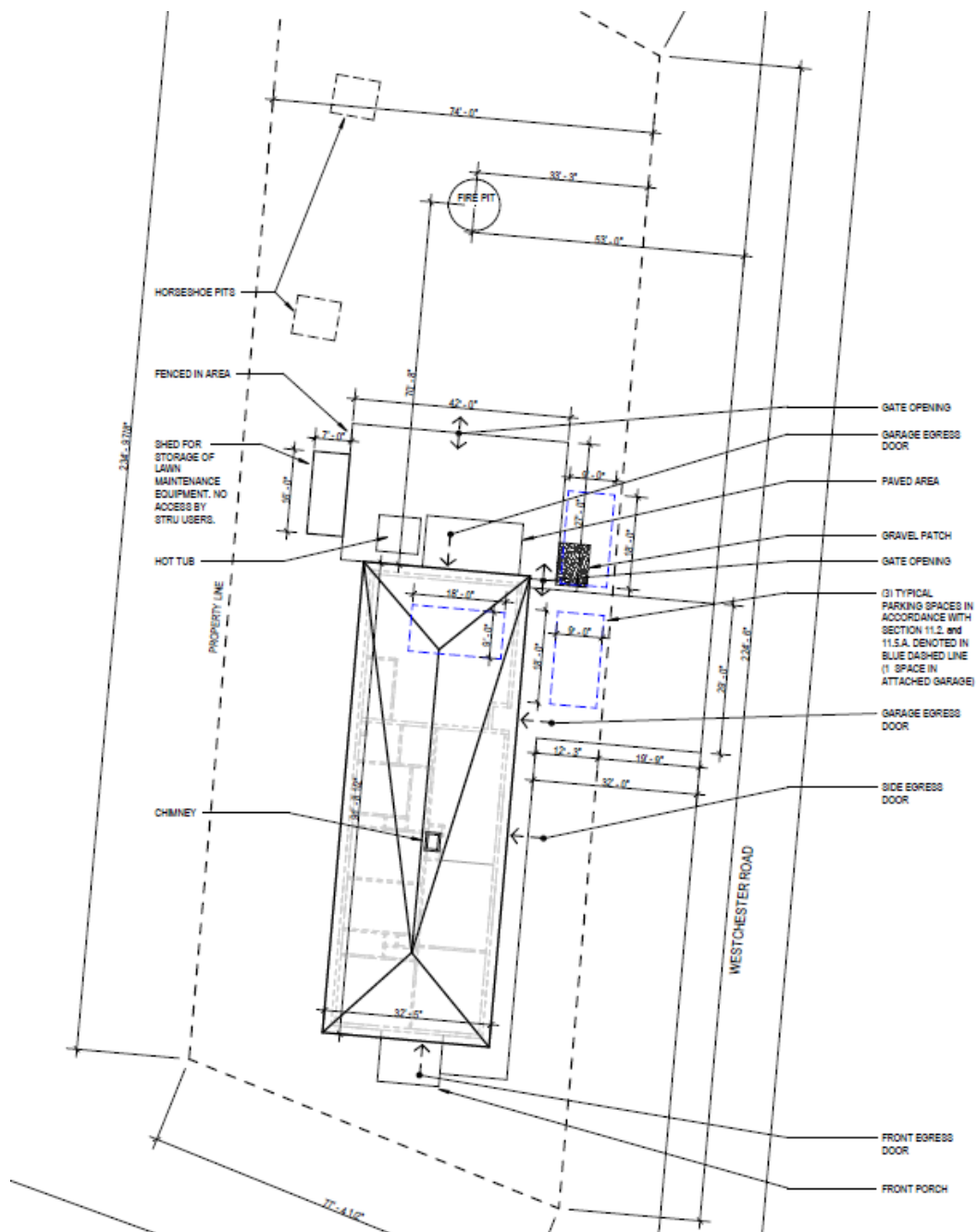
The Applicants are requesting a site-specific zoning amendment to Town of Essex Zoning Bylaw, Bylaw 1037 for the subject lands to permit an existing Single Detached Dwelling to be used as a new Short Term Rental Unit (STRU).

Section 8.16 of the Zoning By-law provides regulations for Short Term Rental Units. One (1) short term rental unit shall be a permitted use when located in a Residential District – exclusively in an existing dwelling where a short term rental unit was both *established prior to* and *in operation* on or before May 9, 2022.

The existing single detached dwelling was not established and operating as a short term rental unit on or before May 9, 2022. Therefore, its use as a Short Term Rental Unit is not permitted under, Bylaw 1037.

A proposed Short Term Rental Unit is also subject to By-law 2025, being a by-law to regulate short term rental units in the Town of Essex. This by-law details items such as required parking spaces in accordance with the Zoning By-law. The applicants have provided a site plan in accordance with both By-law 1037 and By-law 2025. The site plan meets all the requirements of Bylaw 2025 including but not limited to on-site parking.

Figure 2 – Site Plan



Proposal Conformity to Policies and Recommendation

Provincial Policy Statement (PPS)

Section 1.1.1 b) requires municipalities to provide an appropriate affordable and market-based range and mix of residential types. **Comments:** The use of the short term rental unit is supportive of this section as it provides flexible accommodations for tourists, visitors, and temporary residents.

Section 1.4.3 b) requires Planning Authorities to permit and facilitate all *housing options* required to meet the social, health, economic and well-being requirements of current and future residents, including special needs requirements and needs arising from demographic changes and employment opportunities. **Comments:** Short Term Rental Units support economic needs and employment opportunities through servicing tourism, the traveling workforce, and part-time residents.

Section 1.7.1 b) details that long-term economic prosperity should be supported by encouraging residential uses to respond to dynamic market-based needs and provide necessary housing supply and range of housing options for a diverse workforce. **Comments:** Short Term Rental Units can be an effective response to market needs but requires justification. This is further discussed when reviewing the Town of Essex Official Plan Policies.

Section 1.7.1 h) states that long-term economic prosperity should be supported by providing opportunities for sustainable tourism development. **Comments:** Short Term Rental Units can support sustainable tourism development by providing accommodations for tourists, and visitors. Short Term Rental Units should be located in close proximity to locations that are developed for tourism uses. This is further discussed when reviewing the Town of Essex Official Plan Policies.

County of Essex Official Plan

The County of Essex Official Plan does not contain policy direction specific to short term rental units. The County of Essex Official Plan contains policy direction that is reflective of the policies found within the Provincial Policy Statement (PPS, 2020).

Town of Essex Official Plan

Section 5.9 of the Town of Essex Official Plan details the goals, permitted uses, and provisions for the lands designated Lakeshore Residential. Short term rental units are not detailed as a permitted use within the Lakeshore Designation. However, Short Term Rental Units are not referenced in the Town of Essex Official Plan.

The primary goal for the Lakeshore Residential Designation as listed in the Official Plan is to recognize residential development and other non-residential uses that are in place along the lakeshore and to permit new residential development on full municipal services (5.9 a). A Short-term Rental Unit is considered a residential use. The proposed Short Term rental Unit would utilize an existing Single Detached Dwelling that is supplied by full municipal services.

As per section 9.14 of the Town of Essex Official Plan, when reviewing applications for an Amendment to the Zoning Bylaw, due regard will be given to the following considerations by Council:

*Section 9.14 a): The desirability of or **need** for the proposed use*

To determine the need and desirability for STRUs within the Town of Essex, AirDNA, a short term rental data tracking analysis program used for market research, and data metrics from licensed STRUs in Cloudpermit, can be used. AirDNA provides information on how well a market is performing. Market performance is reflective of rental demand, revenue growth, seasonality, and regulation, and is therefore an adequate representation of need. There are however limitations that should be considered when analyzing market performance on AirDNA:

- A Market Score is based on STRU listing on Airbnb and VRBO only (**Note:** Although these are not the only platforms used to market STRUs, they are the most used by STRU operators in the Town of Essex).
- A Market Score is benchmarked against other markets in the same country (**Note:** to **narrow the market, we have benchmarked Essex's market score against other markets** in Windsor-Essex County).
- A Market Score can fluctuate (**Note:** The Market Score used in this report is current as of Monday April 29, 2024)
- AirDNA cannot be used to breakdown data metrics in Colchester only. (**Note:** The majority of licensed STRUs in the Town of Essex are in Colchester. Therefore, the metrics will be largely reflective of the Colchester area).

At the date of the Public Meeting (April 15, 2024), and at the time of writing this report, the market in Essex was **identified as performing "Poorly"**, with a score of 20 out of 100. The following is an overview of the market's performance across *rental demand*, *revenue growth*, *seasonality*, and *regulation*. For the purposes of identifying need, *Rental Demand* is the most significant factor, followed by *Seasonality*.

- ***Rental Demand:*** This metric details how often short term rentals are booked throughout a given year. This factor is calculated based on occupancy rates and listing growth rates. The Town of Essex has received a score of 31, which means that there is minimal demand for short term rental units at this time.
- ***Seasonality:*** This metric details the differences in demand based on peak season and low season. This factor is calculated based on occupancy rates for established short term rental units within the municipality. The Town of Essex has received a score of 20, which means that market demand for STRUs differs greatly based on the given season, and is not consistent throughout the year.
- ***Revenue Growth:*** This metric details changes in year over year revenue per available room for established STRUs within the municipality. The Town of Essex has received a

score of 47, identifying a potential for revenue growth for short term rental units within the municipality.

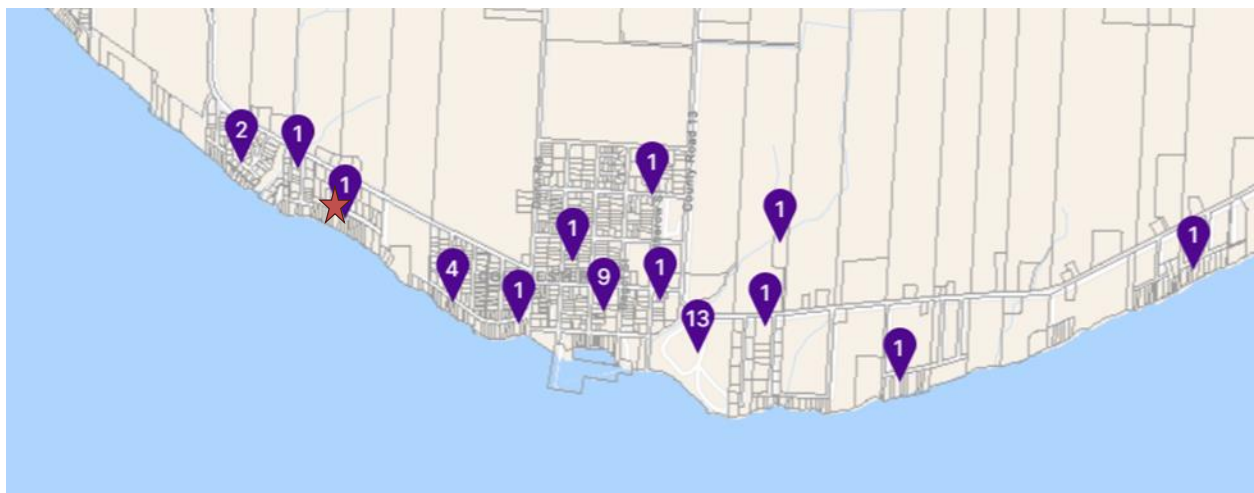
- **Regulation:** This metric identifies local regulations and enforcement behaviours specific to the respective municipality. The Town of Essex has received a score of 35, which means that short term rental units are strictly regulated within the municipality.

Section 9.14 b): The extent to which the surrounding area is developed and the nature of development

The “Lakeshore Residential” district, west of the Colchester Hamlet, is developed for Residential purposes, specifically, Single Detached Dwellings. There are 82 licensed Short term rental units within the town of Essex. 75 are located in Colchester South, 31 of which are located in the Colchester Hamlet.

There is one (1) licensed short term rental unit within 100 meters of the proposed STRU, and there are ten (10) licensed STRUs within one (1) kilometer of the proposed. Figure 4 is a map detailing the approximate locations of STRUs within Colchester South.

Figure 4 – Map of Short-Term Rental Units in Colchester South



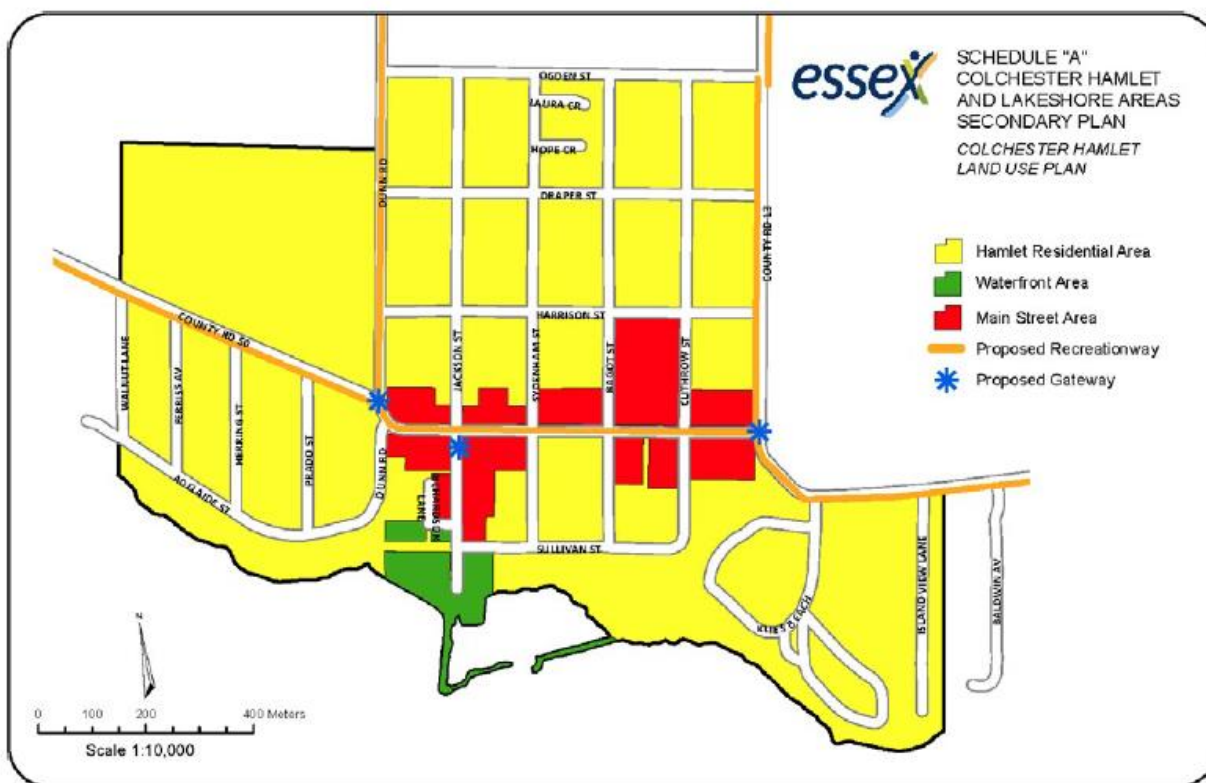
Section 9.14 e): The compatibility of the proposed use with uses in adjoining areas

The proposed STRU is considered a residential use but is geared towards short term housing, rather than long term occupancy. The seasonal character of STRUs in the market area indicates that the primary users will be those seeking accommodation as part of the tourism industry. **Comments:** Although listing growth rates may be stymied by regulation for STRUs in residential districts, driving down rental demand, it is important to note that Town of Essex regulation does not prevent new STRUs in Agricultural, Commercial, and Green Districts. Although STRUs may be residential in character and use, and the area includes STRUs, it is important to note that existing STRUs are lawfully existing and therefore are legally able to continue to operate with a license, and that the intent of the housing stock in the Lakeshore Residential area is to be used for long term tenancy for the freehold or rental market. A strong seasonal character to the STRU market indicates that the demand is driven mainly by tourism and not by housing needs driven by employment or other economic opportunities.

The Colchester Hamlet Guide Plan details appropriate locations for growth and development and policy direction for Tourism and Recreation within the Colchester Hamlet and for the Lakeshore Residential District. Section 1.2 of the Colchester Hamlet Guide Plan details that growth should be directed to the Colchester Hamlet to support infrastructure and amenity development. Section 4.2 states that accommodations to support the Towns tourism and economic development objectives should be directed to the Hamlet and more specifically the Main Street Area as detailed in Figure 3 below. The Subject Lands are located outside of the Colchester Hamlet and are therefore not the appropriate location for accommodations to support tourism or other economic development objectives.

Since AirDNA details minimal demand for STRUs within the Town of Essex and demonstrates seasonality consistent with tourism, and since the Colchester Hamlet Guide Plan details that STRUs should be directed towards the Main Street Area, the desirability and need for the proposed use is not demonstrated, and the STRU is not considered compatible with the uses planned for the area.

Figure 3 – Schedule “A” of the Colchester Hamlet Guide Plan



Statutory Public Meeting

A statutory public meeting – required to hear public comments on the application for site-specific zoning amendment prior to the rendering of a decision of Council – was held on Monday, April 15, 2024.

At this meeting, Council was informed that internal departments and external agencies were circulated on the proposal. Comments to the proposal were received from the following Departments and Agencies and are documented in the Public Meeting Presentation, attached to this report:

- Essex Fire & Rescue Services
- Development Services
- Legal and Legislative Services
- Essex Region Conservation Authority (ERCA)

As a result of circulation, Administration received 12 letters from the public, and one (1) petition in opposition to the proposed STRU, were received in advance of the public meeting. At the date of this report two (2) additional letters from the public were received. All public comments and the petition have been included as attachments to this report.

The following comments were received from Council members:

Comments from Council	Response	Comments
Is the road assumed/unassumed	Westchester Road, and Chester Road are both owned, but not assumed by the Town of Essex.	The Town maintains the Road to current standards and no further improvements to the Road or on-street Parking conditions will be made. On-street Parking is not enforced on this Road.
Are there stats for number of bedrooms in existing licensed STRs to compare whether or not this STR is unique for larger families	As per data from Cloudpermit, current licensed STRUs in the Town of Essex include a range of bedrooms from 4-8 beds. The	The proposed STRU is similar in occupancy capacity to current licensed STRUs.

	proposed STRU will have four (4) beds and can accommodate eight (8) guests	
Where is parking permitted and prohibited on the street (Westchester Road and Chester Road)	Due to Chester and Westchester being unassumed, on-street parking is not enforced at this time.	On-Street parking is permitted but vehicles cannot block access to driveways. Vehicles can park on both sides of street.
Details regarding the easement placed over the stairway to the beach.	The stairway to access the beach is considered private property, and is not owned or affiliated with the Town. Condition and use of the subject property and its respective easement is beyond the scope of this application.	

Next Steps

By-law 2326 has been prepared for Council's decision and is attached to this report.

Council may:

- Approve the proposed By-law where notice of approval will be sent to the applicant and all persons requesting to be notified of the decision, and a 20-day appeal period takes effect.
- Deny the proposed By-law where notice of denial will be sent to the applicant and all persons requesting to be notified of the decision and a 20-day appeal period takes effect.
- Defer the decision to a later date if further information is required.

It is the recommendation of Planning Services that By-law 2326 be denied.

Financial Impact

Notwithstanding an appeal, there is no financial impact associated with costs to undertake normal administrative operations for notifying the applicant and interested parties of the decision of Council and revising planning documents to reflect the amendments. Costs are recouped through the application fee.

In accordance with the STRU Licensing By-law 2267, the applicant would be required to pay the associated licensing fee and fire inspection fee to acquire their license and operate the short term rental unit.

Consultations

Notice of the application for zoning bylaw amendment was circulated to all persons and public bodies required to be notified under subsection 5(9) of Ontario Regulation 545/06, including staff members from each Town of Essex department.

Link to Strategic Priorities

- ☐ Embrace asset management best practices to build, maintain, and continuously improve our municipally owned infrastructure.
- ☐ **Leverage our Town's competitive** advantages to promote jobs and economic investment.
- ☒ Take care of our natural environment and strengthen the sense of belonging to everyone **who makes Essex "home"**.
- ☐ Deliver friendly customer service in an efficient, effective, and transparent manner while providing an exceptional working environment for our employees.
- ☐ Build corporate-level and community-level climate resilience through community engagement and partnership and corporate objectives.

Report Approval Details

Document Title:	ZBA-02-24 - 206 Chester Road Planning-2024-10 - Planning-2024-10.docx
Attachments:	<ul style="list-style-type: none">- ZBA-02-24 - By-law 2326 - Draft.pdf- ZBA-02-24 - Internal and External Comments.pdf- ZBA-02-24 - Public Comments_Redacted.pdf- ZBA-02-24 - Public Meeting Presentation April 15-24 - Final.pdf
Final Approval Date:	Apr 30, 2024

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

Rita Jabbour, Manager, Planning Services - Apr 30, 2024 - 8:56 AM



Lori Chadwick, Director, Development Services - Apr 30, 2024 - 9:17 AM



Doug Sweet, Chief Administrative Officer - Apr 30, 2024 - 9:20 AM