



## The Corporation of the Town of Tecumseh

Planning & Building Services

**To:** Mayor and Members of Council

**From:** Brian Hillman, Director Planning & Building Services

**Date to Council:** September 28, 2021

**Report Number:** PBS-2021-45

**Subject:** Zoning By-law Amendment (Condition of Consent Application B-13-21)  
165 Chene Street  
Scheduling of a Public Meeting  
OUR FILE: D19 165CHE

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### Recommendations

It is recommended:

**That** the scheduling of a public meeting, on October 26, 2021 at 6:15 p.m., in accordance with the *Planning Act*, for the application submitted by the owner of 165 Chene Street to amend Zoning By-law 1746 by:

- i) rezoning the northern 1185.7 square (12,763 square foot) portion of 165 Chene Street from “Residential Zone 3 (R3-3)” to a site-specific “Residential Zone 3 (R3)” in order to:
  - a) remove the currently permitted use of an automobile body repair garage in accordance with Condition 5 of Consent Application B-13-21; and
  - b) establish regulations that would permit up to 46.4 square metres (500 square feet) of the existing 230.6 square metre (2,485 square foot) detached accessory structure to be used for a limited range of commercial uses; and
- ii) rezoning the southern 868.6 square metre (9,350 square foot) portion of 165 Chene Street from “Residential Zone 3 (R3-3)” to a revised “Residential Zone 3 (R3-3)” in order to:
  - a) remove the currently permitted use of an automobile body repair garage in accordance with Condition 5 of Consent Application B-13-21; and

- b) establish a maximum lot coverage of 40% to facilitate the construction of one single-unit dwelling;

**be authorized.**

## **Executive Summary**

A zoning by-law amendment application has been filed in order to change the zoning pertaining to a 2054.3 square metre (22,113 square foot) property situated on the west side of Chene Street, approximately 21 metres (68 feet) north of its intersection with Dillon Drive (165 Chene Street), in order to facilitate the creation of one new residential lot. The subject property is the subject of Consent Application B-13-21, which was provisionally approved by the Committee of Adjustment at its August 30, 2021 meeting, having the effect of creating the aforementioned lot subject to meeting conditions. One of the conditions of consent requires both the proposed severed and retained lots to be rezoned to remove the currently permitted use of an automobile body repair garage.

In addition, the rezoning application is seeking to establish site-specific regulations for limited range of proposed commercial uses that would occupy a portion of the existing detached accessory structure on the retained lot and to establish a maximum lot coverage of 40% for the proposed severed lot in order to permit the future construction of a new single-unit dwelling. This Report is requesting the scheduling of a public meeting related to the proposed zoning by-law amendment in accordance with the requirements of the *Planning Act*.

## **Background**

### **Subject Property and Surrounding Area**

The subject property is a 2054.3 square metre (22,113 square foot) parcel situated on the west side of Chene Street, approximately 21 metres (68 feet) north of its intersection with Dillon Drive (165 Chene Street) ("subject property") (see Attachment 1). The subject property is currently occupied by a 118.2 square metre (1,273 square foot) single-unit residential dwelling that is part of a tier of single-unit dwellings situated on relatively deep lots fronting on the west side of Chene Street. A 230.6 square metre (2,485 square foot) detached accessory structure that was historically used as an automobile body repair garage is also situated on the subject property. The automobile body repair garage operated from the property, in conjunction with the single-unit residential use, for numerous decades up until the time that the current owner purchased the property in 2020. It should be noted that the use of the property for an automobile body repair garage continues to be permitted and could be reintroduced as the property is site-specifically zoned to legally permit this use.

Low-density, single-unit residential uses are the predominant land use surrounding the property. A small commercial node is located farther to the north and northeast along Riverside Drive at its intersection with Chene Street and Lesperance Road (see Attachment 2).

## **Consent to Sever Application and Proposed Zoning By-law Amendment**

Consent Application B-13-21 was provisionally approved by the Committee of Adjustment at its August 30, 2021 meeting, the effect of which was to:

- i) sever a vacant residential lot having a frontage of 16.8 metres (55 feet) along Chene Street, a depth of 51.8 metres (170 feet) and a lot area of 868.6 square metres (9,350 square feet); and
- ii) retain a residential lot, containing an existing dwelling and accessory structures, having a frontage of 22.7 metres (74.6 feet) along Chene Street, a depth of 51.8 metres (170 feet) and a lot area of 1185.7 square metres (12,763 square feet) (see Attachment 3).

The lands are designated “Residential” in the Town of Tecumseh Official Plan and zoned “Residential Zone 3 (R3-3)” in Zoning By-law 1746 (see Attachments 4 and 5). The R3-3 Zone permits various residential uses (i.e. single-unit, semi-detached, multi-unit) but also establishes as an additional permitted use the aforementioned automobile body repair garage. As a condition of consent, it was deemed prudent that due to the residential nature of the surrounding area, the automobile body repair garage use be removed as a permitted use for the subject property.

The owner agreed to this condition with the understanding that through the subject rezoning process consideration could be given to enabling him to use a portion of the existing detached structure for a limited range of commercial uses. The commercial uses, proposed to be permitted within a 46.4 square metre (500 square foot) portion of the accessory structure, would be significantly more compatible than the currently permitted automobile body repair garage (which could legally operate from the entirety of the accessory structure). Further, in order to facilitate the proposed layout/design of the future single-unit dwelling on the proposed severed lot and account for associated accessory structures such as a shed, the owner is requesting a maximum lot coverage of 40% as opposed to the currently permitted maximum lot coverage of 30%.

Based on all of the foregoing, the owner has filed an application with the Town to amend Zoning By-law 1746 for the subject property in order to effect the following zoning changes:

- i) rezoning the northern 1185.7 square (12,763 square foot) portion of 165 Chene Street from “Residential Zone 3 (R3-3)” to a site-specific “Residential Zone 3 (R3)” in order to:
  - a) remove the currently permitted use of an automobile body repair garage in accordance with Condition 5 of Consent Application B-13-21;
  - b) establish regulations that would permit up to 46.4 square metres (500 square feet) of the existing 230.6 square metre (2,485 square foot) detached accessory structure to be used for a limited range of commercial uses; and

- ii) rezoning the southern 868.6 square metre (9,350 square foot) portion of 165 Chene Street from “Residential Zone 3 (R3-3)” to a revised “Residential Zone 3 (R3-3)” in order to:
  - a) remove the currently permitted use of an automobile body repair garage in accordance with Condition 5 of Consent Application B-13-21; and
  - b) establish a maximum lot coverage of 40% to facilitate the construction of one single-unit dwelling.

## Comments

### Provincial Policy Statement

The *Planning Act* establishes that Council, when making decisions that affect a planning matter, “shall be consistent with” the 2020 Provincial Policy Statement (“PPS”) issued under the *Planning Act*.

There are a number of policies within the PPS that support the applications for the proposed residential development. The following are the relevant excerpts from the PPS:

#### “1.1.3 Settlement Areas

- 1.1.3.1 Settlement areas shall be the focus of growth and development.
- 1.1.3.2 Land use patterns within settlement areas shall be based on densities and a mix of land uses which:
  - a) efficiently use land and resources;
  - b) are appropriate for, and efficiently use, the infrastructure and public service facilities which are planned or available, and avoid the need for their unjustified and/or uneconomical expansion.
- 1.1.3.3 Planning authorities shall identify appropriate locations and promote opportunities for transit-supportive development, accommodating a significant supply and range of housing options through intensification and redevelopment where this can be accommodated taking into account existing building stock or areas, including brownfield sites, and the availability of suitable existing or planned infrastructure and public service facilities required to accommodate projected needs.”

In summary, the PPS encourages and supports development on lands that are identified for urban growth in approved settlement areas. It also establishes that the Town should be

supporting and promoting residential infill development that results in a more compact built form and makes more efficient use of existing services while offering a range of housing forms/types to meet expected needs.

In addition to the foregoing policies, it should be noted that the subject property falls within an area of the Town that is subject to subsection 3.1.2 “Natural Hazards” of the PPS with respect to the provision of “safe access” of emergency services during times of flooding events. In particular, the depth of water within the municipal roadway abutting the subject property (Chene Street) has the potential, under extreme coastal flooding events to reach a depth of 0.6 to 0.9 metres (1.9 to 2.9 feet). In this regard, the Town has prepared a Flood Response Action Plan and has recently placed an order for a high water rescue vehicle. Accordingly, the Town’s Fire Chief & CEMC has confirmed that safe access for Natural Hazards properties within Tecumseh can be provided in accordance with subsection 3.1.2 ‘Natural Hazards’ of the PPS and has recommended that planning and building permit applications affected by this policy can now be processed.

Based on the foregoing, it is the opinion of the writer that the proposed zoning by-law amendment application is consistent with the PPS.

### **County of Essex Official Plan**

The subject lands are situated within a Primary Settlement Area identified in the County Official Plan (“County OP). As with the PPS, the County OP directs that future urban development be directed to fully serviced settlement areas. As noted above, both the existing single unit dwelling and the proposed single-unit dwelling will be on full municipal services.

Accordingly, it is the opinion of the writer that the proposed zoning by-law amendment application is in conformity with the County of Essex Official Plan.

### **Tecumseh Official Plan**

The subject property is located in the Tecumseh North Settlement Area and is designated “Residential” on Schedule “B-1” of the Tecumseh Official Plan (“Tecumseh OP”) (see Attachment 4). The policies permit the severance of the land for proposed residential use.

Subsection 10.12 of the Official Plan provides guidance with respect to the replacement of the currently-permitted automobile body repair garage with a limited range of permitted commercial uses within a portion of the existing detached accessory structure. This policy contemplates the replacement of an existing permitted use, which may not be deemed appropriate, with new uses that would be deemed more compatible with surrounding land uses.

#### “10.12 Existing Land Uses and Buildings

Certain lands within the Town have been developed for a use other than that which is permitted by the designations and policies of this Plan. Some of these uses are still operating but some have ceased to exist leaving vacant substantial buildings, most commonly commercial or industrial buildings. Such lands (both those with legally existing uses and those with vacant buildings) may be zoned in the Zoning By-law to permit the existing use if there is one or the previous use if the buildings are presently vacant provided:

- i) the buildings lawfully existed prior to the date of adoption of this Plan;
- ii) the use to be permitted does not interfere with the desirable development or enjoyment of neighbouring properties;
- iii) the use does not constitute a danger to surrounding uses and persons because of its hazardous nature or traffic generated; and
- iv) the Zoning By-law reasonably limits the amount of expansion that is to be permitted to ensure that the use does not become larger than would be appropriate for the area.

Applications to amend the Zoning By-law to permit a use that is as, or more, compatible with the surrounding area may also be approved by Council without an amendment to this Plan provided the proposed use satisfies the above criteria.

Also, there are a number of parcels that have applying to them, current zonings that are not in conformity with this Plan. Those zonings can be carried forward in the implementing Zoning By-law without the requirement of amending or modifying this Plan.”

Based on the foregoing policies, a limited range of commercial uses within a limited area of the existing accessory structure can be considered for the subject property.

The owner has provided Administration a list of proposed commercial uses that could potentially locate in a portion of the existing accessory structure. These include: general/professional offices, pet groomer, baker/chef/caterer, child care provider and a yoga studio. These uses are more compatible with the surrounding area than the currently permitted use of an automobile body repair garage and do not require as much floor area within which to operate. As such, the owner is proposing to use only up to 46.4 square metres (500 square feet) of the existing 230.6 square metre (2,485 square foot) detached accessory structure for any of the foregoing proposed commercial uses.

Administration believes that there is merit in the proposed land use request, particularly as the existing detached accessory structure is legally permitted to be used, in its entirety, for an auto-related use that clearly has the potential of creating compatibility issues with the

surrounding residential character of the area. A final decision on the types and the size/location of the proposed home occupations will occur subsequent to the requisite public meeting. The requisite public meeting will provide an opportunity to hear concerns/comments, if any, of neighbouring residents with respect to the home occupation proposal.

It should also be noted that the subject property is within the Lake St. Clair Floodprone Area on Schedule "D" of the Tecumseh OP. Subsection 5.5.3 iv) of the Tecumseh OP establishes that development and site alteration may be permitted in the Lake St. Clair Floodprone Areas, in consultation with ERCA, where the risk to public safety and other effects can be absorbed, managed or mitigated in accordance with the following standards:

- a. the flooding and erosion hazards can be safely addressed, and the development and site alteration is carried out in accordance with floodproofing standards, protection works standards, and access standards;
- b. existing hazards are not aggravated or new hazards are not created;
- c. no adverse environmental impacts will result;
- d. vehicles and people have a way of safe ingress and egress during times of flooding, erosion or other emergencies;
- e. the development does not include institutional uses or essential emergency services or the disposal, manufacture, treatment or storage of hazardous substances; and
- f. development is carried out in accordance with established standards and procedures.

As noted earlier in this Report, under the section addressing PPS policies, the Town's purchase of a high water rescue vehicle along with the adoption of its Flood Response Action Plan enables the foregoing criteria to be satisfied.

### **Zoning By-law 1746**

As noted above, the subject property is currently zoned "Residential Zone 3 (R3-3)" in Zoning By-law 1746 (see Attachment 5) and permits all residential uses permitted by the R3 zone as well as the aforementioned automobile body repair garage.

### **Zoning By-law Amendment Procedures in the Official Plan**

Section 10.18, Amendment Procedures, of the Official Plan establishes that due regard shall be given to the following matters when contemplating a Zoning By-law Amendment:

- i) the degree of conformity of the proposed amendment to the general intent and philosophy of this Plan, particularly the planning principles as set out in Section 2.3, and consistency with provincial policy;

- the Provincial Policy Statement and the policies of the Town's Official Plan, particularly the planning principles contained in Section 2.3, promote intensification opportunities within built-up, fully serviced areas as well as the provision of a broad range of housing opportunities. The subject amendment facilitates these objectives.
- ii) the availability and suitability of land already designated for the proposed use, and the need for (or market feasibility of) the proposed use;
- the subject lands are designated Residential in the Official Plan, which encourages a range of residential uses, including the single-unit dwelling proposed on the proposed severed lot. Accordingly, this rezoning would have the effect of implementing the policies of the Official Plan.
- iii) the compatibility of the proposal, or the adequacy of proposed mechanisms for achieving compatibility, with adjacent and planned uses;
- the proposed amendment, which facilitates the infill development of a single-unit dwelling, is in keeping with the land uses and development pattern that exist to the immediate south and west of the subject property. With respect to the proposed commercial uses, careful consideration will need to be given to their compatibility with the surrounding neighbourhood. As noted above, a final decision on the types of uses and the size/location of the proposed home occupations will occur subsequent to the requisite public meeting.
- iv) the ability of the Town's infrastructure to accommodate the proposal;
- as a condition of consent, both the severed and retained parcels will be required to be serviced with separate water supplies, storm and sanitary services to the satisfaction of the Town of Tecumseh Public Works & Environmental Services department.
- v) The adequacy of the transportation system to accommodate the proposal.
- the construction of one single-unit dwelling or the introduction of a limited range and scale of commercial uses will not create any adverse impacts on the operation of the abutting roadway network. In addition, adequate parking and access will be required for the proposed commercial component.

## Summary

The proposed zoning by-law amendment is consistent with the Provincial Policy Statement and generally conforms to both the County of Essex Official Plan and Tecumseh Official Plan. Based on the foregoing, consideration of the proposed zoning by-law amendment is warranted. A public meeting to consider the rezoning in accordance with the requirements of the *Planning Act* will provide an opportunity to hear concerns and comments, if any, of neighbouring owners and public agencies. A summary of the issues identified at the Public Meeting, along with a final recommendation on the application will follow by way of a future Planning Report.

## Consultations

None

## Financial Implications

None

## Link to Strategic Priorities

Applicable	2019-22 Strategic Priorities
<input checked="" type="checkbox"/>	Make the Town of Tecumseh an even better place to live, work and invest through a shared vision for our residents and newcomers.
<input checked="" type="checkbox"/>	Ensure that Tecumseh's current and future growth is built upon the principles of sustainability and strategic decision-making.
<input type="checkbox"/>	Integrate the principles of health and wellness into all of Tecumseh's plans and priorities.
<input type="checkbox"/>	Steward the Town's "continuous improvement" approach to municipal service delivery to residents and businesses.
<input type="checkbox"/>	Demonstrate the Town's leadership role in the community by promoting good governance and community engagement, by bringing together organizations serving the Town and the region to pursue common goals.

## Communications

Not applicable

Website

Social Media

News Release

Local Newspaper

This report has been reviewed by Senior Administration as indicated below and recommended for submission by the Chief Administrative Officer.

Prepared by:

Enrico DeCecco, BA (Hons), MCIP, RPP  
Planner

Reviewed by:

Chad Jeffery, MA, MCIP, RPP  
Manager Planning Services

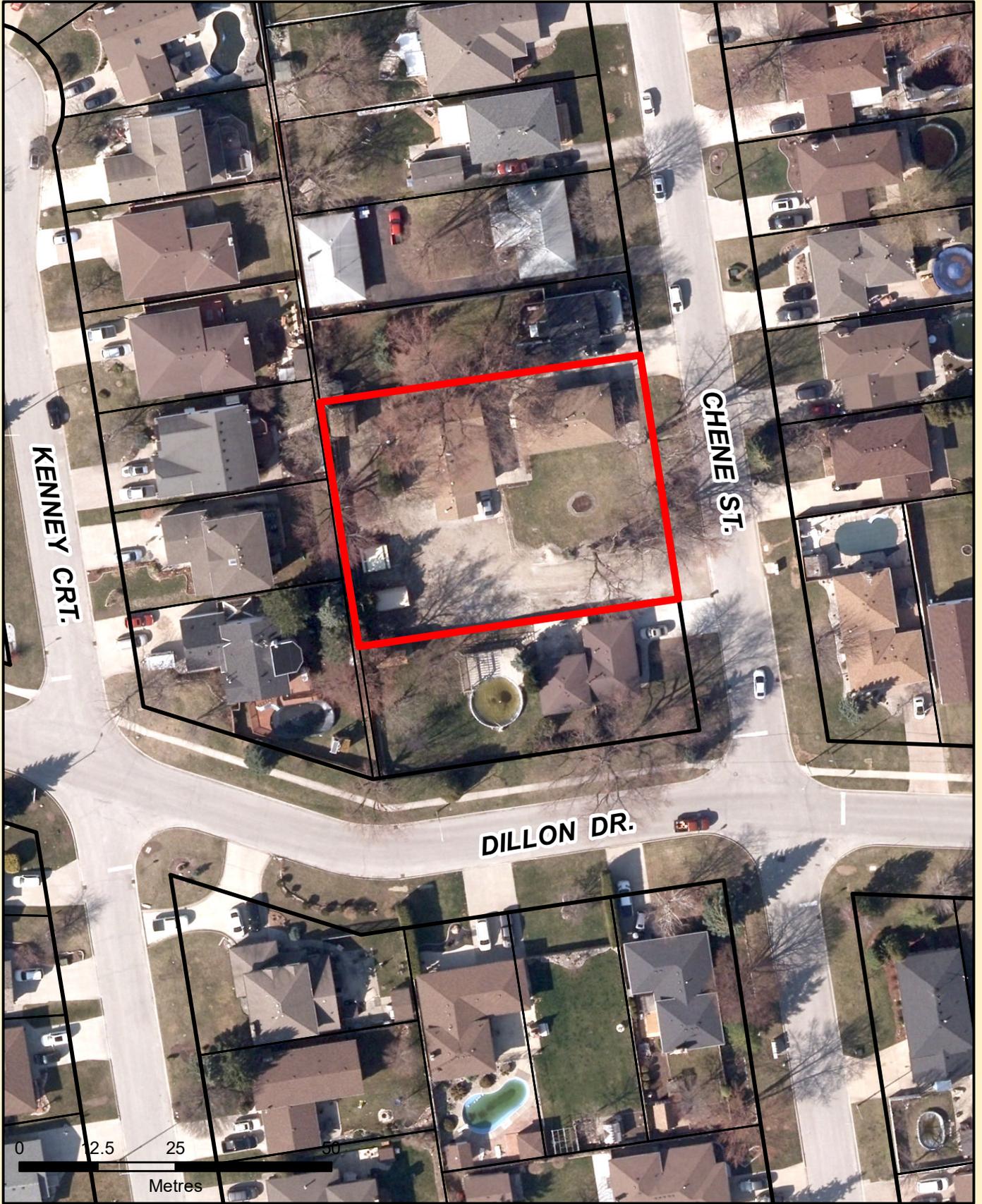
Reviewed by:

Brian Hillman, MA, MCIP, RPP  
Director Planning & Building Services

Recommended by:

Brian Hillman, MA, MCIP, RPP  
Director Planning & Building Services and Acting Chief Administrative Officer

<b>Attachment Number</b>	<b>Attachment Name</b>
1	Property Location Map
2	Property Location and Surrounding Land Uses Map
3	Approved Consent Application Sketch
4	Official Plan Map
5	Zoning Map



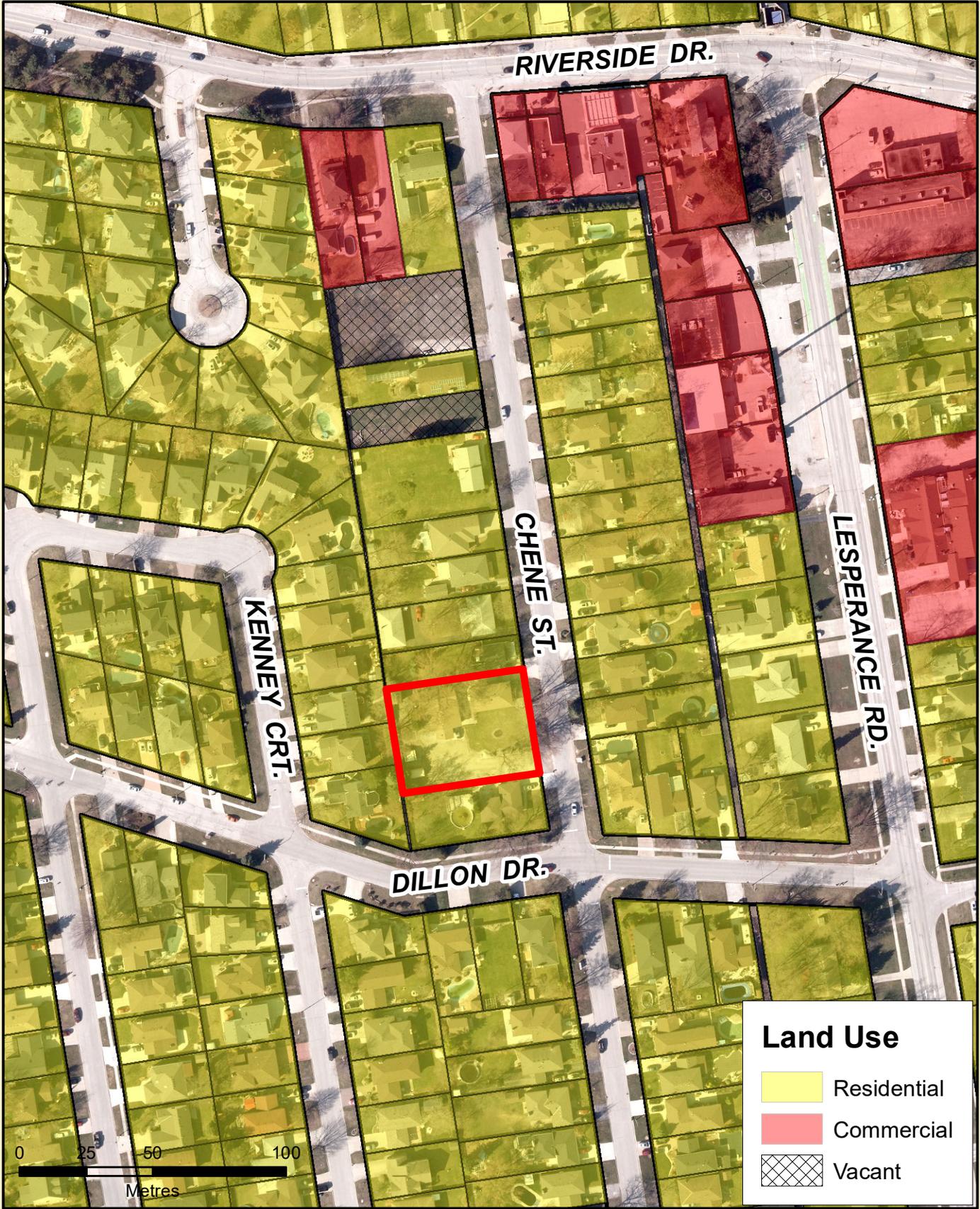
Prepared By:  
Tecumseh Planning and  
Building Services Department



**Legend:**

 Subject  
Property

**Attachment 1, PBS-2021-45**  
Zoning By-law Amendment  
165 Chene Street  
**Property Location**



**Land Use**

- Residential
- Commercial
- Vacant

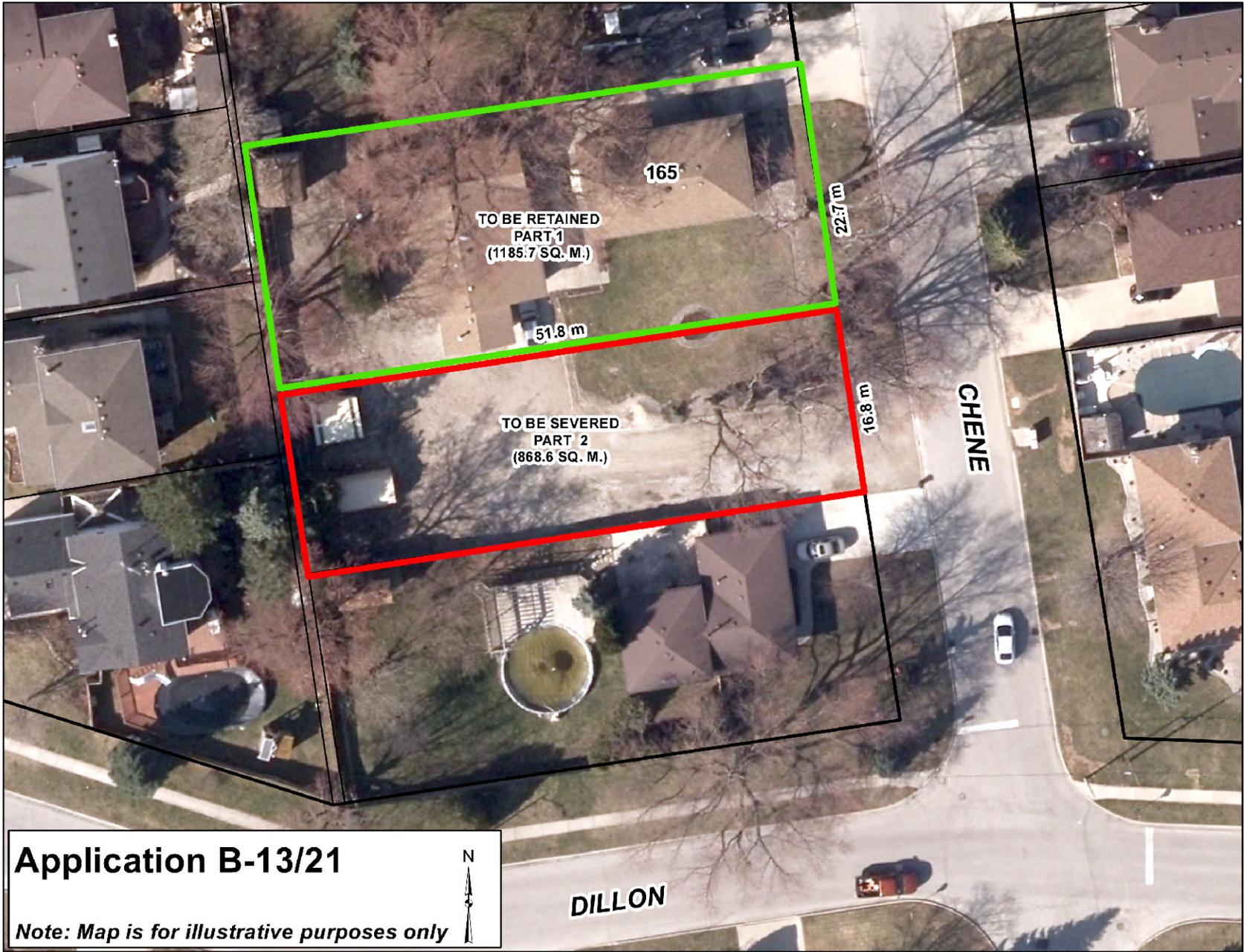


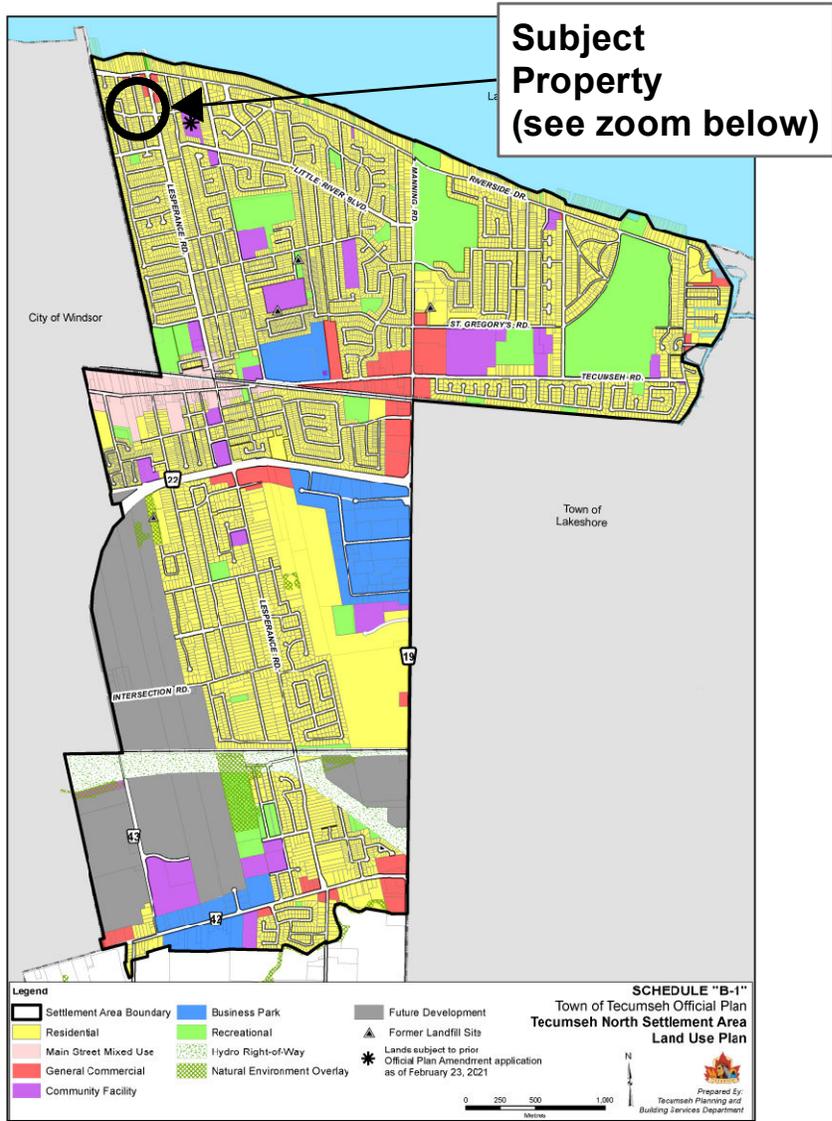
Prepared By:  
 Tecumseh Planning and  
 Building Services Department

**Legend:**

- Subject Property

**Attachment 2, PBS-2021-45**  
 Zoning By-law Amendment  
 165 Chene Street  
**Property Location and Surrounding Land Uses**

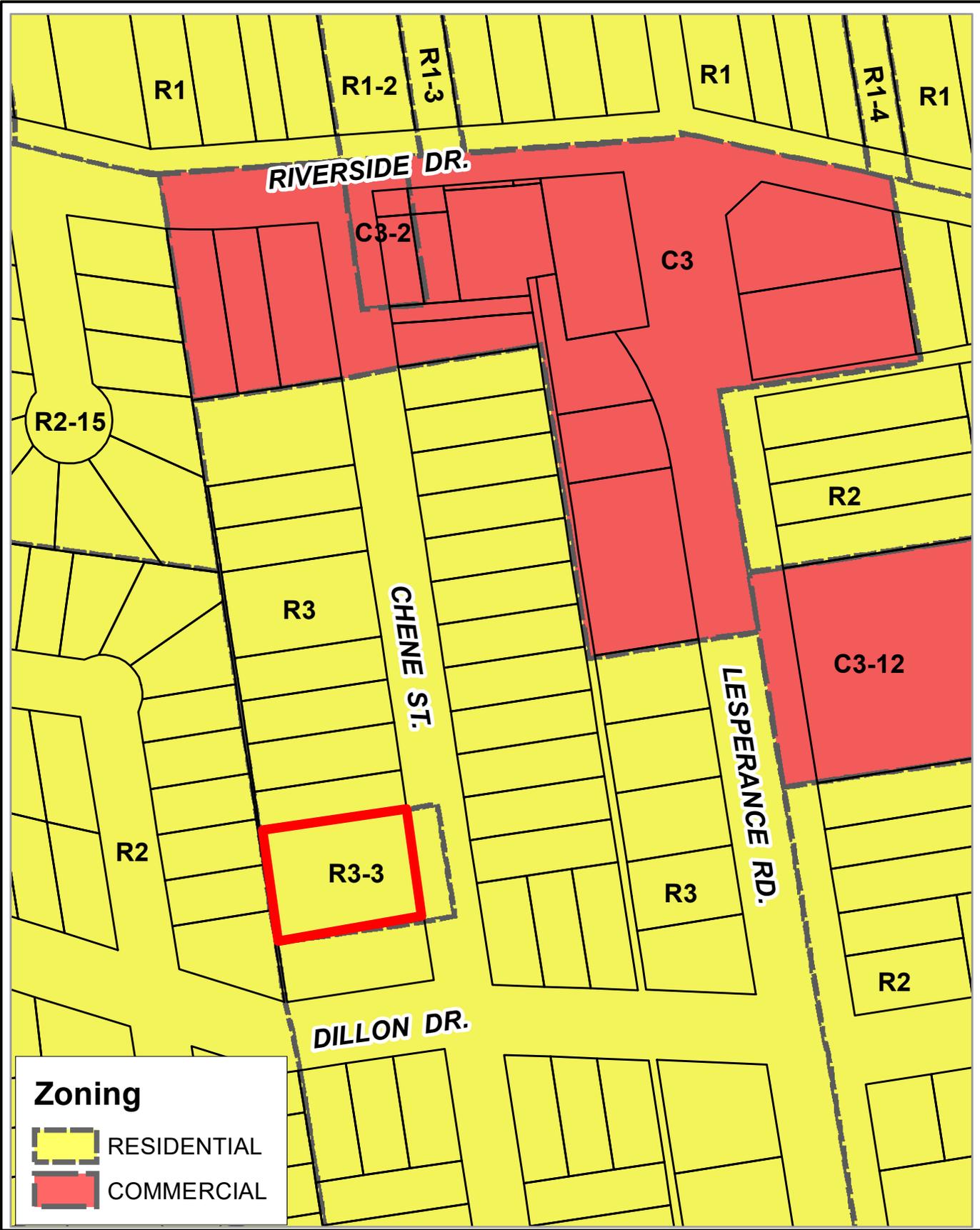




  
Prepared By:  
Tecumseh Planning and  
Building Services Department

 Subject Property

**Attachment 4, PBS-2021-45**  
Zoning By-law Amendment  
165 Chene Street  
Official Plan



**Zoning**

- RESIDENTIAL
- COMMERCIAL

  
 Prepared By:  
 Tecumseh Planning and  
 Building Services Department

**LEGEND:**

- Subject Property

**Attachment 5, PBS-2021-45**  
 Zoning By-law Amendment  
 165 Chene Street  
**Zoning**