



Meeting Date: September 21, 2022

Submitted by: Marion-Frances Cabral, Planner

Report No: PLA-68-2022

Subject: Application for a Zoning By-law Amendment (ZBA-08-2022), filed by Spriet Associates on behalf of Proskairos Inc.

Recommendation:

THAT Zoning By-law Amendment application ZBA-08-2022, as amended, filed by Spriet Associates on behalf of Proskairos Inc., to rezone the subject property from the 'General Industrial (M2)' zone to the site-specific 'General Industrial exception 6 with Hold (M2-6)(h-2)' zone for the land municipally known as 4836 Egremont Drive, former Township of Lobo, Municipality of Middlesex Centre, be APPROVED.

Purpose:

The purpose of this report is to provide Council with a recommendation regarding a Zoning By-law Amendment application for a property located on the north side of Egremont Drive (County Road 22) and east of Amiens Road.

The subject property has an approximate area of 5.9 hectares (14. ac) and is legally described as Concession 4 S Part Lot 9, Municipality of Middlesex Centre.

A location map is included as Attachment 1.

Background:

The purpose and effect of the Zoning By-law Amendment application is to rezone the subject lands from the "General Industrial (M2)" zone to a new site-specific "General Industrial (M2-x)" zone to permit '*agricultural uses*'. The effect of the application would permit the establishment of a greenhouse and retail area.

The subject lands contains a warehouse and office that was built in 1999 and expanded in 2003. The warehouse provides plant tags, product information cards and labels for produce and plants.

The subject lands are not actively farmed and contain grassed areas. The surrounding land uses include agricultural lands to the east, north and west. Additionally, an industrial use with outside storage exists immediately to the west. The applicant has provided a proposed site plan and it is appended to this report as Attachment 2.

The proposal includes multiple phases of development along the east side of the property. The applicant intends to build a greenhouse approximately 464.5 m² (5, 000 ft²) with a retail area 116.1 m² (1250 ft²) and stormwater retention pond in the first phase of development. The greenhouse would be expanded by another 464.5 m² (5, 000 ft²) in a future phase of development. Finally, a future wholesale greenhouse is intended to be and is shown as 13, 006 m² (140, 000 ft²) on the proposed site plan.

Policy Regulation:

Provincial Policy Statement, 2020:

Section 3 of the Planning Act requires all decisions made under the Act “to be consistent with” the Provincial Policy Statement, 2020 (PPS). The following PPS policies are relevant to the proposed development and need to be considered when evaluating the application.

Section 2.3 of the PPS speaks to prime agricultural areas and the long-term protection of these areas for agricultural use. Permitted uses within prime agricultural areas include: agricultural uses, agricultural-related uses, and on-farm diversified uses. Policy 2.3.6 of the PPS addresses non-agricultural uses in prime agricultural areas. The PPS directs that limited non-residential uses may be permitted within a prime agricultural area subject to evaluation criteria.

Middlesex County’s Official Plan

The County of Middlesex Official Plan designates the subject property as Agricultural Area. The County Plan recognizes agriculture as the predominant land use and an economic mainstay within the County. The Agricultural Areas policies are intended to protect agricultural lands from the intrusion of land uses that are not compatible with agricultural operations. Incompatible uses are frequently identifies as non-farm related residential dwellings on small lots.

Section 3.3.5 acknowledges the importance of farm related commercial and industrial uses in Agricultural Areas. Examples include feed mills, drain drying, abattoirs, and kennels. Farm related commercial and industrial uses should be considered in the Agricultural Area if the operation cannot reasonably be located in a Settlement Area and must be in proximity to farming activities, the use complies with the Minimum Distance Separation Formula, the use does not require or generate large volumes of water, and the operation is located to minimize potential adverse impacts on adjacent residential or other sensitive land uses. Operations are subject to the site plan policies and zoning by-law of the local municipality, and must provide minimum sight distances along County or local roads.

County Council adopted Amendment No. 3 to the County official plan on July 19, 2022. The purpose of the Amendment was to update the official plan to ensure that the land use planning policies are current, reflect Provincial legislation and policy, have regard for matters of Provincial interest and any guideline documents, are consistent with the Provincial Policy Statement (PPS), and reflect changing community needs for the next 25-years. While the policies implemented through Amendment No. 3 are not in force and

effect until Ministry approval, the updated policies are included in this report for informative purposes indicating the intent of County Council, but are not determinative for the purposes of this planning application.

Adopted Section 2.2.2.1 Agriculture – General Policies identifies agricultural uses as the main industry outside of settlement areas and that agriculture-related uses shall be permitted where they are compatible with and not hinder surrounding agricultural operations. Permitted agriculture-related uses shall be in accordance with the 2016 Guidelines for Permitted Uses in Ontario’s Prime Agricultural Areas as released by the Province.

Non-agricultural uses shall be encouraged to locate in settlement areas and shall only be permitted within the Agricultural Area with an amendment to the local Official Plan subject to conditions. Examples of non-agricultural uses include off-season vehicle storages, rural event venues, manufacturers, contractors’ yards and landscape businesses.

Middlesex Centre’s Official Plan

As mentioned the subject property is designated ‘Agricultural’ by Middlesex Centre’s Official Plan. Agricultural and agriculture-related uses are permitted in Agricultural areas. This includes all forms of farming, related buildings and structures, and uses of land.

Non-agricultural urban uses within agricultural areas are prohibited, unless permitted in the Official Plan, in order to protect agricultural areas from interference or encroachment from conflicting land uses or uses which could reduce or negatively impact the future flexibility or efficiency of agricultural operations.

Section 2.4 provides policies for agriculturally related commercial and industrial development. These uses are directly related to agriculture, and required in close proximity to farming operations. These uses are generally encouraged to locate within settlement areas except they are essential to the functioning of agriculture or would cause conflicts in settlement area. These types of uses may include feed mills, livestock assembly yards and slaughter houses.

This section also allows for some agriculture related tourism or recreational uses to be permitted if it is determined that no negative impacts on nearby agricultural operations will result, and a determination that the use will not contribute to land use conflicts.

When considering the establishment of new agriculturally related commercial, industrial or tourism uses, or the expansion of existing uses of this type, Council will consider the following criteria:

- a) The loss of productive farm land in the accommodating of such uses, shall be discouraged. Uses will be encouraged to locate on lands of lower soil capability or lands proven to be unsuitable for farming due to lot size, shape or topography.

- b) The amount of land devoted to the use shall include only the minimum necessary to support the use and its servicing needs.
- c) The use must not require municipal sewer or water services. The method of servicing shall require approval by the appropriate regulatory bodies. Any industrial use shall be “dry” in nature.
- d) Access shall be available from a public road of reasonable construction and year round maintenance. Development is encouraged on a hard-surface, dust-free road.

Access to Provincial Highways for agriculturally related commercial and industrial development uses will be subject to the review and approval of the Ministry of Transportation (MTO). An entrance permit from the MTO will be required for the change in use of the access. The entrance permit will identify the primary land use (i.e. farmstead) with a specific secondary land use for the agriculturally related commercial or industrial use.

In addition, the MTO would not support a future severance where a property owner wishes to separate the agriculturally related commercial and industrial use from the property where a new entrance from the highway for the new lot of record would be required.

- e) A site plan agreement shall be entered into with the Municipality. Such an agreement will require particulars relating to, at a minimum, access, traffic, drainage, and grading.
- f) Where a severance of land is necessary to accommodate such a use, the severance policies in Section 10.3 of this Plan will apply.
- g) Compliance with minimum distance separation shall be required where a proposed agriculturally related commercial or industrial use is in proximity to livestock and/or poultry operations. The Municipality may exercise discretion, through the consideration of Minor Variance applications, based on the proposed type of commercial or industrial use, and the extent of its sensitivity to agricultural activities. Input from the appropriate agencies with respect to Minor Variance request will be sought by the Municipality. This Plan recognizes that such agriculturally related commercial or industrial uses may also have negative impacts on adjacent agricultural operations. Minimum distance separation shall also be used to address impact of such uses on sensitive agricultural uses.
- h) Adequate separation distances and buffering shall be required where such uses are proposed adjacent to existing residential or other sensitive uses. Adequate visual buffering or landscaping will be required where such uses may generally impact the agricultural or rural character of the Municipality.

Middlesex Centre's Zoning By-law

The subject property is zoned 'General Industrial (M2)' in Middlesex Centre's Zoning By-law. The current zoning permits the following uses:

- accessory use
- bulk sales establishment
- contractor's yard or shop
- fuel depot
- garage, public
- industrial use, general
- machine shop
- office as an accessory use
- open storage as an accessory use
- retail store as an accessory use
- sawmill service shop
- truck terminal
- warehouse

Additionally, notwithstanding any previous provisions of the General Industrial (M2) section of this By-law, if a public water supply system is not available, a general industrial use shall not be permitted in the General Industrial (M2) Zone unless it is a dry industrial use.

The applicant has requested to add 'agricultural use' to the list of permitted uses. 'Agricultural use' means "the cultivation of land, the production of crops and the processing and selling of such products on a lot, and the breeding, raising and care of livestock and the selling of such livestock or the products of such livestock raised on a lot and without limiting the generality of the foregoing, may include animal husbandry, aquaculture, fur farming, pasturage, the raising and harvesting of field crops, horticulture, dairying, poultry keeping, fruit bush crops, fruit tree crops or vine crops, market gardening, wholesale greenhouses, sod farming, agri-forestry such as Christmas tree plantations, a mushroom farm, apiary and beekeeping, with or without its main buildings, including one single detached dwelling, barns, sheds, pens and similar accessory buildings, but does not include any dwelling accessory to the farming operation, a mushroom composting facility".

Consultation:

Notice of Complete Application and Public Meeting were circulated to agencies, as well as property owners in accordance with the *Planning Act* and Ontario Regulation 545/06.

Public Comments:

At the time of writing this report, staff did not receive comments regarding the requested zoning.

Agency Comments:

The Municipality's Chief Building Official did not provide comments at the time of writing this report. More detailed comments will be provided during site plan review.

The Public Works and Engineering Department did not provide comments at the time of writing this report. A preconsultation meeting was held with the applicant and general comments were made related to servicing and provision of water. More detailed comments will be provided during site plan review.

County of Middlesex Engineer did not provide comments at the time of writing this report. However, the Engineer has provided comments on the preliminary review of the site plan, County requirements for development along Egremont Drive, and commented on the general proposal. More detailed comments will be provided during site plan review.

St. Clair Region Conservation Authority did not provide comments at the time of writing this report.

Analysis:

To consider the appropriateness of the requested zoning by-law amendment it must conform to the Official Plan and maintain the intent of its policies. Generally, the addition of 'agricultural use' is supported by the policies of the County and Middlesex Centre Official Plan where the land is designated 'Agriculture'. The applicant proposes to establish a wholesale greenhouse which has been established as an agricultural use by the Province. Due to the on-going business on the property and size of the lands, staff recommend that agricultural uses, except residential uses, be permitted on the property.

Staff acknowledge the legacy General Industrial zone that exists on the property. However, there are uses within the zone that should not be permitted within agricultural areas and should be directed towards settlement areas where land use conflict is minimized and servicing is available. Staff reviewed the permitted uses against the County and Middlesex Centre Official Plan. Planning staff also reviewed OMAFRA's Guidelines on Permitted Uses (Publication 851) which provides directions to municipalities, decision-makers, farmers and other interpret and apply the Provincial Policy Statement and the uses that are permitted within prime agricultural areas in Ontario. Upon evaluation, staff recommend removing some permitted uses from the new site-specific zone so that it better reflects current operations, agricultural policies and future development of the lands. Staff recommend the permitted uses as follows:

- accessory use, excluding any residential uses
- agricultural use, excluding any residential uses
- bulk sales establishment
- office as an accessory use
- open storage as an accessory use
- retail store as an accessory use
- sawmill service shop

warehouse

Further, the Site Plan Control By-law generally exempts agricultural uses unless they are intensive agricultural uses. Site plan control can be used to proactively mitigate conflicts with neighbouring land uses. Staff consider the establishment of greenhouses, accessory retailing space and provision of parking and infrastructure as intensifying the use of the land and have advised that an amendment to an existing agreement or establishment of a new site plan agreement will be required before any development on the land. As such, staff recommend the addition of a Holding Symbol (h-2) to require the land owner to enter into a site plan agreement with the Municipality.

Based on the above, staff recommend approval of the Zoning By-law Amendment, as amended. Staff continue to direct general industrial uses to settlement areas where infrastructure can support the operations and reduce land use conflicts.

Staff are of the opinion that the recommended Zoning By-law Amendment, as amended, is consistent with the Provincial Policy Statement, 2020, the County of Middlesex Official Plan, Middlesex Centre's Official Plan, and Middlesex Centre's Zoning By-law.

This opinion is provided prior to the public meeting and without the benefit of potentially receiving all comments from agencies or members of the public. Should new information arise regarding this proposal prior to or at the public meeting, Council is advised to take such information into account when considering the application.

Financial Implications:

None.

Strategic Plan:

This matter aligns with following strategic priorities:

- Vibrant Local Economy

Attachments:

Attachment 1 – Location Map

Attachment 2 – Proposed Site Plan

Attachment 3 – Covering Letter Provided by Applicant

Attachment 4 – Hydrogeological Assessment