



Meeting Date: February 15, 2023

Submitted by: Marion-Frances Cabral, Planner

Report No: PLA-13-2023

Subject: Applications for Official Plan Amendment (OPA 60) and Zoning By-law Amendment (ZBA-12-2022), filed by Baker Planning Group on behalf of Stanley and Judy Henderson for the lands at 12577 Fifteen Mile Road

Recommendation:

THAT the Official Plan Amendment No. 60 for the land legally described as Concession 14 N Pt Lot 31, Municipality of Middlesex Centre (former Township of London), be ADOPTED and forwarded to the County of Middlesex for consideration of approval;

AND THAT the Zoning By-law Amendment application, as amended, filed Baker Planning Group on behalf of Stanley and Judy Henderson, to rezone the subject property from the 'Agricultural (A1)' zone to the site-specific 'Agricultural (A1-41)' zone for the property legally described as Concession 14 N Pt Lot 31 (former Township of London), Municipality of Middlesex Centre, be APPROVED.

Purpose:

The purpose of this report is to provide Council with a recommendation regarding an Official Plan Amendment and Zoning By-law Amendment

The purpose and effect of the Official Plan Amendment application is to re-designate the subject property from the Agricultural designation to an Agricultural Special Policy Area designation to permit the construction of an additional residential dwelling unit in an agricultural structure which is otherwise not permitted.

The purpose and effect of the Zoning By-law Amendment application is to rezone the property from the Agricultural (A1) Zone, to a site-specific Agricultural Zone (A1-x) to permit a second dwelling unit or apartment dwelling with a maximum gross floor area of 120 m² (1,292 ft²) within a secondary agricultural building, and to add a new definition for an *ambulatory mobile veterinarian hospital* and permit it on the land. The Zoning By-law amendment would continue to permit agricultural uses permitted in Section 5.1.1 of the Zoning By-law.

A location map is included as Attachment 1 and preliminary site plan included as Attachment 2.

Background:

The subject property has an approximate area of 43.6 hectares (107.7 ac) and is located on the south side of Fifteen Mile Road and east of Vanneck Road. The land is primarily used for agricultural uses consisting mostly of agricultural fields with a cluster of agricultural buildings and a single detached dwelling. The land contains regulated area in the southwest corner but is sufficiently separated from the location of the proposed development.

The applicant proposes to establish an ambulatory mobile veterinarian clinic and second dwelling unit, in addition to the uses existing. The proposed development will consist of two (2) two-storey building 376 m² in size and be serviced by a new septic bed and the existing well. The clinic will not house animals or have customers/visitors, but rather serve as an office and storage building to support the proposed use, which involves travelling to other locations to provide veterinarian services as needed. The additional residential unit will be accommodated in the second storey of the proposed building and will provide a residence for the owner's family to continue to reside on the property.

Policy Regulation:

Planning Act

Section 16(3) of the Planning Act authorizes Official Plans to contain policies that permit additional residential units and provides the following:

- “(3) No official plan may contain any policy that has the effect of prohibiting the use of,
- (a) two residential units in a detached house, semi-detached house or rowhouse on a parcel of urban residential land, if all buildings and structures ancillary to the detached house, semi-detached house or rowhouse cumulatively contain no more than one residential unit;
 - (b) three residential units in a detached house, semi-detached house or rowhouse on a parcel of urban residential land, if no building or structure ancillary to the detached house, semi-detached house or rowhouse contains any residential units; or
 - (c) one residential unit in a building or structure ancillary to a detached house, semi-detached house or rowhouse on a parcel of urban residential land, if the detached house, semi-detached house or rowhouse contains no more than two residential units and no other building or structure ancillary to the detached house, semi-detached house or rowhouse contains any residential units. 2022, c. 21, Sched. 9, s. 4 (1).”

Additionally, Section 35.1 requires that council of each local municipality to pass by-laws under section 34 (Zoning by-laws) to give effect to the policies described in subsection 16(3).

It is note that the above policies speak to additional residential units on urban residential lands which means lands that have municipal servicing. However, the Planning Act does not prevent or prohibit local municipalities from adopting policies for additional residential units within non-serviced areas.

Provincial Policy Statement, 2020:

Section 1.1.1 of the PPS speaks to 'Healthy, liveable and safe communities' and how they can be sustained. Section 1.1.1b) states that 'accommodating an appropriate affordable and market-based range and mix of residential types (including single-detached, additional residential units, multi-unit housing, affordable housing and housing for older persons), employment (including industrial and commercial), institutional (including places of worship, cemeteries and long-term care homes), recreation, park and open space, and other uses to meet long-term needs'.

Section 1.4 of the PPS speaks to 'Housing' and the requirement 'to provide for an appropriate range and mix of housing options and densities required to meet projected requirements of current and future residents of the regional market area'.

Section 1.6.6 of the PPS outlines the hierarchy for sewage and water services. Generally, the preferred method of servicing is municipal services, however consideration can be given to private and communal services where appropriate, and where supported by appropriate studies.

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 policies are intended to protect agricultural lands from the intrusion of land uses that are not compatible with agricultural operations.

Section 3.3.5 acknowledges the importance of farm related commercial and industrial uses in Agricultural Areas. Examples include feed mills, grain 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.

Section 4.3 of Middlesex County's Official Plan speaks to local Official Plans and indicates that the County Official Plan is not intended to prevent the development of areas designated for non-agricultural development in local Official Plans. The County Plan does not specifically address a proposal such as this. Instead, the County Plan leaves atypical proposals to be addressed within local Plans and through the local Official Plan Amendment process.

Section 2.3.7 of the County of Middlesex Official Plan speaks to housing policies and states that, it is the policy of the County to encourage a wide variety of housing by type, size and tenure to meet projected demographic and market requirements of current and future residents of the County.

The County of Middlesex's Official Plan in section 2.4.5 discusses the servicing hierarchy similar to those discussed in the PPS.

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. The designation of the subject lands permits primarily agricultural uses and residences surplus to a farming operation.

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.

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.

Section 5.2.1 of Middlesex Centre's Official Plan speaks to General Residential Policies, section 5.2.1 a) states, 'The Municipality will provide and encourage a wide variety of housing types, sizes and tenures to meet demographic and market requirements for the Municipality's current and future residents'.

Section 9.3 of the Local Official Plan speaks to municipal infrastructure and servicing policies. These policies have a similar hierarchy as the PPS and the County Official Plan. As it relates to this proposal section 9.3.2 a) states, 'the principle means of sewage disposal in agricultural areas of the Municipality is the septic tank and weeping tile system. It is anticipated that such systems will continue to be the principal means of sewage disposal outside of settlements in the foreseeable future, however the consideration of alternative and improved technologies is encouraged.

Section 9.6.1 of Middlesex Centre's Official Plan states it is policy of this Plan that the conversion of an existing principal farm dwelling to add an additional residential unit may be permitted, subject to the requirements within the existing building, and will not require an addition to facilitate the conversion.

Section 9.7 of the Municipality's Official Plan states that 'new garden suites will not be permitted within the Municipality. Garden Suites are temporary housing on a property and above the primary residence.

In Section 10.1 of the Official Plan it is noted that the Plan may be amended upon consideration of all relevant issues relating to the public interest. It is further noted that the Municipality shall give consideration to the following criteria:

- a) Does the proposed amendment relate and conform to the vision for the Municipality of Middlesex Centre?
- b) Is there a demonstrated need or justification for the proposed change?
- c) Is the amendment in keeping with the Provincial and County policy?
- d) What are the effects of the proposed change on the demand for Municipal services, infrastructure, and facilities?
- e) Can the land affected by the application be adequately serviced to accommodate the proposed development? Are improvements necessary to adequately service the lands in question?
- f) What impacts will the proposed development have on surrounding land uses, traffic systems, infrastructure and servicing, settlement or Municipal character, features or structures of cultural heritage importance, and natural environment features? Can negative impacts be mitigated or eliminated?

Middlesex Centre Council adopted Amendment No. 59 on May 18, 2022. While the policies implemented through Amendment No. 59 are not in force and effect until County 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.

OPA No. 59 adds a new section related to Additional Residential Units and provides the following direction:

- a) A maximum of two Additional Residential Units will be permitted on a lot, one within the principal dwelling and one within a detached accessory building or structure. A garden suite shall not be permitted where an existing Additional Dwelling Unit is located within a detached accessory building or structure.
- b) Demonstration of adequate sewer and water servicing capacity;
- c) Demonstration that the Additional Residential Unit is not located within the natural heritage system, floodplain areas, or other hazardous lands.
- d) Demonstration that the proposal complies with the Minimum Distance Separation formulae, where applicable.

- e) Demonstration that the Additional Residential Unit has a floor area of 49% or less of the primary residential unit principal dwelling.
- f) Demonstration that the Additional Residential Unit is in full compliance with the Ontario Building Code and fire code.
- g) Notwithstanding section 9.6.1 e), further limitations on the maximum permissible size of an additional residential unit may be identified in the Municipality's Zoning By-law.
- h) The Zoning By-law will establish provisions for the accommodation of Additional Residential units, including requirements for detached Additional Residential Units.

Middlesex Centre's Zoning By-law

The subject property is zoned 'Agricultural (A1)' in Middlesex Centre's Zoning By-law. Section 5.1 of the Zoning By-law outlines permitted uses and zoning standards for the Agricultural (A1) zone. Agricultural uses and a converted dwelling for a maximum of 2 units are currently permitted on the property. Further, the Zoning By-law does not define or permit *ambulatory mobile veterinarian hospitals* as an agricultural or agricultural-related use.

The requested zoning by-law amendment would add and define the following definition for an *Ambulatory Mobile Veterinarian Hospital* and permit it on the subject lands.

AMBULATORY MOBILE VETERINARIAN HOSPITAL means a building or part thereof, designed, used or intended for use by a veterinarian and their assistants for the purpose of supporting the care and treatment of livestock at off-site locations and does not permit treatment to occur on site.

Further, the requested zoning by-law amendment would permit an additional residential unit within the agricultural building with a maximum gross floor area of 120 m² (1, 292 ft²). The floor area represents 55% of the floor area of the primary dwelling unit.

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 and 543/06.

Staff have not received any comments from the public at the time of writing this report.

Agency Comments:

At the time of writing this report the following comments had been received:

The Municipality's Chief Building Official has not provided comments regarding the applications.

The Public Works and Engineering Department has not provided comments regarding the applications.

Analysis:

Ambulatory Mobile Veterinarian Hospital

The Official Plan does not specifically permit animal hospitals, however, it can be considered as an agriculture-related use as determined by OMAFRA's Permitted Uses Guidelines. Staff are satisfied that the proposed use does not result in the loss of productive farmland, is located within proximity to an existing building cluster, is required to be located within proximity to farming operations due to the nature of the business, does not result in significant demand on services, and is secondary to the primary agricultural use on the property. As it is not a primary agricultural building the building containing the Ambulatory Mobile Veterinarian Hospital may be subject to site plan approval. Moreover, the use is limited in scale and does not disrupt the agricultural operations on the property or surrounding farms.

Staff reviewed the proposed definition and believe that it complements the existing terms and uses in the Zoning By-law for an animal clinic and an animal hospital. Specifically, the proposed definition adequately describes that no animal treatment may occur on-site and the hospital is for the treatment of livestock, and not domestic animals. As such, staff recommend revising the term to "*Ambulatory Mobile Animal Hospital*" and retaining the definition provided by the applicant. To add extra clarity, staff recommend adding a sentence so that the use may not include an Animal Clinic.

Staff recommended the following definition: "**Ambulatory Mobile Animal Hospital** means a building or part thereof, designed, used or intended for use by a veterinarian and their assistants for the purpose of supporting the care and treatment of livestock at off-site locations and does not permit treatment to occur on site. It may not include an Animal Clinic."

Additional Residential Unit

The current Middlesex Centre Official Plan does not contain policies that permit additional residential units within agricultural areas, however, the Planning Act does not prohibit municipalities to establish policies that permit additional residential units in agricultural areas. As such, an amendment to the Official Plan is required and the following criteria should be examined:

a) Does the proposed amendment relate, and conform to the vision for the Municipality of Middlesex Centre?

The proposed amendment supports the Municipality's vision of providing a variety of housing types for current and future residents, as well as using resources wisely in terms of utilizing available private services. Furthermore, Additional Residential Units (ARU) will be part of the Municipality's Official Plan Review as they are permitted by the Planning Act and the Provincial Policy Statement.

The adopted Official Plan proposes additional direction for the creation of an ARU. Proposed policies include a maximum of 2 ARUs on a lot; demonstration of adequate servicing capacity; demonstration that the unit is not located within the natural heritage system, floodplain, or other hazardous areas; demonstration that the proposal complies with the Minimum Distance Separation; that the unit has a floor area of 49% or less of the primary residential unit; and that the zoning by-law will establish provisions for ARUs including those in detached structures.

The applicant has demonstrated that it meets the intent of the Official Plan with the exception of the floor area of the proposed unit.

b) Is there a demonstrated need or justification for the proposed change?

The proposal is justified by providing another form of housing to the applicants' family. In general, the intent of additional residential units is to provide supplementary income to the homeowner, provide other forms of housing, as well as assisting family members when it comes to housing requirements for aging relatives.

c) Is the amendment in keeping with the Provincial and County policy?

The proposal conforms to the Provincial Policy Statement and the current County Official Plan as the proposal is contributing to a variety of housing types, accommodated by private services, which is a supported form of servicing under the PPS when full municipal services are not available.

The County of Middlesex is undertaking a review of its Official Plan and proposes new policy to permit additional residential units across the County. Furthermore, additional residential units are supported by the Planning Act and the Provincial Policy Statement where additional residential units are permitted by municipalities across Ontario.

The proposed additional residential use will be contained within an agricultural building and does not appear to remove active agricultural land from production.

d) What are the effects of the proposed change on the demand for Municipal services, infrastructure, and facilities?

The subject property is proposed to be serviced by private services and there is no intended increase on the demand of Municipal services.

e) Can the land affected by the application be adequately serviced to accommodate the proposed development? Are improvements necessary to adequately service the lands in question?

The applicant has indicated that a new septic bed and existing well will be used for the additional residential unit and the Ambulatory Mobile Animal Hospital. An appropriately sized and functioning septic system to support the additional residential unit will need to be reviewed prior to the issuance of a building permit to establish the structure permanently for both uses.

f) What impacts will the proposed development have on surrounding land uses, traffic systems, infrastructure and servicing, settlement or Municipal character, features or structures of cultural heritage importance, and natural environment features? Can negative impacts be mitigated or eliminated?

It is not anticipated that the additional residential unit will conflict with MDS setback requirements and impact the ability for the agricultural operation to continue. The applicant provided evidence that the proposed unit's location complies with the required MDS setbacks.

The proposed additional residential unit will use the same driveway as the rest of the agricultural operation and principal dwelling unit. It is not expected that the additional unit will result in significant impacts on the local traffic system.

The unit will be located in an agricultural building associated with the mobile animal hospital and is amongst other agricultural buildings and the principal dwelling unit. The building is setback from the roadway and oriented to minimize the appearance of the additional residential unit.

Planning staff reviewed the proposal and do not have concerns with the proposed uses on the subject lands. Nor is there concern with the location of agricultural building or the additional residential unit within an agricultural building as it generally meets the tests for an additional residential unit.

However, staff have concerns with the size of the additional residential unit as it represents 55% of the gross floor area of the principal dwelling. Many jurisdictions impose a maximum floor area (i.e. percentage of main dwelling, square footage) that is generally 40-49% and/or 1,000 ft² or less. The maximum is generally applied to avoid second standalone houses, limit the scale and intensity of the use, and to limit the overall size of units where the primary dwellings are significantly larger than the average size. While the unit is located within a separate building, the justification of the size is not based on existing conditions that requires the increased size. Further, if the unit was located in an accessory building it would not meet the standards of the Zoning By-law for accessory structures or uses. As such, staff recommend that an additional residential unit be permitted to a maximum of 49% of the main dwelling or roughly 109 m² (1, 173 ft²).

Given the above, planning staff determined that the requested Zoning By-law Amendment, as amended, and Official Plan Amendment are 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.

Staff recommend that the Official Plan Amendment be adopted as proposed and be forwarded to the County of Middlesex for consideration. Additionally, staff recommend that the Zoning By-law Amendment to permit the Ambulatory Mobile Animal Hospital and additional residential unit in an agricultural building with a maximum size of 109 m² be approved.

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 applications.

Financial Implications:

None.

Strategic Plan:

This matter aligns with following strategic priorities:

- Balanced Growth

Attachments:

Attachment 1 – Location Map

Attachment 2 – Site Plan of property

Attachment 3 – Planning Justification Report

Attachment 4 – Draft Official Plan Amendment No. 60