



**Meeting Date:** May 22, 2024

**Prepared By:** Marion-Frances Cabral, Planner

**Submitted by:** Marion-Frances Cabral, Planner

**Report No:** PLA-22-204

**Subject:** Application for Zoning By-law Amendment (ZBA-3-2024), filed by Siv-ik Planning & Design on behalf of Annaert Holdings Inc.

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**Recommendation:**

THAT Zoning By-law Amendment application ZBA-3-2024, filed by Siv-ik Planning & Design on behalf of Annaert Holdings Inc., to rezone the subject land from the 'Agricultural (A1)' zone to the 'Farm Industrial exception 4 (M3-4)' and 'Agricultural exception 51 (A1-51)' zones for the land legally described as Concession 7 PT Lot 25 and RP 33R13380 Part 3 (former Township of London) and known as 21631 Hyde Park Road, Municipality of Middlesex Centre, be APPROVED.

**Purpose:**

This report is to provide Council with a recommendation regarding a proposal to rezone the lands from 'Agricultural (A1)' to new site-specific 'Farm Industrial exception 4 (M3-4)' zone and "Agriculture exception 51 (A1-51)" zones.

The property is located on the north-west corner of Hyde Park Road (County Road 20) and Medway Road, and is known as 21631 Hyde Park Road and legally described as Concession 7 PT Lot 25 and RP 33R13380 Part 3 (geographic Township of London), Municipality of Middlesex Centre.

A location map is included as Attachment 1.

**Background:**

The purpose of the Zoning By-law Amendment application is to rezone a 3.46 ha (8.56 ac) portion of the property from the "Agricultural (A1)" zone to a new site-specific "Farm Industrial exception 4 (M3-4)" zone, and the remaining farmland to a new site-specific "Agricultural exception 51 (A1-51)" zone. The effect of the "Farm Industrial exception 4 (M3-4)" zone will permit a farm equipment sales and service establishment and other related uses. The application would also rezone the remaining farmland to permit a

minimum lot area of 20 ha (49.4 ac) to facilitate the severance of the farm equipment sales and service establishment from the farmland.

The subject land is approximately 25.06 ha (61.9 ac) in area and has frontages of 152 m (499 ft) on Medway Road and 191 m (627 ft) on Hyde Park Road. The land contains a single detached dwelling and outbuildings that are accessed from Hyde Park Road and is separate from the proposed uses. The property contains regulated area and Significant Woodland, and is surrounded by agricultural and agriculturally-related uses including a farm equipment sales establishing.

The applicant prepared a concept plan that shows the proposed use including the building, outdoor display areas, parking, outdoor storage and preliminary stormwater management area. Access to the new use is proposed off Medway Road. The concept plan is subject to refinement and will be reviewed in greater detail during the Site Plan Approval process. The concept plan is appended to this report as Attachment 3.

### **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 subject applications.

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, agriculture-related uses, and on-farm diversified uses. Agricultural-related uses means those farm related commercial and farm-related industrial uses that are directly related to farm operations in the area, support agriculture, benefit from being in close proximity to farm operations, and provide direct products and/or services to farm operations as a primary activity.

#### 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 farm equipment repair shops, agri-tourism, feed mills, grain drying, abattoirs, and kennels, and shall be in accordance with Provincial guidelines. 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.

#### 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 commercial and industrial uses that are directly related to agriculture as described in Section 2.4 of the Official Plan.

Agriculturally related commercial and industrial uses are those that are required in close proximity to farming operations. These are generally permitted within the Agriculture designation subject to the approval of a zone change and site plan control. These uses are generally encouraged to locate within settlement areas except where they are essential to the functioning of agriculture or would cause conflicts in settlement area. Uses that could potentially cause conflicts in settlement areas would include feed mills, livestock assembly yards, and slaughter houses.

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.

Section 3.0 of the Official Plan establishes policies to protect, sustain and enhance the natural and environmental features and functions within the Municipality's Greenland System. Development is not permitted within natural environment areas that contain wetlands, significant habitat of endangered or threatened species and floodplains and flood prone areas. Development should be generally directed away from natural heritage areas, including Significant Woodlands, but may be permitted subject to the satisfactory undertaking of a Development Assessment Report where it can be shown that there will be minimal or no impacts on the form or function of such features.

### Middlesex Centre's Zoning By-law:

The subject property is zoned 'Agriculture (A1)' in Middlesex Centre's Zoning By-law. The current zoning permits the following uses and a minimum lot area of 40 ha (99 ac).

- accessory use
- agricultural use
- bed and breakfast establishment
- conservation use
- converted dwelling
- dog kennel
- forestry use
- grain handling facility, existing legally on the date of the passing of this By-law
- home occupation
- riding school
- single detached dwelling
- portable asphalt plant
- wayside pit

The applicant requests a site-specific "Farm Industrial exception 4 (M3-4)" zone to permit the following uses:

- agricultural sales establishment
- farm equipment sales and service establishment
- market garden
- office as an accessory use
- open storage as an accessory use
- retail store as an accessory use
- tile drainage contractor

The applicant also requests an 'Agriculture exception 51 (A1-51)' zone for the remaining farmland to establish a minimum lot area of 20 ha (49.4 ac).

### **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.

At the time of writing this report, staff did not receive any correspondence from members of the public or neighbouring land owners.

**Agency Comments:**

The Municipality's Chief Building Official reviewed the application and do not have concerns with the rezoning. Detailed comments regarding a future site plan submission were provided.

The Public Works and Engineering Department reviewed the application and do not have concerns with the rezoning. Detailed comments regarding a future site plan submission were provided.

The Director of Emergency Services reviewed the application and provided comments related to a future site plan application. This includes information about water for firefighting information and fire routes.

The County Engineer reviewed the application and provided comments related to the future design of the site and future site plan application. Only one entrance off of each road would be supported. Turning lane improvements may be required and designed to commercial entrance standards. Land dedication to 18 m from the centerline of a County Road will be required.

Upper Thames River Conservation Authority reviewed the application and has no objections to the rezoning.

Since the subject lands are regulated, a stormwater management report will be required to be completed to the satisfaction of the UTRCA through the Site Plan Approval process. has no objections or requirements for this application. Stormwater quantity is required to be managed (pre to post) up to UTRCA's regulatory storm (250 year storm) to ensure no downstream and upstream impacts. If stormwater is proposed to outlet into either watercourse, a Section 28 Permit will be required for the construction of the outlet.

**Analysis:**

Planning Staff have reviewed the Zoning By-law Amendment application against all relevant planning policies and guidelines.

OMAFRA's Guidelines on Permitted Uses (Publication 851) identifies that farm equipment repair shops and sales site can be considered as an agriculture-related or on-farm diversified use. PPS criteria for agriculture-related uses include: farm-related commercial use; shall be compatible with and shall not hinder surrounding agricultural operations; directly related to farm operations in the area; supports agriculture; provides direct products and/or services to farm operations as a primary activity; and benefits from being in close proximity to farm operations.

Planning Staff are of the opinion that the proposed use satisfies the PPS criteria of an agriculture-related use since the operations benefit from being within proximity to farm operations, the use doesn't hinder agricultural operations from continuing or establishing, and provides direct products to the public.

When considering the establishment of new agriculturally related commercial, industrial or tourism uses, or the expansion of existing uses of this type, consideration shall be given to 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.**

The proposed use is limited to 3.46 ha of area located on the south-east corner of the property. The proposed use appears to lead to the loss of productive farm land. Generally, lands within southwestern Ontario are considered prime agricultural land and suitable farming. Lower quality land may be constrained by natural heritage features, servicing operations, access, or topography.

The applicant has advised that opportunities to take advantage of lower quality land are not available in this scenario, and that the site was specifically chosen to cluster with other farm equipment sales and repair establishments to limit potential future conflicts with agricultural uses and livestock operations. The location takes advantage of its proximity to the intersection of two major roads within the rural area.

- b) The amount of land devoted to the use shall include only the minimum necessary to support the use and its servicing needs.**

The applicant has advised that the rezoning will affect a minimum amount of land required for the proposed use. This size is similar to other existing farm equipment sales and repair establishments that are located within Middlesex Centre including one in proximity to the subject land. Further expansion of the business that consumes additional land will require a rezoning.

- 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.**

The proposed use will not depend on municipal water or sewer services, and any servicing will be subject to approval by the appropriate regulatory bodies as necessary.

- 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.**

The property is located at the north-west intersection of Hyde Park Road and Medway Road, and the development proposes direct access to Medway Road. Both roads are suitable for carrying higher levels of traffic and benefit from year-round maintenance.

The property is not located within proximity to a Provincial Highway.

- 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.**

The applicant will be required to enter into a site plan agreement with the Municipality.

- 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.**

A severance is not necessary to accommodate the land use. However, the land owner may option for a severance from the agricultural lands and this will be subject to the consent policies within the Official Plan.

- 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.**



MDS I setbacks from existing livestock facilities and anaerobic digesters will generally not be needed for land use planning applications which propose agriculture-related uses and on-farm diversified uses. However, some proposed agriculture-related uses and on-farm diversified uses may exhibit characteristics (i.e. high density of human occupancy) that could lead to potential conflicts with surrounding livestock facilities or anaerobic digesters. Therefore, it may be appropriate for municipalities to require an MDS I setback to permit certain types of these 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.**

Generally buffering between commercial or industrial operations and residential uses will require visual screening and noise mitigation buffers, and it is usually addressed through site plan review. The subject lands immediately abut agricultural uses and are sufficiently distanced from nearby rural residential uses.

Planning Staff reviewed the proposal and are support of the permitting a variety of agricultural and agriculture-related uses that support existing agricultural businesses.

Planning Staff reviewed the proposed permitted uses list with the “Farm Industrial exception 4 (M3-4)” Zone and find them appropriate for site, proposed use, and is compatible with surrounding land uses. Planning Staff reviewed the concept plan and general find that the new establishment will meet other provisions of the “Farm Industrial (M3)” zone.

Planning Staff reviewed the request to establish a minimum lot size of 20 ha for the remaining agricultural land. Planning Staff are of the opinion that an application to establish the minimum lot size for the farmland is not necessary to accommodate the rezoning to the “Farm Industrial (M3)” zone. However, it can be evaluated at this time as the applicant has advised they may proceed with the severance application and the zone change would be required as a result of the severance application. Further, the Zoning By-law states that zone boundaries are interpreted as lot boundaries. Therefore, Planning Staff do not foresee unintended conflicts as a result of this rezoning request, and stress that the reduced minimum lot size of 20 ha is a direct result of the proposed agriculture-related use and will not be considered to support farm splits of undersized agricultural parcels or similar severance applications.

Given the above, Planning Staff recommend to amend the requested Zoning By-law Amendment Application to establish site-specific “Farm Industrial exception 4 (M3-4)” and “Agricultural exception 51 (A1-51)” zones is appropriate for the development of the land for an agriculture related use. Planning Staff determined that the Zoning By-law Amendment 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 without the benefit of a public meeting and 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:

- Vibrant Local Economy

**Attachments:**

Attachment 1 – Location Map

Attachment 2 – Planning Justification Report

Attachment 3 – Concept Plan