



**Meeting Date:** January 29, 2025

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

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

**Report No:** PLA-4-2025

**Subject:** Applications for Consent (B21-2024) and Zoning By-law Amendment (ZBA-22-2024), filed by Bondeesue Holdings (Dan Brown) on behalf of Mark Watson

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**Recommendation:**

THAT Consent Application B-21/2024 filed by Bondeesue Holdings (Dan Brown) on behalf of Mark Watson in order to sever a lot with a frontage of approximately 193.4 m (634.5 ft) on Highbury Avenue North, and an area of approximately 2.8 ha (6.9 ac), and the retained a frontage of approximately approximately 279.6 m (917.3 ft) on Highbury Avenue North, and an area of approximately 35.5 ha (87.7 ac), for a property legally described as Concession 8 N PT Lot 8, in the Municipality of Middlesex Centre, County of Middlesex, and is municipally known as 15309 Nine Mile Road; be GRANTED;

AND THAT Consent B-21/2024 be subject to the following conditions:

1. That the Certificate of Consent under Section 53(42) of the *Planning Act* shall be given within two years of the date of the notice of the decision. The request for the Certificate of Consent shall be accompanied by a written submission that details how each of the conditions of severance has been fulfilled.
2. That the fee for the Certificate of Consent be paid in accordance with the Municipality's Fees and Charges By-law.
3. That a draft reference plan be prepared by an Ontario Land Surveyor for the purposes of facilitating the transaction of Consent B-21/2024, and that this plan be approved by the Municipality prior to being deposited with the Land Registry Office.
4. That the Owner's solicitor provide a Transfer in Preparation to the Municipality, together with a deposited reference plan and a Schedule describing the land to be transferred, for the purposes of the issuance of a Certificate of Consent.

5. That the Owner's solicitor submit an undertaking in a form satisfactory to the Municipality to register an electronic transfer of title consistent with the Consent decision.
6. That any outstanding property taxes for the severed and retained lots of Consent B-21/2024 be paid in full.
7. That, if necessary a revised assessment schedule in accordance with the Drainage Act, as amended, be commissioned and paid for by the Owner.
8. That the owner pay a cash-in-lieu of parkland dedication consistent with Municipalities Fee By-law.
9. That, if necessary, the owner will be required to dedicate lands up to 13 m from the centerline of construction of Nine Mile Road of the retained and severed parcels to the Municipality of Middlesex Centre for the purposes of road widening if the right of way is not already to that width.
10. That, if necessary, the owner will be required to dedicate lands up to 18 m from the centerline of construction of Highbury Avenue North of the retained and severed parcels to the County of Middlesex for the purposes of road widening if the right of way is not already to that width.
11. The owner will be required to dedicate a 0.3 m reserve along County Road 23 (Highbury Ave N) to the County of Middlesex such that all access will be restricted to Nine Mile Road if the parcel is merged with the land at 15301 Nine Mile Road.
12. That a Zoning By-law Amendment that recognizes the agricultural commercial use of the severed lot and reduced farm size of the retained lot of Consent B-21/2024 be in full force and effect.

AND THAT the reasons for granting Consent application B-21/2024 include:

- The proposal is consistent with the Provincial Planning Statement;
- The proposal conforms to the County of Middlesex Official Plan and the Middlesex Centre Official Plan; and
- The proposal complies with the Middlesex Centre Comprehensive Zoning By-law.

AND FURTHER THAT Zoning By-law Amendment application ZBA-22-2024, filed by Bondeesue Holdings (Dan Brown) on behalf of Mark Watson, to rezone the subject land from the 'Agricultural (A1)' zone to the 'Farm Industrial exception 5 (M3-5)' and 'Agricultural exception 52 (A1-52)' zones for the land legally described as Concession 8 N Pt Lot 8 (former Township of London) and known as 15309 Nine Mile Road, Municipality

of Middlesex Centre, be APPROVED and that the implementing By-law be forwarded to Council for consideration once a deposited reference plan has been provided to the satisfaction of the Municipality.

**Purpose:**

This report is to provide Council with a recommendation regarding a proposal to rezone the lands from 'Agricultural (A1)' to the 'Farm Industrial (M3)' Zone and a new site-specific 'Agriculture exception 52 (A1-52)' Zone, and to sever a parcel with an area of 2.8 ha (6.9 ac) in area with a frontage of approximately 193.4 m (634.5 ft) on Highbury Avenue North.

The property is located southeast of the intersection of Nine Mile Road and Highbury Avenue North. The land is legally described as Concession 8 N Pt Lot 8 (geographic Township of London), Municipality of Middlesex Centre, and is municipally known as 15309 Nine Mile Road.

A location map is included as Attachment 1.

**Background:**

The purpose and effect of the Zoning By-law Amendment is to rezone the lands from 'Agricultural (A1)' to the 'Farm Industrial (M3)' Zone to permit a new farm equipment sales and service establishment and related uses. The remaining farmland will be rezoned to a new site-specific 'Agriculture exception 52 (A1-52)' Zone to recognize a minimum lot area of 35.5 ha (87.7 ac).

The purpose and effect of the Consent application would sever a parcel of land that would contain the proposed farm equipment sales and service establishment. The severed parcel will have an area of approximately 2.8 ha (6.9 ac) in area with frontage of 193.4 m (634.5 ft) on Highbury Avenue North, and is proposed to be added to the land at 15301 Nine Mile Road. The retained farmland would be approximately 35.5 ha (87.7 ac) with a frontage of approximately 497 m (1, 630 ft.) on Nine Mile Road.

The subject land is approximately 38.3 ha (94.6 ac) in area and has frontages of 473 m (1,551 ft) on Highbury Avenue North (County Road 23) and 497 m (1,630 ft) on Nine Mile Road. The land contains a single detached dwelling and outbuildings that are accessed from Nine Mile 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 Highbury Avenue North. The concept plan is subject to refinement and will be reviewed in greater detail during the Site Plan Approval process. The sketch is appended to this report as Attachment 2.

## **Policy Regulation:**

### **Provincial Planning Statement, 2024:**

Section 3 of the Planning Act requires all decisions made under the Act “to be consistent with” the Provincial Planning Statement, 2024 (PPS). The following PPS policies are relevant to the proposed development and need to be considered when evaluating the subject applications.

Section 4.3 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. Agriculture-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 identified 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.

Section 10.3.2 guides severances within Agricultural Areas. The following policies apply to severance applications within the Agricultural designation.

*"10.3.2.1 Severances within agricultural areas will be prohibited, except under the following specific circumstances:*

*b) Severances for agriculture-related commercial and industrial uses may be considered, subject to additional policies of this Plan in Section 2.3."*

### **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 to rezone the severed parcel to the 'Farm Industrial (M3)' Zone to permit the following uses including a *farm equipment sales and service establishment*.

accessory use  
abattoir  
animal hospital  
agricultural processing establishment  
agricultural sales establishment  
dog kennel  
grain handling facility  
farm equipment sales and service  
livestock sales and marketing yard  
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 52 (A1-52)' zone for the remaining farmland to establish a minimum lot area of 35.5 ha (87.7 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 did not provide comments. Detailed comments regarding a future site plan submission were provided.

The Public Works and Engineering Department reviewed the application and did not provide comments. Detailed comments regarding a future site plan submission were provided.

The Director of Emergency Services/Fire Chief reviewed the application and did not provide comments. Detailed comments regarding a future site plan submission were provided.

The County Engineer reviewed the application and indicated that the owner will be required to dedicate lands up to 18 m from the centreline of construction of County Road 23 (Highbury Ave N) to the County of Middlesex across the severed and retained parcels for the purposes of road widening if the right of way is not already to that width.

The owner will be required to dedicate a 0.3 m reserve along County Road 23 (Highbury Ave N) to the County of Middlesex such that all access to the newly merged parcels will be restricted to Nine Mile Road which is the currently existing arrangement for the commercial site.

Upper Thames River Conservation Authority did not provide any comments at the time of writing this report.

### **Analysis:**

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

The Middlesex Centre Official Plan permits severances for agriculture-related commercial and industrial uses subject to additional policies of Section 2.3 and 2.4 of the Official Plan. Agriculture-related commercial uses are permitted where they directly relate to agriculture and are in proximity to farming operations.

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 2.8 ha (6.9 ac) in area and abuts an existing agriculture-related commercial business. The proposed use appears to lead to the loss of productive farmland. Generally, lands within southwestern Ontario are considered prime agricultural land and suitable for farming. Lower quality land may be constrained by natural heritage features, servicing operations, access, or topography.

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 abutting the subject land. Further expansion of the business that consumes additional land will require additional planning applications in the future.

- 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 south-east of the intersection of Highbury Avenue North and Nine Mile Road, and the development proposes direct access to Highbury Avenue North. Highbury Avenue North is 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 severance has been requested to separate the ownership and proposed business from the agricultural parcel.

- 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 (M3)” Zone and find most complementary to the proposed *farm equipment sales and service establishment*. Planning Staff did not review the merits of an *abattoir* and *grain handling facility* on the subject land and in consideration of adjacent land uses, and recommend that they be removed from the list of Permitted Uses within the requested zone for the subject lands.

Planning Staff reviewed the request to establish a minimum lot size of 35.5 ha (87.7 ac) for the remaining agricultural land. Planning Staff do not foresee unintended conflicts as a result of this rezoning request, and stress that the reduced minimum lot size of 35.5 ha (87.7 ac) 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 that the Consent application be approved, subject to conditions and recommend to amend and approve the Zoning By-law Amendment application to establish site-specific ‘Farm Industrial exception 5 (M3-5)’ Zone and ‘Agricultural exception 52 (A1-52)’ Zone as the zones are appropriate for the development of the land for an agriculture-related use(*farm equipment sales and service establishment*). Planning Staff determined that the applications are consistent with the Provincial Planning Statement, 2024, 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 – Applicant’s Sketch