



Meeting Date: December 18, 2024

Prepared By: Marion-Frances Ramos Cabral, Planner

Submitted by: Marion-Frances Ramos Cabral, Planner

Report No: PLA-67-2024

Subject: Applications for Consent (B-17/2024) and Zoning By-law Amendment (ZBA-10-2022 and ZBA-17-2024) for 13326 Fourteen Mile Road; filed by SBM Limited on behalf of JTW Farms Inc.

Recommendation:

THAT Zoning By-law Amendment application (ZBA-10-2022), filed by SBM Limited on behalf of JTW Farms Inc. and as amended by staff, to rezone the subject land from the 'Agricultural (A1)' zone to the 'Farm Industrial exception 5 (M3-5)(h-10)' and 'Agricultural exception 53 (A1-53)' zones for the land legally described as Concession 14 S PT Lot 25 (former Township of London), Municipality of Middlesex Centre and known as 13326 Fourteen Mile Road, be APPROVED;

AND THAT Zoning By-law Amendment application (ZBA-17-2024) for a temporary use zone, filed by SBM Limited on behalf of JTW Farms Inc., to permit two single-detached dwellings on one property for up to three years to allow a new residence to be constructed on the land known as 13326 Fourteen Mile Road, Municipality of Middlesex Centre, be APPROVED;

AND THAT the owner be required to enter into a new Temporary Use Agreement with the Municipality and submit a deposit of \$15,000 to ensure the removal of the existing residence or conversion in an office as an accessory use;

AND THAT the Owner must also obtain a change of use permit if they are to convert the existing dwelling into an office as an accessory use;

AND THAT Consent Application B-17/2024, filed by SBM Limited on behalf of JTW Farms Inc. for lands legally described as Part of Lot 4, Concession 14 S PT Lot 25 (former Township of London), Municipality of Middlesex Centre and known as 13326 Fourteen Mile Road, be GRANTED subject to conditions;

AND FURTHER THAT Consent B-17/2024 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 met.
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-17/2024 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-17/2024 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 a Zoning By-law Amendment that recognizes the undersized nature of the remnant farm parcel and farm industrial use on the severed parcel of Consent B-17/2024 be in full force and effect.
9. That the severed land requires its own entrance, address and any laneway connecting the retained and severed land shall be altered in such a way that one cannot travel from one parcel of land to the other.
10. That the hydro service for the severed lands be fully within the boundary of the proposed severed lot.
11. That the owner pay a cash-in-lieu of parkland dedication in the amount identified within the Municipality's Fees and Charges By-law.
12. That an address be assigned and number erected for the retained agricultural parcel.
13. That the Owner will be required to dedicate lands up to 13 m from the centerline of construction of Hyde Park Road across the retained parcel to the Municipality

of Middlesex Centre for the purposes of road widening if the right-of-way is not already to that width.

AND FURTHER THAT the reasons for granting Consent Application B-17/2024 include:

- The proposal is consistent with the Provincial Planning Statement, 2024;
- The proposal conforms to the County of Middlesex Official Plan and the Middlesex Centre Official Plan; and
- Subject to the conditions, the proposal would comply with the Middlesex Centre Comprehensive Zoning By-law.

Purpose:

This report is to provide Council with a recommendation regarding a proposal to sever and rezone lands to recognize an existing grain handling facility, and to temporarily rezone the lands for a period of 3 years to allow the construction of a new single detached dwelling while one exists. The existing dwelling is proposed to be converted into an office accessory to the grain handling facility.

The subject property is located on the northwest corner of Hyde Park Road and Fourteen Mile Road. The land is legally described as Concession 14 S PT Lot 25 (geographic Township of London), Municipality of Middlesex Centre.

A location map of the subject lands is included as Attachment 1.

Background:

The purpose and effect of the Consent application is to sever the existing grain handling facility onto a 3.3 ha (8.1 ac) parcel with 194 m (636.5 ft) of frontage on Fourteen Mile Road. The retained farmland would be approximately 37.7 ha (93.1 ac) with a broken frontage of 350 m (1, 148 ft.).

The purpose and effect of the Zoning By-law Amendment is to rezone the severed lands from ‘Agricultural (A1)’ to a new site-specific ‘Farm Industrial exception (M3-X)’ zone to permit an existing grain handling facility and other compatible uses. The remnant farmland will be rezoned to a new site-specific "Agricultural exception (A1-x)" zone to recognize a minimum lot area of 37.0 ha (93 ac) and existing farm industrial uses. A summary of the rezoning requests shown in the table below:

	Relief Requested	
	Farm Industrial exception (M3-x) zone	Agricultural exception (A1-x) zone
Minimum Lot Area	<i>No change requested</i>	37 ha (93 ac)

	Relief Requested	
	Farm Industrial exception (M3-x) zone	Agricultural exception (A1-x) zone
Permitted Uses	Farm Chemical and Fertilizer Storage and Sales as an accessory use Grain Handling Facility Office as an accessory use Open Storage as an accessory use Any other uses permitted in Section 5.1.1 of this By-law	<i>No change requested</i>
Permitted Use Restriction	Notwithstanding Section 20.2.2. of this Bylaw, a Grain Handling Facility shall be subject to the following requirements: <ul style="list-style-type: none"> i Minimum Front Yard Setback 80 m (262.4 ft) ii Minimum Internal Side Yards Setback 17 m (55.7 ft) iii Minimum Rear Yard Setback 20 m (65.6 ft) 	Notwithstanding any other provisions of this By-law, a single detached dwelling shall be setback a minimum 150 m from a Grain Handling Facility.

A subsequent Zoning By-law Amendment Application was filed, and the purpose and effect of the rezoning application is to temporarily permit two single-detached dwellings for a period not to exceed three years which allows the construction of a new residence on the subject land. The existing residence is intended to be converted into an office (as an accessory use) for the existing grain handling facility or be removed from the land upon expiration of the three-year period or the occupancy of the new single-detached dwelling; whichever occurs first.

The subject land is approximately 40 ha (99 ac) in area and contains a single detached dwelling and grain handling facility, and is actively farmed. The property contains a small woodlot in the north-west corner and is surrounded by agricultural uses, agriculturally-related uses, and rural residential uses.

The applicant provided a Planning Justification Report (Attachment 2) and concept plan (Attachment 3) that details and shows the proposed severed lot and existing grain handling facility. Access to the severed and retained parcel will remain off Fourteen Mile Road. No new development is proposed in relation to the grain handling facility.

Policy Regulation:

The property is designated 'Agricultural Area' within the County of Middlesex Official Plan, and 'Agriculture' within the Middlesex Centre Official Plan. The land is also zoned 'Agricultural (A1)' within Middlesex Centre's Zoning By-law. As such, the policies and provisions below are applicable to the land.

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

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.

Sections 10.3 and 10.3.2 of the Official Plan provides policies that apply to severance applications within the Agriculture designation. Severances within agricultural areas will be prohibited, except under the following circumstances:

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

Additionally, the fragmentation of existing farm lots will be strongly discouraged. Severances for new farm lots will not be permitted where a farm lot of less than 40 hectares will result. It is the policy of this Plan that farm lot size shall be sufficiently large to create large continuous farming blocks and maintain long term flexibility to adapt to future changes in agriculture, and to avoid the unwarranted fragmentation of farm land.

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 5 (M3-5)" zone to permit the following uses and establish reduced setbacks to lot lines for grain handling facilities:

- Farm Chemical and Fertilizer Storage and Sales as an accessory use
- Grain Handling Facility
- Office as an accessory use
- Open Storage as an accessory use
- Any other uses permitted in Section 5.1.1 of this By-law

The applicant also requests an 'Agriculture exception 53 (A1-53)' zone for the remaining farmland to establish a minimum lot area of 37 ha (93 ac).

Consultation:

Notice was distributed to applicable agencies, and a notice was posted on the site and made available online due to the ongoing Canada Post strike.

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 all applications and has no objection.

The Public Works and Engineering Department reviewed all applications and identified concerns with the need to sever the grain handling facility off the farm, and the use of the existing dwelling for residential uses in the future.

Analysis:

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

Zoning By-law Amendment

OMAFRA's Guidelines on Permitted Uses (Publication 851) identifies that grain dryers, fertilizer storage and distribution facilities can be considered as an agricultural or agriculture-related use. PPS criteria for agriculture-related uses include: farm-related industrial 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 severed parcel containing the existing grain handling facility is limited to 3.3 ha of area located in the south-east of the property. The severed parcel is limited to the general area of the grain handling facility and excludes actively farmed 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.

- 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-related commercial and industrial facilities located within Middlesex Centre. Further expansion of the facility can be accommodated on the severed parcel.

- 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 Fourteen Mile Road, and the development proposes to retain its direct access to Fourteen Mile Road. Fourteen Mile Road is not hard-surfaced, however, the grain handling facility access is located in proximity to the intersection and minimizes impact to the road.

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 for any new development.

- 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, further evaluation is provided below in accordance with Section 10.3.

- 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.

When introducing new sensitive land uses including residential uses in proximity to the grain handling facility, considerations for noise must be assessed prior to development. The applicant has suggested that a new dwelling will be built on the retained farmland. The applicant proposes a minimum setback of 150 m from the existing grain handling facility. Planning Staff support an enhanced setback, however, it is not known how the setback was determined and if additional mitigation measures are required. Planning Staff suggest that a noise study be completed prior to the construction of the new dwelling to determine the appropriate setback and any other mitigation measures that need to be taken. As such, Planning Staff recommend a holding symbol be placed on the retained farm parcel to ensure a noise study is completed before the new dwelling is built.

Planning Staff reviewed the proposed permitted uses list with the “Farm Industrial exception 5 (M3-5)” Zone and suggest that compatible agricultural and farm-related agricultural uses are also permitted on the severed parcel. Specifically, Planning Staff recommend the following list of permitted uses: Accessory Use; Agricultural Use, excluding livestock barns; Conservation Use; Farm Chemical and Fertilizer Storage and Sales as an accessory use; Forestry Use; Grain Handling Facility; Office as an accessory use; Open Storage as an accessory use; Portable asphalt plant; and a Wayside pit.

Planning Staff reviewed the request to establish a minimum lot size of 37 ha for the remaining agricultural land. Planning Staff do not foresee unintended conflicts as a result of this rezoning request as the farmland is general large enough to support a variety of agricultural uses for the long-term. Planning Staff note that the reduced minimum lot size of 37 ha is a direct result of the existing grain handling facility and will not be considered to support farm splits of undersized agricultural parcels or severance applications for non-agricultural uses in conformity with the Official Plan and the PPS, 2024.

To summarize, Planning Staff recommend approval of the following provisions in the new site-specific zones:

- Agriculture exception 53 with Hold (A1-53)(h-10) Zone
 - o MINIMUM LOT AREA 37 ha (93 ac)
 - o HOLDING SYMBOL (h-10)
The “(h-10)” holding symbol shall not be removed until a noise study is completed in accordance with provincial guidelines that examines the noise sources in the area that includes but are not limited to the grain handling facility. The study shall be to the satisfaction the Municipality of Middlesex Centre and any mitigation recommendations, including setbacks and building design, are implemented.
- Farm Industrial exception 5 (M3-5) Zone
 - o PERMITTED USES
 - Accessory Use
 - Agricultural Use, excluding livestock barns
 - Conservation Use
 - Farm Chemical and Fertilizer Storage and Sales as an accessory use
 - Forestry Use
 - Grain Handling Facility
 - Office as an accessory use
 - Open Storage as an accessory use
 - Portable asphalt plant
 - Wayside pit

- GRAIN HANDLING FACILITY

Notwithstanding Section 20.2.1 of this By-law, a grain handling facility located in the Farm Industrial (M3-5) Zone shall have the following setbacks:

- i) Minimum Front Yard Setback 80 m (262.4 ft)
- ii) Minimum Internal Side Yard Setback 17 m (55.7 ft)
- iii) Minimum Rear Yard Setback 20 m (65.6 ft)

Temporary Use Zoning By-law Amendment

The effect of the Zoning By-law amendment application is to replace an existing single-detached dwelling with a new single-detached dwelling. In general, the use of a dwelling as a primary residence is permitted on this property as established in the Middlesex Centre Official Plan and Zoning By-law. Staff do not anticipate an increase in traffic or parking requirements for the residence as the new dwelling will be under construction, and the existing dwelling will be converted into an office associated with the grain handling facility or removed.

Staff have also advised the applicant that a security deposit of \$15,000 is requested through a temporary use agreement between the landowner and the Municipality to ensure the existing residence is converted into an office or removed upon completion of the new residence.

Consent

Planning Staff evaluated the requested consent against policies of Section 10.3 and 10.3.2 and are generally satisfied that the consent meets the intent of the policies to related to farm industrial uses and maintain a large viable farm parcel. Planning Staff recommend approval of the consent subject to 12 conditions to address servicing, addressing, and zoning of the land.

Given the above, Planning Staff recommend approval of Zoning By-law Amendment Applications, as amended by Staff, to establish site-specific “Farm Industrial exception 5 (M3-5)” and “Agricultural exception 53 (A1-53)” zones, and a Temporary Use Zone, and recommend that the Consent application be approved subject to the conditions outlined in this report. Planning Staff determined that the Zoning By-law Amendment and Consent 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.

Attachments:

Attachment 1 – Location Map

Attachment 2 – Planning Rationale Report

Attachment 3 – Concept Plan