



THE CORPORATION OF THE TOWN OF AMHERSTBURG

OFFICE OF DEVELOPMENT SERVICES

MISSION STATEMENT: *Committed to delivering cost-effective and efficient services for the residents of the Town of Amherstburg with a view to improve and enhance their quality of life.*

Author's Name: Sarah French	Report Date: January 27, 2023
Author's Phone: 519 736-5408 ext. 2145	Date to Council: February 13, 2023
Author's E-mail: sfrench@amherstburg.ca	Resolution #:

To: Mayor and Members of Town Council

Subject: Zoning By-law Amendment ZBA-25-22 for 7601 Middle Sideroad

1. **RECOMMENDATION:**

It is recommended that:

1. **By-law 2023-006** being a by-law to amend Zoning By-law No. 1999-52, to amend the zoning for the subject lands known as 7601 Middle Sideroad be taken as having been read three times and finally passed and the Mayor and Clerk **BE AUTHORIZED** to sign same.

2. **BACKGROUND:**

The Town is in receipt of an application for a Zoning By-law Amendment to By-Law 1999-52 from Ronnie and Loredana Quaggiotto and their acting agent Tracey Pillon-Abbs. The subject lands are located on the south side of Middle Sideroad between Howard Avenue and Concession 8 and are municipally known as 7601 Middle Sideroad (refer to Figure 1 in attachments).

A Statutory Public Meeting under the Planning Act was held on January 9, 2023, at which comments were received from members of the community and Council. Following the January 9, 2023 meeting, Administration worked with the applicants and their agent (Tracey Pillon-Abbs) to address comments and bring forward this report for Council's consideration.

3. DISCUSSION:

The submitted application seeks to establish a site-specific zone to add a retail store as a permitted use on the subject lands. As shown on Figure 1, the site is currently occupied with a single family dwelling, farm building structures and a 48 ft by 50 ft building, currently operating as the Farmhouse Market. The proposed Zoning By-law Amendment would permit the continued use of the 48 ft by 50 ft building as a retail store, while allowing the property owners to continue agricultural uses on the land. The by-law being brought forward to Council will allow for the applicants to continue retail uses in the existing retail store building while limiting any additional retail stores on the site.

The submitted application is consistent with the Provincial Policy Statement and in conformity with the County of Essex Official Plan and the Town of Amherstburg Official Plan. The applicant's planner, Tracey Pilon-Abbs, has submitted a Planning Justification Report, which is attached to this report.

The following section will identify the planning rationale to support the recommendation of this report.

Provincial Policy Statement

The Provincial Policy Statement was issued under Section 3 of the Planning Act and came into effect on May 1, 2020. The Provincial Policy Statement provides policy direction on matters of provincial interest related to land use planning and development. As a key part of Ontario's policy-led planning system, the Provincial Policy Statement sets the policy foundation for regulating the development and use of land. It also supports the provincial goal to enhance the quality of life for all Ontarians.

The Provincial Policy Statement provides for appropriate development while protecting resources of provincial interest, public health and safety, and the quality of the natural and built environment. The Provincial Policy Statement supports improved land use planning and management, which contributes to a more effective and efficient land use planning system.

When reviewing a planning application to determine if the requested Zoning By-law Amendment (ZBA) makes sound planning, it is imperative that the proposed development is consistent with the Provincial Policy Statement (PPS).

The PPS provides policy direction for appropriate development while protecting resources of provincial interest, public health and safety, and the quality of the natural environment. The PPS recognizes that the wise management of development may involve directing, promoting, or sustaining growth. Land use must be carefully managed to accommodate appropriate development to meet the full range of current and future needs while achieving efficient development patterns.

The following policy excerpts from the PPS are particularly applicable to the subject application:

2.3 Agriculture

2.3.1 Prime agricultural areas shall be protected for long-term use for agriculture.

Prime agricultural areas are areas where prime agricultural lands predominate. Specialty crop areas shall be given the highest priority for protection, followed by Canada Land Inventory Class 1, 2, and 3 lands, and any associated Class 4 through 7 lands within the prime agricultural area, in this order of priority.

2.3.2 Planning authorities shall designate prime agricultural areas and specialty crop areas in accordance with guidelines developed by the Province, as amended from time to time.

Planning authorities are encouraged to use an agricultural system approach to maintain and enhance the geographic continuity of the agricultural land base and the functional and economic connections to the agri-food network.

2.3.3 Permitted Uses

2.3.3.1 In prime agricultural areas, permitted uses and activities are: agricultural uses, agriculture-related uses and on-farm diversified uses.

Proposed agriculture-related uses and on-farm diversified uses shall be compatible with, and shall not hinder, surrounding agricultural operations. Criteria for these uses may be based on guidelines developed by the Province or municipal approaches, as set out in municipal planning documents, which achieve the same objectives.

2.3.3.2 In prime agricultural areas, all types, sizes and intensities of agricultural uses and normal farm practices shall be promoted and protected in accordance with provincial standards.

2.3.3.3 New land uses in prime agricultural areas, including the creation of lots and new or expanding livestock facilities, shall comply with the minimum distance separation formulae.

County of Essex Official Plan

The County of Essex Official Plan was adopted on February 19, 2014 and was approved by the province on April 28, 2015. All lower tier Official Plans or amendments must comply with the policies of the upper tier Official Plan (County). The applicable County policies that should be considered when assessing the merits of the subject Official Plan Amendment include:

3.3 Agricultural

3.3.2 Goals

The following goals are established for those lands designated as “Agricultural” on Schedule “A1”:

- a) To protect prime agricultural areas for agricultural purposes to ensure the continued long-term availability of this resource.
- b) To promote and protect agricultural uses and normal farm practices on lands within the “Agricultural” designation.
- c) To allow and encourage farm operators to engage in a wide range of agricultural activities.
- d) To restrict the type and amount of non-farm development in the “Agricultural” designation by encouraging non-farm uses to locate in the existing “Settlement Areas” identified on Schedule “A1”.

- e) To only permit the expansions of existing Primary Settlement Areas onto lands designated “Agricultural” where demonstrated need for such an expansion has been justified either through a Local Comprehensive Review or a comprehensive review.
- f) To discourage lot creation in the “Agricultural” designation and establish a County-wide minimum farm parcel size that protects the agricultural land base from fragmentation. The minimum farm parcel size shall ensure that the size of new agricultural lots are appropriate for the type of agricultural use(s) common in the area and are sufficiently large enough to maintain flexibility for future changes in the type or size of agricultural operation.
- g) To ensure new farm and non-farm uses comply with the Minimum Distance Separation Formulae, as amended by the Province from time to time.
- h) To encourage the retention of woodlots as integral components of the farm operation for agroforestry and the other benefits woodlands provide.

3.3.3.1 Permitted Uses

The following uses are permitted within the “Agricultural” designation subject to the policies of this section:

- a) Agricultural Uses, Secondary Uses and Agriculture-Related Uses.
- b) Forestry, conservation uses, wildlife and fisheries management.
- c) Watershed management and flood and erosion control projects carried out or supervised by a public agency.
- d) A single detached dwelling in conjunction with an agricultural use, on an existing lot of record, and on a newly created lot approved as a residence surplus to a farming operation.
- e) Accessory farm accommodation, in accordance with Section 3.3.3.5 of this Plan.
- f) Passive recreational uses such as pedestrian trails.

3.3.3.2 Secondary Uses

Secondary uses are secondary to the principal use of a property and may include, but are not limited to home occupations, home industries, and uses that produce value-added agricultural products from the farm operation on the property. The following policies apply to secondary uses:

- a) Local municipal Official Plans shall contain criteria for the establishment of secondary uses that ensure the following:
 - i) The use shall not hinder surrounding agricultural uses.
 - ii) The amount of land and size of the building devoted to the use is limited in proportion to the principal use and buildings on the property such that the use is clearly secondary to the principal use on the lot.
 - iii) Limits are established on the total number of employees, as well as the number of outside employees that do not reside on the property
 - iv) That the zoning or sign by-law regulate signage.
 - v) That the use does not change the agricultural character of the area.
 - vi) That the use does not create a safety hazard or become a public nuisance, particularly in regard to traffic, parking, noise, noxious odours or other emissions.
 - vii) Limits on outdoor storage.
- b) Home industry uses are occupations, trades, businesses, professions, or crafts that are secondary to the agricultural use or agriculture-related use or residential use on the property.

Home industry uses shall generally be confined to an outbuilding within the existing farm-building cluster and include but are not limited to small engine repair, woodworking and metal working.

Home industry uses shall generally not exceed 90 square metres; however, local Official Plans may provide for larger home industry uses subject to the establishment of policies that:

- i) Demonstrate that the increased size of the use is not more appropriately located within a settlement area.
- ii) Balance the needs of the home industry with the needs of other businesses in the community that contribute to the vitality and mixture of uses within settlement areas and bear the financial risks of site specific operations that are not shared by the relatively insulated home industry.
- iii) Ensure compatibility with adjacent or nearby uses by preventing adverse effects.

3.3.3.3 Agriculture-Related Uses

Agriculture-related uses are farm-related commercial and farm-related industrial uses that are small-scale and directly related to the farm operation and are required in close proximity to the farm operation. Examples include but are not limited to the following:

- a) Seed, pesticide, fertilizer storage (including distribution).
- b) Agricultural storage and processing facilities involving the storage and processing of crops and/or livestock from a local farm operation in the area.
- c) Fruit/vegetable/flower stands & farm markets that retail produce derived from the principal agricultural use on the property.
- d) Wineries, breweries and associated uses, which are secondary and directly related to the principal agricultural use on the property.

Local municipal Official Plans shall contain policies for agriculture-related uses.

Town of Amherstburg Official Plan

The Official Plan currently designates the subject lands as Agricultural (refer to Figure 2). There are several applicable policies that can be referenced in discussion regarding the proposed amendment. These include:

Section 3.2 Agricultural

3.2.1 Goals

The following goals are established for the Agricultural area:

- (1) To preserve and enhance good agricultural land for agricultural purposes;
- (2) To allow farm operators sufficient flexibility to engage in a wide range of agricultural activities;
- (3) To restrict the type and amount of non-farm development in the agricultural area;
- (4) To encourage the retention and enhancement of existing windrows, hedgerows, and small woodlots in order to protect the high quality of landscape, provide habitat for wildlife, mitigate wind erosion and protect surface and groundwater resources; and
- (5) To direct non-agricultural development to Settlement Areas and to control the development of agriculturally related commercial and agriculturally related industrial uses.

3.2.2 Policies

(1) (a) The 'Agricultural' designation on Schedules 'A' and 'B' shall mean that the predominant use of the lands shall be for agriculture and uses connected with the conservation of water, soil, wildlife and other natural resources. The agricultural uses permitted include the growing of crops, including nursery and horticultural crops; raising of livestock; raising of other animals for food, fur or fibre, including poultry and fish; aquaculture; apiaries; agro-forestry; maple syrup production; and associated on-farm buildings and structures including accommodation for full-time farm labour when the size and nature of the operation requires additional employment;

(b) Secondary uses shall be permitted in the 'Agricultural' designation provided they are small-scale, compatible with, and do not hinder surrounding agricultural operations. Such uses shall be secondary to the principal use of the property, namely agriculture, such as farm occupations and home occupations as per Section 3.2.2. (18) of this Plan, bed and breakfast establishments or agricultural trucking establishments;

(c) Agriculture-related commercial and agriculture-related dry processing industrial uses shall be permitted in the 'Agricultural' designation provided they are smallscale, compatible with, and do not hinder surrounding agricultural operations.

Such uses must also be directly related to the farm operation and are required in close proximity to the farm operation such as retail sales of produce grown on the farm, wineries, market gardening, nurseries, bulk seed storage, warehousing of produce, cold storage, and packaging or processing facilities or grain and seed storage facilities. Operations that require significant amounts of water and/or produce significant amounts of effluent will not be permitted;

(18) Farm occupations and home occupations carried out for remuneration and as defined in the Zoning By-Law are permitted in the Agricultural designation. However, the implementing Zoning By-Law shall establish those farm and home occupations that will be permitted without an amendment to the Zoning By-Law and those that will require a site specific amendment to permit the use by way of a defined area.

a) In general, farm occupations that are clearly required to be located in the Agricultural area and provide a service primarily to the agricultural community, such as a tile drainage contractor or a seed corn dealership, will be permitted without a by-law amendment.

b) All other types of farm occupations that are carried out for remuneration such as welding shops, repair shops, etc., will be permitted if they meet all of the regulations/provisions of the Zoning By-Law.

c) Because farm occupations and other types of land uses on adjacent lots may have compatibility problems if located too closely to one another, the Zoning By-Law will ensure that a buffer area is maintained between the uses. To achieve this, the location of new and the expansion of existing farm occupations shall comply with the setback criteria established in the Zoning By-law.

d) Existing farm occupations that do not comply with the requirements of the Zoning By-law will be allowed to continue but will not be permitted to expand without a minor variance or Zoning By-law amendment.

e) Home occupations that are totally contained within the dwelling unit, including attached garages, will be permitted without an amendment to the Zoning Bylaw. However, any home occupation that requires the use of anything on the subject property other than the dwelling, except for parking and a sign will require a Zoning By-law amendment.

f) The municipality may decide to require a business license for all farm and home occupations. If such a by-law is passed in accordance with the Municipal Act, the

provisions of the business license must be adhered to. If the license is revoked, the use will no longer be permitted in accordance with the provisions of the by-law.

g) The development of any new, or expansion of a legally existing commercial or Industrial use which are not farm or home occupations, as defined in the Zoning By-law, are not permitted in the Agricultural designation and shall require an amendment to this Plan. Prior to the Plan being amended, Council must be satisfied that the proposed development cannot locate in an area already appropriately designated, is consistent with the PPS, that the proposed location is in compliance with the minimum distance separation (MDS) formula contained in the Town's Zoning By-law, that any proposed expansion of an existing use shall be limited to the boundaries of the existing site and no conveyance of agricultural land shall be permitted to accommodate the expansion and that the application satisfies the criteria included in Section 8.4 of this Plan.

(Modification # 28)

h) Applications to sever farm or home occupations from the balance of the subject property shall not be allowed.

(19) Agri-tourism, including occasional demonstration events, temporary attractions (e.g. corn field mazes) and farm tours are permitted in the Agricultural designation and may be subject to a temporary use by-law.

Section 6.7 of the Town of Amherstburg Official Plan – Planning Impact Analysis sets out several criteria that must be considered as part of an Official Plan Amendment or Zoning By-law amendment. These include:

6.7 PLANNING IMPACT ANALYSIS

It is a policy of the Official Plan that a Planning Impact Analysis will be used to evaluate applications for an Official Plan Amendment and, depending on the magnitude of the development, a Zoning By-law Amendment, to determine the appropriateness of the proposed change and to identify what measures are needed to reduce any adverse impacts on surrounding land uses. The Planning Impact Analysis will supplement the consideration of compliance with the permitted use, location, scale of development, and other criteria applicable to the relevant land use designation. Proposals for changes in the use of land which require the application of a Planning Impact Analysis will be evaluated based on:

(1) Compatibility of proposed uses with surrounding land uses, and the likely impact of the proposed development on present and future land uses in the area on the character and stability of the surrounding neighbourhood.

(2) The height, location and spacing of any buildings in the proposed development, and any potential impacts on surrounding land uses.

The applicants have provided a Planning Justification Report from Tracey Pillon Abbs, provided in the attachments to this report. Administration concurs with the opinion of the planner for the applicants that the proposed development meets the general intent and purpose of the Official Plan and is compatible with the built form of the neighbouring agricultural and residential uses. The Farm House Market supports the farmers of the subject lands and the farmers of surrounding lands by selling locally produced farm products. The Farm House Market can be considered an on-farm diversified use and the requested amendment will permit the use within the Zoning By-law. The existing Zoning

only permits a 'retail farm sales outlet'. The definition of a 'retail farm sales outlet' does not fully fit the needs of the applicant as they wish to be able to sell a wide variety of goods at their store. By limiting the use of a retail store on the subject lands to only the current location of the Farm House Market, the application is further supported by the Provincial Policy Statement by protecting the remainder of the farmable land from development.

Some questions and concerns were raised by Council and members of the public during the Statutory Public Meeting held on January 9th, 2023. The main concern related to the potential expansion of the retail store in the future and the freedom of the zoning to allow for additional retail stores on the property. The concern has been addressed by amending the proposed by-law so that the property is only permitted one retail store within the existing building and no new buildings for use as retail stores shall be permitted.

4. RISK ANALYSIS:

The recommendation presents little to no risk to the municipality.

5. FINANCIAL MATTERS:

Costs associated with the application and planning processes are the responsibility of the applicant. Should the decision be appealed to the Ontario Land Tribunal then the Town will incur costs.

6. CONSULTATIONS:

The Notice of Public Meeting was published in the local newspaper and circulated to the required agencies, property owners and municipal departments in accordance with the requirements of the Planning Act, R.S.O. 1990, c.P. 13 and associated regulations.

No further consultation is required.

7. CONCLUSION:

It is the opinion of administration that the Zoning By-law Amendment allows for the appropriate development of the subject lands, is consistent with the policies of the Provincial Policy Statement, 2020, and conforms with the policies of the County of Essex Official Plan and the Town of Amherstburg Official Plan.

Administration recommends that Zoning By-law 2023-006 be approved by Council, given three readings and finally passed and the Mayor and Clerk be authorized to sign same.



Sarah French
Planner

Report Approval Details

Document Title:	Zoning By-law Amendment ZBA-25-22 for 7601 Middle Sideroad.docx
Attachments:	<ul style="list-style-type: none">- ZBA-25-22 Aerials.pdf- ZBA-25-22 7601 Middle Sideroad Site Photos.pdf- ZBA-25-22 PJR 7601 Middle Side Road Amherstburg FINAL.pdf- ZBA-25-22 Farmhouse Market Site Plan.pdf- ZBA-25-22 Circulation List and Map.pdf- ZBA-25-22- Summary of Comments Recieved.pdf- 2023-006 ZBA- 7601 Middle Sdrd.pdf
Final Approval Date:	Feb 8, 2023

This report and all of its attachments were approved and signed as outlined below:

No Signature found

Chris Aspila



Melissa Osborne



Tracy Prince



Valerie Critchley



