

TO:	CHAIR AND MEMBERS PLANNING & ENVIRONMENT COMMITTEE
FROM:	JOHN M. FLEMING MANAGING DIRECTOR, PLANNING AND CITY PLANNER
SUBJECT:	APPLICATION BY: HYDE PARK EQUIPMENT LTD. 4166 SCOTLAND DRIVE PUBLIC PARTICIPATION MEETING ON NOVEMBER 28, 2016

RECOMMENDATION

That, on the recommendation of the Managing Director, Planning and City Planner, with respect to the application of Hyde Park Equipment Ltd. relating to the property located at 4166 Scotland Drive, the proposed by-law attached hereto as Appendix "A" **BE INTRODUCED** at the Municipal Council meeting on December 6, 2016 to amend Zoning By-law No. Z.-1, in conformity with the Official Plan, to change the zoning of the subject property **FROM** a Resource Extraction (EX) Zone, **TO** a Holding Agricultural Commercial (h-18●AGC1) Zone;

PREVIOUS REPORTS PERTINENT TO THIS MATTER

None.

EXECUTIVE SUMMARY

Summary of Proposal

The purpose and effect of this requested zone change is to permit an agriculturally-related commercial use that includes the sale and service of farm equipment. The area to be rezoned is currently used for agricultural production, and the proposed use will include a 1,400 m² retail/service building, a 930 m² warehouse building, and related parking, display, and loading areas.

Summary of Recommended Action

The recommend Zoning By-law amendment for a 3.05 ha portion of the property includes a change from a Resource Extraction (EX) Zone to a Holding Agricultural Commercial (h-18●AGC1) Zone that permits a variety of agriculturally related commercial uses including the proposed farm equipment sales and service use. The holding zone will require that an archaeological assessment be completed and all of its recommendations implemented before development or site alteration can occur. A holding zone will be applied because the applicant was unable to prepare an archaeological assessment before the crops are harvested.

Rationale for Recommended Action

The application is recommended to be approved based upon the following rationale:

- The proposed amendment is consistent with the Provincial Policy Statement (2014),
- The proposed amendment conforms to the Official Plan policies and meets the location criteria for agriculturally-related commercial uses in the Agricultural land use designation;
- The proposed amendment conforms to *The London Plan*; and
- The proposed development is appropriate and will support existing local farm operations.

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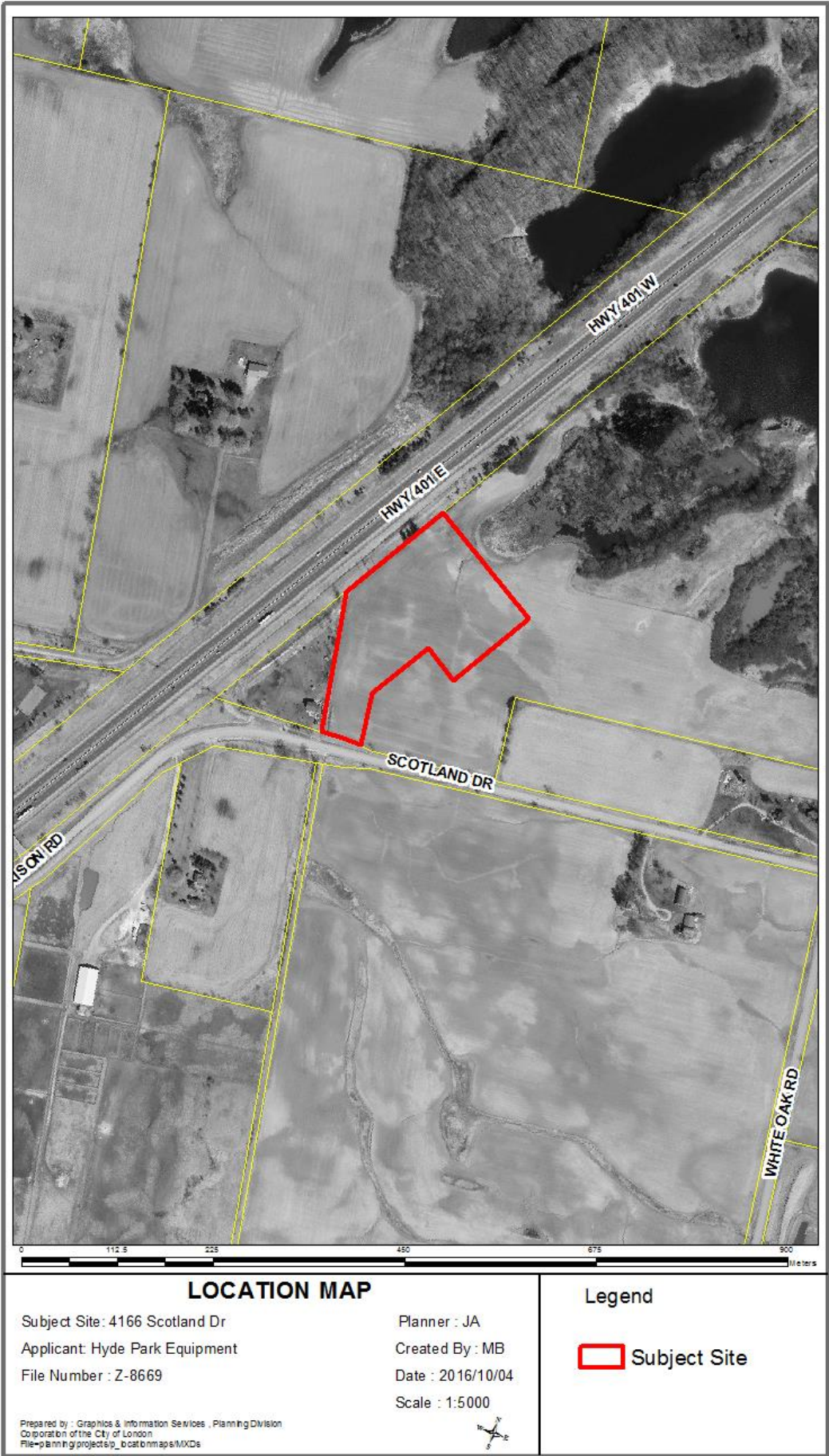
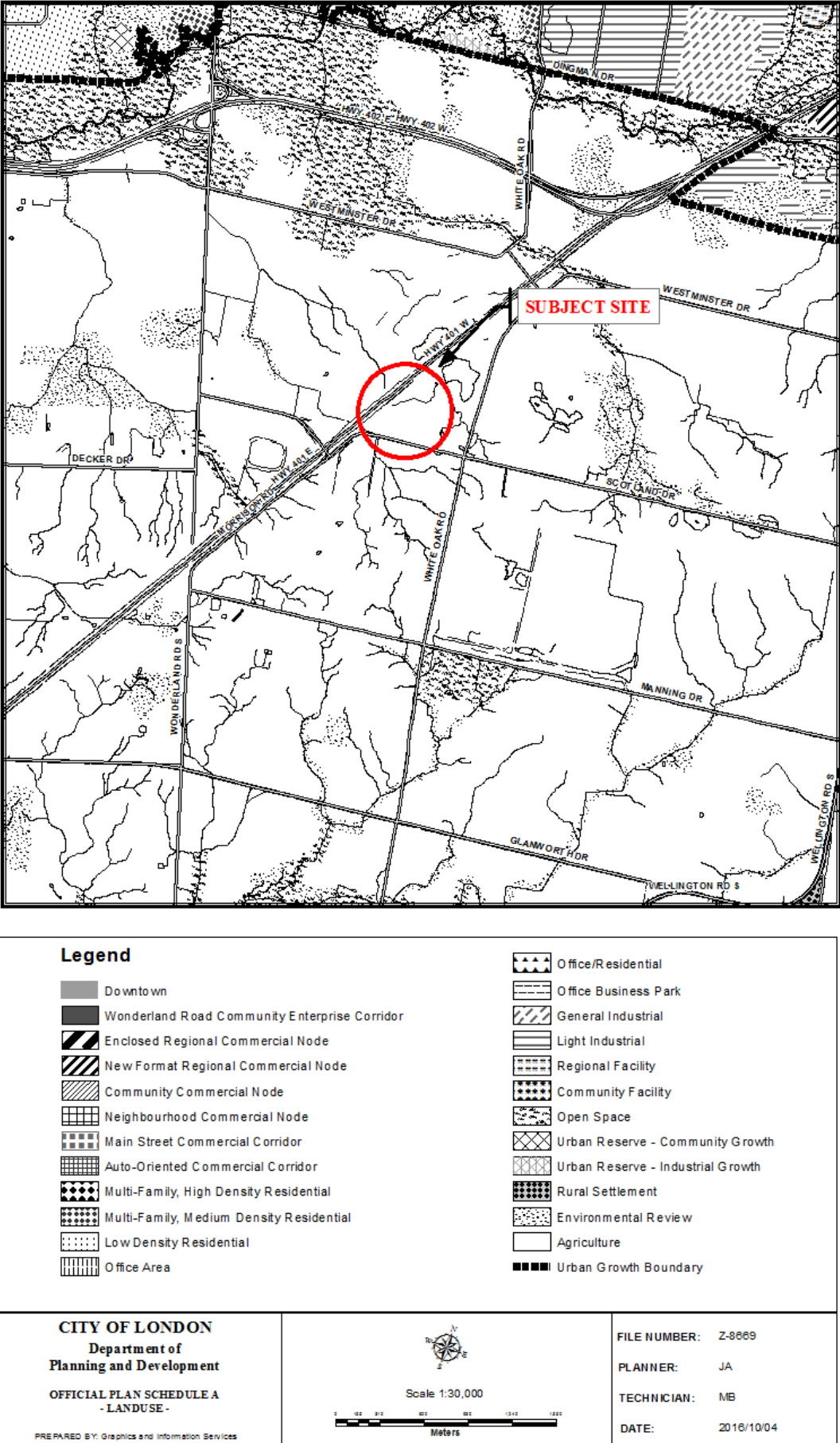


Figure 1 – Location Map



PROJECT LOCATION: e:\planning\projects\ip_officialplan\work\consolid0\excerpts\mod_templates\scheduleA_b&w_8x14_with_SWAP.mod

Figure 2 – Official Plan Map

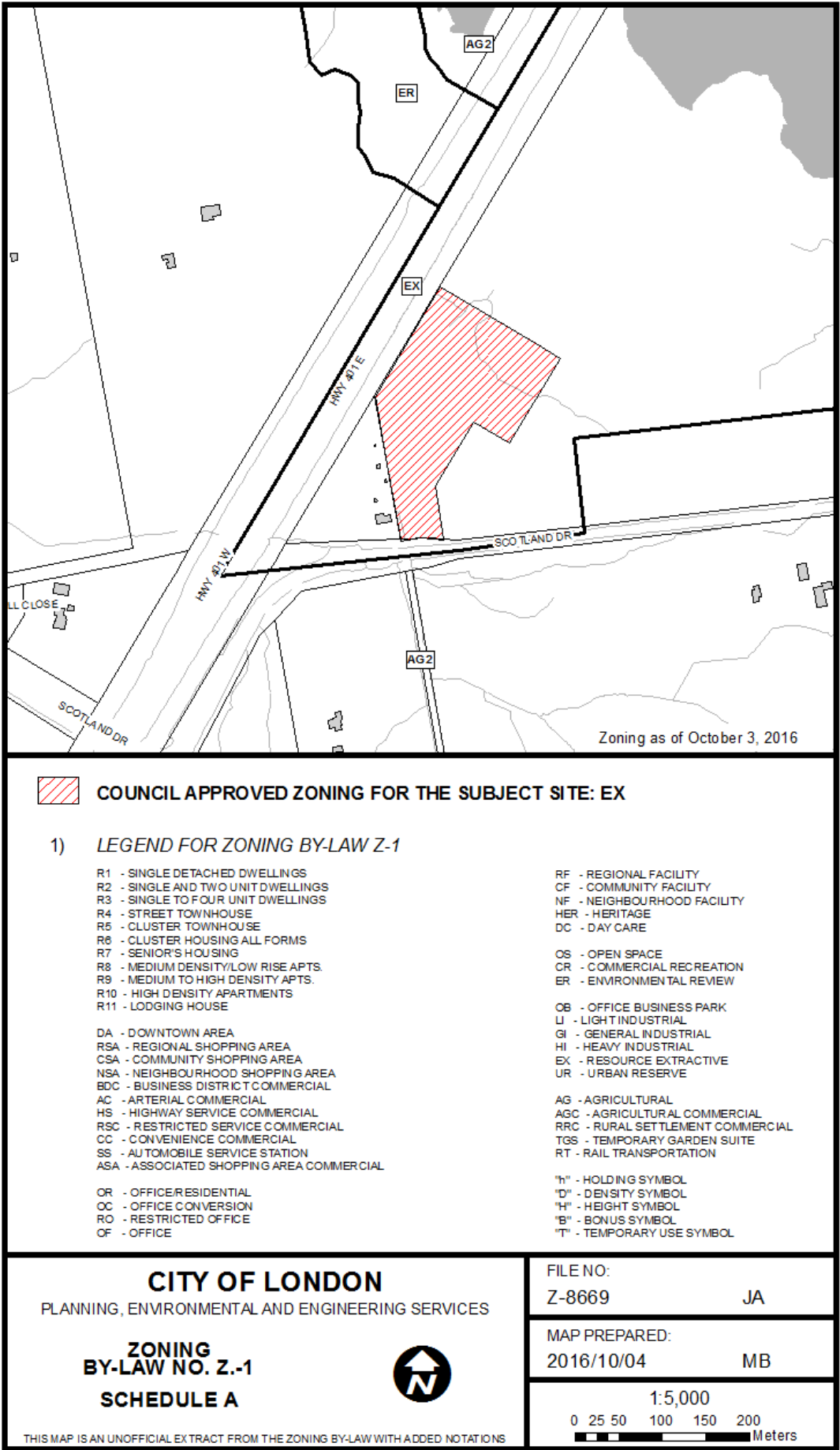


Figure 3 – Current Zoning Map

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PROPERTY AT A GLANCE

- Current Planning Information**
- Official Plan Designation – Agricultural
 - London Plan Place Type – Farmland
 - Existing Zoning – Resource Extraction (EX) Zone

- Site Characteristics**
- Current Land Use – Agriculture, resource extraction (current land use for the area to be rezoned is agriculture)
 - Frontage – 214m (entire property), 63m (area to be rezoned)
 - Depth – Irregular
 - Area – 24.69 ha (entire property), 3.05 ha (area to be rezoned).
 - Shape – Irregular

- Surrounding Land Uses**
- North – Resource extraction, agriculture
 - South – Agriculture
 - East – Resource extraction, agriculture
 - West – Highway 401, agriculture

Property Description
The lands subject to this application constitute a portion of the property located at 4166 Scotland Drive, in the area between the 401 to the northwest, Scotland Drive to the south, and White Oak Road to the east. The southerly portion of the property (approx. 9 ha) is currently used for agriculture, and the northerly portion (approx. 21 ha) is a resource extraction area. The area to be rezoned is in the southwest corner of the property, and is currently in agricultural use.

DESCRIPTION OF PROPOSAL

Application Details
The recommended Zoning By-law amendment will apply a Holding Agricultural Commercial (h-18●AGC1) Zone to a 3.05 ha portion of the subject property, to facilitate the development of an agriculturally related commercial use that sells and services tractors and other farm equipment to the local agricultural community.

Development Proposal
The proposed development includes a 1,400m² retail/service building as well as a 930m² warehouse building that will be used to store and prepare inventory for sale. The area to be rezoned is located adjacent to highway 401, which benefits the business by providing maximum exposure and also benefits the agricultural use to the subject lands by minimizing the amount of agricultural land required.



Figure 4 – Subject lands showing area to be rezoned, area to remain agricultural, and resource extraction area.

PLANNING HISTORY

The subject lands were annexed to the City of London in 1993 and were historically used for agriculture. The existing resource extraction use on the property was begun in 1994 and at the time a rehabilitation plan was submitted for the post-resource extraction use of the site. This plan called for the lands to be rehabilitated and returned to agricultural use. The applicant has indicated that some of the resource remains in the ground and will continue to be extracted. Once this extraction has been completed the restoration plans will be implemented for portions of the property outside of the area to be rezoned as part of this application. This application was received on August 11, 2016 to apply the Agricultural Commercial (AGC1) zone a portion of the property. A revised application was received on October 1, 2016 with a reduced area to be rezoned.

COMMENTS RECEIVED

Public Liaison

On August 17, 2016, Notice of Application was sent to six property owners in the surrounding area. Notice of Application was also published in the Public Notices and Bidding Opportunities section of The Londoner on August 18, 2016. A “Possible Land Use Change” sign was also posted on the site.

Nature of Public Liaison

The purpose and effect of this zoning change is to permit a 1,400 m² agriculturally related commercial use that will sell and service farm machinery and equipment. The possible change to

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Zoning By-law Z.-1 includes changing the zoning for a portion of the subject property **FROM** a Resource Extraction (EX) Zone **TO** an Agricultural Commercial (AGC) Zone, which permits a range of agriculturally related commercial uses.

Public Responses
No public responses were received.

Summary of Departmental/Agency Comments
This application was circulated to various agencies and City departments for comments. In response to comments received from the Ontario Ministry of Transportation the conceptual site plan was revised to include a 14m setback to Highway 401. The subject lands are shown to have archaeological potential in the City of London Archaeological Master Plan, so an archaeological assessment was required with the application. The applicant requested that the requirement for an archaeological assessment be deferred until after the crops on the site have been harvested, but that the planning merits of the application be considered at this time. Planning Services staff believe that this approach is acceptable as long as a holding provision is applied to ensure any archaeological findings are properly addressed prior to site alteration or development. All other comments indicated support or no concern for the application. The full comments are available in Appendix “A” of this report.

ANALYSIS

Through our review of the proposed Zoning By-law amendment and applicable policies, and in consideration of the comments that were submitted by commenting agencies and departments, the two main issues to be considered are:

1. the conversion of prime agricultural land for a commercial use, and
2. the archaeological potential that exists on the subject lands.

The primary policy documents that apply to this application include the Provincial Policy Statement (2014), the City of London Official Plan, and the *London Plan*, which is was adopted by City Council but is still under review by the Province.

1. Conversion of Prime Agricultural Land for Commercial Use

The subject lands are within prime agricultural land and are currently being farmed. As such policies for non-agricultural uses in prime agricultural areas apply.

The Provincial Policy Statement (PPS) requires that prime agricultural areas shall be protected for long term-use for agriculture (Section 2.3.1). It identifies the permitted uses in prime agricultural areas as agricultural uses, agricultural-related uses, and on-farm diversified uses. This recognizes that these types of uses are a necessary part of agricultural areas. Agriculturally related uses are defined in the PPS as farm-related commercial uses that *“are directly related to farm uses in the area, support agriculture, benefit from being in close proximity to farm operations, and provide direct benefits and/or services to farm operations as a primary activity.”*

The proposed Agricultural Commercial (AGC1) zone is intended, according to the preamble to Section 46 of the Zoning By-law, to provide for and regulate a limited range of agriculturally-related commercial uses which are supportive of the agricultural community. The use that is proposed includes the sale and servicing of farm equipment, so the application of this zone on the subject lands is consistent with provincial policy.

The City's Official Plan provides criteria for the consideration of agriculturally related commercial uses in the Agricultural land use designation in Section 9.2.8. These criteria are:

- Size
- i) *The amount of land devoted to the activity includes only the minimum necessary to support the activity and its servicing*

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	<i>requirements.</i>
<i>Need</i>	<i>ii) It can be demonstrated that the use is supportive of the farm operation and requires a location in close proximity to the farm operation to function successfully.</i>
<i>Location</i>	<i>iii) The location of the facility should not impose any operating constraints or result in a reduction of the efficiency of existing farms in the vicinity. Agriculturally-related commercial and industrial uses should be directed to sites having soil capability, drainage, topographic, site size or configuration limitations for agriculture.</i>
<i>Servicing</i>	<i>iv) The facility does not require municipal water or sewage disposal services and can meet all requirements for the provision of individual on-site services.</i>
<i>Transportation</i>	<i>v) Access shall be available from a public highway or public road. The access must not create a potential traffic hazard due to poor sight lines or proximity to an intersection, steep grade or curve. An agriculturally-related commercial or industrial use shall be located on a road capable of accommodating, on a year round basis, the volume and type of traffic, including truck traffic, that the proposed use is likely to generate.</i>
<i>Environment</i>	<i>vi) Adequate drainage and suitable outlets for storm water runoff can be provided.</i>
<i>Site Plan</i>	<i>vii) Agriculturally-related commercial and industrial uses are subject to site plan control. The site plan and development agreement shall address the following:</i> <i>(a) dimensions of the lot;</i> <i>(b) building areas and location on the lot including surrounding land uses and buildings;</i> <i>(c) ingress and egress to and from the site, including parking facilities;</i> <i>(d) the location of outdoor storage facilities;</i> <i>(e) servicing provisions;</i> <i>(f) compliance with the Minimum Distance Separation requirements;</i> <i>(g) site grading and fencing; and</i> <i>(h) on-site stormwater management facilities.</i>

The proposed amendment meets these Official Plan criteria, and includes an appropriate use, intensity, and form.

The proposed use meets the need and locational criteria in the Official Plan (Section 9.2.8 ii & iii). The subject lands include a significant resource extraction area, which limits the area that can be used for agriculture. The proposed area to be used for commercial uses is located adjacent to the 401 corridor, which reduces the potential impacts on existing agricultural uses. The Official Plan criteria lists sites with size or configuration limitations as preferred locations for commercial uses. The proposed use will also contribute to the farm operations in this area by providing a needed service in an accessible location.

The proposed intensity is also appropriate. When the application was first submitted it proposed a much larger area to be rezoned that included 5.15 ha of agricultural land and the entire frontage along Scotland Drive. City staff identified that the proposal did not comply with policy 9.2.8 i), which requires that only the minimum area necessary be zoned for commercial use. This policy is intended to prevent unnecessary conversions of prime agricultural land, so as to preserve as much land as possible for agriculture. The applicant was notified of this concern, and subsequently submitted a revised site plan and zoning proposal that reduced the area to be rezoned by 2.1 ha.

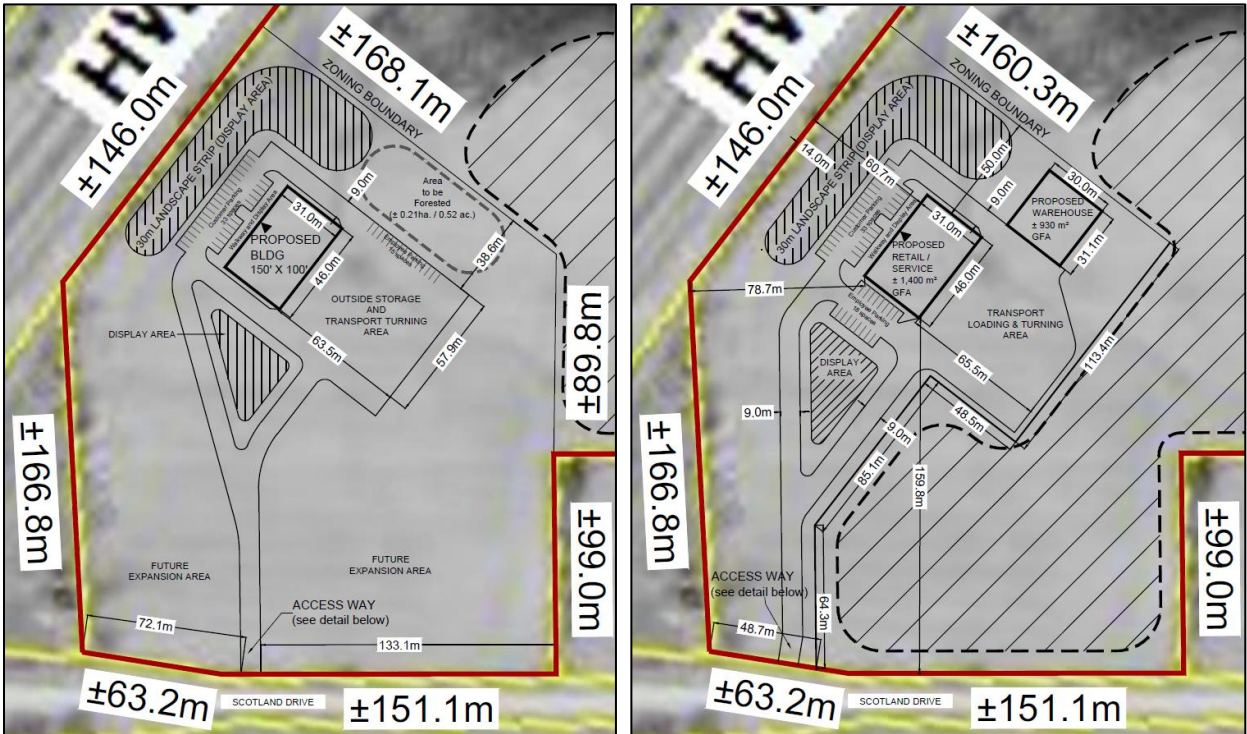


Figure 5 – Original (Left) and Revised (Right) Site Plans. Through this revision the amount of land to be removed from agricultural use was reduced by 2.1 ha

Many of the built form and servicing considerations will be addressed through site plan approval, though no comments received on this application have indicated a concern with regards to servicing, transportation, environment, or other site plan considerations (Section 9.2.8. iv-vii). Through the site plan approval process staff will work to ensure that the building facades and display areas proposed along the 401 frontage and near the Scotland Drive access are interesting and include purpose-designed displays.

The London Plan includes the subject lands in a Farmland Place Type, which has a vision to maintain farmland in London as areas of intense production and vibrant economic activity. The policies seek to protect farmland and support farm operations. *The London Plan* includes similar policies to the current Plan with similar criteria for the establishment of new agriculturally-related commercial uses. The proposed Zoning By-law amendment therefore also complies with the policies in the *London Plan*.

2. Archaeological Potential

The subject lands are identified as having archaeological potential in the City of London Archaeological Master Plan. This means that prior to any development or site alteration an archaeological assessment must be conducted, and significant findings must be properly mitigated. An archaeological assessment was listed on the Record of Pre-Application Consultation as a required part of a complete planning application. The applicant indicated, however, that completing this required assessment would not be possible while crops were in the ground, and to avoid a lengthy delay requested that the City process the application with the understanding that a holding provision would be applied.

Zoning

The proposed Zoning By-law Amendment will apply an Agricultural Commercial (AGC1) Zone to the subject lands to permit the proposed farm equipment sales and service use, as well as several other agriculturally related commercial uses. This zone is intended to be applied in appropriate locations to accommodate the type of use that is proposed. It is appropriate in this location as the subject lands have been demonstrated to meet the Official Plan criteria for the range of uses that is permitted.

This amendment will create a multiple zone situation, as the area to be rezoned does not include the entire lot area. As such, and in accordance with Section 3.9.2 of the Zoning By-law, the area

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subject to the proposed Agricultural Commercial (AGC1) Zone will be considered as a separate lot for zoning purposes.

City staff have agreed to proceed with the Zoning By-law amendment that includes the application of an h-18 holding provision. This holding provision requires that lands are assessed for the presence of archaeological resources prior to development. If archaeological resources are found, this provision requires that they be mitigated to the satisfaction of the City of London and the Ministry of Citizenship, culture and Recreation. No grading or other soil disturbance is permitted while the holding provision is in effect.

<div>CONCLUSION</div>

The proposed Zoning By-law amendment will permit an agriculturally-related commercial use in an agricultural area. The use is permitted by the Provincial Policy Statement, meets the location criteria for such uses in the Official Plan, and complies with the policies in *The London Plan*. The City of London Zoning By-law includes a zone for commercial uses that support surrounding farm operations, so it is a logical conclusion to apply this zone to an agricultural parcel with existing size limitations.

PREPARED BY:	SUBMITTED BY:
JUSTIN ADEMA, MCIP, RPP PLANNER II, CURRENT PLANNING	MICHAEL TOMAZINCIC, MCIP, RPP MANAGER, CURRENT PLANNING
RECOMMENDED BY:	
JOHN M. FLEMING, MCIP, RPP MANAGING DIRECTOR, PLANNING AND CITY PLANNER	

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Bibliography of Information and Materials
OZ-8669

Request for Approval:

City of London Zoning By-law Amendment Application Form, completed by Kirkness Consulting, July 26, 2016.

Reference Documents:

Ontario. Ministry of Municipal Affairs and Housing. *Planning Act, R.S.O. 1990, CHAPTER P.13*, as amended.

Ontario. Ministry of Municipal Affairs and Housing. *Provincial Policy Statement*, 2014.

City of London. *Official Plan*, June 19, 1989, as amended.

City of London. *Zoning By-law No. Z.-1*, May 21, 1991, as amended.

City of London. *The London Plan*. June 23, 2016, council adopted.

Kirkness Consulting. *Planning Justification Report*. July, 2016.

Stantec Consulting Ltd. *Preliminary Servicing Feasibility Report*. June 22, 2016.

Conceptual Site Plan. Kirkness Consulting. Revised September 28, 2016.

Correspondence: (all located in City of London File No. Z-8669 unless otherwise stated)

City of London -

Lambert, Brent. City of London Development Services. Memo to J. Adema. September 6, 2016.

O’Hagan, Britt. City of London Planning Services – Urban Design. Email to J. Adema. September 22, 2016.

Saunders, Cathy. City of London Clerks Department. Letter to M. Al Massri, Ontario Ministry of Transportation. October 12, 2016.

Appendix "A"

AGENCY/DEPARTMENTAL COMMENTS

Wastewater and Drainage Engineering

Presently, the subject lands do not have a municipal sanitary outlet in close proximity to the subject lands, therefore if a sanitary outlet is required for the proposed usage on these lands an alternative sewage disposal system will have to be considered, subject to the Ministry of the Environment and Building Control guideline and approvals.

Private septic systems are to be approved by Building Control prior to issuance of Building Permits. The owner and his Consulting Engineer must ensure that any proposed alternative septic system will not adversely impact the area's ground water and surrounding wells, or leach into the nearby watercourses or storm sewer systems. If a new septic system or a modification to an existing system is required in conjunction with this application, approvals for these works are to be obtained through Building Control prior to issuance of building permits. Septic systems should have regard for the water table, proximity to water wells, open watercourses and the effects any proposed septic systems will have on them. Given the nature of the intended use, the developer is to ensure that all criteria/ requirements/approvals have been met with respect to the governing external agencies and authorities. The subject lands are outside the Urban Growth Boundary.

Stormwater Engineering

The Stormwater Engineering staff have no objection.

Transportation Planning

- Road widening dedication of 18.0m from centre line required on Scotland Drive
- Issues regarding access design and location will be discussed through the site plan process

Urban Design

We would like to see an interesting and active building façade along the 401(not just a large blank wall) and purpose-design display space. Only a limited amount of parking should be provided between the building and 401. Parking should generally be to the side (in this case, technically the front yard). Other issues can be addressed through Site Plan Control.

Agricultural Advisory Committee

The AAC supports agricultural commercial use that will permit the owner to sell and service farm machinery and equipment and that all-terrain vehicles, utility vehicles and side-by-side vehicles be included in the permitted use as it assists farmers in getting around their farm; it being noted that the AAC reviewed and received a Notice dated August 17, 2016, with respect to an application submitted by Hyde Park Equipment Ltd., relating to the property located at 4166 Scotland Drive, was received.

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Appendix "B"

Bill No. (number to be inserted by Clerk's Office)
2017

By-law No. Z.-1-17_____

A by-law to amend Zoning By-law No. Z.-1
to rezone an area of land located at 4166
Scotland Drive.

WHEREAS Hyde Park Equipment Ltd has applied to rezone an area of land
located at 4166 Scotland Drive, as shown on the map attached to this by-law, as set out below;

AND WHEREAS this rezoning conforms to the Official Plan;

THEREFORE the Municipal Council of The Corporation of the City of London
enacts as follows:

- 1) Schedule "A" to By-law No. Z.-1 is amended by changing the zoning applicable to lands
located at 4166 Scotland Drive, as shown on the attached map comprising part of Key Map
No. A115, from a Resource Extraction (EX) Zone to a Holding Agricultural Commercial (h-
18●AGC1) Zone.

The inclusion in this By-law of imperial measure along with metric measure is for the purpose of
convenience only and the metric measure governs in case of any discrepancy between the two
measures.

This By-law shall come into force and be deemed to come into force in accordance with Section
34 of the *Planning Act, R.S.O. 1990, c. P13*, either upon the date of the passage of this by-law or
as otherwise provided by the said section.

PASSED in Open Council on December 6, 2016.

Matt Brown
Mayor

Catharine Saunders
City Clerk

First Reading – December 6, 2016
Second Reading – December 6, 2016
Third Reading – December 6, 2016

AMENDMENT TO SCHEDULE "A" (BY-LAW NO. Z.-1)

