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File: Z-8795
Planner: J. Adema

TO:	CHAIR AND MEMBERS PLANNING & ENVIRONMENT COMMITTEE
FROM:	JOHN M. FLEMING MANAGING DIRECTOR, PLANNING AND CITY PLANNER
SUBJECT:	APPLICATION BY: MAINLINE PLANNING SERVICES INC. 6188 COLONEL TALBOT ROAD PUBLIC PARTICIPATION MEETING ON OCTOBER 10, 2017

RECOMMENDATION

That, on the recommendation of the Managing Director, Planning and City Planner, with respect to the application of Mainline Planning Services Inc. relating to the property located at 6188 Colonel Talbot Road, the request to amend Zoning By-law No. Z.-1 by changing the zoning of the subject property **FROM** an Agricultural (AG2) Zone **TO** a Holding Agricultural Special Provision (h-18●AG2(_)) Zone, **BE REFUSED** for the following reasons:

1. The requested amendment is not consistent with the Provincial Policy Statement (2014) with regards to agricultural lot creation;
2. The requested amendment does not comply with the policies of the 1989 Official Plan for the City of London that relate to agricultural lot creation;
3. The requested amendment does not comply with the policies in *The London Plan* that relate to agricultural lot creation;
4. The requested amendment would facilitate the creation of parcels that are not of a suitable size for the type of agricultural uses common to the area, and therefore do not maintain flexibility for future changes in the type or size of agricultural operations.

PREVIOUS REPORTS PERTINENT TO THIS MATTER
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None.

EXECUTIVE SUMMARY

Summary of Proposal

The requested Zoning By-law Amendment includes a zone change from an Agricultural (AG2) Zone to a Holding Agricultural Special Provision (h-18●AG2(_)) Zone, to facilitate the severance of an indoor hydroponic mushroom farm from a larger agricultural parcel. The Holding Zone requires that the lands are assessed for archaeological resources prior to development or site alteration. The Special Provision is required to permit lot areas of 4.04 hectares and 14.29 hectares, whereas the standard zoning requirement is a minimum lot area of 40 hectares; and the special provision is required to permit lot frontages of 100.01 metres and 36.33 metres, whereas the standard zoning requirement is a minimum lot frontage of 300 metres.

This amendment is required in accordance with policies 1228_2 in *The London Plan* and 9.2.14.3 in the 1989 Official Plan, which require a Zoning By-law amendment prior to the approval of a Consent application to sever agricultural parcels that do not meet the minimum lot area or lot frontage requirements in the Zoning By-law.

Summary of Recommended Action

The Provincial Policy Statement (2014) requires that lot creation for agricultural uses in prime agricultural areas must include lot sizes that that are an appropriate size for the types of agricultural uses common in the area, in order to maintain flexibility for future changes in the size

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or type of agricultural operations. The 1989 Official Plan and The London Plan discourage severances on agricultural parcels, and establish a minimum parcel size of 40 hectares. This recognizes that the most common agricultural uses in the area are field crops, which require large lots. The proposed Zoning By-law amendment and the related Consent to sever does not maintain flexibility for future changes in the type or size of agricultural uses and does not meet the minimum Official Plan lot size requirements. Therefore, staff recommend that this application be refused.

Rationale for Recommended Action

- The requested amendment is not consistent with the Provincial Policy Statement (2014) with regards to agricultural lot creation;
- The requested amendment does not comply with the policies of the 1989 Official Plan for the City of London that relate to agricultural lot creation;
- The requested amendment does not comply with the policies in The London Plan that relate to agricultural lot creation;
- The requested amendment would facilitate the creation of parcels that are not of a suitable size for the type of agricultural uses common to the area, and therefore do not maintain flexibility for future changes in the type or size of agricultural operations.

PROPERTY AT A GLANCE

Current Planning Information

- 1989 Official Plan Designation – Agricultural
- *The London Plan* Place Type – Farmland
- Zoning By-law No. Z.-1 Zone – Agricultural (AG2) Zone

Site Characteristics

- Current Land Use – Agriculture, including an existing indoor hydroponic mushroom farm
- Frontage – 136.34m
- Area – 18.3 ha
- Shape – Irregular

Surrounding Land Uses

- North – Primarily agriculture, some industrial uses along Colonel Talbot Road
- South – Primarily agriculture, some industrial uses along Colonel Talbot Road
- East – Agriculture, Highway 401 abutting the property
- West – Agriculture

Property Description

The subject lands include an 18.3 hectare agricultural parcel with an indoor hydroponic mushroom farm that was established in 2016. This agricultural use is contained in the existing building located near the Colonel Talbot Road frontage. The remaining area, which is the majority of the parcel, is currently used for field crop agricultural production.

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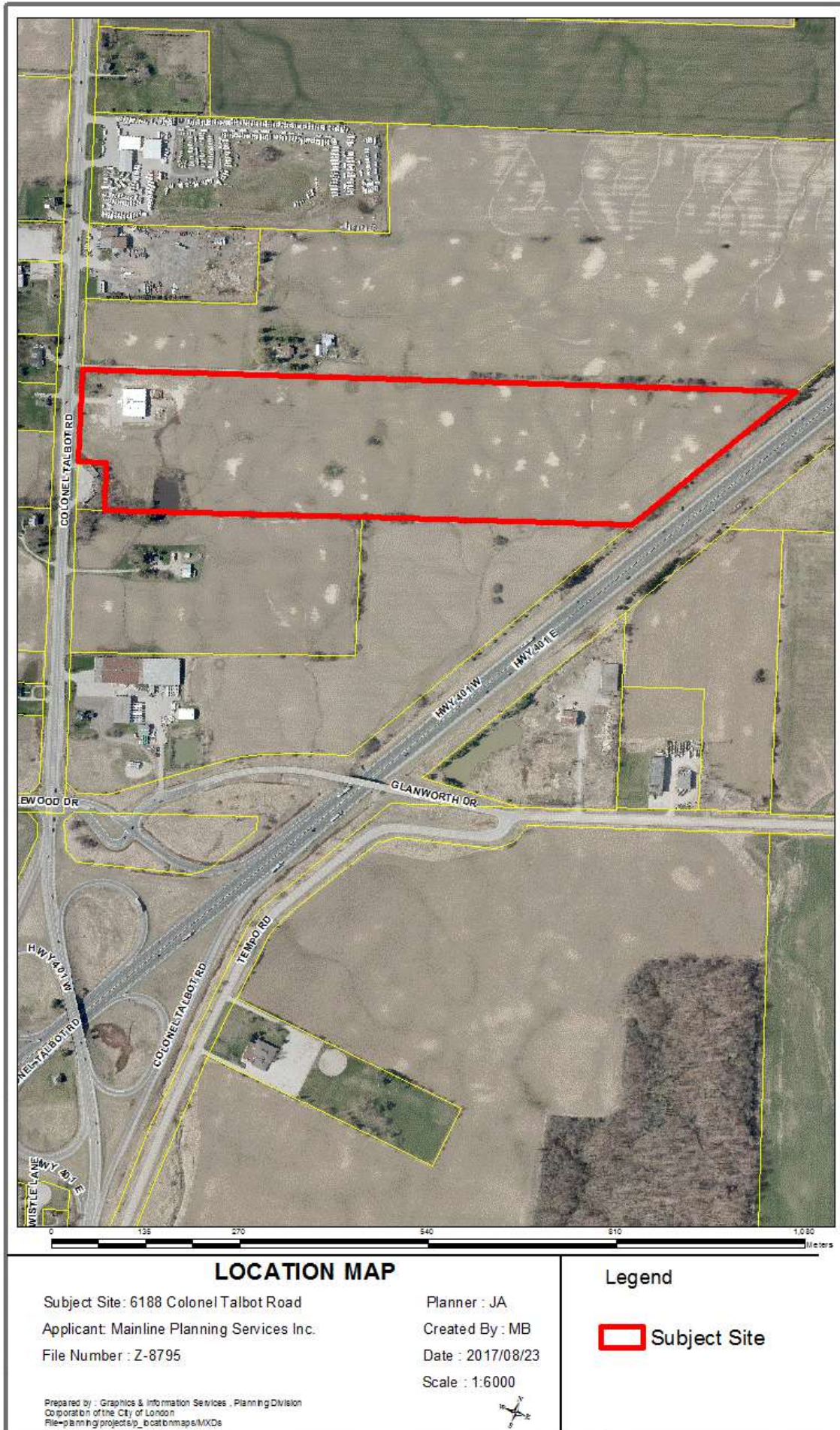
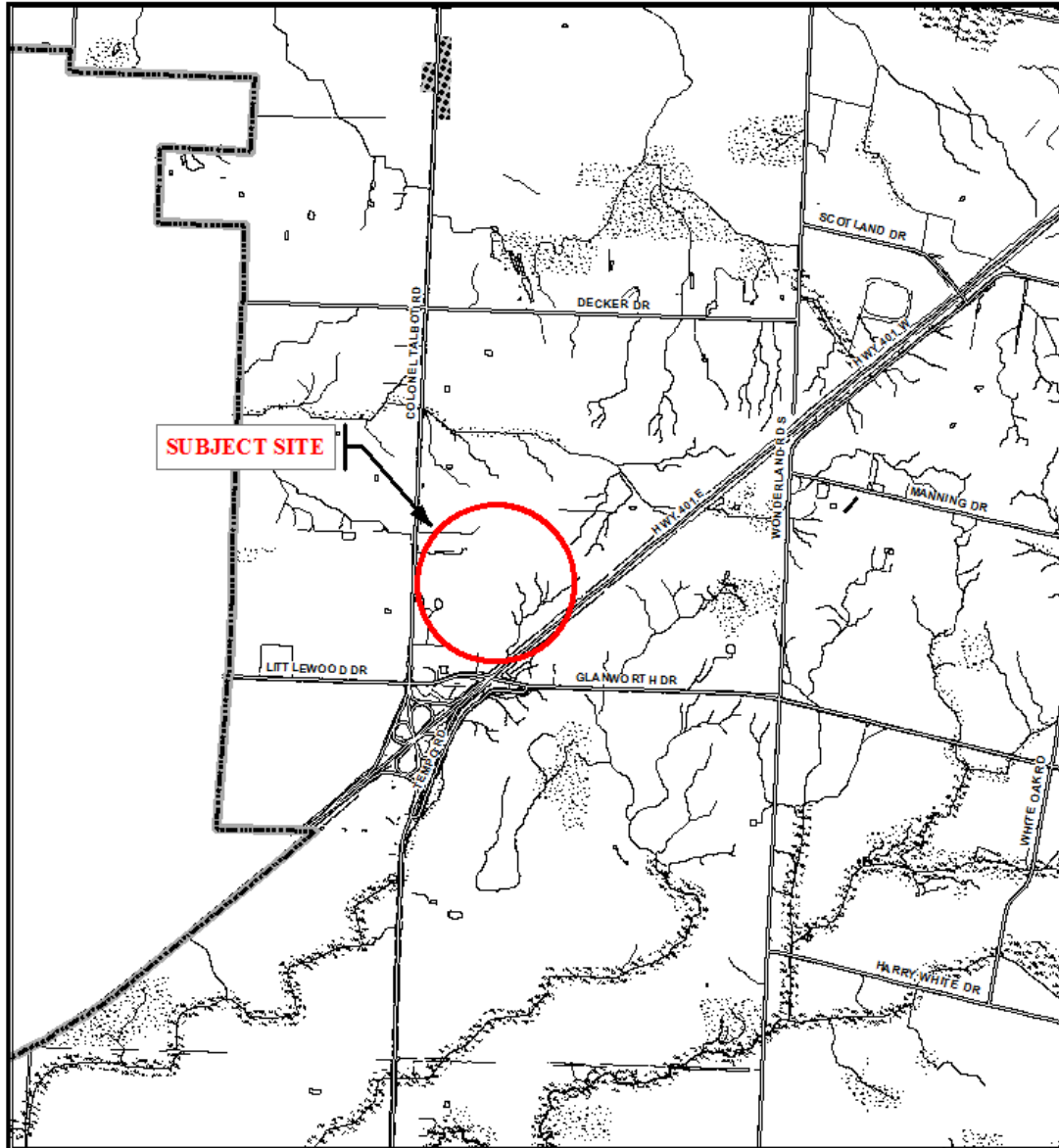


Figure 1 – Location Map

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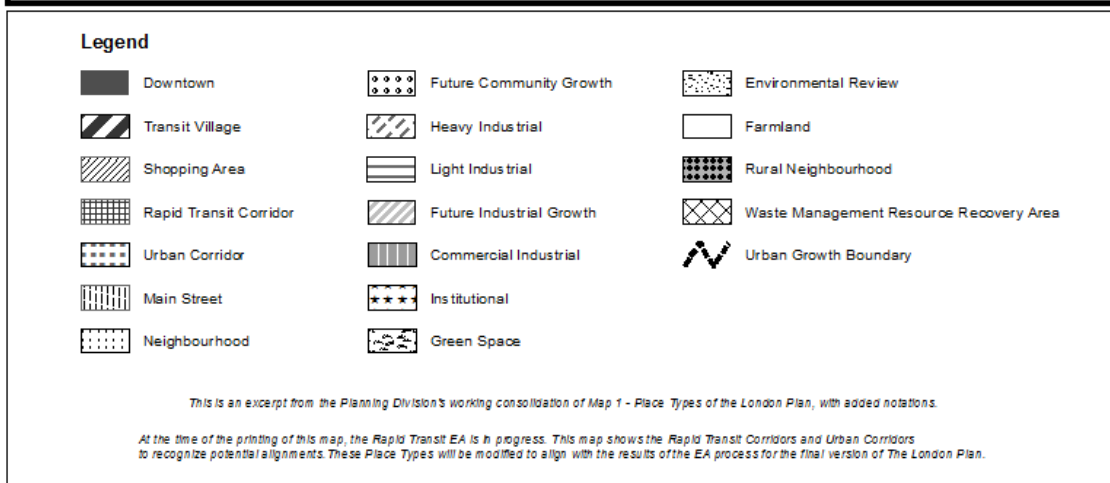
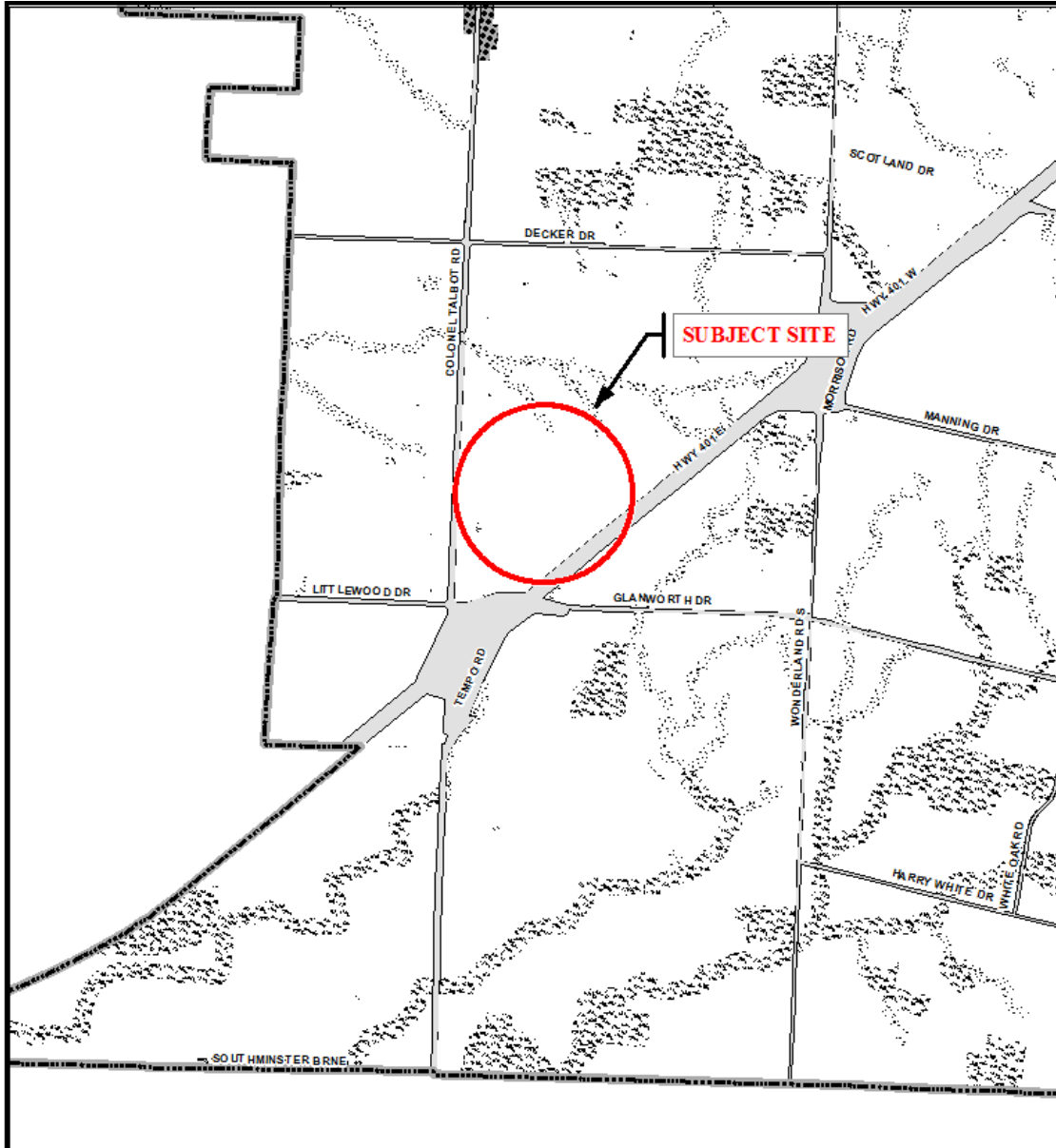
Legend		
Downtown	Multi-Family, Medium Density Residential	Office Business Park
Wonderland Road Community Enterprise Corridor	Low Density Residential	General Industrial
Enclosed Regional Commercial Node	Office Area	Light Industrial
New Format Regional Commercial Node	Office/Residential	Commercial Industrial
Community Commercial Node	Regional Facility	Transitional Industrial
Neighbourhood Commercial Node	Community Facility	Rural Settlement
Main Street Commercial Corridor	Open Space	Environmental Review
Auto-Oriented Commercial Corridor	Urban Reserve - Community Growth	Agriculture
Multi-Family, High Density Residential	Urban Reserve - Industrial Growth	Urban Growth Boundary

<p>CITY OF LONDON Department of Planning and Development</p> <p>OFFICIAL PLAN SCHEDULE A - LAND USE -</p> <p><small>PREPARED BY: Graphics and Information Services</small></p>	<p>Scale 1:30,000</p> <p>Meters</p>	<p>FILE NUMBER: Z-8795</p> <p>PLANNER: JA</p> <p>TECHNICIAN: MB</p> <p>DATE: 2017/08/23</p>
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Figure 2 – 1989 Official Plan Schedule A Excerpt

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<p>CITY OF LONDON Planning Services LONDON PLAN MAP 1 - PLACE TYPES - PREPARED BY: Planning Services</p>	 Scale 1:30,000 Meters	<p>File Number: Z-8795 Planner: JA Technician: MB Date: August 23, 2017</p>
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Figure 3 – The London Plan Map 1 Excerpt

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DESCRIPTION OF PROPOSAL

Application Details

The requested Zoning By-law Amendment includes changing the zoning of the subject property from an Agricultural (AG2) Zone to a Holding Agricultural Special Provision (h-18●AG2(_)) Zone, which permits the same range of uses but includes reduced lot frontage and lot area requirements. The Holding Zone requires that the lands are assessed for archaeological resources prior to development or site alteration.

The application is required to facilitate the severance of a 4.04 hectare (10 acre) portion of the subject property. *The London Plan* requires that when a Consent is proposed for a farming operation, “The size of both the severed and retained parcels conforms with the provisions of the Zoning By-law. Should the severed or retained parcel not conform with the minimum lot area requirements of the Zoning By-law, a Zoning By-law amendment will be required” (Policy 1228_2). This requirement is also included in Section 9.2.14.3 of the 1989 Official Plan. The proposed severance sketch is shown in Figure 5. The Consent application will be conditional on the proposed Zoning By-law Amendment being in force.

The Planning Justification Report submitted in support of the proposed Zoning By-law Amendment explains that the severance is needed in order to sell the 4.04 hectare portion of the site to the company that currently operates the mushroom farm. It is desirable from a financing perspective to reduce the lot area for the mushroom farm operation.

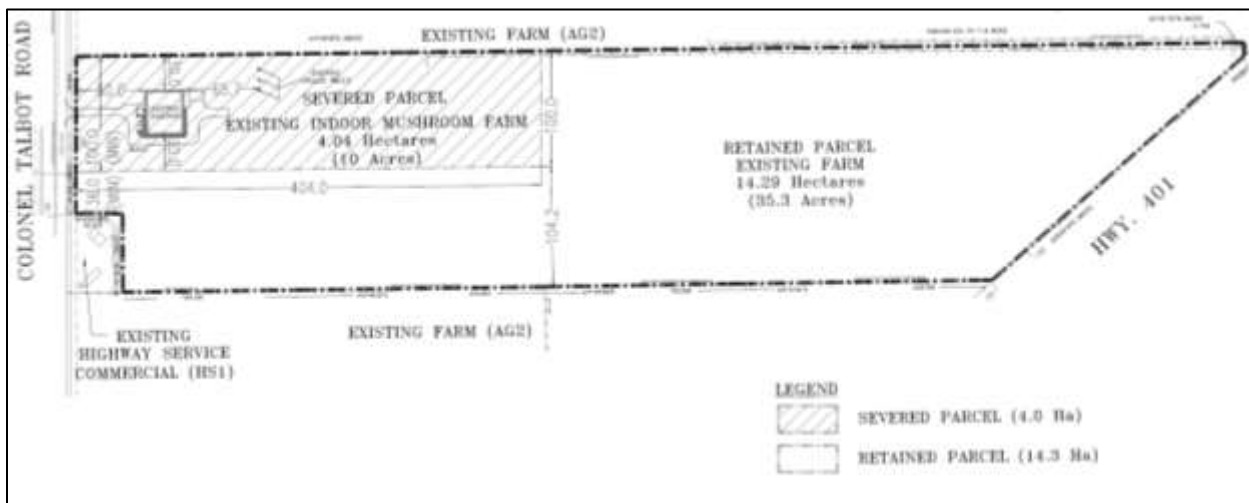


Figure 5 – Severance Sketch that would be facilitated by the proposed Zoning By-law Amendment

Development Proposal

There is no new construction associated with the proposed severance, as the severance is requested for financing reasons to allow for the sale of lands already in use as an indoor hydroponic mushroom farm separately from the remaining portions of the site. While there is no proposed development at this time, this severance would create the potential to establish a new farm dwelling unit on each proposed lot. This is because the Agricultural (AG2) Zone permits one farm dwelling on a lot.

PLANNING HISTORY

The subject property has historically been used for agriculture including field crops. In September, 2015 a Minor Variance was considered and approved by the Committee of Adjustment to facilitate the development of a hydroponic mushroom farm facility on the subject site. The Minor Variance was required to permit a minimum setback of 60m from the nearest dwelling unit whereas 90m was required. Building permits were issued in June 2016.

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When the mushroom farm use was first proposed in 2015 it was found that the zoning regulations were inadequate and should be updated to address the specific issues typically associated with mushroom farms. The Minor Variance process was used as an interim approach to permit the proposed mushroom farm, while allowing City staff enough time to complete a thorough review as a separate process. This City-initiated review was begun in August, 2015 (File Z-8513), and the Zoning By-law amendment was approved in January, 2017.

The subject site is also in an area that has been subject to several changes in its planning approach over time. Special Policies were added to Chapter 10 – Policies for Specific Areas in the 1989 Official Plan for the Tempo Area in 1999. These policies permit a range of dry industrial and a limited range of commercial development within the agricultural designation. The permitted uses were meant to support the Ford Talbotville assembly plant, and when the assembly plant shut down in 2011 the policies lost their justification for existence. The Tempo Area policies were not carried forward in *The London Plan*. The legacy of these policies is that there are now multiple small lots along Colonel Talbot Road with commercial and industrial land uses.

COMMENTS RECEIVED

Public Liaison

On July 5, 2017 Notice of Application was sent to property owners in the surrounding area. Notice of Application was also published in the Public Notices and Bidding Opportunities section of The Londoner on July 6, 2017. A “Possible Land Use Change” sign was also posted on the site.

The nature of the public liaison was to state that the purpose and effect of the requested Zoning By-law amendment is to facilitate the severance of a 4.04 hectare portion of the subject property, to allow the sale of land containing a hydroponic mushroom farm separate from other portions of the property. The possible amendment was described as being to Change Zoning By-law Z.-1 from an Agricultural (AG2) Zone, which permits a range of agricultural uses, to a Holding Agricultural Special Provision (h-18●AG2(□)) Zone, which permits the same range of agricultural uses with lot frontages and lot areas that are less than the standard Zoning requirements. The holding provision will ensure that the lands are assessed for archaeological resources prior to development.

Public Responses

Two letters of objection were received from the public liaison. Both express concerns with protection of agricultural land and curbing urban sprawl. One letter was received from an adjacent land owner and includes specific concerns regarding the inconsistencies between the proposed severance and current planning policies.

Summary of Departmental/Agency Comments

The application was circulated and no concerns were identified. All comments received are copied in Appendix A to this report.

Through the pre-application consultation process it was found that the subject property has archaeological potential. As such, an Archaeological Assessment is normally required. However, in this instance, because no new development or site alteration was being proposed the application of an h-18 holding provision was considered appropriate should the requested amendment be approved. This provision requires that lands are assessed for the presence of archaeological resources prior to development.

Also through the pre-application consultation process it was identified that the subject property is listed on the Inventory of Heritage Resources because of an Ontario Cottage built on the site in 1860. It was also identified time that the building had been demolished in 2015 to make way for the indoor mushroom farm facility and that no permit had been issued. A demolition permit was required for the listed building as part of a complete planning application, and one was issued retroactively on June 7, 2017.

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ANALYSIS

Agricultural Lot Creation

The main issue to consider when evaluating the proposed amendment is agricultural lot creation. The sole purpose of this application is to establish zoning on the subject lands that would facilitate the severance of a 4 hectare (10 acre) portion of the site. The current site area is 18.3 hectares (45 acres), and the minimum lot area in the Agricultural (AG2) Zone is 40 hectares (100 acres).

Applicable planning policies are included in the Provincial Policy Statement (PPS, 2014), *The London Plan* (2016, currently subject to appeal), and the 1989 Official Plan for the City of London. The PPS gives direction from the Province regarding planning matters, and the policies of the 1989 Official Plan and *The London Plan* add local context and provide additional policy direction.

Summary of Planning Policies

The PPS is issued under Section 3(1) of the *Planning Act*, which states in Section 3(5) that “A decision of the Council of a municipality... shall be consistent with the policy statements made under subsection (1) that are in effect on the date of the decision.”

The PPS supports and protects agricultural uses. It includes that “Prime agricultural areas shall be protected for long-term use for agriculture” (Policy 2.3.1). The PPS also provides policy direction for lot creation in agricultural areas. It states that

Lot creation in prime agricultural areas is discouraged and may only be permitted for:

- a) *agricultural uses, provided that the lots are of a size appropriate for the type of agricultural use(s) common in the area and are sufficiently large to maintain flexibility for future changes in the type or size of agricultural operations...*
(Section 2.3.4.1.a).

The London Plan was adopted by Council in June, 2016 and was approved by the Minister of Municipal Affairs in December, 2016. It is currently under appeal, though none of the appeals specifically identify concerns with the agricultural lot creation policies.

The subject property is within the Farmland Place Type in *The London Plan*. A key part of the vision for this Place Type is to protect farmers and the farming community, agricultural land, the rural economy, and the rural quality of life for the long term (Policy 1178). One of the ways this vision will be realized is by supporting “a pattern of agricultural land holdings that increases the viability of farm operations and avoids the fragmentation of ownership” (Policy 1181_8).

The London Plan includes policies on agricultural land consents. Policy 1228 applies to Consents for farming operations, and must be considered in this case as both the severed and retained parcels are proposed to be used for agriculture. The policy states that severances are generally discouraged, and establishes 40 hectares as the minimum size for a basic farm parcel. If agricultural lands are to be severed, the following criteria must be met:

1. *Both the severed and retained parcels are of sufficient size for the predominant type of agricultural uses common in the area, and are sufficiently large to maintain flexibility to provide for future changes in the type or size of agricultural operations.*
2. *The size of both the severed and retained parcels conforms with the provisions of the Zoning By-law. Should the severed or retained parcel not conform with the minimum lot area requirements of the Zoning By-law, a zoning by-law amendment will be required (Policy 1228).*

The 1989 Official Plan is very similar to *The London Plan* with regards to agricultural lot creation and farm parcel size. It also includes a 40 hectare minimum size and discourages severances

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from larger land holdings (Policy 9.2.14.3). One of the Plan’s objectives for the Agricultural area is to “support a pattern of agricultural land holdings that increases the viability of farm operations and avoids the fragmentation of land ownership” (Policy 9.1.1.iv)).

Severances in the Agriculture land use designation is discouraged, and may only be considered under certain circumstances. One such possible circumstance is a consent for a farming operation, subject to criteria being met. The criteria for consideration are:

- i) *Both the severed and retained parcels are of sufficient size for the intended agricultural use including consideration of the methods of proper manure storage and disposal if there is a livestock operation existing or proposed for either of the severed or retained parcels.*
- ii) *Both the severed and retained parcels are of a nature and size, and have soil and drainage characteristics that are suitable to support an efficient farm unit, including full-time farm employment on each parcel.*
- iii) *The size of both the severed and retained parcels conforms to the provisions of the Zoning By-law. Should the severed or retained parcel not conform to the minimum lot area requirements of the Zoning By-law, an amendment to the By-law will be required (Policy 9.2.14.3).*

Consideration of Policies in Relation to the Proposed Amendment

The PPS, 1989 Official Plan, and *The London Plan* policies on the issue of agricultural lot creation all begin by stating that lot creation in prime agricultural areas is discouraged. Therefore, severances may only be considered where the specific criteria has clearly been met. It is the intent of the 1989 Official Plan and *The London Plan* to encourage retention or consolidation of farm parcels and discourage fragmentation of agricultural land holdings.

In the requested Zoning By-law amendment and the severance it would facilitate, the main policy issue is whether the reduced lot areas maintain flexibility for both the severed and retained parcels to be used for other types of agricultural uses that are common in the area. This principle is established clearly in the PPS policies, and further information regarding the local context is provided in the 1989 Official Plan and *The London Plan*.

The London Plan and 1989 Official Plan include that 40 hectares is an appropriate size for a basic farm parcel. This is because in London and the surrounding region, the most common agricultural operations are farms where field crops are grown. These farms require large lots to remain viable.

The Ontario Ministry of Agriculture, Food and Rural Affairs has prepared Guidelines on Permitted Uses in Ontario’s Prime Agricultural Areas (Publication 851), which is intended to help with the interpretation and implementation of PPS policies. The guideline document states that the PPS protects and promotes all types and sizes of agricultural uses, but that this does not mean small farm lots may be created. The guidelines states that “*In general, the larger the farm parcel, the more adaptable it is to changing conditions and the more efficient it is to run the farm. Keeping farms large enough to maintain flexibility is key to agricultural viability and to achieving the PPS requirement of protecting prime agricultural areas for long-term use in agriculture*” (Section 2.1.1.3). The guideline document also acknowledges that while traditional field crops require large lot sizes, higher value specialty crops tend to be located on smaller lots. However, to maintain flexibility for future changes in the type and size of agricultural uses, large agricultural lots must be protected. The existing mushroom farm and field crop lands currently co-exist on the same lot with no identified land use impact between these uses.

Because the proposed Zoning By-law Amendment would facilitate a severance that does not provide sufficient lot area to maintain flexibility for future changes in the type or size of agricultural operation, and is therefore not consistent with the PPS, 1989 Official Plan, or *The London Plan*.

The existing parcel is already undersized at 18.3 hectares, and would result in two smaller lots (4.04 and 14.29 hectares). The Colonel Talbot Road corridor has a history of lot creation and

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fragmentation of agricultural land holdings, which is evident by the presence of various businesses that currently exist along the corridor on small lots. Many of these lots were created through applications considered prior to annexation and under old policy regimes that were not as direct with regards to the protection of agricultural land. The existence of undersized lots and the various commercial or industrial uses along Colonel Talbot Road does not justify further fragmentation of agricultural parcels, as the current policy direction is to maintain agricultural parcels and encourage the opportunities for lot consolidation in the rural parts of London.

Tempo Area Policies

The 1989 Official Plan includes specific area policies for the Tempo Area (Section 10.1.3.xlii). This section was approved in 1999 and permits a limited range of dry commercial and industrial uses on small lots (minimum lot size of 0.81 hectares). These policies were intended to permit land uses that supported the Ford Talbotville assembly plant. With the closure of that assembly plant in 2011, the Tempo policies have lost their reason for existence and are not applicable to the requested amendment. The Tempo Area policies are not included in *The London Plan*.

CONCLUSION

The Proposed Zoning By-law amendment is required to facilitate the severance of an 18.3 hectare agricultural parcel, to create two parcels with areas of 4.04 hectares and 14.29 hectares. Policies 1228_2 in *The London Plan* and 9.2.14.3 in the 1989 Official Plan require that a Zoning By-law amendment must be approved prior to the approval of a Consent application to sever agricultural parcels that do not meet the minimum lot area or lot frontage requirements in the Zoning By-law.

The PPS (2014), 1989 Official Plan, and *The London Plan* all discourage lot creation in agricultural areas. The PPS requires that lot creation in prime agricultural areas for agricultural uses may only be permitted where both lots maintain flexibility for other agricultural operations common to the area. This point is explained in greater detail in the Guidelines on Permitted Uses in Prime Agricultural Areas, which state that in general large lots are more adaptable and flexible to changing conditions, and maintaining large lots is an effective way to protect agricultural lands. This requirement is not met in the requested amendment as the common form of agricultural production in London is field crops that require large parcel sizes. As such the proposed Zoning By-law Amendment, as well as the related application for Consent to sever, is not consistent with the PPS (2014), and does not comply with the 1989 Official Plan or *The London Plan*.

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	

September 19, 2017

JA

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Appendix "A"

AGENCY/DEPARTMENTAL COMMENTS RECEIVED

Transportation Division:

- The property is located within the MTO control zone, MTO permits may be required
- A road widening dedication of 18.0m from centre line is required along Colonel Talbot Road

Stormwater Engineering:

SEWD staff have no additional or new comments to those identified as part of the Pre-Application Consultation for this site (see attached e-mail).

Attached e-mail:

The Stormwater Engineering staff have no objection to this pre-application considering that as per the proposal summary, no new construction is proposed on the land to be severed; construction of the existing hydroponic building was completed in the fall of 2016 and no new construction is planned at this time on the retained 14.3ha of land to be retained; this land will continue to be farmed by the owner for soy beans.

Should the site re-develops in future through a development application, the applicant of the retained (or the severed) property is to be informed about the following SWM issues/requirements to be considered when preparing the storm servicing strategy for the land:

- Currently there is no municipal storm sewer to service this site.
- These lands are within the MTO Control area and within the Union Gas corridor.
- Any design and construction of SWM servicing works for the land (the retained or the severed properties) shall be in accordance with:
 - The SWM criteria and targets recommended for the Dodd & Kettle Creeks Subwatershed Study,
 - Any Municipal Class Environmental Assessment in the area,
 - The City Design Requirements for on-site SWM controls which may include but not be limited to quantity/quality and erosion controls, and
 - The City's Waste Discharge and Drainage By-Laws; the Ministry of the Environment Planning & Design Manual; as well as all applicable Acts, Policies, Guidelines, Standards and Requirements of all approval agencies (i.e. the MTO, and Union Gas).
- The design of the SWM servicing work shall include but not be limited to such aspects as water quality requirements to the MOECC and the City standards for any proposed parking area, on-site SWM controls design, possible implementation of SWM Best Management Practices (e.g. Low impact Development "LID" features), grading and drainage design (minor, and major flows), storm drainage conveyance from external areas (including any associated easements), hydrological conditions, etc.
- The Owner and their Consulting Professional Engineer shall ensure the storm/drainage conveyance from existing external drainage areas through the subject lands are preserved, all to the satisfaction of the City Engineer.
- The Owner shall ensure that increased and accelerated Stormwater runoff from this site shall not cause damage to downstream lands, properties or structures beyond the limits of this site.
- Additional comments may be provided upon future review of the site.