

**To: Mayor and Members of Township of Norwich Council**

**From: Amy Hartley, Development Planner, Community Planning**

## **Application for Zone Change**

### **ZN 3-23-12 – Jac Farms Inc.**

#### **REPORT HIGHLIGHTS**

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- The application for zone change proposes to rezone the subject lands from 'General Agricultural Zone (A2)' to 'Special General Agricultural Zone (A2-sp)' to permit a concrete contracting business and to facilitate the construction of a contractor's shop.
- It is the opinion of this Office that the proposal is not consistent with the policies of the Provincial Policy Statement and does not maintain the intent and purpose of the Official Plan regarding permitted uses in prime agricultural areas.

#### **DISCUSSION**

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##### **Background**

APPLICANT/OWNER: Jac Farms Inc. c/o John Couwenberg  
286164 Airport Road, Norwich, ON N0J 1P0

AGENT: Brad Deming  
285794 Airport Road, Norwich, ON N0J 1P0

LOCATION:

The subject lands are described as Lot 61, Plan 396 (Gore OPP), in the Township of Norwich. The lands are located on the southwest corner of Airport Road and Windham Line and are municipally known as 286164 Airport Road, Norwich.

COUNTY OF OXFORD OFFICIAL PLAN:

Schedule "N-1" Township of Norwich Land Use Plan Agricultural Reserve

TOWNSHIP OF NORWICH ZONING BYLAW 07-2003-Z:

Existing Zoning: General Agricultural Zone (A2)

Requested Zoning: Special General Agricultural Zone (A2-sp)

PROPOSAL:

The application for zone change proposes to rezone the subject lands from 'General Agricultural Zone (A2)' to 'Special General Agricultural Zone (A2-sp)' to permit a concrete contracting business on the subject lands including the construction of a new 1,457 m<sup>2</sup> (15,680 ft<sup>2</sup>) building for the purpose of a contractor's shop.

Based on site visits and a review of available aerial imagery, it appears that the concrete contracting business may be currently operating from the site.

The subject lands also contain an accessory dwelling with attached garage, barn, coverall structure and multiple kilns and are currently in agricultural production.

Plate 1, Location Map with Existing Zoning, shows the location of the subject property and the existing zoning in the immediate vicinity.

Plate 2, Close-up of Existing Development (2020 Aerial Photo), provides an aerial view of the existing development on the subject lands.

Plate 3, Applicant's Sketch, identifies the location of the existing and proposed structures on the subject lands as provided by the applicant.

## **Application Review**

PROVINCIAL POLICY STATEMENT:

The 2020 Provincial Policy Statement (PPS) provides policy direction on matters of provincial interest related to land use planning and development. Under Section 3 of the Planning Act, where a municipality is exercising its authority affecting a planning matter, such decisions shall be consistent with all policy statements issued under the Act.

Section 2.3 of the Provincial Policy Statement (PPS) directs that prime agricultural areas shall be protected for long term agricultural use. In prime agricultural areas, permitted uses and activities include agricultural uses, agriculture-related uses and on-farm diversified uses.

Proposed agricultural-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 (e.g. Guidelines on Permitted Uses in Ontario's Prime Agricultural Areas) or municipal approaches, as set out in municipal planning documents, which achieve the same objectives. New land uses, including the creation of lots, and new or expanding livestock facilities shall also comply with the Minimum Distance Separation formulae.

According to the PPS, agricultural-related uses are 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.

Alternatively, on-farm diversified uses are defined as being limited in area and secondary to the principle agricultural use of the property. On-farm diversified uses include, but are not limited to, home occupations, home industries, agri-tourism uses, and uses that produce value-added agricultural products.

Further, according to Section 2.3.6, planning authorities may only permit non-agricultural uses in a prime agricultural area for the extraction of minerals, petroleum resources and mineral aggregate resources and limited non-residential uses, provided that all of the following are demonstrated:

- the land does not comprise a specialty crop area;
- the proposed use complies with the minimum distance separation formulae;
- there is an identified need within the planning horizon for additional land to be designated to accommodate the proposed use; and
- alternative locations have been evaluated, and it has been determined that there are no reasonable alternative locations which avoid prime agricultural areas; and no alternative locations within lower priority agricultural lands.

The province has published a guideline document on permitted uses in prime agricultural areas which details appropriate types of agriculture-related uses and provides further direction on their review criteria, in accordance with the PPS.

This review criteria provides that farm-related industrial uses may include uses such as industrial operations that process farm commodities from the area such as abattoirs, feed mills, grain dryers, cold/dry storage facilities, fertilizer storage and biomass pelletizers if they meet all the criteria for this category of uses. Many of these uses add value to the agricultural commodities produced in the area.

In order to be considered an agricultural-related use, the proposed use shall be compatible with and shall not hinder surrounding agricultural operations and uses should be appropriate to the available level of services. Further, agricultural-related uses shall maintain the agricultural character of the area and should not undermine the agricultural nature of the area.

This direction also provides that agricultural-related uses shall be directly related to farm operations in the area, primarily provide produces or services that are associated with, required by or that enhance the agricultural operations in the area and such use shall be supportive of agriculture and shall directly serve farm operations as a primary activity.

The guideline document also provides a list of uses that would not be considered to be agricultural-related and includes a contractor's yard, construction companies and excavators.

OFFICIAL PLAN:

The subject lands are located within the Agricultural Reserve designation according to the Township of Norwich Land Use Plan, as contained in the Official Plan. The policies of the Agricultural Reserve designation permit a wide range of farming uses together with accessory residential uses required for the farm and farm buildings and structures necessary to the farming operation. Agricultural-related uses and secondary uses, such as home occupations are also permitted, in accordance with relevant review criteria.

Agriculture-related uses permitted in the Agricultural Reserve include agricultural commercial and agricultural industrial uses, subject to the policies of Section 3.1.4.6 of the Official Plan. Township Council may permit the establishment of new agricultural industrial activities subject to compliance with the following criteria:

- The predominant activity will be related to the farm operation and unable to function successfully or properly without a location in close proximity to that farm operation. Uses which do not satisfy these criteria will be directed to designated settlement areas to reinforce the traditional community and service functions of these areas.
- Only proposals stating a specific use will be considered by the Area Council. The land area proposed for the agricultural commercial or industrial use will be consistent with the requirements of the proposed use.
- The proposal must demonstrate that nearby underdeveloped or vacant, properly zoned sites are unsuitable for the proposed use before other properties are rezoned.
- For new uses, the Area Council will also be satisfied that the following locational criteria have been considered:
  - the use is proposed on existing undersized agricultural parcels of a size and shape which constrains agricultural activity;
  - the use is proposed in an area made unsuitable for agriculture by former or surrounding land uses.
- The location of the new use shall not create a traffic hazard due to proximity to bridges, railway crossings, curves or grades or any other potential traffic hazard. Further, such uses shall be located on a road capable of accommodating the nature of the traffic anticipated to be generated.
- The new use shall be limited in scale so that it does not hinder surrounding agricultural operations or other existing land uses. Appropriate scale limitations for such uses shall be established and may include limits on total floor area for associated buildings and structures, number of employees, open storage, sale of goods and materials and other provisions necessary to limit the overall type and scale of use.
- New agricultural commercial or agricultural industrial uses will be located in conformity with Minimum Distance Separation Formula I.
- The proposed use will be of a size and scale suitable for private services.
- The agricultural commercial and agricultural industrial proposal will be in compliance with the Environmental Resource and Resource Extraction policies.
- The proposal shall be subject to site plan approval to address concerns related to setbacks, building location, buffering and screening, etc.
- Agricultural commercial and agricultural industrial uses are considered to be part of the farm operation and the severance of such a use from the farm parcel shall not be permitted.

According to Section 3.1.5, it is an objective of the Official Plan to only permit new non-agricultural uses where such uses do not conflict with the 'Goal for Agricultural Policies', as set out in Section 3.1.1. Further, non-agricultural uses shall remain clearly secondary to the principal function of food and fibre production, and shall be directed to designated settlements as a first priority.

Non-agricultural uses include commercial, industrial, institutional, infrastructure, public works yards, recreational and residential uses that are not directly related to, or supportive of agriculture.

Within the Agricultural designation, the use of prime agricultural land for agricultural, mineral, petroleum and environmental resources will be given a higher priority in land use decision making than its use for non-agricultural uses.

To maintain the agricultural land resource for agriculture and related uses, and ensure new commercial, industrial and institutional uses develop on an appropriate level of services, new non-agricultural commercial, industrial and institutional uses will not be permitted within the Agricultural Reserve.

Section 3.1.6 directs that proposals to amend the Official Plan to permit the establishment of new non-agricultural uses in the Agricultural Reserve will be considered in accordance with the following.

- Justification analysis, which provides compelling evidence that the proposed development should be located outside of a designated settlement, with consideration for the following:
  - there is a demonstrated need within the planning period for additional land to be removed from agricultural production;
  - nature of the proposal and whether the use requires special locational requirements or physical features that are only available in prime agricultural areas;
  - amount of land proposed for the new development will be consistent with the requirements of the proposed use; and,
  - long-term suitability and feasibility of the proposed site for centralized waste water and/or water supply facilities or private water and private septic systems.
- Agricultural impact analysis, which demonstrates:
  - the lands do not comprise a specialty crop area;
  - there are no reasonable alternatives which avoid prime agricultural areas;
  - there are no reasonable alternatives on lands with lesser agricultural capability or on lands left less suitable for agriculture by existing or past development;
  - MDS I is satisfied; and,
  - Impacts from the new use on nearby agricultural operations are mitigated to the extent possible.
- The proposed use shall not create traffic hazards and the road infrastructure shall be capable of accommodating the new use or expansion.
- The proposal is consistent with Environmental Resource Policies and Cultural Heritage Policies.
- The proposal will not conflict with Resource Extraction Policies.
- The proposal is acceptable regarding the ability to achieve the Goal for Agricultural Policies as set out in Section 3.1.1, the precedent to be established for other sites within the County and the ability to implement planned land uses in the vicinity.

TOWNSHIP OF NORWICH ZONING BY-LAW:

The subject lands are currently zoned 'General Agricultural Zone (A2)' according to the Township of Norwich Zoning By-law, which permits a wide range of agricultural uses, including farm buildings and an accessory dwelling, and requires a minimum lot area of 20 ha (49.4 ac) and a minimum lot frontage of 100 m (328.1 ft). In addition, all farm buildings are required to be setback 7.5 m (24.6 ft) from any interior property line.

The applicant is proposing to rezone the subject lands to 'Special General Agricultural Zone (A2-sp)' to permit the construction of a new contractor's shop approximately 1,457 m<sup>2</sup> (15,680 ft<sup>2</sup>) in size with 22 parking spaces proposed. The purpose of the contractor's shop is for a concrete business which primarily pours and forms foundations and walls, no concrete or products are made on the subject site.

AGENCY COMMENTS:

The Township of Norwich Building Department has indicated that the Township of Norwich Site Plan Control By-law would apply to the proposed development and the applicant would require site plan approval. Throughout the site plan approval process confirmation of private septic, on-site sanitary and water services would need to be provided. No concerns related to MDS calculations were raised.

The Oxford County Public Works Department, Township of Norwich Fire Department, have indicated that they have no concerns or objections with the application.

PUBLIC CONSULTATION:

Notice of complete application and notice of public meeting regarding this application were circulated to surrounding property owners in accordance with the requirements of the Planning Act. At the time this report was written no comments had been received from the public.

## **Planning Analysis**

The application proposes to rezone the subject lands from 'General Agricultural Zone (A2)' to 'Special General Agricultural Zone (A2-sp)' to permit the construction of a new contractor's shop approximately 1,457 m<sup>2</sup> (15,680 ft<sup>2</sup>) in size with 22 parking spaces. The subject lands contain an accessory dwelling with detached garage, barn, coverall structure, and multiple kilns, the remainder of the lands are used for cash-crop purposes. The applicant has indicated that the proposed shop and associated parking would remove approximately 0.8 ha (2 ac) of cropped land.

The subject property is located within a prime agricultural area, as defined by the PPS. Permitted uses and activities within a prime agricultural area include agricultural uses, agriculture-related uses and on-farm diversified uses. Agricultural-related uses are defined to mean those farm-related commercial and farm-related industrial uses that are directly related to farm operations in the area, support agricultural, benefit from being in close proximity to farm operations and provide direct products or services to farm operations as a primary activity.

The 'Guidelines on Permitted Uses in Ontario's Prime Agricultural Areas', published by the Province further provides that agricultural-related uses are to be directly related to farm operations in the area and provide direct products or services to farm operations as a primary activity. As per these guidelines, it is to be demonstrated that the proposed use requires a location in close proximity to farm operations and these guidelines specifically state that contractor's yards are not considered to be an agricultural-related use and are therefore considered to be non-agricultural uses. Based on this, Planning staff are of the opinion that the use of the subject lands for a concrete contracting business is not consistent with the intent of the Provincial policies and guidelines pertaining to agricultural-related.

While it is recognized that the subject lands contain an existing agricultural operation, staff are of the opinion that the concrete contracting business is not consistent with the agricultural character of the area and it has not been demonstrated that the said use, which serves commercial, residential, industrial and agricultural needs, is directly related to agricultural uses in the area or provides direct support to farm operations as a primary activity. As such, Planning staff are of the opinion that the proposed concrete business is more in keeping with an industrial use that would be better suited to lands designated for industrial purposes in a designated settlement area.

As per Section 3.1.4.6 of the Official Plan, any new agricultural-related use is required to be related to the farm operation on which it is located and unable to function properly without being in close proximity to the farm. Staff are of the opinion that the proposed business is generally not related to the existing agricultural use of the property, and it has not been demonstrated that the proposed use requires a location in close proximity to the farm operation to function successfully, which conflicts with the current intent of the agricultural industrial policies.

Further, no information has been provided on the level of servicing required to support the concrete business and it has not been demonstrated that the proposed use can be sufficiently served by the private water and sanitary services.

As noted in the 'Official Plan' section of this report, new non-agricultural commercial, industrial and institutional uses are generally not be permitted within the Agricultural Reserve. Section 3.1.6 of the Plan provides that any new non-agricultural uses proposed within the Agricultural Reserve will be subject to an amendment to the Official Plan and shall be accompanied by a Justification Analysis which provides compelling evidence that the proposed development should be located outside of a designated settlement and addresses matters including, but not limited to, the need to remove land from agricultural production, whether the proposed use requires special locational or physical features that are only available in prime agricultural areas, servicing implications, agricultural impact, traffic and impacts on the environment.

Section 3.1.6 also directs that consideration of a proposal for a non-agricultural use in a prime agricultural area shall be demonstrated to be acceptable regarding the ability to achieve the Goal for Agricultural Policies as set out in the Official Plan and will consider the precedent to be established for other sites within the County and the ability to implement planned uses in the vicinity.

Staff have evaluated the use in accordance with the review criteria contained in the Official Plan and the Provincial Policy Statement (including the Provincial guidelines for Permitted Uses in Prime Agricultural Areas) and are of the opinion that the applicant has not submitted the required application to amend the Official Plan or any of the justification required (as outlined in the 'Official Plan' section of this report) to demonstrate that the use should be located outside of a designated settlement area and in a prime agricultural area.

Planning staff are of the opinion that the proposal is not consistent with the PPS and contravenes the policies of the Official Plan as they pertain to the consideration of non-agricultural uses in prime agricultural areas and as such, the proposal should not be given favourable consideration.

## **RECOMMENDATIONS**

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1. **It is recommended that the Council of the Township of Norwich not approve the zone change application submitted by Jac Farms Inc., whereby the lands described as Lot 61, Plan 396 (Gore OPP), Township of Norwich are to be rezoned from 'General Agricultural Zone (A2)' to 'Special General Agricultural Zone (A2-Sp)' to facilitate the use of the lands as a concrete contracting business and construction of a building for the purpose of a contractor's shop as the proposed zoning amendment is not consistent with the relevant policies of the PPS and contravenes the policies of the Official Plan as they pertain to the consideration of non-agricultural uses in prime agricultural areas.**

## **SIGNATURES**

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**Authored by:** *Original Signed by* Amy Hartley, Development Planner

**Approved for submission:** *Original Signed by* Gordon K. Hough, RPP  
Director, Community Planning



### Legend

- Parcel Lines**
  - Property Boundary
  - Assessment Boundary
  - Unit
  - Road
  - Municipal Boundary
- Zoning Floodlines**
- Regulation Limit**
  - 100 Year Flood Line
  - 30 Metre Setback
  - Conservation Authority Regulation Limit
  - Regulatory Flood And Fill Lines
- Land Use Zoning (Displays 1:16000 to 1:500)**

### Notes



0 192 383 Meters

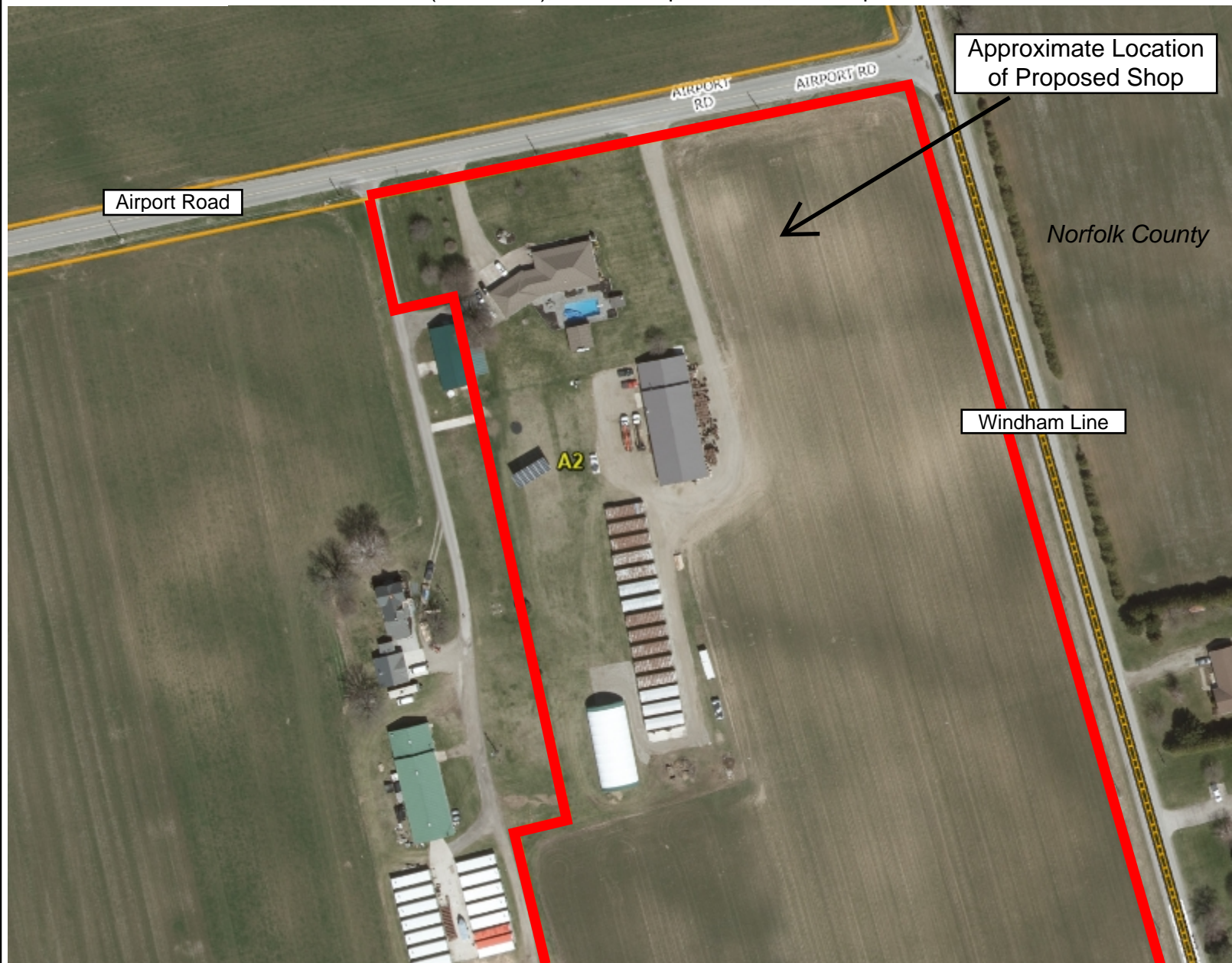
NAD\_1983\_UTM\_Zone\_17N



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August 10, 2023





## Legend

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- Property Boundary
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- Municipal Boundary

### Zoning Floodlines

#### Regulation Limit

- ♦♦ 100 Year Flood Line
- ▲ 30 Metre Setback
- Conservation Authority Regulation Limit
- Regulatory Flood And Fill Lines

- Land Use Zoning (Displays 1:16000 to 1:500)

## Notes



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NAD\_1983\_UTM\_Zone\_17N



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**Scale:**

