



Subject:	Zoning By-law Amendment Application by 534754 Holdings Ltd. CN: 3-5-02-03, Application: PLZBA20190038
To:	Planning & Economic Development Committee
From:	Planning and Development Department

Report Number:	PD-54-19
Wards Affected:	Ward 4
Date to Committee:	Monday, July 15, 2019
Date to Council:	Monday, July 22, 2019

Recommendation:

Council Approve Zoning By-law Amendment Application PLZBA20190038 in the name of 534754 Holdings Ltd.

Council Enact and Pass Zoning By-law XX attached as Appendix B of Planning and Development Department Report PD-54-19 to amend the zoning regulations for lands at 3930 Ninth Street.

Council Deem that Zoning By-law XX conforms to the Official Plan for the Town of Lincoln

Purpose:

The purpose of this report is to provide a recommendation to Committee and Council regarding a Zoning By-law Amendment to permit an existing row greenhouses that are setback 0 metres from the eastern property line that abuts Ninth Street.

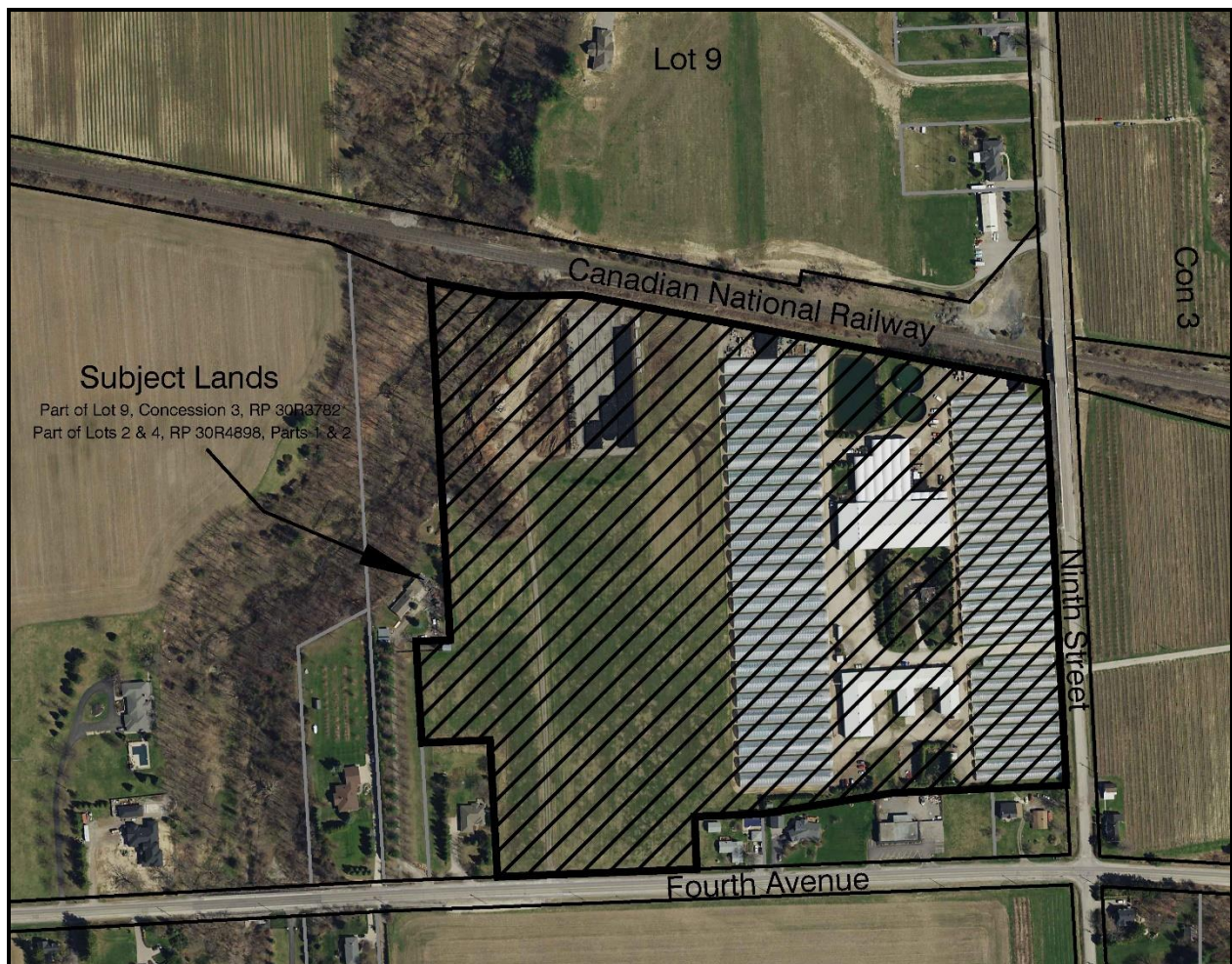
Background:

The subject lands are municipally known as 3930 Ninth Street located between Fourth Avenue to the south and the CN rail line to the north. The subject lands are described as part of Lot 9, Concession 3, being Parts 1 and 2, Plan 30R-4898 and being Parts 2 and 4, Plan 30R-3782. A map outlining the location of the subject lands is included on the following page and a site plan is included as Appendix A.

The lands possess a lot area of approximately 13.6 hectares (33.69 acres) in size and are currently occupied by multiple greenhouses, a farm equipment/cold storage building, a greenhouse shipping building and a single detached dwelling. Surrounding lands are predominantly being used for agricultural purposes and rural residential use.

The subject lands are subject to a Temporary Use By-law pursuant to Section 39(3) of the Planning Act, 1990, to allow the continued location of the easterly range of greenhouses at the property line adjacent to Ninth Street. The Temporary Use By-law was initially approved by Council on Dec. 5, 2005 for a three-year period. It has subsequently been renewed with Council approval on Nov. 17, 2008, Oct. 27, 2011, Jan. 19, 2015 and Mar. 19, 2018. It permitted a setback of 0 metres adjacent to Ninth Street, whereas 15 metres is normally required. The lands are under Site Plan Control.

The applicant now requests a Zoning By-law amendment to recognize the existing row of greenhouses with a 0-metre setback as permanent.



Report:

It is required that municipal decisions affecting planning matters shall be consistent with Provincial Policy. The following policies are particularly relevant to this application.

Provincial Policy Statement:

Policy 2.3.1 states that 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.

Policy 2.3.3.1 states that 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. Policy 2.3.3.2 states that 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.

The existing use of the greenhouses is agricultural and the use will not change because of this zoning by-law amendment, should Council approve it. As such, it does not affect the agricultural viability of the lands and maintains the existing agricultural operations; therefore, the proposed amendment complies with the Provincial Policy Statement.

Greenbelt Plan:

The Greenbelt Plan identifies the subject lands as being located within the Protected Countryside designation, further identified as the Niagara Peninsula Tender Fruit and Grape Specialty Crop Area. Policy 3.1.2.1 states all types, sizes and intensities of agricultural uses and normal farm practices shall be promoted and protected, and a full range of agricultural uses, agriculture-related uses and on-farm diversified uses are permitted based on the provincial Guidelines on Permitted Uses in Ontario's Prime Agricultural Areas. Proposed agriculture-related uses and on-farm diversified uses shall be compatible with and shall not hinder surrounding agricultural operations. Staff are satisfied that the proposed zoning by-law amendment complies with Greenbelt policy.

Regional Official Plan:

The lands are within a Unique Agricultural Area according to the Regional Official Plan. The Unique Agricultural Area designation encourages the preservation of agricultural lands for agricultural purposes and permits lands to be used primarily for agricultural purposes. Since the agricultural use is maintained and there are no changes that will result from the proposed zoning amendment, staff confirm that it is consistent with Regional policy pertaining to agricultural operations.

Council Policy:

The lands are subject to a number of planning policies, including the policies of the Official Plan and the regulations of Zoning By-law No. 93-14-Z1.

Official Plan:

The subject lands are designated Specialty Agriculture according to the Official Plan. The agricultural policies support the production of a wide and evolving range of crops. The *Specialty Agricultural* designation implements the Province of Ontario's Greenbelt Plan and recognizes the importance of specialty croplands for their unique ability to produce certain crops and for their importance in the Provincial, Regional and Town economies. The Prime Agricultural designation protects and maintains land suitable for agricultural production and permits uses which support and/or are compatible with agriculture. These lands are an important asset to the Town and are to be preserved for the benefit of current and future generations.

As noted in Section 1.3.3.2, a primary objective of the Official Plan is to promote Lincoln as a Centre of Excellence for Agriculture and attract a full range of business linked to or supportive of food and farming and all related activities.

In Section 2.1.2, the following objectives for agricultural land use are provided:

- To recognize, respect and value the full range of ecological goods and services delivered to the community through good farming practices.
- To recognize agricultural land as an essential component of the cluster that establishes the Town as a Centre of Excellence for Agriculture.
- To promote the preservation of agricultural lands as the highest priority for the Town.
- To protect the integrity of the Agricultural Area from conflicting uses.
- To manage natural heritage features as part of the Agricultural Area in a way that will protect the feature but not impact on the ability to farm.
- To acknowledge that agricultural land is an integral part of the natural environment and sustains vital linkages.
- To support uses that enable farming and farmers to:
 - Become more competitive and sustainable;
 - Adapt to new and changing markets;
 - Diversify into and take advantage of new agricultural opportunities;
 - Improve the understanding of agriculture by the general public; and
 - Broaden operations to diversify economic activity and add value to agricultural production.
- To emphasize the value of agriculture as an essential part of the Town environment, economy, character and quality of life.
- To encourage a wide range of farm diversification uses in appropriate locations and at a scale suitable to the farm and the agricultural area where they contribute to profitable and economically sustainable agriculture.
- To encourage the preservation of agricultural lands for agricultural purposes and to direct non-farm uses to Settlement areas.
- To ensure non-farm uses do not conflict with and are well removed from agricultural activity.

- To promote a viable agricultural industry for the production of a range of commodities, to enhance opportunities for directly related employment and to continue as a major component of the economic base of Lincoln.

Zoning By-law:

The lands are currently zoned Agricultural (A) according to the Zoning By-Law No.93-14-Z1. The Agricultural zone permits a greenhouse and agricultural produce warehouse and/or shipping accessory to a greenhouse operation as well as a single detached dwelling.

The Agricultural zone provisions do not allow for greenhouses to be within 15 metres of the exterior side yard. Exterior side yards exist only for corner lots, where the front yard is typically considered the shorter lot line abutting the street and the longer lot line abutting the street is considered the exterior side yard. The yards are defined on this principle regardless of the orientation of any buildings or structures on a lot.

The purpose of this application is to allow for the continuous use of the greenhouses on the exterior side yard lot line by permanently recognizing their 0-metre setback from Ninth Street. However, there will be no changes to the use of the land and the agricultural operations currently in existence will be maintained. As such, staff are satisfied that the policies of the Town Official Plan are satisfied.

Planning and Development Staff:

Staff acknowledge that Council has approved the 0m setback as a temporary (3-year duration) provision on multiple occasions. The current application to permanently recognize the greenhouses in their current location, which will eliminate the need for the applicant to keep coming back to Council, resulting in unnecessary utilization of Town resources and Council's time. Staff note that the size of the existing greenhouses is identified in the by-law to preclude any expansion of the existing greenhouses with a 0m setback. Further to these measures, staff acknowledge that the agricultural operations on the lands are maintained and have no concerns with respect to this application.

Planning Staff has prepared a draft Zoning By-law Amendment for Committee's review which is included as Appendix B.

Processing Timelines:

Date of Receipt of Complete Application: March 28, 2019

Processing Time: 3 months, 25 days (109 days)

Section 34(11) of the Planning Act permits an applicant to file an appeal to the Local Planning Appeal Tribunal if Council refuses or neglects to make a decision on a Zoning By-law Amendment Application within 150 days of the submission of a complete application.

Financial, Legal, Staff Considerations:

Financial: N/A

Staffing: N/A

Legal: In the event that Council's decision regarding the application is appealed to the Local Planning Appeal Tribunal (LPAT), legal costs could be incurred by the Town.

Public Engagement Matters:

The Zoning By-law Amendment application notice was circulated to relevant government agencies and Town Departments as well as property owners within 120 metres of the subject lands in accordance with Planning Act regulations. An open house was held on May 28, 2019, during which no residents or agencies attended. A public meeting was on June 10, 2019. While there were no speakers for or against the application that came forward, the Planning and Economic Development Committee did identify some concerns with respect to the possibility of the crops within the greenhouses being converted to cannabis. The applicant's legal representative confirmed at the public meeting that the existing crops were not cannabis. Furthermore, staff note that the interim control by-law passed by Council prohibits establishment of new cannabis cultivation/production facilities from Jan. 2019 to Jan. 2020. This would enable By-law enforcement officers to address any potential conversion within that timeframe. Finally, the staff are undertaking a comprehensive review of the Town Zoning By-law to address certain policy directions and land-use trends, including incorporation of potential land-use controls (i.e., setbacks, minimum lot size, minimum distance separation) for cannabis cultivation and production. Although exact provisions will be confirmed as the zoning by-law review is completed, it is unlikely that the siting of the existing greenhouses would permit them to house cannabis operations of any kind. Regardless, the applicant's representative confirmed verbally at the open house that there are no known intentions to convert crops to cannabis.

In addition to the above, staff received a phone call from a nearby resident who expressed support for the application. Otherwise, no other comments have been received.

Conclusion:

As outlined in this report, staff are of the opinion that this application is consistent with Provincial Policy, conforms to the Growth Plan for the Greater Golden Horseshoe and conforms to the Regional Official Plan.

Staff is further satisfied that the proposed development is consistent with the Town Official Plan as it supports policies related to agricultural viability and sustained operation in the Official Plan.

Staff therefore recommend that Zoning By-law application PLZBA20190038 be approved and that the Zoning By-law Amendment attached as Appendix B to this report be adopted.

Respectfully submitted,

Matt Bruder MCIP, RPP
Associate Director of Planning and Development

Appendices:

Appendix A Site Plan
Appendix B Draft By-law

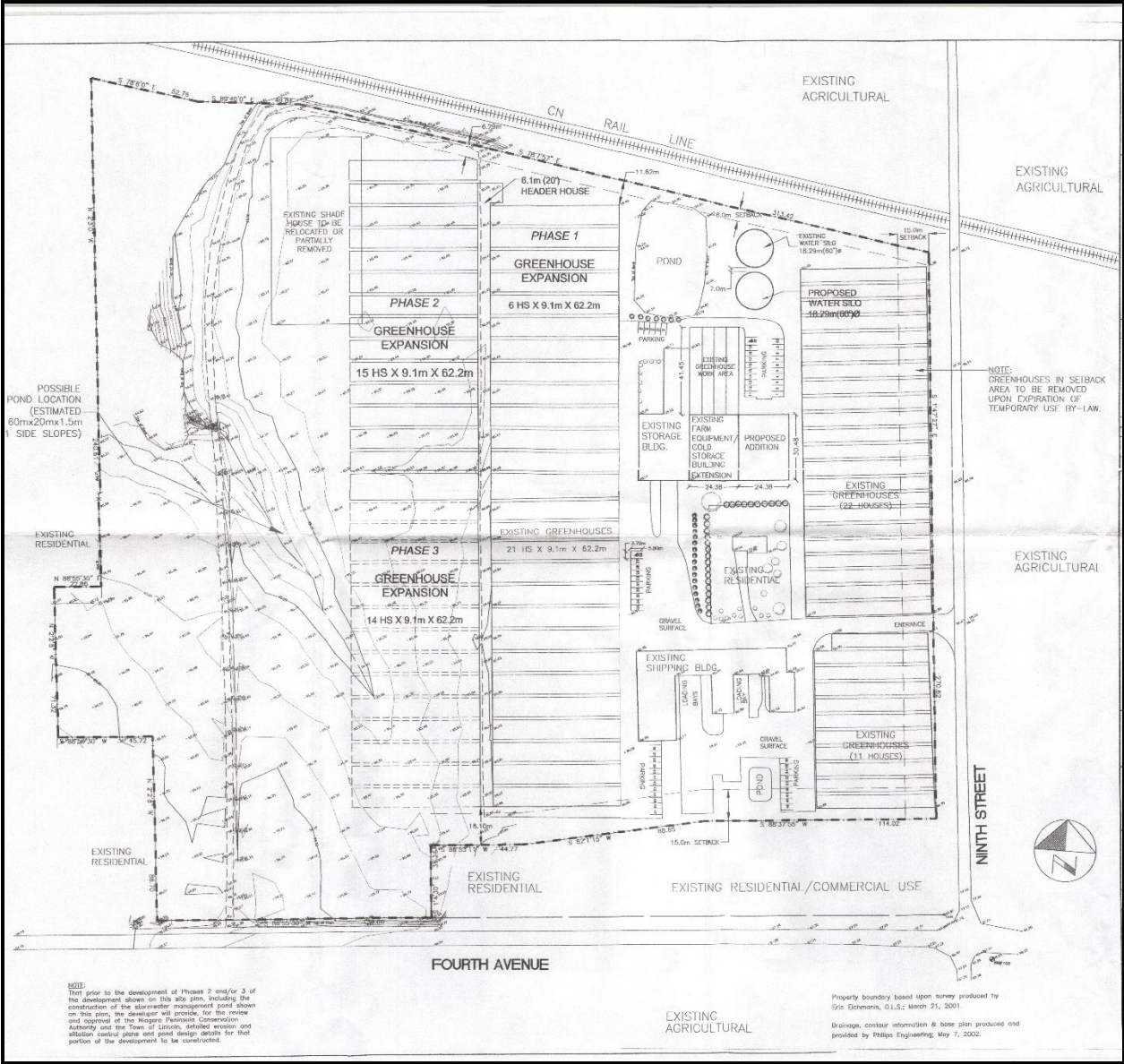
Notification:

Notification of the decision will be in accordance with the requirements of the Planning Act.

Report Approval:

Report has been reviewed and approved by the Director of Planning and Development and the Chief Administrative Officer.

SITE PLAN



THE CORPORATION OF THE TOWN OF LINCOLN

BY-LAW NO. 2019-XX-ZXXX

A BY-LAW TO AMEND ZONING BY-LAW NO. 93-14-Z1, AS
AMENDED, OF THE TOWN OF LINCOLN
(534754 Holdings Ltd.)

WHEREAS:

1. The Town of Lincoln Council is empowered to enact this By-law by virtue of the provisions of Section 34 of the Planning Act, 1990.

NOW THEREFORE, THE COUNCIL OF THE CORPORATION OF THE TOWN OF LINCOLN HEREBY ENACTS AS FOLLOWS:

1. That Schedule 'A' to Zoning By-law No. 93-14-Z1, as amended, is hereby amended by changing the zoning on the lands shown as the subject lands on Schedules 'A' and 'B', attached hereto and forming part of this By-law from an Agricultural (A) Zone to an Agricultural (A-70) Zone;
2. That Subsection 8.4, Special Provisions is hereby amended by adding the following subsection:

"8.4.70 A-70 (SETBACK FROM NINTH STREET FOR GREENHOUSES)"

Notwithstanding the provisions of the Agricultural Zone, the lands indicated as A-70 on Schedule 'A' shall be subject to the following provisions:

- (a) Minimum Side Yard Setback – 0 Metres
From Ninth Street for
Greenhouses
3. That this By-law shall become effective from and after the date of passing thereof.

BY-LAW read a FIRST time this 22nd day of July, 2019.

BY-LAW read a SECOND time this 22nd day of July, 2019.

BY-LAW read a THIRD time and FINALLY PASSED this 22nd day of July, 2019.

MAYOR: SANDRA EASTON

CLERK: JULIE KIRKELOS

EXPLANATION OF THE PURPOSE AND EFFECT OF BY-LAW
NO. 2019-XX-ZXXX

This By-law involves a parcel of land located on the east side of Ninth Street and North of Forth Avenue. The subject lands are composed of part of Lot 9, Concession 3, Being Parts 2 & 4 on 30R3782, Being Parts 1 & 2 on 30R4898, in the former Township of Louth, in the Town of Lincoln.

The subject lands are currently zoned as Agricultural (A) according to Zoning By-law No. 94-14-Z1, as amended. This By-law amends the provisions of the Agricultural Zone on the subject lands to permit greenhouses 0 metres from Ninth Street.

CN: 3-5-02-03
Application: PLZBA20190038
Applicant: 534754 Holdings Ltd.
Report PD-54-19

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