

# THE CORPORATION OF THE MUNICIPALITY OF LEAMINGTON

## AGENDA



### PUBLIC MEETING

ZONING BY-LAW AMENDMENT 34  
- 46 Seacliff Drive West  
(J. Jacobs and Sons  
Produce Limited)

MONDAY, APRIL 4, 2011  
COMMENCING AT 7:00 P.M.  
IN THE COUNCIL CHAMBERS

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#### ITEMS FOR CONSIDERATION:

1. Notice of Public Meeting  
Pages 2-3
2. Report PLA 07/11 dated March 2, 2011 re: Zoning By-law Amendment Request Proposed Commercial Use - 46 Seacliff Drive West (J. Jacobs and Sons Produce Limited (Previously considered at the March 7, 2011 Council Meeting)  
Pages 4-10
3. Comments received from Essex Region Conservation Authority dated March 10, 2011  
Page 11

THE CORPORATION OF THE MUNICIPALITY OF LEAMINGTON  
**NOTICE OF PUBLIC MEETING**  
ZONING BY-LAW AMENDMENT  
**ZBA 34 - 46 SEACLIFF DRIVE WEST**

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**TAKE NOTICE** that the Council of the Corporation of the Municipality of Leamington will hold a public meeting concerning a proposed zoning by-law amendment under the provisions of the Planning Act, R.S.O. 1990 on **Monday, April 4<sup>th</sup>, 2011 at 7:00 pm** in the Council Chambers at the Municipal Building.

The subject property is described as Concession BF, Part Lot 6, Part 3 and 4 on Plan 12R-4391 and locally known as 46 Seacliff Drive West in the former Township of Mersea, now a portion of the Municipality of Leamington (see key map).

The subject property is designated Residential on Schedule "A-6C" of the Leamington Official Plan, as approved on February 5, 2008. The subject property is currently zoned Residential Defined (R1-15) on Map 58 in Zoning By-law #890-09, as approved on January 12, 2009. It is proposed to keep the subject property in the R1-15 Zone, remove the reference to an ambulance dispatch and storage establishment, keep the R1 permitted uses (which includes residential uses, garden suites, one home occupation and bed and breakfast) and add in the following use: on-site and off-site offices, personal and other service uses, communication facilities, clinics, day care facilities, restaurant, and auto service facility including auto sales, services and cleaning/detailing. All development is subject to site plan control.

**ANY PERSON** may attend the public meeting and/or make written or verbal representation either in support of or in opposition to the proposed zoning by-law amendment.

If a person or public body that files an appeal to a decision of the Municipality of Leamington in respect of the proposed zoning by-law amendment does not make oral submission at a public meeting or make written submissions to the Municipality before the proposed by-law is adopted, the Ontario Municipal Board may dismiss all or part of the appeal.

**ADDITIONAL INFORMATION** relating to this matter is available for review at the Municipal Office for the Corporation of the Municipality of Leamington, 38 Erie Street North, during regular office hours. Please contact Tracey Pillon-Abbs, Manager of Planning Services, for further information.

**DATED** at the Municipality of Leamington this 9<sup>th</sup> day of March 2011.

**BRIAN R. SWEET, CLERK**  
MUNICIPALITY OF LEAMINGTON  
38 ERIE STREET NORTH  
LEAMINGTON, ONTARIO N8H 2Z3  
TELEPHONE: (519) 326-5761



## REPORT

TO: MAYOR AND MEMBERS OF COUNCIL

FROM: TRACEY PILLON-ABBS, MANAGER OF PLANNING SERVICES

DATE: MARCH 2, 2011

SUBJECT: ZONING BY-LAW AMENDMENT NO. 34  
PROPOSED COMMERCIAL USE  
46 SEACLIFF DRIVE WEST (J. JACOBS AND SONS PRODUCE LIMITED)

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### AIM:

To report upon a request to schedule the required public meeting to consider a proposed zoning by-law amendment for property located at 46 Seacliff Drive West.

### BACKGROUND:

#### Purpose of Application:

Staff has received an application for re-zoning by the owner(s) of the property, to amend the subject lands to permit commercial uses in a residential zone.

#### Property Description:

The subject property is described as Concession BF, Part Lot 6, Part 3 and 4 on Plan 12R-4391 and locally known as 46 Seacliff Drive West in the former Township of Mersea, now a portion of the Municipality of Leamington (see key map).

Currently, the subject property has a residential and commercial building along with paved parking. It was used as a former ambulance dispatch and storage establishment in addition to a single unit detached dwelling.

The ambulance dispatch has moved to a location on Wilkinson Drive and the owner is now actively pursuing new tenants.

The property is serviced by municipal water, storm and sewer services.



Frontage for the property is on Lombardy Lane however access is from Seacliff Drive West.

Abutting land uses are residential with a church to the north of Seacliff Dr West and a gas station to the east of Lombardy Lane.

**COMMENTS AND ANALYSIS:**

**Provincial Policy Statement (PPS):**

It is required that the Municipality 'be consistent' with the PPS. In reviewing the policies, the development can be supported.

**County of Essex Official Plan 2005 (OP):**

The subject land is designated within the County of Essex Settlement Area on Schedule "A" in the County OP. In reviewing the policies, the development can be supported.

**Leamington Official Plan, 2008 (OP):**

The subject property is designated Residential on Schedule "A-6C" the Leamington OP (2008).

The policy of this designation is to provide a variety of housing types and densities subject to conformity and compliance with the Zoning By-law. Other uses which are considered necessary and complimentary to serve residential areas, including schools, parks, places of worship, day care centres, in-home occupations as secondary uses, and essential buildings and structures for public utilities, may be permitted where they are compatible with the residential area.

Section 7.12 sets out that the zoning of the lands which uses occupy may also permit a limited range of similar or related uses.

Applications to amend the Zoning By-law to permit a use that is as, or more compatible with the surrounding area may also be approved by Council without an amendment to the Plan.

There are also a number of parcels that have current zoning applying to them that is not in conformity with this Plan. The current zoning can be carried forward in the Zoning By-law without the requirement of amending this Plan.

**Leamington Zoning:**

The subject property is currently zoned Residential Defined (R1-15) on Map 58 in the Zoning By-law #890-09.

It is proposed to keep the subject property in the R1-15 Zone, remove the reference to an ambulance dispatch and storage establishment, keep the R1 permitted uses (which includes residential uses, garden suites, one home occupation and bed and breakfast) and add in the following use:

- on-site and off-site offices,
- personal and other service uses,
- communication facilities,
- clinics,
- day care facilities,
- restaurant, and
- auto service facility including auto sales, services and cleaning/detailing.

The owner intends to apply for site plan control prior to the final approval of the zoning by-law amendment. If not, the owner will be requested to place the lands in a holding (h) zone until such time that a development agreement is executed.

Prior to any construction, a change of use permit will be required under the Ontario Building Code.

**CONSULTATION:**

Administration has completed their review of the proposed application as part of the pre-consultation process.

As set out in the Planning Act, a complete application includes any 'prescribed information' identified in the regulations of the Planning Act and any 'additional information' required by the municipality, as identified in its official plan.

Section 7.12 sets out that the zoning of the lands which uses occupy may also permit a limited range of similar or related uses provided the following criteria are met:

- a) the zoning does not permit any change of performance standard that aggravates any situation detrimental to adjacent complying uses;
- b) the use does not pollute the air or water to the extent of interfering with the normal enjoyment of property;
- c) the use does not interfere with the desirable development or enjoyment of the adjacent area;
- d) the use does not constitute a danger to surrounding uses and persons because of its hazardous nature or traffic generated;
- e) a rezoning to permit another use may only be permitted where the proposed use is more compatible with, or conforms to, the land use policies and designations contained in this Plan.

Due to the nature of the proposed zoning change it is Administration's position that a planning justification study is required and one has been completed by a qualified planner (Prince and Associated Ltd - see attached). The above criteria have been included in the justification study. Administration supports the findings set out in the study.

**CONCLUSION:**

As part of the new Bill 51 regulations of the Planning Act, pre-consultation was used to review all the 'prescribed information' and any 'additional information' required in order to consider the application complete. Prior to deeming the application complete, Section 34 (10.3) of the Act sets out that Council must receive all the information or material it needs to make a decision.

Administration suggests that this matter should now proceed to a public meeting. The date for the required public meeting is requested to be scheduled for **Monday, April 4, 2011 at 7:00 pm.**

Notice of public meeting will be circulated to all commenting agencies, municipal departments and abutting landowners within 120 m (400 ft) of the subject property. Notice will also be posted in the Leamington Post. As part of the new Bill 51, all information will be made available to the public and commenting agencies.

A report by Administration will be presented to Council after the public meeting.

Once a decision for Zoning By-Law amendment has been made and notices sent out, there would be an appeal period in the case that there are any objections to the Ontario Municipal Board (OMB).

As set out under Bill 51 of the Planning Act, the OMB is required not only to have regard to Council's decision, but the basis on which the decision is made. In order to ensure that the OMB has regard to Council's decision, Council should be able to demonstrate that its decision was fully supported by relevant information and that the information was considered by Council.

**RECOMMENDATION:**

THAT Council declare that the application was reviewed and deemed to be complete pursuant to the requirements of the *Planning Act* to consider a zoning by-law amendment for property located at 46 Seacliff Drive to amend the uses of the Residential Defined (R1-15) Zone, as outlined in Report PLA 07/11;

AND that Administration is directed to schedule the required public meeting for Monday, April 4, 2011 at 7:00 pm.

Respectfully submitted,

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Tracey Pillon-Abbs,  
Manager of Planning Services

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Douglas E. Morrish,  
Director of Development Services

ATTACH.

/tpa

**PRINCE AND ASSOCIATES LTD.**  
Urban and Rural Planning Consultants

287 Main Street East  
Kingsville, Ontario  
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TEL (519)733-9610  
FAX (519)733-9617

Ms. Tracey Pillon-Abbs,  
Planner,  
Municipality of Leamington,  
38 Erie Street North,  
LEAMINGTON, Ontario.  
N8H 2Z3

January 24<sup>th</sup>, 2011

Dear Ms. Pillon-Abbs:

Re: Application to Amend the Zoning By-law  
Former Ambulance Station on Seacliff Drive

Further to our discussions regarding the above-noted file, I would like to provide you with the following planning justification to support the application to amend the zoning by-law.

**Nature of the Proposal**

The ambulance station has been relocated. As a result, the former station situated on Seacliff Drive across from the south end of Sherk Street has been sold. The current zoning on the subject property is residential with an "ambulance dispatch and storage establishment" being an additional permitted use in the R1-15 defined area. The new owners are looking to expand the list of permitted commercial uses on the site as there is no longer a need to use the building as an ambulance dispatch and storage facility.

The new commercial uses being proposed include both on-site and off-site offices, personal and other service uses, communication facilities, clinics, day care facilities, restaurant and auto service facilities including auto sales, service and cleaning/detailing. The property has been used commercially for well over twenty years and it is believed that these uses would be as, or more, compatible as the ambulance station.

**Zoning By-law**

The Zoning By-law zones the subject property Residential R1-15. The uses permitted include an ambulance dispatch and storage facility in addition to the uses permitted in the Residential R1 zone. The existing building is a converted residential building that has been modified to function as an ambulance station. There is considerable hard surfaced parking on site.

Since the site is no longer required as an ambulance station, the new owners are seeking to expand the list of uses permitted in the defined area. The proposed list includes those uses for which the site is well suited and that are believed to be as, or more, compatible with the surrounding area than was the ambulance station. The existing building and associated hard surfaced parking area are substantial and suitable for continued use.

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## Official Plan

The Official Plan designates the subject property Residential. The proposed uses are not specifically permitted in the Official Plan. However, section 7.12 of the Official Plan provides the opportunity for this application. Specifically, it states:

### *“7.12 Existing Land Uses*

*Certain lands within the Municipality have been developed with a land use other than that which is intended by the designations and policies of this Plan. Provided these uses legally existed prior to the date of adoption of this Plan, they may be recognized as legal conforming uses in the implementing Zoning By-law. Further, the zoning of the lands which these uses occupy may also permit a limited range of similar or related uses provided the following criteria are met:*

- a) The zoning does not permit any change of performance standard that aggravates any situation detrimental to adjacent complying uses;*
- b) The use does not pollute the air or water to the extent of interfering with the normal enjoyment of property;*
- c) The use does not interfere with the desirable development or enjoyment of the adjacent area;*
- d) The use does not constitute a danger to surrounding uses and persons because of its hazardous nature or traffic generated;*
- e) A rezoning to permit another use may only be permitted where the proposed use is more compatible with, or conforms to, the land use policies and designations contained in this Plan.*

*Applications to amend the Zoning By-law to permit a use that is as, or more compatible with the surrounding area may also be approved by Council without an amendment to this Plan provided the proposed use satisfies the above criteria.*

*There are also a number of parcels that have current zoning applying to them that is not in conformity with this Plan. The current zoning can be carried forward in the Zoning By-law without the requirement of amending this Plan.”*

Accordingly, the Official Plan establishes that applications to amend the Zoning By-law to permit a use that is as, or more compatible with, the surrounding area may also be approved by Council without an amendment to the Official Plan provided the proposed uses satisfy the criteria listed in items a through e above. In that regard, the following is offered for consideration:

- a) The application does not seek any change of performance standard that would aggravate any situation detrimental to adjacent complying uses. The uses proposed should be considerably less aggravating than ambulances leaving the site;
  - b) The application does not seek any uses that would pollute the air or water that would interfere with the normal enjoyment of property;
  - c) The application does not seek any uses that would interfere with the desirable development or enjoyment of the adjacent area;
  - d) The application does not seek any uses that would constitute a danger to surrounding uses and persons because of their hazardous nature or traffic generated. Any one of the proposed uses would be considerably less dangerous to the surrounding area than an ambulance dispatch station;
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- e) The application only seeks uses that are more compatible with the policies and designations of the Official Plan. In fact, many of the uses being sought would be permitted as home occupations if someone was living in the building. Permitted home occupations are thought to be compatible with residential areas and so permitted as home occupations. It is not proposed that anyone live in this building but in selecting the uses to be included in the application for amendment, much consideration was given to compatibility with the surrounding residential, commercial and institutional uses in the immediate area.

### **County of Essex Official Plan**

The County of Essex Official Plan does not specifically address a specific application such as this. However, it does stipulate that the local Official Plans are the documents that Council is to have regard to when making decisions on these more specific type of application. The local Official Plan certainly supports the application provided compatibility is maintained or improved.

### **Provincial Policy**

Much like the Official Plan for the County of Essex, Provincial Policy does not specifically address applications of such a specific nature. However, Provincial Policy does encourage local municipalities to optimize the use of existing serviced areas.

### **Summary and Conclusion**

In summary, the application to amend the municipal Zoning By-law to expand the current list of permitted uses on the former ambulance station property on Seacliff Drive is in direct conformity with the Official Plan for the Municipality of Leamington. Also, although not specifically addressed in either Provincial Policy or the County of Essex Official Plan, there is nothing about the application that is in conflict with either land use planning document. The current permitted use has been relocated leaving a substantial building and hard surfaced parking area. In order to optimize opportunities in the fully serviced area, while not adversely impacting uses in the area, a limited list of additional permitted uses are being sought. Each of these uses is believed to be compatible with the surrounding uses which include residential, institutional and commercial.

I trust you will find this report in order. In the event that you require anything further or that you have any questions, please call me.

Yours very truly,  
**PRINCE AND ASSOCIATES LTD.**

/dcp  
c. Mr. Louie Saad  
Mr. Reiner Neumann

D. Cindy Prince,  
Planner.

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**Essex Region  
Conservation  
Authority**

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**2011 Board of Directors**

March 10, 2011

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Leamington ON N8H 2Z3

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Dear Mr. Sweet:

RE: Notice of Public Meeting to Consider Zoning By-Law Amendment (ZBA 34) - Lot 6, Concession A; 46 Seacliff Drive West; ARN: 370653000028800; PIN: 751410469; Applicant: J. Jacobs And Sons Produce Limited.

The following is provided for your information and consideration as a result of our review of the above referenced Notice of Public Meeting to Consider Zoning By-Law Amendment (ZBA 34).

**Based on our review, we have no objections to the application.**

If you should have any questions or require any additional information, please do not hesitate to contact the ERCA office by phone at (519) 776-5209 or by fax at (519) 776-8688.

Thank you.

Sincerely,

Rebecca Belanger, MCIP, RPP  
*Conservation Planner*

/dl

cc: J. Jacobs And Sons Produce Limited

