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# HALDIMAND COUNTY

## Report PED-PD-24-2018 Zoning By-law Amendment to Permit a Dwelling in Hazard Land Zone - Love



For Consideration by Council in Committee on June 5, 2018

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### OBJECTIVE:

To establish a site specific special provision in the 'Hazard Land' zone that will create a building envelope, inside which the owners will construct a single detached dwelling.

### RECOMMENDATIONS:

1. THAT Report PED-PD-24-2018 Zoning By-law Amendment to Permit a Dwelling in Hazard Land Zone - Love be received;
2. AND THAT application PLZ-HA-2018-048 to amend the Town of Dunnville Zoning By-law 1 DU-80 to create a site specific special provision for the subject lands to permit the constructions of a dwelling be approved for reasons outlined in Report PED-PD-24-2018;
3. AND THAT the proposal is deemed to be consistent with the Provincial Policy Statement (2014), and the Growth Plan for the Greater Golden Horseshoe (2017);
4. AND THAT the Removal of Holding Provision By-law attached to Report PED-PD-24-2018 be presented for enactment and the General Manager of Planning and Economic Development be granted the authority to remove the holding provision when the conditions relating to the matter are satisfactorily addressed;
5. AND THAT the By-law attached to Report PED-PD-24-2018 be presented for enactment.

**Prepared by:** Benjamin Kissner, Planner

**Reviewed by:** Mike Evers, MCIP, RPP, BES, Manager, Planning and Development

**Respectfully submitted:** Craig Manley, MCIP, RPP, General Manager of Planning and Economic Development

**Approved:** Donald G. Boyle, Chief Administrative Officer

### EXECUTIVE SUMMARY:

The applicants are seeking to establish a building envelope within the 'Hazard Land' zoning on the subject lands. This Hazard zoning is related to the potential for erosion of the slope that exists on the site and the zone change process is a key mechanism to ensure that this risk is reviewed and mitigated before any development occurs. In this circumstance, the owner's intentions are to construct a single detached dwelling for permanent year round occupancy with an accessory building. The zoning amendment has received support from the Niagara Peninsula Conservation Authority (NPCA). Haldimand County's Official Plan generally directs development away from hazards; however, through significant study between the applicants and NPCA, an area on site has been deemed safe for future development by NPCA. Staff has reviewed the proposed zoning amendment on the subject lands against Provincial and County policy frameworks and the principle

of land use is consistent with each. Based on the above, Planning staff recommends approval of this proposal for the reasons set out within this report. A public meeting has been scheduled to correspond with the presentation of this report. A public notice sign has been posted at the site and was visible when the Planner conducted a site visit.

## **BACKGROUND:**

An application has been received to consider an amendment to the Town of Dunnville Zoning By-law 1-DU 80 to permit future residential development by rezoning a portion of an existing lot. The proposed zoning by-law amendment has been brought forward in order to establish a building envelope on the subject lands within which the owners would like to construct a dwelling and accessory uses. The proposed building envelope will represent approximately 0.06 hectares (0.16 acres) of the total lot area which is approximately 0.25 hectares (0.63 acres). The subject lands were identified as 'hazard land' when the existing zoning was developed in 1980 based on the erosion hazard conditions as identified at the time. In the interim period the owner has undertaken additional work to determine the stability of the slope, and how the hazard will not be aggravated by the construction, and the owners have worked with the Niagara Peninsula Conservation Authority (NPCA) in this regard. The whole of the proposed dwelling, accessory building and associated septic system can be placed in the portion of the property to be rezoned and, the NPCA is confident that safe access to the lands to be re-zoned can be provided. In fact, the NPCA has issued a permit to facilitate construction at the property. In addition to the rezoning, a holding provision is to be placed on the subject lands until such time as Haldimand County and NPCA are satisfied that appropriate grading and septic plans have been provided.

The subject lands are located on the east side of Mohawk Point Road in Lowbanks. The site is legally described as Sherbrooke Plan 938 Lot 19 to 20, Irregular, and currently has no municipal address. A General Location map can be found in Attachment 1 with the overall lot configuration being shown in Attachment 2 (the owner's sketch). The property has a total area of approximately 0.25 hectares (0.63 acres), and a portion of that land will be encompassed by the special provision measuring approximately 657.9 square metres (7,081.58 square feet). The lands to the south and north contain residential land uses, the lands to the west contain an agricultural use, and the lands to the east are vacant and adjacent to Lake Erie.

## **ANALYSIS:**

### **Provincial Policy Statement, 2014**

The Provincial Policy Statement, 2014 (PPS) provides overall policy direction on matters of provincial interest relating to land use planning and development. Decisions affecting planning matters "shall be consistent with" the policies of the PPS. Through the PPS, the Province determines that Building Strong Communities is a provincial interest and is to be addressed, in part, through promoting efficient land use and development patterns that support strong, livable and healthy communities, protect the environment and public health and safety, and facilitate economic growth.

The Provincial Policy Statement supports residential development in locations where there will not be a need to expand the provision of municipal services. The subject lands are located with a Resort Residential Node, is large enough to accommodate private servicing, and has access to a municipal road that is maintained year round. These factors represent consistency with the PPS.

Further, the PPS directs that development occurs in accordance with the policies that restrict development in relation to natural hazards. The hazards outlined within this section pertain to those

found in relation to the Great Lakes and St. Lawrence Seaway, specifically flooding, erosion and dynamic beach. The hazard that is present on the subject lands is related to the potential for erosion of the slope that exists on the site. As such, the Niagara Peninsula Conservation Authority (NPCA) has applied development restrictions to regulate where development can occur in this general area in accordance with the policies set out in the PPS. The NPCA, having been delegated authority by the province to regulate matters relating to natural hazards, has issued a formal permit for development within the lands to be rezoned. The erosion hazard for this property has been identified with respect to the slope that exists at the rear of the lot. The slope that exists on this property is oriented such that the portion of the lot where the dwelling is to be built is lower than that land at the rear of the lot. In other words, the proposed dwelling is to be located at the base of a bluff (i.e. bottom of a hill). Planning staff are of the opinion that this proposal maintains the intent of these policies; therefore, the proposal is consistent with the PPS.

### **Growth Plan for the Greater Golden Horseshoe, 2017**

The Growth Plan for the Greater Golden Horseshoe, 2017 similarly supports development in situations where the works would result in intensification in terms of density, and use of existing infrastructure. The subject property would be serviced by private water and wastewater systems, but would benefit from the existing road network and other municipal services provided to the Resort Residential Node of Mohawk Point. Planning staff is of the opinion that the subject proposal is not in conflict with and maintains the overall intent of the Provincial Growth Plan.

### **Haldimand County Official Plan**

The Haldimand County Official Plan directs that residential development occur within appropriate locations such as the residential, hamlet, and resort residential nodes of Haldimand County. The subject lands are located within the Resort Residential Node of Mohawk Point, and are designated as such, and as well are designated Lakeshore Hazard Lands. The Lakeshore Hazard Lands designation permits among other things, limited infill residential development, on sites where there is sufficient space to accommodate an individual sewage disposal system. Prior to submitting this zoning by-law amendment, the applicants contacted a septic installer and received confirmation that a septic system can be located on the site.

Further, the Official Plan outlines criteria that must be satisfied in order to support development of a site within the Lakeshore Hazard Land designation:

- Flooding and erosion hazards can be safely addressed;
  - These issues have been reviewed by the Niagara Peninsula Conservation Authority and a work permit has been issued for the works proposed in this Zoning By-law amendment.
- Existing hazards are not aggravated and no new hazard areas created;
  - The Niagara Peninsula Conservation Authority has indicated that the erosion hazard associated with this proposal has not been aggravated and the proposed site works will not create a new hazard area.
- No negative impact on Natural Environment features will result;
  - The Niagara Peninsula Conservation Authority has not indicated any concern regarding Natural Environment features, and similarly the County's Forestry Project Manager has not indicated concern in this regard.
- Vehicles and pedestrians have safe access and exit during times of flooding and erosion emergencies; and
  - The Niagara Peninsula Conservation Authority has not indicated concern in this regard. The subject property has access to a year-round publicly maintained road for entrance and exit from the lands in question.

- Development is carried out in accordance with established standards with the established standards and procedures in the and the policies of the underlying resort residential or hamlet designation.
  - The resort residential node permits construction of a seasonal dwelling, in accordance with the applicable zoning by-law. In this case, the applicants are seeking to establish the use for year round purposes. The property has been reviewed by the Niagara Peninsula Conservation Authority who has issued a permit, and a septic installer who has confirmed that a septic system can be installed on the site, and as well the property has access to an open and maintained public road.

### **Town of Dunnville Zoning By-law 1-DU 80**

The subject lands are zoned 'Hazard Land (HL)', and 'Seasonal Residential (RS)' within the town of Dunnville Zoning By-law 1-DU 80. The location of the development that is proposed is entirely within the HL zone, which does not include the construction of a dwelling as a permitted use. This is due to the fact that the HL zone is established with support from the regulating Conservation Authority, and part of their mandate is to protect life and property. For this reason, development restrictions are imposed to reduce the potential for negative effects that a natural hazard may have on development. The regulating conservation authority, Niagara Peninsula Conservation Authority (NPCA), has reviewed the geotechnical report that was completed to determine the effect that the proposed development may have on the slope and the associated erosion hazard. The NPCA has issued a work permit for the development that has been proposed, indicating their support, which is mirrored by the comments that were received through the circulation of this application.

The NPCA has indicated that the hazard will not be removed as a result of the proposed site works, rather that they will be mitigated to a point where the desired construction can occur. For this reason, planning staff recommends that the Hazard Land zone remain in place for the subject lands, and that a special provision applied to the site that will permit the development in the location where it is proposed as shown in Attachment 2. This will ensure that the erosion hazard is further considered should there be future proposals to expand the use or add additional structures on the property. The special provision that has been prepared for this application has the intent of allowing for slight modifications to be made in the event that at the building phase the location of any structures need to be adjusted, zoning will not need to be altered as well.

When establishing the specific zoning for this property staff examined the regulations that typically apply in resort node areas with a mixture of seasonal and permanent dwellings. In this case staff have a proposing a building line that is 1.2 metres (4.04 feet) from the property boundary to allow the dwelling to be constructed as shown on the owner's sketch with an attached garage. This design approach will be consistent with how other dwellings are built within the area and it provides sufficient setback for property maintenance and drainage. A draft zoning by-law is included as Attachment 3.

In order to ensure that there is sufficient mass at the base of the slope to reduce the potential for the erosion concerns to be realized, the proponents have indicated that there will be approximately one metre of additional fill imported to the site. This may impact the way that the property currently drains, which in turn may impact the neighbouring lots. In order to ensure that there are no negative impacts of the proposed development, staff is recommending that a Holding provision be applied to the lands such that a lot grading and drainage plan will need to be submitted to County staff for approval, prior to the issuance of a building permit. A draft holding removal by-law is included as Attachment 4.

### **Conclusion:**

Planning Staff recommends that the Zoning By-law Amendment application be approved on the basis that the proposed use is consistent with the Provincial Policy Statement, 2014, conforms to the Provincial Growth Plan, 2017 and maintains the intent and purpose of the Haldimand County

Official Plan and the Town of Dunnville Zoning By-law 1 DU-80 with respect to creation of the special provision.

## **FINANCIAL/LEGAL IMPLICATIONS:**

Not applicable.

## **STAKEHOLDER IMPACTS:**

Haldimand Norfolk Health Unit – No objections.

Roads Operations – No objections.

Planning and Development (Development & Design Technologist) – No objections.

Emergency Services – No objections.

Hydro One – No objections.

Bell Canada – No objections.

Forestry Project Manager – No objections; a building permit will satisfy the requirement for a minor Exception to By-law 15-00, and the applicant would be permitted to clear an area inclusive of the building footprint and up to 15 metres (50.6 feet) surrounding the building footprint.

Canada Post – No objections.

No comments were received from the Mississaugas of New Credit Council, Six Nations Council, Building Controls and By-law Enforcement Division, MPAC, and Union Gas.

Public Comment: Planning Staff received a comment from a neighbour regarding concerns over the impact that placing fill on the site will have on the drainage of the subject lands, and how it may affect the adjacent property. NPCA is requiring a Lot grading and Drainage plan be submitted prior to construction, and the County would request the same plans to be submitted for review to ensure that negative impacts will not result as an outcome of placing fill on the subject lands.

## **REPORT IMPACTS:**

Agreement: No

By-law: Yes

Budget Amendment: No

Policy: No

## **ATTACHMENTS:**

1. General Location Map.
2. Location of Lands Affected–Owner’s Sketch.
3. Draft Zoning By-law Amendment.
4. Draft Removal of Holding By-law.