
HALDIMAND COUNTY

PDD-08-2019 Removal of a Holding Provision–JRAD Investments Inc.

For Consideration by Council in Committee on February 26, 2019



OBJECTIVE:

To request Council's approval to remove a historical holding (H) provision from 289 Argyle Street South, Caledonia to facilitate the development of a Wendy's fast food restaurant and to enter into a development agreement with the proponent as part of the site plan control approval process.

RECOMMENDATIONS:

1. THAT Report PDD-08-2019 Removal of a Holding Provision–JRAD Investments Inc. be received;
2. AND THAT the attached by-law for the removal of the holding (H) provision be presented for enactment;
3. AND THAT the attached by-law authorizing the Mayor and Clerk to enter into a site plan agreement with JRAD Investments Inc. be presented for enactment;
4. AND THAT the proposal is deemed to be consistent with the Provincial Policy Statement (2014) and Provincial Growth Plan (2017) and other matters of provincial interest.

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Reviewed by: Mike Evers, MCIP, RPP, BES, Director of Planning and Development

Respectfully submitted: Craig Manley, MCIP, RPP, General Manager of Community and Development Services

Approved: Donald G. Boyle, Chief Administrative Officer

EXECUTIVE SUMMARY:

The intent of the subject report is to obtain Council's approval to remove a historical holding (H) provision from the zoning that was affixed to 289 Argyle Street South, Caledonia (Attachment 1) in 1989 when the subject lands were rezoned from 'Urban Residential Type 2 (R2)' Zone to 'General Commercial–Holding (CG–H)' Zone. The removal of the holding (H) provision will allow for the issuance of a building permit for a Wendy's fast food restaurant (Attachments 2, 3, and 4) once the site plan has been approved by the General Manager of Community and Development Services.

The H provision was affixed to the zoning of the subject lands to ensure a development agreement was finalized prior to the issuance of a building permit. The Holding Zone is a process that ensures key development matters are put in place before development occurs, it does not apply to the principle of the use. The 'CG' Zone on the property allows a restaurant as of right and is subject to site plan control to address technical design issues (compatibility, lighting, drainage, servicing, etc.) and the proponent is currently working through the site plan process with staff, which includes drafting of a development (site plan) agreement. To ensure an efficient site plan approval process, Planning staff recommends that the H provision be removed in advance of the registration of the development agreement. A By-

law for the removal of the H provision is attached to the subject report and is being presented for enactment (Attachment 5).

Also, a by-law authorizing the Mayor and Clerk to enter into a development agreement with the proponent is attached to the subject report and is being presented for enactment as well (Attachment 6). Once the development agreement has been prepared and signed by the proponent it will be forwarded to the Mayor and Clerk for review and signature.

BACKGROUND:

The subject lands are municipally known as 289 Argyle Street South, Caledonia (Attachment 1). The subject lands, together with 31 Kinross Street, were rezoned in 1989 when they were one parcel of land. 31 Kinross Street was rezoned from 'Urban Residential Type 2 (R2)' Zone to 'Urban Residential Type 4-Holding (R4-H)' Zone and the subject lands were rezoned from 'Urban Residential Type 2 (R2)' Zone to 'General Commercial-Holding (CG-H)' Zone. The lands were severed shortly thereafter and the site plan for the townhouse development at 31 Kinross Street was approved in the spring of 1992.

The subject lands continue to be vacant. Staff received a site plan application for a Wendy's fast food restaurant complete with a drive-thru in the fall of 2018 (Attachments 2, 3, and 4). The primary purpose of the subject report is to request Council's approval to remove a historical holding (H) provision from the subject lands to facilitate the development. The H provision was affixed to the zoning of the subject lands to ensure a development agreement was finalized prior to the issuance of a building permit. The development agreement is being completed as part of the on-going site plan review/approval process which is entering into the final stages. The agreement is the legal mechanism along with securities to ensure the plan is built as approved. Given the satisfactory advancement of the technical aspects of the project, and the forthcoming approvals, staff are satisfied that the H removal can be advanced at this time. The By-law authorizing the H provision removal is attached (Attachment 5). The H provision must be removed before a building permit can be issued. This application pre-dates the current practice where the removal of holding provisions has been delegated to Staff for efficiency purposes.

The secondary purpose of the subject report is to present a by-law authorizing the Mayor and Clerk to enter into a site plan agreement with the proponent (Attachment 6). The authorizing by-law must be passed prior to signature of the site plan agreement.

ANALYSIS:

The subject lands are located on the south side of Caledonia and are designated 'Community Commercial' (Attachment 1). The 'Community Commercial' designation permits a full range of commercial activity including: retail and service commercial facilities; business; personal and professional offices; recreation and entertainment facilities; communication and transportation services; hotels; **restaurants**; private clubs, government offices, community and cultural facilities and public and private institutions.

The subject lands are currently zoned 'CG-H' Zone which permits a restaurant (including a drive-thru). The 'CG' Zone is subject to site plan control and the proponent is currently working through the site plan application process with staff. The proponent must receive approval for removal of the H provision prior to the issuance of a building permit.

Registration of a development agreement prior to site plan approval has become a standard requirement in the site plan control process for new developments. A site plan agreement contains technical terms and guarantees to ensure that a developer complies with engineering, technical, and agency requirements. A site plan agreement also contains financial terms and guarantees to ensure that a developer covers any cost associated with working within the County's right of way or with any

County infrastructure. A security is provided to the County to ensure that if any damage occurs that the developer cannot remedy, the County has the funds to restore the damage without using tax revenue.

The proponent is progressing through the site plan approval process and will need to register the development agreement prior to site plan approval. Given that a development agreement must be registered on the title of the subject lands prior to site plan approval, the holding provision is unnecessary/redundant and can be removed. Removing the holding provision now will ensure that the site plan application continues to progress efficiently through the site plan approval process. A by-law for the removal of the H provision is attached to the subject report and is being presented for enactment (Attachment 5).

Next Steps:

At the time that this report was written, a number of significant site plan related items still needed to be addressed prior to site plan approval, including:

- A request for water and sanitary servicing allocation, which can be allocated through the site plan approval process by the General Manager of Community and Development Services;
- Finalization and approval of the stormwater strategy which includes legally entering into a drainage agreement with the condominium corporation at 31 Kinross Street to drain stormwater through the residential development;
- Removal of the easement on the property for emergency access to 31 Kinross Street and 289 Argyle Street South;
- Preparation, signature, and registration of the development agreement, which includes approval and submission of securities and a certificate of insurance.

All of the listed items are in process and proceeding to satisfactory completion. The site plan agreement will be reviewed and signed by the Mayor and Clerk at a later date. Removal of the H provision will ensure that once these items are completed to the satisfaction of Haldimand County staff, the site plan application can be forwarded to the General Manager of Community and Development Services for approval.

Notice Requirements:

The *Planning Act* only requires public notice to be given to those individuals or groups that have given the Clerk of the municipality a written request for notice of the intention to pass an amending by-law to remove a holding (H) provision from a zoning by-law under subsection 36(4) of the *Act*. No such requests were made; therefore, public notice is not required.

FINANCIAL/LEGAL IMPLICATIONS:

A development agreement will be required.

STAKEHOLDER IMPACTS:

All agencies and departments required to provide input have provided such input via the site plan approval process. Agencies and departments required to input on the development agreement will be consulted when the development agreement is being prepared. The Mayor and Clerk will review the site plan agreement and provide signature if the agreement is satisfactory.

REPORT IMPACTS:

Agreement: Yes

By-law: Yes

Budget Amendment: No

Policy: No

ATTACHMENTS:

1. Location Map.
2. Site Plan.
3. Elevation Drawing 1.
4. Elevation Drawing 2.
5. Holding (H) Provision Removal By-law.
6. Site Plan Agreement Authorization By-law.