

---

# HALDIMAND COUNTY

## Report PDD-19-2019 Zoning By-law Amendment to Permit Year-Round Residential Use - Giliauskas



For Consideration by Council in Committee on June 18, 2019

---

### OBJECTIVE:

To amend the Town of Dunnville Zoning By-law 1-DU 80 to permit year-round residency on lands zoned only to permit seasonal residency.

### RECOMMENDATIONS:

1. THAT Report PDD-19-2019 Zoning By-law Amendment to Permit Year-Round Residential Use - Giliauskas be received;
2. AND THAT application PLZ-HA-2019-054 to amend the Zoning By-law 1-DU 80 to re-zone lands from "Agriculture" with Special Provision 37.4 to "Seasonal Residential-Holding (RS-H)" and to add a special provision to permit year-round residential use be approved for reasons outlined in Report PDD-19-2019;
3. AND THAT the By-law attached to Report PDD-19-2019 be presented for enactment;
4. AND THAT the Holding (H) provision removal By-law attached to Report PDD-19-2019 be presented for enactment and the General Manager of Community and Development Services be granted authority to remove the holding provision when the conditions relating to the matter are satisfactorily addressed;
5. AND THAT the proposal is deemed to be consistent with the Provincial Policy Statement (2014), and the Growth Plan for the Greater Golden Horseshoe.

**Prepared by:** Justin Miller, Planner

**Reviewed by:** Mike Evers, MCIP, RPP, BES, Director of Planning & Development Division

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

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

### EXECUTIVE SUMMARY:

The applicant is seeking to re-zone lands from "Agriculture" to "Seasonal Residential" and create a Special Provision to the Town of Dunnville Zoning By-law 1-DU 80 to permit year-round residency (Owner's Sketch, Attachment 2). In addition to the special provision permitting year-round residency, a Holding (H) provision is proposed to ensure that suitable lot grading plans and final detailed designs for septic systems are completed for the lots. The applicant has provided initial septic and grading plans to support development; these plans demonstrate that private servicing and stormwater drainage are feasible and are to be finalized for construction prior to the removal of the Holding provision. 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. The Haldimand County Official Plan

permits limited conversion of seasonal residential properties to year-round residency. This application meets the criteria set out in the Plan, including the general character of the area, municipal road access and servicing capabilities.

Given the above, Planning staff recommends approval of this proposal for the reasons set out within this report.

## **BACKGROUND:**

The block of approximately 100 lots that make up the majority of the Lakeshore Nodes of Johnson Road and Green's Line were created prior to the modern plan of subdivision process; as such, controls that insured orderly development with adequate provisions for septic and drainage were not clearly considered. Current planning processes no longer allow for this type of lot creation. The Special Provision (37.4) currently encumbering the subject lands was put in place to prohibit development in the early 1980s, recognizing the lack of a comprehensive plan for the lots created. The County's desire was that a comprehensive plan of subdivision would be developed for the vacant lots, but no such plan came forward. Around 1998, the southern most lots (closest to the Lake) in this block of lots began receiving development permissions, and the lots brought forward in this application represent the logical progression. Prior to receiving permission for development, the applicants are provided with an opportunity, on a site by site basis, to address those outstanding issues that were associated with the initial lot creation (largely grading/drainage and septic). In addition to permission to develop via the subject zoning amendment, the applicants are also seeking permission for year-round residency. Approximately 70 lots remain vacant with most of these being on private roads thus not suitable to year-round residency.

The application received is to consider an amendment to the Town of Dunnville Zoning By-law 1-DU 80 to re-zone lands from "Agriculture" to "Seasonal Residential" and create a Special Provision to permit year-round residency on the subject lands. The subject lands are made up of four lots that are currently vacant and are zoned "Agriculture" with a special provision (37.4) which prohibits a one family dwelling house until certain technical studies (e.g. lot grading) are completed, as described in the paragraph above. The applicant would like to amend the zoning of the subject lands in order to construct four dwellings on the four separate lots with permission for residency on a full time year-round basis. Council has recently reviewed and approved similar applications within this special provision area in November of 2017 and February of 2018.

The subject lands are located on the south side of Lighthouse Drive, east of Johnson Road (Attachment 1) and are generally surrounded by agriculture (north and west) and seasonal residences (south)—a few of which have already been granted special provisions to permit year-round residency. The subject lands are currently vacant and are described as Part Lot 19 DEP, Concession 5 SDR, Geographic Township of Dunn, Lighthouse Drive.

## **ANALYSIS:**

Through the review of this proposal, Planning staff have identified the following key planning issues:

### **Provincial Policy:**

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

The Provincial Policy Statement (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 PPS states that healthy, livable and safe communities are sustained, in part, by accommodating an appropriate range and mix of residential uses to meet long-term needs, as well as avoiding development and land use patterns that may cause environmental or public health and safety concerns. In addition, the PPS sets out that municipalities shall provide for an appropriate range of housing types to meet the projected requirements of current and future residents, in part, by directing development of new housing to locations where appropriate levels of infrastructure and public service facilities are or will be available. To that extent, the subject lands and surrounding area is such that there is a suitable level of services available in the neighbourhood (municipal road, waste collection, emergency response, etc.), and therefore, Planning staff is satisfied that this proposal is deemed to be consistent with the PPS.

### ***Provincial Growth Plan, 2019***

The Provincial Growth Plan sets out policies that require the optimal use of the existing and new infrastructure to support growth in a compact and efficient form. The current proposal to allow year-round residential use conforms to this policy intent, as the use of existing services are proposed (existing municipal road, waste collection, etc.) without the need for expansion or significant upgrades to such existing infrastructure and service. Further, there is sufficient room for private water and sanitary systems on-site. Planning staff is of the opinion that this proposal complies with the intent of the Provincial Growth Plan.

### **County Policy:**

#### ***Haldimand County Official Plan***

The subject lands are designated 'Resort Residential Node' within Haldimand County's Official Plan. The Official Plan (OP) sets out that seasonal residential uses shall be the predominant type of land use along the Lakeshore, although a limited amount of conversion and new infilling for year-round use may also be permitted within appropriately designated areas. Amendments such as the subject application are dealt with on a site-by-site basis to satisfy OP policy that limits conversions of lands and sets out that the County is to retain a suitable and adequate seasonal (cottage) housing stock. Site specific applications allow this monitoring and management to take place. The Official Plan has established a number of criteria to determine the suitability of a proposal for conversion to year-round use. New development identified for year round use must have frontage on an open and improved road with adequate services (i.e. fire protection, waste collection, winter control, etc.). In general, if these criteria are met, conversion to year-round occupancy is permissible. Cottages on seasonal roads and lacking services will continue to be permitted on a seasonal basis. Lighthouse Drive and Johnson Road are considered open and improved municipal roads. In addition to the Official Plan's requirement for year-round development to have frontage on an open and improved road, the following criteria must be, and have been, evaluated:

- i. Suitability of the area relative to Hazard Lands, Regulatory Shoreline, Industrial Influence Area, and other land uses;

### **Planning Comment:**

The subject lands are located completely within the 'Resort Residential Node' designation of the Official Plan, are not subject to any Lake Erie hazards and are not regulated by a Conservation Authority. The subject lands are also located well outside of the industrial influence areas and are generally surrounded by similar residential uses.

- ii. Need to maintain a reserve of cottage properties for seasonal use;

**Planning Comment:**

The proposed conversion would not have a significantly adverse impact on the existing seasonal supply within the area; only a few lots within the node appear to have been converted to year-round residency. This application does not represent a conversion of an existing seasonal cottage to year-round, but permits the creation of four (4) purpose built year-round homes on existing lots of record within the node. Any future conversion requests for other properties would be reviewed based on individual merit and the composition of the area at that time. Generally speaking, the conversion of a seasonal cottage for full time occupancy can only take place on publically maintained roads where services are already available. Cottages on private or seasonal roads will continue to provide the seasonal supply.

- iii. Need to maintain public access and usage of the Lakeshore;

**Planning Comment:**

The subject lands are located on Lighthouse Drive in an area that is central to the Lakeshore Nodes of Johnson Road and Green's Line. The proposed development does not have direct access to Lake Erie and does not impact existing access to the Lake.

- iv. Implications of assuming and/or upgrading existing private roads and rights-of-way;

**Planning Comment:**

The subject lands have frontage onto Lighthouse Drive, which is an open municipal road of a reasonable standard of construction.

- v. Need to provide services such as recreational facilities, schools and busing, parks, garbage collection, medical, fire and police services, etc.;

**Planning Comment:**

Soft services are already provided to this area (i.e. waste collection, school busing, emergency services, etc.), and in addition, the residents of this area benefit largely from community facilities available in nearby Dunnville and Cayuga. Due to the proximity of these communities, the residents of the subject property would be adequately served by the present level of community facilities.

- vi. Suitability of soils and lot sizes to support individual sewage disposal systems;

**Planning Comment:**

The subject lands are generally considered appropriately sized for private servicing, each lot is approximately 0.25 hectares (0.61 acres) and are above-average for what is common for many Haldimand County seasonal residential properties. Preliminary assessment of the site has demonstrated functionality, but a final detailed septic design is still required for the purposes of a building permit. The proposed Holding provision is intended to ensure the applicant's septic designer produces detailed design plans for a required septic system.

- vii. Potential demands for municipal servicing and major infrastructure improvements;

**Planning Comment:**

The extent and scale of the proposed development is not anticipated to result in an increased demand for municipal (hard) services such as water and wastewater or significant upgrades to any existing infrastructure (i.e. roads). Water and wastewater services are not anticipated or likely to be provided for this portion of the County.

- viii. Potential Negative Impacts on Natural Environment, areas such as wetlands, forested areas and fish habitat.

**Planning Comment:**

The subject lands are currently vacant; no negative environmental impacts are anticipated with this proposal.

In summary, the proposal conforms to the criteria in the Official Plan.

***Town of Haldimand Zoning By-law 1-H 86***

The subject lands are zoned 'Agriculture' with a special provision (37.4) which prohibits a one-family dwelling house as a permitted use in the Town of Dunnville Zoning By-law 1-DU 80. The special provision was intended to restrict development until a comprehensive plan could be considered for the lots under this provision. More specifically, the plan required a closer examination of servicing capabilities for lots of the size and number in this area. This was predicated on the limitations of septic technology that existed at that time and which typically require a lot of minimum of 0.4 hectare (1 acre) to accommodate large bed and replacement bed areas needed for the systems common at that time. Since then, technologies have advanced significantly to the point where smaller lots can be functional and accommodate development. This shift has allowed for a different approach to considering development of the lands in the subject area. As such, staff have determined that a number of the lots under this provision may proceed toward development under the 'Seasonal Residential (RS)' Zone provided satisfactory grading and septic plans can be provided to the County. As noted above, preliminary septic designs have been provided and deemed satisfactory. Preliminary grading plans have also been provided and are discussed in more detail below.

The applicants have provided the County with preliminary grading plans that include a mutual drainage agreement. The mutual drainage agreement would seek to outlet water along the back property lines, flowing east, to a centrally located County-owned drainage ditch that runs north-south towards the lake through the centre of the block of lots. County staff have determined that these preliminary grading plans are functional, but are dependent on the creation of a mutual drainage agreement to be registered on title for all benefiting/affected landowners. This would include the four contiguous lots subject to this application as well as the lot that is situated between them and the drainage ditch. The applicant is aware of the requirement to work with the adjacent owner to develop the mutual drainage agreement over their lands to connect into/drain to the ditch and the adjacent owner is similarly aware of the requirement for this accommodation. In addition to the requirement of the Holding provision for final septic plans, the Holding provision will remain in place until final grading plans and a mutual drainage agreement are in place to the satisfaction of the County.

The applicant proposes to re-zone to the 'RS' zone, which is consistent with the County's Official Plan. The 'RS' zone permits a summer cottage and an existing one family dwelling house (i.e. year-round dwelling that has existed and has been used continuously as a year-round dwelling since the implementation of Zoning By-law 1-DU 80 in 1980). This zoning convention is very dated and is something being assessed as part of the County's comprehensive zoning by-law project. The suitability of carrying on with this type of zoning for the majority of lakeshore properties needs to be examined and scope potentially narrowed (e.g. to those lots on private roads only).

The subject lots are vacant and have never been utilized for year-round occupancy. The proposed amendment (Attachment 3) seeks to expand the permitted uses on the lots to include year-round dwellings. The existing lots each have a frontage of approximately 30.48 metres (30 metres required). No zoning deficiencies have been identified or are proposed with this application; a detailed zoning review chart has been included as Attachment 5.

A Holding Provision is proposed to ensure suitable lot grading plan and detailed septic design are completed. The Holding provision may be removed once these matters have been addressed to the satisfaction of Haldimand County. A draft holding removal by-law is included as Attachment 4.

### **Planning Opinion:**

Planning staff has reviewed the proposed zoning amendment on the subject lands relative to both Provincial and County policy frameworks and the principle of land use is consistent with each. Both the Provincial Policy Statement and the Haldimand County Official Plan permit development that is appropriate in relation to the infrastructure which is planned or available, and avoids the potential demand for increased municipal servicing and major infrastructure improvements. The Official Plan also permits limited year-round residential use within the Lakeshore Areas subject to certain criteria being satisfied. The zoning amendment addresses both policy requirements and is therefore, consistent with the Provincial Policy Statement 2014 and conforms to the policies in the Haldimand County Official Plan.

### **FINANCIAL/LEGAL IMPLICATIONS:**

Not applicable.

### **STAKEHOLDER IMPACTS:**

Building & Municipal Enforcement Services – No objections.

Hydro One – No objections.

Conservation Authority – Not regulated.

Roads Operations – No objections.

Planning and Development (Development & Design Technologist) – final grading plan required; including mutual drainage agreement registered on title.

Emergency Services – No objections.

Municipal Property Assessment Corporation – No objections.

No comments were received from the public or the Mississaugas of Credit First Nation, Six Nations Council and Union Gas.

Public – a few neighbours have concerns regarding drainage, specifically including a mutual drainage agreement. None of the concerned neighbours have specifically objected to the creation of a mutual drainage agreement, but they would like more information about how the proposed mutual drain may impact their properties.

**Planning Comment:** Although details regarding a mutual drainage agreement are currently not available, the Holding provision will remain in place until a mutual drainage agreement has been completed, and this agreement must be voluntarily agreed to by the affected neighbours.

### **REPORT IMPACTS:**

Agreement: No

By-law: Yes

Budget Amendment: No

Policy: No

**ATTACHMENTS:**

1. Location Map.
2. Owner's Sketch.
3. Draft Amendment to Zoning By-law.
4. Draft Holding Removal By-law.
5. Zoning Review Chart.