
HALDIMAND COUNTY

Report PDD-23-2019 Removal of a Holding (H) Provision – Morris and Cucuz For Consideration by Council in Committee on June 18, 2019



OBJECTIVE:

To request Council's approval to remove a historical holding (H) provision from a parcel of land that has been purchased from Georgia Pacific by private property owners in order for a single family dwelling to be constructed.

RECOMMENDATIONS:

1. THAT Report PDD-23-2019 Removal of a Holding (H) Provision – Morris and Cucuz be received;
2. AND THAT the attached by-law for the removal of a holding (H) provision be presented for enactment;
3. AND THAT the proposal is deemed to be consistent with the Provincial Policy Statement 2014 and the Provincial Growth Plan 2019 and other matters of provincial interest.

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

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

Approved: Donald G. Boyle, Chief Administrative Officer

EXECUTIVE SUMMARY:

The subject lands, which are currently vacant of any structures, had a holding (H) provision put in place back in 1989. This holding provision is associated with the past zoning amendment on the property to facilitate a gypsum mining operation. At that time the holding provision was required to ensure no development, in relation to the operation, occurred until such time that a development agreement and site plan were completed in relation to the proposed construction of an office and change room facility; electrical substation; man access shaft; ventilation shaft and parking area associated with the mining use. This proposal never materialized and these lands have since been sold by Georgia Pacific to the current, private owners – Brian Morris and Mirjana Cucuz. The intent of the current property owners is to construct a single family dwelling, which is a permitted use within the current zoning by-law. Planning staff are of the opinion that it is appropriate to support the removal of the holding provision as the ownership has changed and the use requiring the holding is no longer intended to be constructed; therefore, the holding is no longer required. Planning staff are further of the opinion that this proposal maintains the intent and purpose of provincial and local policy, as a dwelling is permitted as of right.

BACKGROUND:

The subject lands are located on the north side of Abbey Road with access gained via an existing driveway that also services a landlocked parcel located behind the subject lands. The subject lands are currently vacant of any structures and do not have a municipal address.

The historical holding provision was put in place in 1989. The subject lands, which until recently were owned by Georgia Pacific, were rezoned via By-law 8-H-89 which established a site specific zone provision (36.24) that adds additional uses and site specific requirements in relation to the intended use (at the time). The intended use at the time was in relation to a mining operation. The site specific provision allows, in addition to the uses permitted in the 'Agriculture (A)' zone, an office and change room facility; electrical substation; man access shaft; ventilation shaft and parking area. The site specific provision also establishes a minimum lot area, frontage, front yard and side yard setbacks, etc., all of which were intended to buffer and control how the intended use would be developed in relation to adjacent properties. In addition to the holding provision being put in place, the subject lands were also placed under site plan control via By-law 9-H-89, to allow the municipality to review the future development of the site in relation to the potential mining operation. The intended use never was established, however the regulatory controls remain in place.

Since that time, the subject lands have changed ownership as Georgia Pacific has identified that they do not have an intent to mine the property. The subject lands are now owned by Brian Morris and Mirjana Cucuz, and the new owners' intent is to construct a single family dwelling. Staff also notes that the property owners have provided confirmation that the subject lands have not been undermined, as per Ministry of Northern Development & Mines mapping. The applicants have also submitted a request to the County to remove the unique site specific provision on the site (so permitted uses are limited to what is permitted in the 'A' Zone) via the comprehensive zoning by-law process. Staff will address that request as a housekeeping item as part of the new County By-law. Lastly, the new owners have also submitted a consent application to establish an easement over the historical driveway utilized to access the subject lands and the lands known municipally as 333 Abbey Road. This will ensure the adjacent property at 333 Abbey Road continues to have legal access. With all of this said, the intent of this application is to remove the holding (H) provision only to facilitate construction of a dwelling.

ANALYSIS:

Planning staff have reviewed this proposal and are satisfied that the future development of this site and the removal of the holding (H) provision is appropriate and consistent with all levels of Provincial and local policy. The holding was specifically put in place due to the previous intended use (i.e. uses to support an mining operation); however, these uses are no longer intended to occur and Georgia Pacific has sold the subject lands. By removing the holding, this will allow the new owners to construct a dwelling, which is permitted within the Agriculture designation and permitted as of right in the current Agriculture zoning. Staff also notes that the development of a single family dwelling is not subject to site plan control and does not typically require a development agreement (unless unique circumstances such as on partial municipal services). Based on this, Planning staff are satisfied that the removal of the holding (H) provision is appropriate.

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*. Due to the antiquity of this by-law, it is not known that there are any individuals that have provided a written request as to whether the holding is to be removed. With that in mind, and the fact that the holding is being

removed to facilitate the development of a dwelling, which is a less intensive use, public notice is not required.

FINANCIAL/LEGAL IMPLICATIONS:

Not applicable.

STAKEHOLDER IMPACTS:

Not applicable.

REPORT IMPACTS:

Agreement: No

By-law: Yes

Budget Amendment: No

Policy: No

ATTACHMENTS:

1. Draft Holding (H) Removal By-law.