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# HALDIMAND COUNTY

## Report PDD-28-2019 Zoning By-law Amendment to Rezone Severed Lots – Haupt



For Consideration by Council in Committee on August 27, 2019

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### OBJECTIVE:

To present the subject proposal to rezone a portion of the subject lands as a result of the approval of four consent (severance) applications along with a recommendation from Planning staff in order to assist Council in making a decision.

### RECOMMENDATIONS:

1. THAT Report PDD-28-2019 Zoning By-law Amendment to Rezone Severed Lots – Haupt be received;
2. AND THAT application PLZ-HA-2019-071 to amend the City of Nanticoke Zoning By-law NE 1-2000 by rezoning a portion of the subject lands from 'Agriculture (A)' Zone to the 'Hamlet Residential (RH)' zone be approved for reasons outlined in Report PDD-28-2019;
3. AND THAT the zoning by-law amendment attached to Report PDD-28-2019 to amend the City of Nanticoke Zoning By-law NE-1 2000 be presented for enactment;
4. AND THAT the authorizing by-law attached to Report PDD-28-2019 to authorize the County to enter into a lot grading agreement with Anita and Margareta Haupt be presented for enactment;
5. AND THAT the application is considered to be consistent with the Provincial Policy Statement (2014), Growth Plan (2019), and other matters of Provincial interest.

**Prepared by:** Ashley Taylor, MCIP, RPP, M.Pl., Planner

**Respectfully submitted:** Mike Evers, MCIP, RPP, BES, Acting General Manager, Community & Development Services

**Approved:** Craig Manley, MCIP, RPP, Chief Administrative Officer

### EXECUTIVE SUMMARY:

The Committee of Adjustment conditionally approved consent applications to create four rural residential lots within the Hamlet of Springvale from a farm parcel that extends into the Hamlet settlement boundary. The proponents have submitted the subject zoning by-law amendment application to rezone the severed lands from the 'Agriculture (A)' Zone to the 'Hamlet Residential (RH)' Zone for sale purposes. The severed lots satisfy the minimum lot frontage and size provisions in the Zoning By-law and any future residential development will be required to conform to the setbacks, height, and dwelling size provisions in the Zoning By-law. It is Planning staff's opinion that the subject zoning by-law amendment application is consistent with the Provincial Policy Statement (2014), conforms to the Growth Plan (2019) and Haldimand County Official Plan (2009), and meets the general intent and purpose of the City of Nanticoke Zoning By-law NE 1-2000. As such, Planning staff recommend approval of the subject zoning by-law amendment.

## BACKGROUND:

The subject lands are municipally known as 463 Concession 14 Walpole and are located within the Geographic Township of Walpole, Concession 15, Part of Lot 6 (Attachment 1). The subject lands are a 36.89 hectare (91.15 acre) farm parcel. They are bound by Concession 14 Walpole to the south and Haldimand Road 55 to the east. A farmhouse is located on the southern portion of the lot that is accessible via Concession 14 Walpole. A portion of the subject lands, approximately 1.19 hectares (4.73 acres) are considered to be located within the Hamlet of Springvale.

The Committee of Adjustment approved four consent applications (PLB-2019-067, 068, 069, and 070) on June 11, 2019, subject to conditions (Attachments 2 and 3). The consent approvals are considered to be provisional until the conditions of approval are fulfilled and the consent certificates are signed by the Secretary Treasurer of the Committee of Adjustment. Once these items are completed, the consents are final.

The purpose of the consent applications was to sever four lots within the Hamlet of Springvale from the farmlands for residential purposes. The severed lots are described as follows:

1. Part 1 was severed through consent application PLB-2019-069 (Attachment 2). It was approved to be 2,954 square metres (0.73 acres) in size with 45 metres of frontage on Concession 14 Walpole. This lot is currently vacant.
2. Part 2 was severed through consent application PLB-2019-068 (Attachment 2). It was approved to be 11,412 square metres (2.82 acres) in size with approximately 34.76 metres of frontage on Concession 14 Walpole. This lot contains an existing farmhouse.
3. Part 3 was severed through consent application PLB-2019-067 (Attachment 3). It was approved to be 2,388 square metres (0.59 acres) in size with approximately 46.50 metres of frontage on Haldimand Road 55. This lot is currently vacant.
4. Part 4 was severed through consent application PLB-2019-070 (Attachment 3). It was approved to be 2,388 square metres (0.59 acres) in size with approximately 46.50 metres of frontage on Haldimand Road 55. This lot is currently vacant.

The retained farmlands were approved to be 35.7 hectares (86.42 acres) in size and will be vacant of structures but remain as workable land.

Further, the subject zoning amendment application was originally included as a condition of the applications. However, recognizing that the 'A' Zone and 'RH' Zone both permit a single family dwelling, Planning staff gave the proponents' agent (Elliot Armstrong) the choice to proceed or not to proceed through the subject zoning by-law amendment application process. The agent decided to proceed with the subject zoning by-law amendment application for sale purposes (i.e. to clarify zone type, zone provisions specific to residential development, etc.).

Surrounding land uses include agricultural, residential, commercial (Leigh Baker Concrete Forming), and institutional (church).

## ANALYSIS:

The key planning considerations are the following:

### 1.0. Provincial Policy Statement (2014)

The Provincial Policy Statement (2014) (PPS) provides direction on matters of provincial interest related to land use planning and development. The PPS speaks to directing, promoting, and sustaining development to meet the full range of current and future needs, achieving efficient development patterns, and avoiding significant or sensitive resources and areas which may pose a risk to public health and safety. The *Planning Act* requires planning decisions to be consistent with the PPS.

The PPS states that settlement areas (including hamlets) shall be the focus of growth and development, and their vitality and regeneration shall be promoted. The PPS also states that rural residential lot creation is not permitted in prime agricultural areas. The severed lots are considered to be located entirely within the Hamlet of Springvale. The retained farmlands are located within the prime agricultural area (i.e. outside of the Hamlet boundary). There is no more rural residential lot creation permitted from the farmlands.

Overall, the proposal is consistent with the PPS.

## **2.0. Provincial Growth Plan (2019)**

The Growth Plan for the Greater Golden Horseshoe (2019) seeks to address challenges related to the magnitude of growth that is expected over the coming decades for the Greater Golden Horseshoe (GGH) and to ensure the protection and effective use of finite resources. The *Places to Grow Act* requires planning decisions to conform to the Growth Plan.

The Growth Plan permits (limited) growth within existing rural settlement areas, such as hamlets. It also allows for minor modifications and interpretations of rural settlement boundaries as discussed in the Official Plan Section below. The lots severed through consent applications PLB-2019-067,068, 069, and 070 are the last lots that can be severed from the farmlands. There is no additional rural residential severance opportunity on the retained farmlands such that the farmlands will be preserved for farming and/or mineral aggregate resource extraction purposes. The proposal conforms to the Growth Plan.

## **3.0. Haldimand County Official Plan (2009)**

The Haldimand County Official Plan (OP) creates the framework for guiding land use changes in the County to 2026 by protecting and managing the natural environment, directing and influencing growth patterns and facilitating the vision of the County as expressed through its residents. The OP also provides the avenue through which Provincial Policy is implemented into the local context.

The OP identifies that the severed lots are predominately located within the Hamlet of Springvale and are designated 'Hamlet'. While small portions of Parts 2, 3, and 4 extend outside the hamlet boundary (dotted line illustrated in Attachments 2 and 3), minor modifications and interpretations of the hamlet boundary can be made to facilitate logical development and lot layout. The authority to make these minor modifications and interpretations comes from recent changes to the Growth Plan, which are more supportive of small residential developments such as this and by virtue of the interpretation policies of the County's OP. Planning staff recommend that a minor interpretation of the Hamlet boundary be made due to the location of private servicing on the lot identified as Part 2 beyond the Hamlet boundary and adjacent lot fabric, and to permit a consistent rear lot line for Parts 3 and 4.

The retained farmlands are located within the prime agricultural area and mineral aggregate resource area of the County (i.e. outside the hamlet boundary) and are designated 'Agricultural', 'Mineral Aggregate Resource Area', and 'Riverine Hazard Lands'.

Further, the Hamlet of Springvale is one of twenty-five hamlets within the County. These hamlets developed as residential, social and commercial centres serving the surrounding agricultural community. The OP recognizes that changes and improvements to transportation facilities over time have lessened the emphasis on hamlets as agricultural services centres and increased their role as residential settlements. Further, the OP identifies that the predominant land use within the 'Hamlet' designation is low density residential housing. It is the intent of the County to provide a hamlet environment conducive to rural residential living while permitting appropriately scaled and located commercial, industrial and institutional development in a manner that will minimize land use conflicts.

It is clear that there is policy support for minor residential development within the existing hamlets. The OP contains lot creation and development criteria in hamlets to ensure the development is appropriate and compatible. The criteria include items such as ensuring:

- the development conforms to the OP (in terms of use and compatibility) and Zoning By-law (in terms of use, size, frontage, setbacks, height, etc.);
- can be privately serviced (via cisterns/wells and septic systems);
- availability and provision of adequate stormwater management facilities and legal and adequate drainage outlets;
- the development is a logical extension of the existing built-up area;
- all lots will have appropriate road frontage/access;
- potential impacts on Natural Environment Areas, Hazard Lands and cultural heritage resources are addressed; and
- less than five lots are being created.

These items were reviewed through the consent application process and the consents were deemed to conform to the criteria. Most importantly, residential development is permitted with the existing Hamlet boundary. The existing commercial and institutional development (concrete business and church) are considered compatible with the new residential lots as these uses must conform to Ministry standards in terms of noise, odour, dust, etc. and there are existing residences surrounding these uses. The severed lots exceed the minimum required lot frontage and area provisions in the Zoning By-law and any future residential development will be required to conform to the setbacks, height, and dwelling size provisions. Septic evaluations, a comprehensive lot grading plan, a lot grading agreement, and issuance of road entrance permits will need to be approved/executed prior to finalization of the consent applications. The septic evaluations are required for each lot to demonstrate that the existing septic system for Part 2 is located entirely on the lot and that it functions, and that a septic system will fit and function on the other new lots (Parts 1, 3, and 4). The septic evaluations must be completed by a registered septic installer and approved by the local building inspector prior to finalization of the consent applications (i.e. signing of the consent certificates). A comprehensive lot grading plan and lot grading agreement are also required prior to finalization of the consent applications. The lot grading plan must demonstrate that stormwater is managed appropriately onsite and there is a legal and adequate outlet for stormwater. The lot grading agreement will legally bind the current and future property owners to the approved lot grading plan. The lot grading plan must be completed by a professional engineer and approved by the development and design technologist. The lot grading agreement process is completed with a Planner and results in the registration of an agreement on the title of the property.

Further, while lots were previously severed from the farmlands in 2007, less than five lots are currently proposed and there is no further opportunity for rural residential severance from the farmlands.

Overall, the proposal conforms to the OP as the consent applications were deemed to conform to the lot creation and development criteria in hamlets and the subject zoning amendment will legally implement the 'Hamlet' designation on the severed lands.

#### **4.0. City of Nanticoke Zoning By-law NE 1-2000**

The OP sets out the County's general policies for future land use. The City of Nanticoke Zoning By-law NE 1-2000 (together with the other two zoning by-laws) puts the OP into effect and legally controls the use of land in the County by stating how land may be used; where buildings and other structures can be located; the types of buildings that are permitted and how they can be used; and the lot sizes and dimensions, parking requirements, building heights and setbacks from the street.

The subject lands are currently zoned 'Agriculture (A)' Zone. The 'A' Zone permits a number of uses including a single family dwelling, a farm, and compatible farm related uses. The proponents are proposing to rezone the severed lots from the 'A' Zone to the 'Hamlet Residential (RH)' Zone, which permits a single family dwelling.

If approved, the severed lots will have more flexible building envelopes that are consistent with adjacent lots. More specifically, the affected zoning provisions include:

Setback (Minimum)	'A' Zone Provisions	'RH' Zone Provisions
Front Yard	13 metres	9 metres
Interior Side Yard	3 metres	3 metres and 1.2 metres adjacent to attached garage

All other zone provisions, including the lot frontage and area, rear yard setback, building height, and usable floor area provisions remain the same. As stated in the Section above, the severed lots exceed the minimum required lot frontage and area provisions in the Zoning By-law and any future residential development will be required to conform to the setbacks, height, and dwelling size provisions. The retained lands conform to the Zoning By-law. A zoning confirmation chart has been included as Attachment 4. A draft zoning by-law has been included as attachment 5.

Overall, the proposal conforms to the general intent and purpose of the Zoning By-law.

**5.0. Conclusion**

The subject zoning amendment was necessitated by consent applications to create four lots within the Hamlet of Springvale settlement boundary. It is Planning staff’s opinion that the subject zoning by-law amendment application is consistent with the PPS (2014), conforms to the Growth Plan (2019) and OP, and meets the general intent and purpose of the City of Nanticoke Zoning By-law NE 1-2000. As such, Planning staff recommend approval of the subject zoning by-law amendment application.

**FINANCIAL/LEGAL IMPLICATIONS:**

Council must pass an authorizing by-law to permit the County to enter into a lot grading agreement with the proponents. The draft authorizing by-law is included as Attachment 6. The proponents, Mayor and Clerk will need to review and sign the lot grading agreement once the comprehensive lot grading plan is reviewed/approved and the agreement is prepared. The proponents’ lawyer will need to register the agreement on the title of the property and provide proof of registration prior to finalization of the consent applications.

**STAKEHOLDER IMPACTS:**

**Canada Post Corporation:** Please be advised that Canada Post does not have any comments on this application for severance. If/when any houses are constructed, please have the customers register at the Hagersville Post Office for mail delivery.

**Hydro One:** No objections.

**Emergency Services:** No objections.

**Planning & Development (Development & Design Technologist):** No additional comments beyond previous comments provided for the consent applications, which include:

- Individual lot grading plans will be required at the time of building permit.
- Entrance permits will be required and granted at the discretion of the Roads Department.
- PLB-2019-068 & PLB-2019-069: Included with lot grading plan submission should also be rough cut/fill plan, stormwater management brief and drainage agreement. Placement of dwelling in the future should be closer to Concession 14 to limit negative impacts associated with filling in the valley.
- PLB-2019-067 & PLB-2019-070: Both proposed parcels located on Haldimand Road 55 are largely above road due to existing topography. Creation of entrances could be difficult due to very steep boulevard in the right of way and location of hydro poles. Entrances should be

constructed as per OPSD 301.020. Also note that Haldimand County Design Criteria permits a maximum driveway grade of 8%.

- Retained lands feature portions of GRCA Regulated limits.

**Planning Comment:** All of these items will be addressed as conditions of consent prior to finalization of the severance applications (i.e. actual lot creation). Required conditions include approval of a grading plan, registration of a lot grading agreement, receipt of a letter from the Road Operations Division indicating that they have no objections to the future issuance of entrance permits, etc. The subject zoning amendment will serve to align the zoning with the Official Plan designation. Lot creation will not occur until these technical items are addressed.

**Building & Municipal Enforcement Services:** No objections.

**Rogers Communications:** No objections.

No comments were received from Bell Canada, Mississaugas of the Credit First Nation, Six Nations Council, Union Gas and Municipal Property Assessment Corporation.

## **REPORT IMPACTS:**

Agreement: Yes

By-law: Yes

Budget Amendment: No

Policy: No

## **ATTACHMENTS:**

1. Location Map.
2. Detail Map 1 of 2.
3. Detail Map 2 of 2.
4. Zoning Confirmation Form.
5. Draft Zoning By-law.
6. Draft Authorizing Zoning By-law.