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# HALDIMAND COUNTY

## Report PDD-38-2019 Temporary Use By-law Extension for Garden Suite - Richert



For Consideration by Council in Committee on November 19, 2019

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### OBJECTIVE:

To present the key planning items pertaining to a proposal to extend permissions for an existing garden suite on a temporary basis for an additional three years through a temporary use by-law along with a recommendation from Planning staff in order to assist Council in making a decision.

### RECOMMENDATIONS:

1. THAT Report PDD-38-2019 Temporary Use By-law Extension for Garden Suite - Richert be received;
2. AND THAT application PLZ-HA-2019-128 to pass a temporary use by-law extension for a period of three years to permit a garden suite as a second dwelling on the subject lands be approved for reasons outlined in Report PDD-38-2019;
3. AND THAT the proposal is deemed to be consistent with the Provincial Policy Statement 2014, Provincial Growth Plan, and other matters of Provincial interest.

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

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

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

### EXECUTIVE SUMMARY:

The property owners are requesting that Council extend permissions for an existing garden suite on the subject lands for a three year period through passage of a temporary use by-law. The garden suite has existed on the subject lands since 1997 and has provided sole living accommodations for the property owners while their relatives have lived in the existing single family home on the subject lands. The property owners are elderly and legitimately require the garden suite for continued living accommodations. No new development is proposed. The property owners and Haldimand County entered into an agreement outlining the rules and regulations for the garden suite in 1997, which is considered to be in good standing and in force and effect. The proposal satisfies all Provincial and County policy requirements. As such, Planning staff recommends approval of this application.

### BACKGROUND:

The purpose of the subject temporary use by-law extension application is to permit the extension of a mobile home as a secondary dwelling (garden suite) on a temporary basis for a period of three years on the subject lands (Attachment 1). A garden suite is a temporary accommodation and consists of a self-contained portable dwelling unit containing bathroom and kitchen facilities.

The *Planning Act* allows Council to permit garden suites through temporary use by-laws. Garden suites are required to be secondary to the existing residential dwelling. The overarching rationale for permitting a garden suite on a property is to provide a temporary housing option that supports changing demographics, allows for aging in place, and provides opportunities for affordable accommodation. Garden suites also provide an alternative opportunity to live in a non-institutionalized, private, and affordable dwelling unit while having the benefit of nearby, day-to-day assistance of a familiar person.

In this case, the property owners are requesting permission to continue using an existing garden suite on the subject lands to provide for their housing accommodations while their relative (granddaughter) lives in the existing dwelling on the property. Council permitted the garden suite in the 1997 for a period of five years to 2002 and extended permissions in 2002 until 2005. While the County maintains a record of temporary use by-laws, which includes garden suites, to monitor expiry dates and to prevent lapses in the County's data-set, this particular garden suite was not captured in the record log (likely due to its approval date). Earlier this year, staff became aware that the permissions for the garden suite had expired and that the garden suite still remained on the subject lands. After being notified of the expiration by Staff, the owner submitted this application to request the extension of the By-law for a further three year period. Council has the jurisdiction to consider such a request through Subsection 39 of the *Planning Act*, which permits Council to authorize the temporary use of land, buildings or structures for a purpose set out therein that is otherwise prohibited by the by-law.

Planning staff provided the property owners with the option to submit a completely new zoning application to re-establish permissions for the garden suite for a period of ten years (the timeframe typically permitted by Council) or to submit an extension application to extend permissions for a period of three years. The property owners chose to submit the latter. Planning staff have made it clear to the property owners that if they need the garden suite past expiration, they will need to submit and receive approval of another extension application. Planning staff have also made it clear that if they no longer need the garden suite and/or they sell the property, the garden suite must be removed.

Further, the current property owners entered into an agreement with the County in 1997 outlining the rules and requirements for the garden suite (including occupancy of the garden suite, conditions for removal, extension requirements, etc.) and it was registered on the title of the subject lands. Given the property ownership and occupants of the garden suite have not changed, the agreement is considered to be in good standing and in full force and effect. Also, the garden suite agreement itself has not changed significantly over the last twenty plus years. As such, preparation and execution of a new agreement is not required (all of which includes fees and time).

### **Location and Description:**

The property is described as Geographic Township of North Cayuga, Tract Jones West, Part of Lot 16 and are municipally known as 230 Richert Road. The property is located on the east side of Richert Road, which is a municipally owned and maintained (gravel) road. The property is 40.22 hectares (99.39 acres) in size and contains a single detached dwelling, a number of agricultural structures (some of which once contained a dairy operation which has ceased), and a garden suite. The property is shown in Attachment 1. The subject lands are identified as the area around the cluster of existing development (dwelling, agricultural structures, and garden suite).

### **ANALYSIS:**

Planning staff considered the following through the review of the proposal:

#### **Provincial Policy Statement (2014):**

The Provincial Policy Statement (PPS) provides policy direction on matters of provincial interest related to land use planning and development. The *Planning Act* directs that 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 it is to be addressed, in part, through promoting efficient land use and development patterns that support strong, liveable and healthy communities, protecting the environment and public health and safety, and facilitating economic growth. The garden suite is existing and will not require any infrastructure upgrades on the part of the County and will provide an affordable housing option for elderly persons that require a presence close to their caretaker. The garden suite is located outside of the hazardous area on the subject lands which ensures that environmental and public health and safety concerns are addressed. Overall, it is Planning staff's opinion that the proposal is consistent with the objectives of the PPS.

### **Provincial Growth Plan (2019):**

The purpose of the Growth Plan is to address challenges related to the forecasted growth and changes in the Greater Golden Horseshoe, and to ensure the protection and effective use of finite resources. The Growth Plan establishes a unique land use planning framework for the Greater Golden Horseshoe that supports the achievement of complete communities, a thriving economy, a clean and healthy environment, and social equity. The *Places to Grow Act* requires that planning decisions conform to the Growth Plan. The Growth Plan was reviewed in relation to the subject application and it was determined that there is no conflict with the subject application.

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

The Haldimand County Official Plan (OP) creates the framework for guiding land use changes in the County 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. Temporary use applications (including extension requests) must conform to OP policies.

The property is designated 'Mineral Aggregate Resource Area (MARA)', 'Agriculture', and 'Riverine Hazard Lands'. The subject lands where the garden suite is located is designated 'MARA'. There are no licensed quarries or pits in the area, the property is farmed as interim use, and garden suites are temporary in nature, such that Planning staff have no concerns with extending permissions for the garden suite on the subject lands.

Further, the OP requires that garden suites be sited on properties as follows, when considered through a temporary use by-law application:

- a) the suite is not placed in the front yard of the house of the required front yard as set out in the Zoning By-law;
- b) the suite is compatible with adjacent residential or agricultural properties in terms of aesthetics, privacy and noise;
- c) the garden suite is well removed from potential land use conflicts such as animal operations and operating pits or quarries;
- d) the garden suite is sited near the principal farm residence, if situated on a farm;
- e) the garden suite does not require additional separate access to a municipal road;
- f) placement of the unit on the lot is not excessively removed from the existing dwelling;
- g) the proposed site is capable of being connected to municipal services or can accommodate a water supply system and is serviced by an on-site sanitary sewage system designed and installed as per the *Ontario Building Code*;
- h) the location of the unit shall have regard to the Minimum Distance Separation formulae, from livestock operations on adjacent properties; and
- i) there is adequate on-site parking.

To that end, the garden suite has existed on the subject lands for 22 years and continues to satisfy the criteria above. To clarify, there are no livestock onsite and the local building inspector issued permits for the garden suite and septic system following the original approval.

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

The OP sets out the County's general policies for future land use. The Town of Haldimand Zoning By-law 1-H 86 (together with the other 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 building 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 zoned 'Agriculture (A)' Zone. The 'A' Zone (and all other zones within the County) does not permit garden suites as of right. As such, Council must pass a temporary use by-law to permit and extend permissions for garden suites on properties within Haldimand County on a site by site basis. This approach allows County staff, partner agencies, and Council to consider each proposal to ensure it conforms to policy requirements, an agreement outlining the rules and requirements for the garden suite is executed, and, in the case of extension requests, there is still a legitimate need for the garden suite.

The garden suite and property itself conforms to the Zoning By-law requirements. The temporary use by-law for the garden suite is included as Attachment 2. This by-law must be passed to allow the garden suite to remain on the subject lands and to rectify the existing zoning compliance issue.

### **Planning Opinion:**

Planning staff are of the opinion that the extension request is consistent with the PPS and conforms to the policies of the Growth Plan and OP, as it will fulfill the property owners needs by providing alternative and affordable accommodation in accordance with the Official Plan criteria. As such, Planning staff recommends that this proposal be approved and the temporary use by-law be presented for enactment.

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

Not applicable.

### **STAKEHOLDER IMPACTS:**

**Public Consultation:** A notice of complete application and notice of public meeting were circulated to required agencies and members of the public within 120 metres of the property in accordance with the *Planning Act* requirements. No additional private consultation was required given the garden suite has existed on the subject lands for 20 plus years and no additional development is proposed. Through the report writing process, Planning staff did not receive any public comments.

**Grand River Conservation Authority (GRCA):** No circulation request required.

**Planning Comment:** Planning staff reached out to the GRCA as they have regulation limits on the property. The existing garden suite is located outside of the GRCA regulation limits. As such, the GRCA confirmed they did not need to be circulated on the extension request.

**Bell Canada:** No comments received.

**Canada Post Corporation:** Please be advised that Canada Post does not have any comments on this application as this will not affect mail delivery.

**Mississaugas of the Credit First Nation:** No comments received.

**Six Nations Council:** No comments received.

**Hydro 1 – High Voltage:** No comments or concerns at this time.

**Hydro 1 – Low Voltage:** No comments or concerns at this time.

**Union Gas:** No comments received.

**Emergency Services:** No objections.

**Planning & Development – Development & Design Technologist:** No concerns.

**Health Unit:** Health and Social Services doesn't have any comments for the zoning amendment for 230 Richert Road.

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

**Municipal Property Assessment Corporation (MPAC):** No comments received.

**Rogers Communications:** No comments received.

## **REPORT IMPACTS:**

Agreement: No

By-law: Yes

Budget Amendment: No

Policy: No

## **ATTACHMENTS:**

1. Location Map.
2. Draft Temporary Use Extension By-law.