
HALDIMAND COUNTY

Report PDD-37-2019 Zoning Amendment to Permit Year Round Use – Beldman Construction



For Consideration by Council in Committee on October 8, 2019

OBJECTIVE:

To present the subject proposal to rezone the subject lands to permit year round residency along with a recommendation from Planning staff in order to assist Council in making a decision.

RECOMMENDATIONS:

1. THAT Report PDD-37-2019 Zoning Amendment to Permit Year Round Use – Beldman Construction be received;
2. AND THAT application PLZ-HA-2019-131 to amend the Town of Dunnville Zoning By-law 1-DU 80 by rezoning the subject lands from “Seasonal Residential (RS)” to “Seasonal Residential – Holding (RS – H)” and adding special provision 37.582 to permit year round residential use be approved for reasons outlined in Report PDD-37-2019;
3. AND THAT the By-law attached to Report PDD-37-2019 be presented for enactment;
4. AND THAT the Holding (H) Provision removal By-law attached to Report PDD-37-2019 be presented for enactment and the General Manager of Community & Development Services be granted authority to remove the Holding Provision when all conditions relating to the matter are satisfactorily addressed;
5. AND THAT the application is considered to be consistent with the Provincial Policy Statement (2014), Provincial Growth Plan (2019), and other matters of Provincial Interest.

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

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

EXECUTIVE SUMMARY:

The proponent is requesting to amend the Town of Dunnville Zoning By-law 1-DU 80 by rezoning the subject lands to permit year round residency, as the current zoning only permits seasonal residential residency. The local Building Inspector has issued building and septic permits for a summer cottage to be constructed on the subject lands and the proponent has installed the septic system and is nearing completion of the dwelling. The proponent is proposing to sell the (under construction) dwelling as a year round home rather than a summer cottage. The proposal is consistent with Provincial policy, which permits development that is appropriate in relation to infrastructure which is planned or available and avoids the potential demand for increased municipal servicing and major infrastructure improvements. The proposal conforms to the Official Plan, which permits limited year-round residential use within the Lakeshore Nodes subject to certain criteria being satisfied. As such, Planning staff recommend approval of the subject application. As part of the approval, Planning staff recommends that a Holding

(H) Provision be affixed to the zoning of the subject lands to ensure that an as-built grading plan is approved by County staff and a Mutual Drainage Agreement (if required) is registered on title of all affected properties prior to occupancy of the dwelling to demonstrate that the subject lands are graded appropriately and all legal requirements are satisfied.

BACKGROUND:

The proponent is requesting to rezone the subject lands (Attachment 1) to permit year round residency as the current zoning permits seasonal residential residency. The proponent is currently constructing a dwelling on the subject lands (Attachment 2), and he intends to sell the subject lands for year round residency once construction is complete.

The subject lands are located in the Lakeshore Node of Johnson Road and front onto the north side of Stonehaven Road. The subject lands are described as Concession 5, South of Dover Road, Part of Lot 19, Geographic Township of Dunn, and are municipally known as 49 Stonehaven Road. Surrounding land uses include vacant lots to the north, residential to the east and south, and agricultural to the west.

The subject lands are located within a 28 lot subdivision where all the lots front onto Stonehaven Road. These lots, together with the lots to the north on Johnson Road and Lighthouse Drive, were created prior to the modern plan of subdivision process. Recognizing that appropriate technical review had not occurred and proper controls were in place, a special provision was affixed to the lots in this area which prohibited development. In 1989, the 28 lots were rezoned from the 'Agriculture (A)' Zone to the 'Seasonal Residential – Holding (H)' Zone and a special provision was affixed to the lots to permit a narrower lot frontage of 28.5 metres rather than 30 metres. The purpose of the Holding (H) Provision was to ensure that the developer entered into a development agreement to upgrade Stonehaven Road from a private road to a municipal road. In 1992, Council removed the H Provision from the 28 lots to permit development of the lots for seasonal residential purposes. Stonehaven Road is now and has been for many years an open, municipally owned and maintained road. Since 1992, most of the lots on Stonehaven Road have been rezoned on a site specific basis to permit year round residency. Some of the lots on Johnson Road and Lighthouse Drive (to the north) have also recently been rezoned to permit year round residency.

ANALYSIS:

The key planning considerations are the following:

1.0. Provincial Policy Statement (2014)

The Provincial Policy Statement (2014) (PPS) provides overall policy 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 subject lands and surrounding neighbourhood are located in an approved Lakeshore Node, which is an area with concentrated existing developments that consist of predominately recreational residents, and may include commercial, institutional and recreational facilities serving the area. Lakeshore Nodes are characterized by nodal or linear form of development in lakeshore locations. Minor infilling and development is permitted in the Lakeshore Nodes.

Further, the subject lands are serviced via private services (septic system and cistern), municipal roads, waste collection, emergency response, etc. The subject lands are not regulated by a conservation authority such that they are not subject to flooding and erosion hazards associated with the Lake. Also,

the subject lands are located in proximity (a 10 minute drive) to the urban area of Dunnville, which provides commercial and public service facilities.

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. A *Places to Grow Act* requires planning decisions to conform to the Growth Plan.

The future residents of the subject lands will utilize existing services (municipal road, waste collection, etc.) without the need for expansion or significant upgrades to existing infrastructure and services. Also, the subject lands are serviced via private services (septic system and cistern), and permits have been issued for their installation. As such, the proposal conforms to the Growth Plan.

3.0. Haldimand County Official Plan

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. Zoning by-law amendment applications must conform to the OP.

The subject lands are designated “Resort Residential Node” and are located in the Lakeshore Node of Johnson Road. The OP states that seasonal residences are the preferred type of dwellings along the Lakeshore, although a limited amount of conversion and new infilling for year round use may be permitted within Lakeshore Nodes. Applications such as the subject application are dealt with on a site-by-site basis to satisfy this OP requirement. The OP sets out the following conversion criteria, which were considered:

- a) Suitability of areas relative to Hazard Lands, along the shoreline, Industrial Influence Area, and other land uses;

Planning Comment: The subject lands are located 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 Area and are generally surrounded by similar residential uses.

- b) Need to maintain a reserve of cottage properties for seasonal use;

Planning Comment: The proposed conversion will not have a significantly adverse impact on the existing seasonal supply within the area. The majority of the lots fronting onto Stonehaven Road are permitted to accommodate year round residency. Permitting year round residency on the subject lands will create consistency in the neighbourhood and it will permit the same permissions that other property owners have been granted over the years.

Also, the subject application does not represent a conversion of an existing summer cottage to a year-round dwelling. Instead, approval of the subject application will permit the use of a purpose built year-round home on an existing lot within the Lakeshore Node that is surrounded by year-round homes.

Further, there are numerous existing cottages within other Lakeshore Nodes on private roads and holding tanks which will continue to provide the seasonal supply within the County.

- c) Need to maintain public access and usage of the Lakeshore;

Planning Comment: The subject lands are located on the north side of Stonehaven Drive, and internal to the Lakeshore Node. The subject lands do not have direct access to Lake Erie and the development does not impact access to the Lake.

- d) Implications of assuming and/or upgrading existing private roads and rights-of-way;

Planning Comment: The subject lands front onto Stonehaven Road, which is an open municipal road of a reasonable standard of construction. No assumptions or upgrades are required.

- e) Need for upgrading existing public roads and public rights-of-way;

Planning Comment: Same comment as above.

- f) Necessity for the provision of 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.). The residences of this area benefit from the community facilities available in nearby Dunnville and Cayuga. Due to the proximity of these communities, the residents of the subject lands will be adequately served by the present level of community facilities.

- g) Suitability of soils and lot sizes to support individual sewage disposal systems and potable water supply;

Planning Comment: A septic permit has already been issued for the subject lands.

- h) Potential demands for municipal servicing and major infrastructural improvements must be avoided;

Planning Comment: The extent and scale of the subject application is not anticipated to result in an increased demand for municipal (hard) services such as water and wastewater or significant upgrades to existing infrastructure (i.e. roads). Water and wastewater services are not anticipated or likely to be provided for this portion of the County. The (under construction) dwelling will be serviced by private services and will front onto the existing municipal road.

- i) Feasibility of combining undersized lots to allow for development;

Planning Comment: All of the lots fronting onto Stonehaven Road satisfy the minimum lot frontage and lot size provisions. There is no need to combine lots in the area.

- j) Potential negative impacts on Natural Environment Areas such as wetlands, forested areas and fish habitat;

Planning Comment: No negative environmental impacts are anticipated as a result of the subject proposal to rezone the subject lands. The proponent received building permits for the proposed development, and the dwelling is currently under construction.

- k) Potential negative impacts on cultural heritage resources; and

Planning Comment: Same as above.

- l) Potential negative impacts on agricultural operations and lands.

Planning Comment: The subject lands are located well within the existing Lakeshore Node and front onto an existing road. No negative agricultural impacts are anticipated as a result of the subject proposal.

The OP also requires that conversions and new development for year round use must have frontage on an open improved public road. The subject proposal satisfies this requirement.

Overall, the subject proposal conforms to the seasonal conversion criteria in the OP.

4.0. Town of Dunnville Zoning By-law 1-DU 80

The OP sets out the County's general policies for future land use. The Town of Dunnville Zoning By-law 1-DU 80 (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 currently zoned "Seasonal Residential (RS)" Zone, which permits a summer cottage and an existing one family dwelling house provided it has been constructed and occupied prior to the passing of the Zoning By-law in 1980. Since the (under construction) dwelling is new, it is permitted to be a summer cottage. This current zoning convention is very dated and is a matter that is 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 in scope and potentially narrowed (e.g. the 'RS' Zone applies only to those lots on private roads and impacted by natural hazards, etc.).

The proponent is proposing to rezone the subject lands prior to consideration and passing of the Comprehensive Zoning By-law to permit year round residency for sale purposes. The subject proposal conforms to the County's OP and is consistent with the direction that the Comprehensive Zoning By-law is heading.

Further, the subject lands and construction satisfy the Zoning By-law requirements. A draft, amending zoning by-law is included as Attachment 3. Planning staff recommends that a Holding (H) Provision be affixed to the zoning of the subject lands to ensure that an as-built grading plan is provided and approved to the satisfaction of County staff prior to occupancy of the dwelling. Typically, staff request a grading plan as part of the zoning amendment process and require that it be approved prior to construction occurring to ensure lot grading is appropriate (i.e. stormwater is controlled onsite and outlets appropriately to roadside ditches, across adjacent rear yards through a Mutual Drainage Agreement registered on title of all properties affected, or other methods). Staff have consistently requested grading plans for development on lots within this Lakeshore Node. However, given the subject lands are a lot of record, are currently free and clear of a H Provision that required a lot grading plan prior to construction, and the County does not have a general lot grading by-law, building permits for a summer cottage could be issued without a grading plan. To ensure the lot is graded appropriately and all legal requirements are satisfied (i.e. that a Mutual Drainage Agreement is registered on title of all affected properties, if required), Planning staff recommend that a H Provision be affixed to the zoning. A draft Holding Removal By-law is included as Attachment 4.

5.0. Conclusion

Planning staff have reviewed the subject zoning by-law amendment application relative to both Provincial and County frameworks and the principle of land use is consistent with each. Both the Provincial Policy Statement (2014) and Haldimand County Official Plan permit development that is appropriate in relation to 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 Nodes 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 Haldimand County Official Plan. As such, Planning staff recommend approval of the subject application.

FINANCIAL/LEGAL IMPLICATIONS:

Not applicable.

STAKEHOLDER IMPACTS:

Public – The property owner committed to speaking to adjacent neighbours. No public comments were received through the circulation process.

Canada Post Corporation – Please be advised that Canada Post does not have any comments on this application. Should the customer reside there permanently and require mail delivery, please have them register at the Dunnville Post Office.

Union Gas – Union Gas does not normally comment on zoning changes.

Emergency Services – No objections.

Planning & Development (Development & Design Technologist) – The lot is of adequate size for private servicing (no municipal water & wastewater services available). However, development could be constrained by lot grading/drainage challenges. The property is within the catchment boundary of the Stonehaven Municipal Drain. Drainage should be self-contained on each lot, controlled to pre-development levels and directed to a legal and adequate outlet (i.e. possibly a roadside ditch or across adjacent rear yards through a Mutual Drainage Agreement registered on title of all properties affected or other methods). No adverse effects pertaining to drainage should be experienced on adjacent properties as a result of development.

Planning Comment: As part of the approval, Planning staff recommends that a Holding (H) Provision be affixed to the zoning of the subject lands to ensure that an as-built grading plan is approved by County staff and a Mutual Drainage Agreement (if required) is registered on title of all affected properties prior to occupancy to demonstrate that the subject lands are graded appropriately and all legal requirements are satisfied.

Building & Municipal Enforcement Services – No concerns.

Rogers Communications – No comment.

No comments were received from: Bell Canada, Mississaugas of the Credit First Nation, Six Nations Council, Municipal Property Assessment Corporation (MPAC), or Hydro One.

REPORT IMPACTS:

Agreement: No

By-law: Yes

Budget Amendment: No

Policy: No

ATTACHMENTS:

1. Location Map.
2. Owner's Sketch.
3. Draft Zoning By-law.
4. Draft Holding Removal By-law.