
HALDIMAND COUNTY

Report PDD-10-2020 Zoning Amendment to Permit a Garden Suite - Sicurella For Consideration by Council on May 19, 2020



OBJECTIVE:

To present the key planning considerations for the proposal to establish a garden suite on a temporary basis for ten years through a Zoning By-law amendment along with a recommendation from Planning staff in order to assist Council in making a decision.

RECOMMENDATIONS:

1. THAT Report PDD-10-2020 Zoning Amendment to Permit a Garden Suite – Sicurella be received;
2. AND THAT application PLZ-HA-2019-203 to pass a temporary use by-law for a period of ten years to permit a garden suite as a second dwelling be approved for reasons outlined in Report PDD-10-2020;
3. AND THAT the proposal is deemed to be consistent with the Provincial Policy Statement (2020), Provincial Growth Plan (2019), and other matters of Provincial interest;
4. AND THAT the temporary use by-law attached to Report PDD-10-2020 be presented for enactment;
5. AND THAT the Holding 'H' provision removal by-law attached to Report PDD-10-2020 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;
6. AND THAT the authorizing by-law attached to Report PDD-10-2020 be presented for enactment.

Prepared by: Ashley Taylor, MCIP, RPP, M.PI, Planner

Reviewed by: Shannon VanDalen, MCIP, RPP, CMMI, Manager of Planning & Development

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

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

EXECUTIVE SUMMARY:

The proponent is requesting permission to locate a new garden suite on his rural residential property to provide an alternative living accommodation for him (who has a limited range of mobility) and his wife in close proximity to his family members (niece and her partner) who plan to live in the existing single family dwelling to provide living assistance and care. Planning staff have reviewed the proposed zoning amendment against Provincial and County policy frameworks and the proposal is consistent with each. Planning staff recommends approval of this proposal for the reasons listed within the subject report. If Council approves the subject application, the garden suite will be temporary and must be removed ten years from the date of the decision or when there is no longer a demonstrated need, whichever comes first, unless Council grants a three year extension prior to the date of expiry. Planning

staff recommends that a Holding (H) provision be affixed to the zoning of the subject lands to ensure that permits are not issued for the garden suite until a garden suite agreement is executed.

BACKGROUND:

The proponent is proposing to sell the subject lands to his niece and her partner following approval of the subject application and to locate a garden suite onsite to provide housing for him and his wife. The Town of Haldimand Zoning By-law 1-H 86 only permits one dwelling (a single family dwelling) per property which necessitates the subject application. The purpose of the subject zoning application is to permit the establishment of a mobile home (garden suite) as a secondary dwelling on a temporary basis for a period of ten years on the subject lands.

A garden suite is a temporary accommodation and consists of a self-contained portable dwelling unit containing bathroom and kitchen facilities. Garden suites are required to be secondary to an existing residential dwelling (such as a single family dwelling) and portable. 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. In this case, the garden suite provides the proponent and his wife with an alternative housing option while having the benefit of nearby assistance of a familiar person (i.e. his niece and her partner) as they age. Also, the proponent (who has a limited range of mobility) and his wife will benefit from living in the garden suite as it is compact and one level and from living in close proximity to his relatives (his niece and her partner).

Location and Description:

The subject lands are described as former Geographic Township of South Cayuga, Concession 6, Part of Lot 9, and are municipally known as 259 Haldimand Dunnville Townline Road (Attachment 1). The subject lands front onto the west side of the road and are 2 hectares (5 acres) in size. The subject lands contain a dwelling, detached garage, barn, and a personal dog kennel area (Attachment 2). The septic system for the existing dwelling is located east of the dwelling. The garden suite is proposed to be located south of the barn and west of the detached garage (Attachment 2). A new septic system to service the garden suite is proposed south of the garden suite and a new cistern is proposed north of the garden suite.

The subject lands are surrounded by a large agricultural property that contains cash crops to the north, west, and south. The lands to the east contain a dwelling, cash crops, and livestock barns.

ANALYSIS:

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

Provincial Policy:

Provincial Policy Statement (2020):

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 is to be addressed, in part, through promoting efficient land use and development patterns that support strong, livable and healthy communities, protecting the environment and public health and safety, and facilitating economic growth. The garden suite will not require any infrastructure upgrades on the part of the County and will provide an affordable housing option for older persons or others who require

proximity due to medical conditions on their family members' property. The subject lands are not regulated by a conservation authority, such that there are no environmental and public health and safety concerns related to natural hazards. 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 development 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. Planning decisions must 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.

County Policy:

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. Decisions on zoning amendment applications must conform to the OP.

The subject lands are designated 'Agriculture' within the OP. The Community Building policies of the OP permit garden suites in the 'Agriculture' designation by way of a temporary use by-law and an implementing development agreement where a legitimate need is demonstrated for a housing unit in proximity to an existing residential use on a property.

It is important to recognize that the subject lands are designated 'Agriculture' as they are located within the prime agricultural area of the County and the OP does not differentiate between farm parcels and rural residential lots for designation purposes. While the subject lands are located on a rural residential lot rather than a farm parcel, the intent of the proposal remains the same, i.e. to provide temporary accommodation for the property owner and his wife, who are aging and have medical conditions, in close proximity to his family members. Given that the OP does not differentiate between rural residential lots and farm parcels, and that garden suites are permitted on lots where the main dwelling has been established, the same policy framework for garden suites applies to this proposal.

Further, a garden suite is a form of temporary accommodation and consists of a self-contained portable dwelling unit, whose purpose is to provide accommodation for elderly, sick or disabled persons. Based on the information provided by the proponents, staff have determined that a legitimate need exists and the structure of the proposal in terms of who resides in the garden suite is deemed appropriate. The location of the garden suite on the subject lands also satisfies the following criteria:

- a) the suite is not placed in the front yard of the house or the required front yard setback as set out in the Zoning By-law;

Planning Comment: The garden suite will not be located in the front yard. The garden suite will be located west (behind) the existing dwelling in accordance with this policy requirement.

- b) the suite is compatible with adjacent residential or agricultural properties in terms of aesthetics, privacy and noise;

Planning Comment: The garden suite will be located within the cluster of existing development on the subject lands. There is ample room on the subject lands to ensure the minimum rear yard

setback (13 metres) is satisfied. A farm parcel consisting of cash crops (rather than livestock operations) surround the subject lands. Planning staff have no concern.

- c) the garden suite is well removed from potential land use conflicts such as animal operations and operating pits and quarries;

Planning Comment: Through discussions with the proponent, Planning staff are aware that three (3) horses are housed at 244 Haldimand Dunnville Townline Road (located east of and across the road from the subject lands). The proposed garden suite is located outside of the Minimum Distance Separation area between the horse area and the garden suite. As such, there is no land use (odour) conflict.

Also, the proponent explained to Planning staff that the same property owner picks up and houses cows in his barns once a week to take to auction. Given the cows are not housed permanently on the property, and the garden suite is generally in line with the existing dwelling (rather than closer to the barns), Planning staff have no concerns. Also, the applicant currently lives on the subject lands and is accustomed to the agricultural activities that take place in the area.

Also, there are no pits or quarries in the area.

- d) the garden suite is sited near the principal farm residence, if situated on a farm;

Planning Comment: This requirement does not apply to the proposal as the subject lands are not considered to be a farm parcel.

- e) the garden suite does not require additional separate access to a municipal road;

Planning Comment: The garden suite is proposed to share the existing driveway utilized for the principal residence.

- f) placement of the unit on the lot is not excessively removed from the existing dwelling;

Planning Comment: The garden suite will remain in close proximity to the principal 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*;

Planning Comment: The proponent hired a registered septic installer to examine the existing septic system for the dwelling and to prepare a septic plan for the garden suite. This information was provided to the County as part of the complete zoning application package. The Building & Municipal Enforcement Services Division has reviewed the septic information and is satisfied. Also, the proponent is proposing to install a new cistern for the garden suite. This policy requirement is satisfied.

- h) the location of the unit shall have regard to the Minimum Distance Separation formulae, from livestock operations on adjacent properties; and

Planning Comment: See criterion 'c)' above; MDS is not applicable.

- i) there is adequate on-site parking.

Planning Comment: There is adequate on-site parking.

Based on the forgoing analysis and planning review, it is Planning staff's opinion that the applicable OP criteria are satisfied and the proposal conforms to the Official Plan (OP).

Also, the Implementation and Interpretation policies of the OP require that in the case of passing a temporary use by-law for the establishment of a garden suite, an agreement between the owners and the County be prepared addressing tenure, occupancy and conditions of removal of the unit. The

agreement provides the County with additional control over issues of land use compatibility and aesthetics of the development and to assist with respect to removal of the unit once there is no longer a demonstrated need for it.

The agreement will outline that the garden suite can only be occupied by the applicant and his wife and that the garden suite be removed within ten years of the date of decision or if there is no longer a demonstrated need for it, whichever comes first. The agreement will require the garden suite to be removed if the subject lands are sold. It will also recognize the possibility of extending a temporary use on three year increments if extension is requested prior to the date of expiry. In order to execute the agreement an authorizing by-law must be passed. The authorizing by-law has been included in this report as Attachment 3. Although the agreement cannot be registered on title (as per direction from the Land Registry Office (LRO)), the agreement serves as an additional tool to ensure that compliance with the original intent of a garden suite proposal is adhered to. As such, Planning staff are recommending that the completion of an agreement be required for this purpose. However, the agreement cannot be signed by all parties (including the Mayor and Clerk) until Council has made a decision on the application and passed the temporary use by-law. Therefore, Planning staff recommends that a holding 'H' provision be affixed to the zoning permissions for the garden suite to ensure that the agreement is signed and executed prior to the proponents obtaining a building permit.

Further, the applicant is proposing to sell the subject lands to his niece and her partner following approval of the subject application. The closing date being April 20, 2020. Given the intended change in ownership for the subject lands, Planning staff are recommending that the authorizing by-law identify all parties (the proponent, the proponent's wife, and the proponent's niece and her partner) and the agreement also be signed by all parties. In this case, the agreement will be customized to recognize the intended sale and to identify that the subject lands must be owned by the proponent or his niece and her partner to ensure the garden suite and agreement are in good standing. This will allow the proponent to move forward with the agreement and building permit processes at the same time as the sale rather than requiring he wait on these processes until the completion of the sale. The agreement will also identify that any sale thereafter requires the garden suite must be removed or that a new application be approved. Given the agreement will not be registered on the title of the property, there are no concerns with adopting this process. In fact, the *Planning Act* identifies that the County is permitted to enter into an agreement with the owner of the garden suite or any other person dealing with such matters related to the temporary use of the garden suite as Council considers necessary or advisable.

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

The subject lands are zoned 'Agricultural (A)' Zone. The Zoning By-law permits one dwelling unit (a single detached dwelling) per lot within the 'A' Zone. However, passing of a temporary use by-law would permit the establishment of a mobile home as a second, temporary dwelling unit on the subject lands for use as a garden suite. The garden suite will comply with all of the applicable 'A' Zone provisions.

Further, the temporary use by-law for the garden suite has been included as Attachment 4. Planning staff also recommends that a holding 'H' provision be attached to the zoning of the subject lands to ensure that the garden suite agreement has been executed. The 'H' removal by-law has been included as Attachment 5 which will grant the General Manager of Community & Development Services the authority to remove the 'H' provision when this condition has been satisfactorily addressed. Once the 'H' provision is removed, a permit for the garden suite can be obtained from a building inspector.

To ensure that the garden suite is removed when it is no longer needed, this report includes a temporary use by-law. This by-law and accompanying agreement will apply for a time period of ten years upon which it will expire and any granted permissions will cease to exist. The proponent may apply for the by-law and accompanying agreement to be extended for an additional three year term. The need for the garden suite would be reviewed and re-evaluated upon any further extension request.

Planning Opinion:

It is Planning staff's opinion that the proposed use is consistent with the PPS, Growth Plan, and conforms to the policies of the OP as it will promote efficient land use and a development pattern that supports a strong, liveable, and healthy community, and protects the environment, public health and safety. It will also fulfill the need of the proponent by providing an alternative and affordable living arrangement close to his family member (niece and her partner) in accordance with the OP criteria. As this proposal complies with the applicable policies, Planning staff recommends that the proposal be approved and the temporary by-law with an 'H' provision and 'H' removal by-law be presented for enactment.

Public Consultation:

The proponent identified in his application that he spoke to two of his surrounding neighbours who were supportive of his application. At the time of writing this report, Planning staff had received no inquiries from the neighbours regarding the subject application. Also, at the time of writing this report, the neighbours were circulated on the notice of complete application and will be circulated on the notice of public meeting. A public notice sign was posted well in advance of the public meeting.

FINANCIAL/LEGAL IMPLICATIONS:

Not applicable.

STAKEHOLDER IMPACTS:

Planning and Development (Development & Design Technologist) - No objection.

Building & Municipal Enforcement Services - Building permit for garden suite and septic system will be required.

No comments were received from Bell Canada, Canada Post Corporation, Mississaugas of the Credit First Nation, Six Nations Council, Union Gas, Hydro One, Emergency Services/Fire Department, and Municipal Property Assessment Corporation (MPAC).

REPORT IMPACTS:

Agreement: Yes

By-law: Yes

Budget Amendment: No

Policy: No

ATTACHMENTS:

1. Location Map.
2. Owner's Sketch.
3. Draft Authorizing By-law.
4. Draft Temporary Use By-law.
5. Draft Holding Removal By-law.