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# HALDIMAND COUNTY

## Report PDD-13-2020 Removal of Holding Provision - Barnett

For Consideration by Council on May 19, 2020

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### OBJECTIVE:

To consider an amendment to Zoning By-law 1-DU 80 to remove a 'Holding – "H"' provision from the zoning of lands in rural Dunnville to facilitate the construction of a single detached dwelling.

### RECOMMENDATIONS:

1. THAT Report PDD-13-2020 Removal of Holding Provision - Barnett be received;
2. AND THAT the request to remove a 'Holding – "H"' provision from the zoning of the subject lands be approved for reasons outlined in Report PDD-13-2020;
3. AND THAT the removal of holding by-law attached to Report PDD-13-2020 be presented for enactment;
4. AND THAT the authorizing by-law attached to Report PDD-13-2020 be presented for enactment;
5. AND THAT the proposal shall be considered to be consistent with the Provincial Policy Statement 2020, Provincial Growth Plan and other matters of provincial interest.

**Prepared by:** Benjamin Kissner, 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 intent of the subject report is to obtain Council's approval to remove a Holding (H) Provision from the zoning that was affixed to 400 Lighthouse Drive in 1988. The subject lands were placed under the Holding regulation to ensure that the County receives parkland dedication fees; approves a lot grading plan; and authorizes a development agreement binding the development of the lands to the approved plans. As the technical and legal matters relating to the removal are now addressed or imminent, Staff are recommending the removal of the Holding (H) provision which will allow for the issuance of a building permit for a seasonal residential dwelling.

### BACKGROUND:

The subject lands are described as Dunnville Concession 5, South of Dover Road, Part Lot 19 DEP 72117 Parcel 45, Geographic Township of Dunn, now in Haldimand County, and known municipally as 400 Lighthouse Drive.

The property is located within the Lakeshore Node of Johnson Road, which is an area comprised of approximately 58 lots (majority are vacant). The lots were created over 50 years ago by individuals that divided their property and registered the lots in different names, a process commonly referred to as “checker-boarding”. During this period, there were few planning controls to guard against the development (new lot creation) that may not have been in the best interest of the community. As a safeguard, staff and previous Councils of the Town of Dunnville and Region of Haldimand-Norfolk felt it was imperative that something be implemented to ensure all implications of development on these lands were assessed. As such, a special provision was added to the zoning of the property which had the effect of preventing the land from being developed until such time as specific conditions were addressed.

In 1988, the zoning of the lands within the Johnson Road Lakeshore Node was amended from “Agricultural (A)” to “Seasonal Residential – Holding (RS-H)” and “Open Space – Holding (OS-H)”. The zoning amendment outlined that the “Holding – (H)” provision was to remain in place and restrict development until such time that a development agreement was entered into by the property owners which addressed concerns relating to providing parkland or cash-in-lieu of parkland, and drainage and grading issues. The property owners have initiated the development agreement and paid for the parkland dedication fee and the County has approved the lot grading plan, for this reason Planning Staff are satisfied that the Holding can be lifted.

The purpose of this application is to remove the Holding “H” provision on the subject lands within the Lakeshore Node of Johnson Road (shown on Map A of Attachment 1) to permit construction of a single detached residential dwelling.

## **ANALYSIS:**

The proposal before Council is to remove the holding provision from the subject lands. The conditions of the Holding ‘H’ Provision include:

- 1) Cash-in-Lieu of Parkland Dedication
- 2) Development Agreement
- 3) Comprehensive Grading and Drainage Plan

The requirements of the provisions have been addressed as follows:

- Cash-in-lieu of Parkland Dedication:

In developments for new lot creation, developers and builders are required to either set aside a certain amount of land for parkland (parkland dedication) or alternatively, pay cash-in-lieu of parkland dedication if it is determined that there are adequate parks and recreational facilities to service the area. The land or cash-in-lieu thereof is conveyed to the municipality for parkland or other public recreational purposes. Cash-in-lieu of parkland – which was identified as the preferred option - was never collected for the lots in the Johnson Road Lakeshore Node when they were created (pre-1970), and as such, when the “Holding (H)” provision was applied to the lots in 1988 it stipulated that cash-in-lieu of parkland was to be collected prior to the development of the lands. The proponent submitted the \$350.00 cash-in-lieu of parkland payment, and as such, Staff are of the opinion that the condition can be considered as being met.

- Development Agreement and County Approval of Grading Plan

The “Holding (H)” provision was also applied to the zoning of the subject lands to ensure that a Development Agreement was entered into by the property owners and the County to address lot grading and drainage concerns. When a new home is to be constructed, it is essential that a property be graded properly to ensure that surface drainage is directed away from the building and also to

ensure it does not outlet onto neighbouring properties to cause flooding issues or damage. Improper lot grading can result in poor drainage, ponding, flooding, foundation settlement or damage, basement dampness or other unwanted effects. To ensure that the lot grading and drainage concerns were adequately addressed prior to development, the proponents have submitted a lot grading and drainage plan that was approved by the County's Planning and Development Division. In order to ensure compliance with the approved lot grading and drainage plan, the approved plan is included as attachment to the Development Agreement that is to be registered on title for the subject property. In other words, all future development on the subject property is to be in accordance with the approved plan, and specified grades are to be maintained. As such, Staff are of the opinion that the condition of the "Holding (H) provision" relating to the Development Agreement and the lot grading and drainage concerns has been satisfied.

Planning Staff recommends that the proposal for removal of the 'Holding "H"' provision be approved and the related by-law be passed since the requirements for removal of the provision have been satisfied. All land use planning policy issues have been adequately addressed through the previous approval of the zoning amendment.

## **FINANCIAL/LEGAL IMPLICATIONS:**

Not applicable.

## **STAKEHOLDER IMPACTS:**

### **Notice to Landowners:**

A resolution from a Council meeting in 2011, set out that all owners of the perimeter lots (i.e. those with frontage on Johnson Road or Lighthouse Drive) were to receive notice of the process that is available to them to have the 'Holding' provision removed from their lands. That notice was prepared by Planning staff and has been issued. It clearly sets out the requirements described in detail in this report.

The *Planning Act* only requires public notice 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"' symbol from a zoning by-law under subsection 36(4) of the Act. Since no requests were received, public notification was not required.

## **REPORT IMPACTS:**

Agreement: No

By-law: Yes

Budget Amendment: No

Policy: No

## **ATTACHMENTS:**

1. Draft By-law to Remove 'Holding – "H"'.
2. Authorizing By-law.