
HALDIMAND COUNTY

Report PDD-21-2020 Zoning By-law Amendment for a Condition of Consent - Fleming and Whyte



For Consideration by Council on June 16, 2020

OBJECTIVE:

To fulfill a condition of consent related to the severance of a surplus farm dwelling.

RECOMMENDATIONS:

1. THAT Report PDD-21-2020 Zoning By-law Amendment for a Condition of Consent - Fleming and Whyte be received;
2. AND THAT application PLZ-HA-2020-054 to amend the Town of Haldimand Zoning By-law 1-H 86 to recognize an oversized lot created through a surplus farm dwelling severance and to recognize increase to the accessory floor area provisions be approved for reasons outlined in Report PDD-21-2020;
3. AND THAT the proposal is deemed to be consistent with the Provincial Policy Statement (2020), and the Growth Plan (2019) for the Greater Golden Horseshoe;
4. AND THAT the by-law attached to Report PDD-21-2020 be presented for enactment.

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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:

This Zoning By-law Amendment is a condition of consent related to a surplus farm dwelling where the lands to be severed are proposed to have a lot size that exceeds what is recognized under the automatic rezoning provisions that apply to surplus farm dwelling severances (1.5 acres).

Planning staff are of the opinion that this proposal is in conformity with the Provincial Policy Statement (2020), complies with the Provincial Growth Plan (2019), conforms to Haldimand County's Official Plan, and maintains the general intent and purpose of the Town of Haldimand Zoning By-law 1-H 86. There is sufficient justification for the related consent which proposes to create a larger than typically permitted residential lot with greater than permitted accessory structure floor area, and this proposed zoning amendment. Planning staff recommend approval of this proposal for the reasons set out within this report. A public meeting has been scheduled to correspond with the presentation of this report.

BACKGROUND:

The proposed zoning amendment is required to fulfill a condition of consent for surplus farm dwelling severance application PLB-2019-200, which was conditionally approved by the Committee of Adjustment at its meeting on February 11, 2020. The severance resulted in the creation of a 0.63 hectares (1.6 acres) parcel as a surplus farm dwelling and the retention of an agricultural parcel of approximately 29.32 hectares (72.45 acres) (shown on Attachments 1, 2 and 3). The subject proposal is required to fulfill a condition of consent because the conditionally severed surplus farm dwelling parcel is proposed to have a lot area that exceeds the maximum lot area that would otherwise be covered under the automatic rezoning provisions of the Town of Haldimand Zoning By-law 1-H 86, and the severed lands are proposed to contain a total accessory structure floor area of 822.4 square metres (8,852.24 square feet) where 200 square metres (2,152.8 square feet) is permitted.

The subject lands are located on the west side of Haldimand Road 12, south of the hamlet of Fisherville. The site is legally described as Part Lot 6, Concession 4, Geographic Township of Rainham, and known municipally as 335 Haldimand Road 12. The proposed severed lands contain a dwelling and 4 accessory structures, while the retained lands is approximately 29.32 hectares (72.45 acres) in size and is intended to continue to be used for agricultural purposes. The subject lands are surrounded by agricultural and rural residential uses. A General Location map can be found in Attachment 1 with the overall lot configuration being shown in Attachment 2 and 3 (the owner's sketch). The conditionally severed parcel is regularly shaped, owing to the location of the dwelling and the accessory structures on the lands.

ANALYSIS:

Planning staff have determined key planning issues related to this application. They are as follows:

Provincial and County Land Use Policy:

Provincial Policy Statement

The Provincial Policy Statement (PPS) 2020 provides policy direction to planning authorities for matters of provincial interest related to land use. The PPS identifies agriculture as a matter of provincial interest and as such provides direction to planning bodies relating to land uses and changes that are proposed within their agricultural systems. The PPS has policies that provide criteria for specific instances where lots can be created within this land base. These policies are generally limited when it comes to the creation of lots within prime agricultural areas in order to protect prime agricultural land. However, the PPS permits lot creation in prime agricultural areas for limited purposes including agricultural uses, agricultural-related uses, infrastructure, and a residence made surplus by farm consolidation provided that new residential dwellings are prohibited on the remnant farm parcel. The overall intent of the agriculture policies within the PPS is to limit the fragmentation of agricultural land and to limit the impact of non-farm dwellings on agricultural operations. In the context of this proposal, although the lot is larger than typically permitted, it is Planning staff's opinion that the proposed size of the severed lands will not lead to the unnecessary removal of land from a prime agricultural area, that the proposed lot configuration will not negatively impact the functionality or viability of the farm parcel, and that there is sufficient justification warranting the need for a lot size larger than typically permitted. This is due to the location of the dwelling and accessory structures being situated in such a way that there is limited potential to use this land for agricultural purposes. The subject proposal for a zoning amendment to prohibit future residential opportunities on the retained lands ensures that the proposed severance is in keeping with the intent of the PPS. Planning staff are of the opinion that this proposal maintains the intent of these policies; therefore, the proposal is consistent with the PPS.

Growth Plan for the Greater Golden Horseshoe (2019)

The Growth Plan for the Greater Golden Horseshoe provides municipalities with an additional policy level to inform them of how to handle the development pressures they experience. The Growth Plan was also reviewed by Planning staff in relation to this proposal. The Growth Plan's policy addresses the protection of prime agricultural lands both directly and indirectly. Based on Planning staff's review, the subject proposal is in keeping with the overall intent of the Provincial Growth Plan.

County Policy:

Haldimand County Official Plan

The subject lands are designated as 'Agriculture' and subject to the related policies within the Official Plan.

Haldimand County's Official Plan, similar to the Provincial Policy Statement (2020), permits new lot creation in agricultural areas for dwellings made surplus due to farm consolidation, provided that future residential development on the retained farm lands is prohibited. The intent of the subject proposal is to ensure this Provincial and local policy requirement is met. The Official Plan's 'Criteria for Surplus Farm Dwelling Consents' policies specifically permit the granting of a severance for a habitable dwelling, provided the dwelling is of a minimum age of ten years and has been made surplus through farm consolidation where a portion of the farm holding contains two or more habitable dwellings within the County. The Criteria further requires that the creation of a surplus farm dwelling lot shall generally be 0.4 hectares to 0.6 hectares (1.0 to 1.5 acres) in size to minimize the amount of agricultural land or productive forest land being taken out of production.

In the subject proposal, the size of the proposed severed lands measures approximately 0.63 hectares (1.6 acres), which exceeds the standard lot size of a surplus farm dwelling within the agricultural area. However, the Official Plan provides some flexibility in the creation of the lot size for surplus farm dwellings and Planning staff have supported larger lots previously when there are demonstrated constraints to meeting the Official Plan standard. Some examples include topography, the need to protect natural features, position of a dwelling on the lot or the location of existing wells and septic systems servicing the dwelling, constraints to using accessory structures for agricultural purposes such as the access or proximity to the new dwelling, and/or lot configuration issues created by the requirements of other external agencies. In this circumstance, there is sufficient rationale to justify a larger lot size than typically permitted. The location of the accessory structures relative to the dwelling, as well as the efforts made by the applicant to minimize the amount of agricultural land conveyed provide suitable justification for Planning staff to recommend approval of this proposal.

Planning staff are further of the opinion, that the 'Criteria for Surplus Farm Dwelling Consents' tests have been met as the dwelling is surplus and more than 10 years old, private services are available, the proposed lot configuration will not negatively impact the functionality or viability of the farm, the proposal is appropriately separated from any licensed pits and/or quarries, there is direct frontage and access on a public road and there are no perceived negative impacts on the natural environment. Planning staff's opinion is that, there is sufficient justification to support the related severance and the subject proposal which recognizes a lot larger than the Official Plan's recommended lot size.

Minimum Distance Separation (MDS) Requirements

Both Provincial and County policy requires that measures be taken to ensure that agricultural and residential uses are compatible with each other in an effort to reduce future land use conflicts. This is accomplished, in part, by requiring new lots to satisfy Minimum Distance Separation (MDS) requirements which address issues such as odour from livestock facilities. No livestock facilities were observed on the subject or surrounding lands, and the applicant has indicated that there are no livestock facilities on or within 500 metres (1,640.4 feet) of the subject lands.

Town of Haldimand Zoning By-law 1-H 86

The subject lands are zoned 'Agricultural' (A) in the Town of Haldimand Zoning By-law 1-H 86. The intent of this proposal is to fulfill a condition of consent related to a surplus farm dwelling severance by prohibiting future residential development and home occupations on the retained farm lands. Staff note that the total floor area for the accessory structures exceeds what is permitted in the zone. The total accessory floor area is made up of existing buildings and is proposed to be 822.4 square metres, while the A zone only permits a total of 200 square metres. Staff are supportive of the relief that has been requested and have included a special provision (36.463) to permit address this matter in the By-law identified as Attachment 4.

As the intent of this application is to fulfill the requirements of both provincial and local policy by prohibiting future residential development and associated home occupations on the retained farm lands, and recognizing an excess in terms of accessory structure floor area, Planning staff are of the opinion that the subject proposal is appropriate. There are no other zoning deficiencies required to be addressed through this application.

FINANCIAL/LEGAL IMPLICATIONS:

Not applicable.

STAKEHOLDER IMPACTS:

Not applicable.

REPORT IMPACTS:

Agreement: No

By-law: Yes

Budget Amendment: No

Policy: Yes

ATTACHMENTS:

1. General Location Map.
2. Location of Lands Affected – Owner's Sketch 1.
3. Location of Lands Affected – Owner's Sketch 2.
4. Draft Zoning By-law Amendment.