
HALDIMAND COUNTY

Report PDD-22-2020 Zoning Amendment to Facilitate McKenzie Meadows Townhouse Development – Foxgate Developments



For Consideration by Council in Committee on October 6, 2020

OBJECTIVE:

To present the key planning considerations related to a zoning application to permit a group townhouse development that will front onto a private (condominium) road and to establish site specific zone provisions.

RECOMMENDATIONS:

1. THAT Report PDD-22-2020 Zoning Amendment to Facilitate McKenzie Meadows Townhouse Development – Foxgate Developments be received;
2. AND THAT application PLZ-HA-2020-089 to amend the Town of Haldimand Zoning By-law 1-H 86 by amending special provision 36.433 established via by-law 1077-HC-18 to permit a group townhouse development to front onto a private road and to establish site specific provisions for the block be approved for reasons outlined in Report PDD-22-2020;
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 by-law attached to Report PDD-22-2020 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:

Foxgate Developments Inc. has submitted a Site Plan application to develop 35 townhouse units fronting onto a private (condominium) road located on a block within the Draft Plan approved McKenzie Meadows Phase 1 subdivision, in the south end of Caledonia. Following Site Plan approval, the proponent will be seeking exemption from Draft Plan of Condominium approval to place portions of the subject lands in condominium ownership (such as the private road and potentially some of the exterior and rear yards) and exemption from Part Lot Control to create townhouse lots known as “Parcels of Tied Land (POTL)” within the block. The registration of the private road in condominium ownership and the creation of POTLs within the block will allow future purchasers to own both their townhouse unit and the land around their dwelling unit, but not the road. The proponent is requesting to permit the development to front onto a private (condominium) road, where the Town of Haldimand Zoning By-law 1-H 86 requires all lots to front onto a public (County owned and maintained) road. The proponent is also requesting to amend the zoning provisions for the subject lands to set the development and ownership arrangement up for the actual proposal. In essence, this is a technical or ‘housekeeping’

amendment and no change to the previously established principle of land use is taking place. It is Planning staff's opinion that the proposal is consistent and conforms with the Provincial and County policy frameworks. Planning staff recommends approval of the subject zoning application and passing of the attached zoning by-law.

BACKGROUND:

Location and Description:

Foxgate Developments Inc. has submitted this application to facilitate Site Plan approval, exemption from Draft Plan of Condominium, and Part Lot Control exemption. The proponent is proposing to construct 35 townhouse units fronting onto a private (condominium) road (Attachment 1) on a block (the "subject lands") located within the Draft Plan approved McKenzie Meadows Phase 1 subdivision, in the south end of Caledonia (Attachment 2).

It is significant to recognize that Council approved the Draft Plan of Subdivision for McKenzie Meadows Phase 1 at 1535 McKenzie Road, Caledonia in 2003. The General Manager of Community & Development Services approved a redline revision (minor change) to the Draft Plan of Subdivision in 2018, and Council subsequently approved the implementing Zoning By-law Amendment application to address the redline revision. The proponent has already obtained approvals to create the townhouse block and to construct townhouse units on the subject lands. The ownership arrangement of the townhouse block is all that is proposed to change through this Zoning By-law Amendment application. This application does not introduce a new principle of land use or built form on the subject lands; instead, this application is a "step" in the approvals process to address the intended ownership arrangement of the subject lands.

The subject lands are described as part of lot 3, range west of Townsend to Caledonia Road, Plan 18R318, formerly in the Geographic Township of Oneida, Haldimand County. The subject lands are 0.69 hectares (1.71 acres) in size and are currently vacant. The subject lands are located adjacent to McKenzie Road and will be accessed via Street A (Mead Road) and Street C (Nico Road) in the larger plan of subdivision. Surrounding lands uses include residential to the north, south, east, and west.

Current Proposal:

The proponent submitted a Site Plan application (PLSP-HA-2020-089), Exemption from Draft Plan of Condominium application (PL28-CD-2020-020), and Part Lot Control Exemption application (PLPL-HA-2020-051), in January 2020 to develop the subject lands. The intended ownership arrangement of the townhouse block has changed since staff last reviewed the larger McKenzie Meadows Subdivision Phase 1 applications in 2018 and site specific zoning was approved. Rather than proposing a group townhouse block (where the condominium corporation owns all land around the townhouse units, including the private road and yards, and the condominium block fronts onto public Streets A and C) the proponent has submitted a suite of applications to arrange the ownership of the townhouse block such that the private road will be held in (collective) condominium ownership and the residents will own a parcel of land containing their dwelling unit, fronting onto the private road. This change in condominium structure requires a different zoning than was previously requested. To facilitate site plan approval, the applicant is requesting relief from the Zoning By-law to permit the townhouse unit lots to front onto a private road, rather than a public road.

Following site plan approval, the proponent will be seeking exemption from Draft Plan of Condominium approval to place portions of the subject lands in condominium ownership (such as the private road and potentially some of the exterior and rear yards). The exemption from Draft Plan of Condominium approval application exempts an individual from having to submit a detailed Draft Plan of Condominium application prior to registering a condominium. This exemption process recognizes that all detailed

technical engineering work for the development was recently approved through a site plan application and engineering, legal, and financial guarantees were recently obtained through a registered site plan agreement. Council delegated the authority to approve Site Plans and exemption from Draft Plan of Condominium applications to the General Manager of Community & Development Services through by-law 2082/19.

The proponent will also be seeking exemption from Part Lot Control to create individual townhouse lots known as “Parcels of Tied Land (POTL)” within the subject lands. Part Lot Control prohibits individuals from severing land without municipal consent; the exemption process permits individuals to register lots without the need for a land severance or subdivision application (which is a public process). The exemption process recognizes that a land use decision has already been made and that the registration process is typically related to ownership of dwelling units. The exemption process is faster than proceeding through a severance or subdivision application. The General Manager of Community & Development Services has the authority to approve exemption from Part Lot Control applications through delegated authority By-law 2082/19. Council will need to pass the implementing Part Lot Control exemption by-law at a future date.

The creation of POTLs within the site will allow future purchasers to own both their townhouse unit and the land (front, rear, interior, and exterior yards, where applicable) around their dwelling unit, but not the road (which will be held in condominium ownership). To ensure the overall proposal remains compliant with current and future zoning regulations following approval of the proposed suite of applications, Planning staff recommend that the zoning of the subject lands be further amended to ‘custom fit’ the condominium set up that the developer is proposing. This customized approach is detailed in the zoning section within the Analysis portion of the report. The proposed zone provision changes will setup the subject lands for the proposed development and future ownership arrangement.

It is important to recognize that while Haldimand County Planning staff have processed these applications (Site Plan, exemption from Draft Plan of Condominium, and exemption from Part Lot Control) individually and together in some manner, Planning staff have not processed this specific suite of applications together before. These applications demonstrate that there are various forms of possible ownership arrangements available to developers and residents through the *Planning Act* and *Condominium Act*, and Haldimand County is starting to receive more complex suites of applications. Of particular note, the County’s new Comprehensive Zoning By-law will address these various scenarios with new provisions that alleviate the need for customized zoning conventions as set out in this report.

Previous Planning Applications and Approvals:

By way of background, Planning staff presented report PED-PD-21-2018 to Council on May 15, 2018 to consider an amendment to the Town of Haldimand Zoning By-law 1-H 86 for McKenzie Meadows Phase 1 to align the zoning of the subdivision with a minor redline revision to the previously approved Draft Plan Subdivision (from 2003). The purpose of the minor redline revision was to better align the McKenzie Meadows Phase 1 subdivision design with the draft approved Beattie Estates subdivision located directly across from the subject lands, on the east side McKenzie Road. Given the nature of the changes, the minor redline revision was approved “in-house” by the General Manager of Community & Development Services under his delegated authorities. To enact the zoning associated with the redline revision, Council passed By-law 1077-HC-18 on May 22, 2018 (Attachment 4) which:

- introduced revised zoning that aligns with the new layout resultant from the red-line revision and carries forward the unique zoning provisions from the previous approval;
- incorporated several new unique site specific provisions relating to housing model types (i.e. height increase for townhouses; increase the allowable encroachment for porches, decks and

stairs into the required front and exterior side yards; restricting the deck and porch sizes; and allowing for a reduction in the garage sizes and the projection of stairs to encroach);

- limited uses on the open space area; and
- repealed the existing approvals in place.

At the time that Planning staff wrote report PED-PD-21-2018 and By-law 1077-HC-18 for the larger McKenzie Meadows Phase 1 subdivision, the actual development proposal and intended ownership arrangement of the subject lands was not clear. Now that these details have been provided through the Site Plan application, the zoning for the subject lands can be further setup to facilitate the proposed development and intended ownership arrangement.

Conclusion:

The proponent is requesting to permit the townhouse lots within the subject lands to front onto a private (condominium) road and Planning staff is recommending that:

1. the existing zone provisions established by Council on May 22, 2018 through By-law 1077-HC-18 for the subject lands be repealed (Attachment 4);
2. the existing zone provisions established by Council on May 22, 2018 through By-law 1077-HC-18 (Attachment 4) be included in a new by-law for the subject lands (Attachment 3); and
3. the new by-law for the subject lands include provisions to define “Lot” and “POTL”; permit the POTLs to front onto a private (condominium) road; identify that there is not a front lot line for the lot and redefine the exterior and rear yard side yard lot lines for the lot; redefine the exterior side yards and rear yards; and permit the frontage and size of the POTLs to be reduced to the satisfaction of the General Manager of Community & Development Services, or designate to accommodate condominium registration, where appropriate.

These zone provision changes will setup the subject lands for the development and future ownership arrangement as proposed through the suite of applications.

ANALYSIS:

The following planning considerations apply to the proposal:

Provincial and County Policy

The Provincial Policy Statement (PPS) provides policy direction on matters of provincial interest related to land use planning and development in Ontario. The Growth Plan establishes a unique land use planning framework for the Greater Golden Horseshoe and provides the regional plan to accommodate the growth that is forecast for this region. The Haldimand County Official Plan (OP) creates the framework for guiding land use changes in the County to 2026 and provides the avenue through which Provincial Policy is implemented into the local context. The *Planning Act* directs that decisions affecting planning matters “shall be consistent with” the PPS and conform to the policies of the OP. The *Places to Grow Act* directs that planning decisions affecting planning matters shall conform to the Growth Plan.

Planning staff completed a detailed policy analysis of the overall McKenzie Meadows Phase 1 subdivision, including the townhouse block, through previous Draft Plan of Subdivision and Zoning By-law Amendment applications. The approved principal of land use (townhouses), and location and built form of the development on the subject lands has not changed since the proposal was last presented to Council and the public in 2018. It is the intended ownership arrangement of the subject lands that necessitates this Zoning By-law Amendment application. The subject proposal to amend the zoning of the subject lands to accommodate the intended ownership arrangement will not have an ‘on the ground’ effect in the neighbourhood and is unaffected by Provincial and County policy. The proposal remains

complaint with Provincial and County policy frameworks, including the location of development within the settlement area boundary, contiguous with existing development; the availability of proposed municipal infrastructure; and the density of development.

Town of Haldimand Zoning By-law 1-H 86

The OP sets out the County's general policies and direction for future land use. The Town of Haldimand Zoning By-law 1-H 86 puts the OP into effect and legally controls the use of land in the County by stating how land may be used; where buildings 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, buildings heights and setbacks from the street. If a proposal does not satisfy the Zoning By-law requirements, a site plan cannot be approved and a building permit cannot be issued.

To facilitate the proposed suite of approvals (Site Plan, Draft Plan of Condominium exemption, and Part Lot Control exemption) the zoning of the subject lands must be amended to:

1. Define the "Lot" and "POTL" as follows:
 - a) "Lot" shall mean the entire subject lands (the block). More specifically, "Lot" shall mean those lands described as Part 3, as shown on Schedule B of the attached Zoning By-law (Attachment 3).
 - b) "Parcel of Tied Land (POTL)" shall mean that individual portion of the lot containing the dwelling unit and associated land which is described as one parcel in the last registered instrument and which is tied to the Common Element Condominium associated within the lot.

Planning Comment: The purpose of defining "lot" and "POTL" is to recognize that there are two major components of the subject lands that must be considered through the review of the development from a zoning perspective – the overall lot (the subject lands) and each individual townhouse lot (the POTLs). These components result from the intended ownership arrangement of the subject lands. Including these definitions in the site specific zoning for the subject lands will identify how the zone provisions are to be interpreted and applied to the development on the subject lands.

2. Permit the POTLs to front onto a private (condominium) road that has been constructed and is maintained in such a manner so as to facilitate year-round use by automotive traffic, where frontage on a public, improved street is required.

Planning Comment: The Town of Haldimand Zoning By-law 1-H 86 passed in 1986 did not anticipate or include zoning for all of the possible and varying types of condominium developments and ownership arrangements. The private (condominium) road satisfies the County's (engineering) Design Criteria and will be maintained and serviced through the establishment of a condominium corporation. The proposal is considered appropriate.

3. Identify that there is no front lot line for the lot and to redefine the exterior and rear yard lot lines for the lot.

Planning Comment:

- By definition, the subject lands are currently considered to be a through lot and the front lot lines are abutting Street A (Mead Road) and Street C (Nico Road). By definition, there are currently no exterior side lot line(s) or rear lot line(s).
- Since the lot lines adjacent to Street A (Mead Road) and Street C (Nico Road) function as exterior lot lines (rather than front lot lines), Planning staff recommends that the definition for exterior side lot lines be amended to recognize the lot lines abutting Street A and B as the exterior lot lines.

- Since the lot lines behind the townhouse dwellings function as rear lot lines (rather than interior lot lines), Planning staff recommend that the definition for rear lot lines be amended to recognize the lot lines furthest and opposite the private (condominium) road as the rear lot lines. This will ensure that the rear yards are 5 metres as intended and are not reduced to 1.2 metres (minimum permitted interior side yard setback).

4. Redefine the exterior side yard to identify that the exterior side yard is to be measured from the exterior wall of the townhouse unit to the exterior lot line for the lot, not the POTL.

Planning Comment: The purpose of this provision is to recognize that a portion of the exterior side yards may be in condominium ownership rather than individual ownership. Inclusion of this provision in the site specific zoning by-law will identify that the exterior side yard is to be measured between the exterior wall of the corner townhouse unit and the overall exterior lot (subject lands) line, rather than between the exterior wall of the corner townhouse unit and the exterior POTL line. This will ensure that the corner townhouse unit does not need to be setback further from the overall exterior lot line as a result of the creation of POTLs and that it does not become non-compliant with the zoning.

5. Redefine the rear lot yard to identify that the rear lot yard is to be measured from the rear wall of the townhouse units to the rear lot line for the lot, not the POTL.

Planning Comment: This purpose of this provision is to recognize that a portion of the rear yards may be in condominium ownership rather than individual ownership. Inclusion of this provision in the site specific zoning by-law will identify that the rear yard is to be measured between the rear wall of the townhouse units and the overall rear lot (subject lands) line, rather than between the rear wall of the townhouse unit and the rear POTL line. This will ensure that the townhouse units do not need to be setback further from the overall rear lot line as a result of the creation of POTLs and that it does not become non-compliant with the zoning.

6. Carry the rest of the site specific zone provisions established by Council on May 22, 2018 through By-law 1077-HC-18 for the subject lands forward.

Planning Comment: The following current permissions are proposed to be carried forward:

| Provision | Permitted via By-law 1077-HC-18 | Typically permitted in the 'Urban Residential Type 4 (R4)' Zone |
|--|--|---|
| 13.2.2. (a) Minimum Lot Area (POTL) | 115 square metres minimum lot area | 156 square metres per unit for interior unit, 215 square metres per unit for a corner lot |
| 13.2.2. (b) Minimum Lot Frontage (POTL) | 5 metres for an interior lot and 9 metres for a corner lot | 30 metres for block and 6 metres for an interior lot and 11 metres for a corner lot |
| 13.2.2. (c) Minimum Front Yard Setback (POTL) | 3 metres front yard setback | 6 metres |
| 13.2.2. (d) Minimum Exterior Side Yard (Lot) | 3 metres exterior side yard setback | 6 metres |
| 13.2.2. (g) Minimum Rear Yard (Lot) | 5 metres rear yard setback | 7.5 metres |
| 13.2.2. (h) Maximum Building Height (Dwelling) | 12 metres | 11 metres |

7. Permit the frontage and size of the POTLs to be reduced to the satisfaction of the General Manager of Community & Development Services, or designate to accommodate condominium registration, where appropriate.

Planning Comment: The purpose of this provision is to recognize that a portion of the exterior side yards and rear yards may be placed in condominium ownership rather than individual ownership, which will reduce the POTL frontage and size. Inclusion of this provision will allow the POTLs to be reduced, where appropriate (i.e. where it is functional to reduce them), without the need for further *Planning Act* applications. Any decision to reduce the POTLs will be made “in house”, and will not have an effect on the built form or location of the development.

General permissions for sight triangle and space dimensions are also proposed to be carried forward. The proponent is not proposing to reduce the zone provisions any further.

Overall, the establishment of these provisions is necessitated from the intended ownership arrangement of the development. Approval of these provisions will not have an ‘on the ground’ effect on the development or within the overall subdivision; the principal of land use and built form is proposed to remain the same as approved in 2018. It is Planning staff’s opinion that the proposal is appropriate.

New Zoning By-law:

For comparison purposes, the County is currently working through the Comprehensive Zoning By-law project which includes the consolidation of the County’s three Zoning By-laws (the Town of Haldimand Zoning By-law 1-H 86; Town of Dunnville Zoning By-law 1-DU 80; and City of Nanticoke Zoning By-law NE 1-2000) and modernization of the zone provisions contained within these Zoning By-laws to current planning standards. Through the new Comprehensive Zoning By-law project, Planning staff are proposing that buildings and structures (such as townhouse units) be permitted to front onto either a public (County owned and maintained) road or a common element condominium road that provides direct access to a public street or which connects with another condominium common element road having access to a public street. The new Zoning By-law will also provide provisions for POTLs on a condominium road (although the lots are not specifically called ‘POTLs’ in the new Zoning By-law). The new Zoning By-law is intended to be presented to Council for consideration in fall 2020. Planning staff provided the proponent with the option to wait for the new Zoning By-law to be passed by Council; however, given the proponent’s intended timeline for approvals and the fact that the actual date of approval of the Comprehensive Zoning By-law project is unknown (including any associated appeals), the proponent decided to submit a site specific zoning amendment application to facilitate their development.

Planning Opinion:

The proponent is requesting to permit the townhouse lots within the subject lands to front onto a private (condominium) road and Planning staff is recommending that:

1. the existing zone provisions established by Council on May 22, 2018 through By-law 1077-HC-18 for the subject lands be repealed (Attachment 4);
2. the existing zone provisions established by Council on May 22, 2018 through By-law 1077-HC-18 (Attachment 4) be included in a new by-law for the subject lands (Attachment 3); and
3. the new by-law for the subject lands include provisions to define “Lot” and “POTL”; permit the POTLs to front onto a private (condominium) road; identify that there is not a front lot line for the lot and redefine the exterior and rear yard side yard lot lines for the lot; redefine the exterior side yards and rear yards; and permit the frontage and size of the POTLs to be reduced to the satisfaction of the General Manager of Community & Development Services, or designate to accommodate condominium registration, where appropriate.

Approval of these provisions will not have an ‘on the ground’ effect on the development or within the overall subdivision; the principal of land use and built form is proposed to remain the same as approved in 2018. Instead, these zone provision changes will setup the subject lands for the development and future ownership arrangement ahead of the new Comprehensive Zoning By-law project. Further, the proposal is consistent with the Provincial Policy Statement (2020), conforms to the Growth Plan for the Greater Golden Horseshoe (2019) and the Haldimand County Official Plan. Overall, Planning staff recommends that this application be approved and that the attached by-law be presented for enactment.

Public Consultation: Given the nature of the request and the previous process undertaken and approvals granted, no further proponent initiated or driven public consultation was required. All public consultation requirements in the *Planning Act* were followed by Planning staff.

FINANCIAL/LEGAL IMPLICATIONS:

All financial obligations will be captured through the subdivision and site plan processes within the subdivision and site plan agreements.

STAKEHOLDER IMPACTS:

Bell Canada – No comment received.

Canada Post – Please be advised that this development will receive mail through Community Mailboxes but the mailboxes will have to be on Municipal property outside instead of inside the condominium complex as there is no room for 3 modules just for the condominium. I will choose a location that services some of the residential units to share the location.

Mississaugas of the Credit First Nation – No comment received.

Six Nations Council – No comment received.

Union Gas – No comment received.

Hydro One (High Voltage) – No comment received.

Hydro One (Low Voltage) – Hydro One has no concerns at this time with regards to the proposed zoning application.

Emergency Services/Fire Department – No comment received.

Water & Wastewater – No comment received.

Solid Waste Management – No comment.

Transportation Engineering Technologist – No comment received.

Planning and Development (Development & Design Technologist) – No objections.

Treasurer/Finance Division – No comment received.

Building & Municipal Enforcement Services – barrier-free parking spaces to have an additional 2.44 metres x 7.4 metres for loading/unloading passengers directly adjacent to the required space per 3.8.2.2. of the *Ontario Building Code (OBC)*.

MPAC – No comment received.

REPORT IMPACTS:

Agreement: Yes

By-law: Yes

Budget Amendment: No

Policy: No

ATTACHMENTS:

1. Proposed Site Plan.
2. Draft Approved McKenzie Meadows Phase 1 Subdivision.
3. Draft Zoning By-law.
4. Zoning By-law 1077-HC-18.
5. Elevation Drawings.