
HALDIMAND COUNTY

Report PDD-03-2021 Zoning By-law Amendment Application to Facilitate Consent - Forbes



For Consideration by Council in Committee on February 9, 2021

OBJECTIVE:

To present the key planning considerations related to a Zoning By-law Amendment application to facilitate a surplus farm dwelling severance.

RECOMMENDATIONS:

1. THAT Report PDD-03-2021 Zoning By-law Amendment Application to Facilitate Consent – Forbes be received;
2. AND THAT application PLZ-HA-2020-136 to amend the Haldimand County Zoning By-law HC 1-2020 to prohibit future residential development on the retained farmlands and to permit the surplus farm dwelling lot to have reduced frontage be approved for reasons outline in Report PDD-03-2021;
3. AND THAT the proposal is deemed to be consistent with the Provincial Policy Statement (2020), Provincial Growth Plan (2020), and other matters of Provincial interest;
4. AND THAT the by-law attached to Report PDD-03-2021 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:

Larry S. Humenik, agent, submitted a Zoning By-law Amendment application on behalf of Michael and Jacqueline Forbes to amend the Haldimand County Zoning By-law HC 1-2020 as a condition of a consent application to create a surplus farm dwelling lot in the prime agricultural area of the County. It is Planning staff's opinion that the proposal is consistent and conforms to Provincial and County policy frameworks. Planning staff recommends approval of this Zoning By-law Amendment application and passing of the attached Zoning By-law. Approval of this application is required as a condition of the consent application.

BACKGROUND:

The Committee of Adjustment conditionally approved consent application PLB-2019-201 on March 10, 2020 to create a surplus farm dwelling lot (Attachments 1, 2, and 3), an easement for mutual driveway access, and an easement for hydro infrastructure over the retained farmlands in favour of the surplus farm dwelling lot. The surplus farm dwelling lot has 20.46 metres (67.13 feet) of frontage on the east

side of Highway 6, is irregular in shape, and is 1.60 hectares (4.01 acres) in size. The retained farmlands have frontage on Highway 6 and 5th Line and are 43.54 hectares (107.60 acres) in size.

The purpose of this Zoning By-law Amendment application is to amend the Haldimand County Zoning By-law HC 1-2020 to:

1. rezone the retained farmlands by adding a special provision to the retained farmlands which prohibits future residential development in accordance with Provincial policy;
2. permit a lot frontage of 20 metres (65.6 feet) for the surplus farm dwelling lot whereas the Zoning By-law requires a minimum lot frontage of 30 metres (98.43 feet); and
3. permit any existing deficiency (building size, height, etc.) to continue on the surplus farm dwelling lot.

Approval of this Zoning By-law amendment application is required as a condition of the consent application.

Location and Description:

The subject lands are described as Part of Lot 4, Part of Lot 5, Range East of Plank Road, Geographic Township of Oneida, now in Haldimand County and are municipally known as 5300 Highway 6. Highway 6 is under the Ministry of Transportation's (MTO's) jurisdiction. The subject lands are located south of Caledonia, in the prime agricultural area of the County.

The subject lands are an agricultural property containing a driveway, a gravel area where recreational vehicles are stored, a dwelling and two accessory buildings (the other two accessory buildings straddling the property line as shown in Attachment 2 have been removed), croplands, and the McKenzie Creek which runs north-south through the subject lands.

Attachments 1 and 2 identify that the subject lands contain two parts. Part 1 identifies the retained farmlands and McKenzie Creek and Part 2 identifies the surplus farm dwelling lot. Part 1 contains the gravel area, crop lands, and McKenzie Creek. Part 2 contains the driveway, surplus farm dwelling, and two accessory buildings. Part 2 (the surplus farm dwelling lot) also contains an easement over the driveway to provide access to Part 1 (the retained farmlands). Part 1 contains an easement over the private hydro infrastructure in favour of Part 2.

Surrounding land uses include agriculture on all adjacent properties. Further north is the Caledonia urban boundary, and further west is the Six Nations of the Grand River, First Nations Reserve.

ANALYSIS:

The following key planning considerations apply to this proposal:

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.

The PPS directs that prime agricultural areas shall be protected for long-term use for agriculture. In prime agricultural areas, agricultural uses, agriculture-related uses and on-farm diversified uses are permitted. Lot creation is discouraged and only permitted in very limited circumstances including surplus farm dwelling severances provided that: the surplus farm dwelling lot is limited to a minimum size needed to accommodate the use and appropriate sewage and water services; and the retained farmlands are rezoned to prohibit the construction of a new dwelling. In this case, the surplus farm

dwelling lot is minimized to include the long driveway (which is shared with the retained farmlands), the dwelling, private services, and two small residential accessory buildings. Approval of this Zoning By-law Amendment application will rezone the retained farmlands to remove a dwelling and related residential uses as a permitted uses.

Overall, it is Planning staff's opinion that the proposal is consistent with the PPS.

Growth Plan for the Greater Golden Horseshoe (2020):

The purpose of the Growth Plan is to address challenges related to the forecasted growth and changes in the Greater Golden Horseshoe, and to ensure the protection and effective use of finite resources. The Growth Plan establishes a unique land use 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 does not provide direction on surplus farm dwelling severances. Therefore, the proposal conforms to the growth Plan.

County Policy

Haldimand County Official Plan:

The Haldimand County Official Plan (OP) creates the long-term 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 By-law Amendment applications must conform to the OP.

The retained farmlands (Part 1) are designated 'Agriculture' and 'Riverine Hazard Lands' around McKenzie Creek. The surplus farm dwelling lot (Part 2) is designated 'Agriculture'. The subject lands are located in the prime agricultural area of the County.

The OP builds off of the PPS by providing further policy direction on surplus farm dwelling severances. The OP states that a surplus farm dwelling severance may be granted for a habitable dwelling of a minimum age of ten years that is made surplus through farm amalgamation where it is part of a farm holding containing two or more habitable dwellings and where each farm is located within the County. No new residential dwelling is permitted on the retained farmlands. To ensure this, a Zoning By-law Amendment application is required to specifically exclude a dwelling from being permitted on the retained farmlands. The OP provides further surplus farm dwelling severance criteria related to: lot size, on-site servicing, farm viability following severance, Minimum Distance Separation (MDS) requirements, proximity of pits and quarries, public road access, and impacts on natural environment areas and/or cultural resources.

With regards to the surplus farm dwelling lot size, the OP directs that the surplus farm dwelling lot shall generally be 0.4 hectares (1 acre) to 0.6 hectares (1.5 acres) in size and shall minimize the amount of agricultural land or productive forest taken out of production. Consideration of varying the size of the surplus farm dwelling lot includes ensuring farm fields are not fragmented, environmental or topographic features are recognized, and the location of the surplus farm dwelling lot in relation to the existing buildings and structures.

In this case, the surplus farm dwelling lot was approved to be 1.62 hectares (4.01 acres) in size. While the surplus farm dwelling lot is relatively large compared to the preferred lot size, the approved lot size has been minimized to contain only the driveway, dwelling and accessory structures, and septic system. The lot size is a result of the length of the driveway, width of the driveway area (to support mutual access), and location of the buildings and services on the surplus farm dwelling lot. With regards to the width of the driveway area, the MTO recommended a width of at least 20 metres to support mutual

driveway access. Planning staff are satisfied that the proposal satisfies the intent and purpose of minimizing the surplus farm dwelling lot size to preserve agricultural lands.

Further, the OP directs that the surplus farm dwelling lot and retained farmlands shall be located with safe and direct access to a permanently maintained public road. In this case, both lots will have frontage on Highway 6 and will share the existing driveway via an easement. Shared driveway access was proposed due to the grade change and curve in Highway 6 in this location and the location of McKenzie Creek, which makes installing a new driveway entrance difficult. The lot frontage of 20.46 metres (67.13 feet) minimizes the amount of agricultural lands that are removed from production, while at the same time satisfying the MTO mutual driveway requirements.

All other surplus farm dwelling criteria were reviewed and deemed to conform to the OP policies at the time of severance. Overall, it is Planning staff's opinion that the proposal conforms to the OP. Approval of this Zoning By-law Amendment application will ensure Provincial and County surplus farm dwelling policies are satisfied.

Haldimand County Zoning By-law HC 1-2020:

The OP sets out the County's general policies for future land use. The Haldimand County Zoning By-law HC 1-2020 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, building heights and setbacks from the street. If the proposal does not comply with the Zoning By-law, lot creation is not permitted.

The retained farmlands (Part 1) are zoned 'Agricultural (A)' Zone and are subject to the 'Hazard Lands (HL)' Zone overlay around McKenzie Creek. The surplus farm dwelling lot (Part 2) is zoned 'A' Zone. The purpose of this Zoning By-law Amendment application is to amend the Haldimand County Zoning By-law HC 1-2020 to:

1. rezone the retained farmlands (Part 1) by adding a special provision to the retained farmlands which prohibits future residential development in accordance with Provincial policy;

Planning Comment: Provincial and County policy permit a property owner to sever a dwelling from their farm provided they own two farms in the County each containing a dwelling, thereby making one of the dwellings surplus to their needs. To ensure that current and future property owners do not construct a dwelling on the retained farmlands from which the surplus farm dwelling was severed, Provincial and County policy require the retained farmlands to be rezoned for agricultural purposes only. This recognizes that farm operations are becoming larger scale and may include several farms that come with dwellings while at the same time protecting farmland from residential development and fragmentation.

Further, the Zoning By-law automatically rezones retained farmlands by removing a dwelling as a permitted use when the surplus farm dwelling lot is equal to or less than the preferred lot size of 0.6 hectares (1.5 acres) as an incentive to minimize surplus farm dwelling lots. Given the approved surplus farm dwelling lot size of 1.62 hectares (4.01 acres), the retained farmlands were not automatically rezoned, which necessitates this Zoning By-law Amendment application.

Overall, it is Planning staff's opinion that the approved surplus farm dwelling lot size is appropriate and that approval of this Zoning By-law Amendment application will ensure that the severance satisfies Provincial and County requirements.

2. permit a lot frontage of 20 metres (65.6 feet) for the surplus farm dwelling lot whereas the Zoning By-law requires a minimum lot frontage of 30 metres (98.43 feet); and

Planning Comment: The purpose of the minimum lot frontage provision together with the minimum lot size provision is to ensure that lots are an appropriate size and shape for their

intended use. In this case, the surplus farm dwelling is existing and is sited far from the road, and is accessed via a long driveway. Requiring a lot frontage of 30 metres (98.43 feet) is undesirable as it would remove agricultural lands from production. It is Planning staff's opinion that the 20 metre (65.6 feet) lot frontage is appropriate as it will minimize the amount of agricultural lands removed from production while providing suitable space for a mutual access and satisfying the MTO.

3. permit any existing deficiency (building size, height, etc.) to continue on the surplus farm dwelling lot.

Planning Comment: To ensure that any existing deficiency relating to the dwelling and two residential accessory structures on the surplus farm dwelling lot are grandfathered, Planning staff recommends that this provision be including in the Zoning By-law. It is Planning staff's opinion that the dwelling and accessory buildings are an appropriate size and scale for the surplus farm dwelling lot and will not have a negative affect on the community.

Overall, it is Planning staff's opinion that the proposal is appropriate. A zoning deficiency chart has been included as Attachment 4. A draft Zoning By-law has been included as Attachment 5. Planning staff recommend that the Zoning By-law be passed.

Planning Opinion:

It is Planning staff's opinion that the proposal is consistent with the Provincial Policy Statement (2020) and that it conforms to the Provincial Growth Plan (2020) and Haldimand County Official Plan. As such, Planning staff recommend approval of this Zoning By-law Amendment application and passing of the attached Zoning By-law.

Public Consultation:

As part of the severance process (which included a Notice of Public Meeting), no public comments were received. As part of the Zoning By-law Amendment process, a notice of complete application and notice of public meeting were mail to residents within 120 metres (394 feet) of the entire subject lands (Parts 1 and 2). No comments were received as part of the public consultation process.

FINANCIAL/LEGAL IMPLICATIONS:

None.

STAKEHOLDER IMPACTS:

Bell Canada – No comments received.

Canada Post Corporation – Canada Post does not have any comments on the rezoning of this property as this will not affect mail delivery.

Ministry of Transportation (MTO) – No comments received through the Zoning By-law Amendment process. Comments provided through severance application include the following:

MTO does not object to a mutual access (and consent) at this location provided the Owner understands the following:

- The mutual access will only recognize access to the retained and severed parcels. Surrounding property will have no legal right of access through the mutual access.
- The desirable width of the mutual access for a Farmstead lot is 20 metres whereas only 10 metres is shown on the severance sketch.

- To ensure continuous access to all lots served by the mutual access, the deed for each lot shall contain an easement/right-of-way in favour of all other lots sharing the mutual access. The easement/right-of-way rights are to be incorporated into the deed of all the lots.
- As the severance is for a surplus farm residence through a farm amalgamation, the zoning on the retained parcel should prohibit future homes from being constructed.

Conditions of Severance:

- As a condition of MTO approval the owner shall provide MTO with a Draft Copy of the Reference Plan which defines the limits of the mutual entrance for review and approval.
- As a condition of MTO approval, the Owner shall provide MTO with draft copies of the deeds to ensure access rights are incorporated into the deeds.
- Under the *Public Transportation and Highway Improvement Act*, we would request that new owners submit a MTO entrance permit application to recognize the mutual entrance. Permit applications and fees are available at the following link:
<https://www.hcms.mto.gov.on.ca/PermitWizard>

Planning Comment: Through the severance application process, the applicants increased the width of the driveway area to 20 metres as per MTO's request. The MTO requirements were included as conditions of consent which must be fulfilled prior to finalization of the severance application.

Trans-Northern Pipeline – Trans-Northern currently operates a high-pressure petroleum products transmission pipeline within a 60 foot right of way on the property Southeast and adjacent to the proposed new severance locations. See the Attachment 6.

Planning Comment: This letter was provided to the applicant's agent for reference to any future development or crossings. The proposed consent and Zoning By-law Amendment application do not affect the Trans-Northern pipeline, which is located within the utility corridor owned by Hydro One Networks Inc. to the southeast of the subject lands.

Railway – No comments received.

Mississaugas of the Credit First Nation – No comments received.

Six Nations Council – No comments received.

Union Gas – No comments received.

Hydro One (High Voltage) – No comments received through the Zoning By-law Amendment process. Comments provided through severance application include the following:

Please be advised that Hydro One Networks Inc. ("HONI") has completed a preliminary review of the above noted consent to sever application. As the subject property is abutting and/or bisected by a HONI high voltage transmission corridor (the "transmission corridor"), HONI has no objection *in principle* to the proposed severance, provided HONI's easement rights are protected and maintained.

Please be advised that any placement of permanent structures, facilities or landscaping within the transmission corridor is **prohibited** without the prior written approval of HONI.

If in the future the owner proceeds with a site plan, plan of subdivision and/or plan of condominium application, the owner must make arrangements satisfactory to HONI for lot grading and drainage, and any proposed uses on the transmission corridor. The costs of any relocations or revisions to HONI facilities which are necessary to accommodate this proposal, will become the responsibility of the developer.

Hydro One (Local) – Hydro One has no concerns with the property as per attached File No. PLB-2019-201 and supports the severance.

Comments: The service to this property is a private primary service and owned and maintained by the owner of the property. Hydro One's demarcation point is the pole that resides within road allowance limits. Currently this pole is crossing over/through the lands that are to be retained. Applicant may want to consider some type of legal agreement or easement as part of the severance that covers off the existing private primary pole line encroaching on the retained lands. Another option would be to have the pole line relocated to within the severed lands boundary.

Planning Comment: Hydro One (Local) provided the same comments as part of the consent application process. To address these comments, a hydro easement was included on Part 1 (the retained farmlands) benefitting Part 2 (the surplus farm dwelling lot). A condition of consent was also included in the approval requiring the owner provide Hydro One with a draft copy of the reference plan which defines the limits of the hydro easement. Hydro One must approve the reference plan prior to clearance of the condition and finalization of the severance.

Emergency Services – No objections.

Solid Waste – No comment received.

Development and Design – No objections.

Forestry – Forestry has no concerns with the proposed rezoning application.

Treasurer/Finance – No comments received.

Building & Municipal Enforcement Services – No additional comments for Zoning By-law Amendment application (conditions were provided through consent application).

Municipal Property Assessment Corporation (MPAC) – No comments received.

Haldimand-Norfolk Health Unit – No comments received.

Grand River Conservation Authority (GRCA) – No comments received through the Zoning By-law Amendment process. Comments provided through severance application include the following:

Information currently available at this office indicates that the subject property contains portion of Watercourse, Floodplain and allowances to these features.

The subject property contains natural hazard features as identified by the Provincial Policy Statement (PPS, 2014) and the County of Haldimand Official Plan.

Due to the presence of the above-noted features, a portion of property is regulated by the GRCA under Ontario Regulation 150/06 – Development, Interference with Wetlands and Alterations to Shorelines and Watercourses Regulation. Any future development or other alteration within the regulated areas will require prior written approval from GRCA in the form of a permit pursuant to Ontario Regulation 150/06.

REPORT IMPACTS:

Agreement: No

By-law: Yes

Budget Amendment: No

Policy: No

ATTACHMENTS:

1. Location Map.

2. Detail Map.
3. Owner's Sketch.
4. Zoning Deficiency Chart.
5. Draft Zoning By-law.
6. Trans-Northern Pipeline Letter.