

---

# HALDIMAND COUNTY

## Report PDD-01-2020 Zoning By-law Amendment Application to Facilitate Consent - McCutcheon



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 four (4) consent applications for residential lot creation in the Hamlet of Springvale.

### RECOMMENDATIONS:

1. THAT Report PDD-01-2021 Zoning By-law Amendment Application to Facilitate Consent – McCutcheon be received;
2. AND THAT application PLZ-HA-2020-157 to amend the Haldimand County Zoning By-law HC 1-2020 to rezone a portion of the subject lands from the 'Agricultural (A)' Zone to the 'Hamlet Residential (RH)' Zone to facilitate consent be approved for the reasons outlined in Report PDD-01-2021;
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-01-2021 be presented for enactment.

**Prepared by:** Ashley Taylor, MCIP, RPP, M.Pl, 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:

Mark McCutcheon, applicant, submitted a Zoning By-law Amendment application to amend the Haldimand County Zoning By-law HC 1-2020 as a condition of four (4) consent applications to create four new residential building lots in the Hamlet of Springvale. 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 applications.

### BACKGROUND:

The Committee of Adjustment conditionally approved four (4) consent applications municipally filed as PLB-2020-046, 047, 048, and 049 on July 28, 2020 to create four new residential building lots in the Hamlet of Springvale (Attachments 1 and 2). The four (4) new lots have frontage ranging from 30 metres (98.43 feet) to 33.97 metres (111.45 feet) on the north side of Concession 14 Walpole and range in

size from 1,830 square metres (0.45 acres) to 2,072 square metres (0.51 acres) (Attachment 2). The retained farmlands have frontage on Concession 14 Walpole and Haldimand Road 55 and are 34 hectares (84 acres) in size (Attachments 3 and 4).

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 four new lots from the 'Agriculture (A)' Zone to the 'Hamlet Residential (RH)' Zone to align the zoning for the new lots with their designation in the Official Plan, and to provide clear and appropriate development permissions for the new lots; and
2. permit three (3) of the four (4) new lots to have a lot size of 1,830 square metres (0.45 acres), whereas the Zoning By-law requires all new rural residential lots within hamlets to have a minimum lot size of 1,855 square metres (0.46 acres).

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

It is noted that the retained farmlands are mostly outside the hamlet boundary. There is a small section of the retained farmlands that is within the hamlet boundary to the east of the new lots (between 529 and 553 Concession 14) but it contains the drainage ditch and is completely regulated by the GRCA, such that, there is no or limited development potential for future lot creation from the retained farmlands. Following finalization of these consent applications, this area of the Hamlet will be 'filled out'. The hamlet boundary follows the proposed rear lot lines of the new lots and there are existing lots on both sides of the new lots.

#### **Location and Description:**

The subject lands are described as Part of Lot 7, Concession 15, Walpole and are municipally known as 517 Concession 14 Walpole. The subject lands are currently an agricultural property containing croplands, former livestock barns, the former Teal's Meats (butcher shop), and a storage building.

Attachments 3 and 4 identify that the subject lands contain two parts. Part 1 identifies the lands that are approved to be severed into four lots and Part 2 identifies the retained farmlands. The former livestock barns are located on Part 1 of the subject lands and must be demolished prior to finalization of the consent applications. Demolition is currently in process. Following finalization of the consent applications, single detached dwellings can be constructed on each new lot for a total of four dwellings.

Two existing agricultural structures (a former butcher shop and an accessory building) will remain on the retained farmlands following severance and will function as storage buildings. The former butcher shop was relocated to Waterford and the Ministry licensing has been revoked. A frontage of seven (7) metres was retained on Part 2 of the subject lands between 507 Concession 14 Walpole and Part 1 of the subject lands to provide a future farm access from Concession 14 Walpole to the portion of the retained farmlands south of the drainage ditch should it be needed in the future.

The four (4) new lots are located in the Hamlet of Springvale and front onto the north side of Concession 14 Walpole. The retained farmlands are mostly located outside of the Hamlet boundary.

Surrounding land uses include agriculture to the north, agriculture and rural residential to the east, and rural residential to the south and west.

#### **ANALYSIS:**

The following 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 settlement areas (cities, towns, villages, and hamlets) shall be the focus of growth and development. At the same time, rural residential lot creation is prohibited within prime agricultural areas to protect farmlands in the long-term for future generations. The PPS directs planning authorities to give consideration to rural characteristics, scale of development, and the provision of appropriate service levels when permitting development within rural settlement areas.

It is Planning staff’s opinion that the creation of four new residential building lots in the Hamlet of Springvale is appropriate for the rural setting. Single detached dwellings will be constructed on the new lots which is consistent with existing development in the area. The lots are similar in size with respect to adjacent lots in the Hamlet, approximate the required lot size in the Zoning By-law, and are serviceable. Approval of this Zoning By-law Amendment application will assist in finalizing the consent applications.

Overall, the proposal is consistent with the Provincial Policy Statement.

### ***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 directs the vast majority of growth to existing, serviced settlement areas. However, the Growth Plan allows lot creation and development within existing rural settlement areas that are not serviced by municipalities. It is Planning staff’s opinion that the proposal conforms to the Growth Plan for the same reasons listed in the PPS section above.

## **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.

Part 1 of the subject lands is designated ‘Hamlet’ and is located in the Hamlet of Springvale. Part 2 of the subject lands is predominately designated ‘Agriculture’, with some ‘Mineral Aggregate Resource Area’, and ‘Riverine Hazard Lands’ (around the ditch that bisects the retained farmlands).

In the ‘Hamlet’ designation, the predominant use of land is to be low density residential housing, including single and semi-detached dwellings and apartments associated with commercial uses. Limited, appropriately scaled commercial, industrial, institutional, and agriculturally related uses are also permitted. Lot creation is permitted within the existing Hamlet boundary and designation subject to the following policies:

- a) The size of any parcel of land created by consent should be appropriate for the use proposed and the intent and purpose of the Official Plan and Zoning By-law are maintained;

- b) The creation of new lots for development shall only be granted in accordance with the relevant servicing policies contained in this plan;
- c) The proposed severed and retained land fronts on an existing public road that is of a reasonable standard of construction, and access would not create a traffic hazard because of limited sight lines on curves or grades; and
- d) Not more than five lots are being created.

New vacant residential lot creation is prohibited in the 'Agriculture' designation and prime agricultural area.

The consent applications were approved on the basis that they conformed to these policies. To ensure the new lots are developed properly, the Committee imposed a number of conditions including the requirement for septic evaluations, grading plans and related legal agreements, and approval of future driveway entrances. The applicant will be responsible for clearing all of the conditions prior to finalization of the consent applications and actual lot creation. Approval of this Zoning By-law Amendment application will assist in finalizing one of the conditions of the consent applications.

Overall, the proposal conforms to the OP.

### ***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.

Part 1 of the subject lands is zoned 'Agriculture (A)' Zone. Part 2 of the subject lands is zoned 'Agriculture (A)' Zone and is subject to the 'Hazard Lands' Zone overlay (around the ditch). The purpose of this Zoning By-law Amendment application is amend the Haldimand County Zoning By-law HC 1-2020 to:

1. Rezone the four new lots from the 'Agriculture (A)' Zone to the 'Hamlet Residential (RH)' Zone to align the zoning for the new lots with their designation in the OP and to provide clear and appropriate development permissions for the new lots; and

**Planning Comment:** Part 1 of the subject lands is designated 'Hamlet' and is located within the Hamlet of Springvale in the OP. Given the subject lands currently operate as one large farm parcel, the subject lands are zoned 'Agriculture'. Rezoning Part 1 of the subject lands will bring the zoning in line with the OP designation and is more appropriate for the proposed lot creation.

Further, the 'A' Zone permits a variety of uses including: residential uses; agricultural uses; on-farm diversified uses; agriculture-related processing; bunk houses; cannabis production facilities; farm produce outlets; farm stands; forestry uses; animal hospitals; animal kennels; commercial greenhouses; and accessory recreational vehicle storage. The 'RH' Zone only permits residential uses (single detached dwelling and related uses) and backyard hens (subject to criteria). In this case, all of the new lots (ranging in size from 0.18 hectares (0.45 acres) to 0.20 hectares (0.51 acres)) are too small to permit backyard hens as the minimum required lot size for backyard hens is 0.4 hectares (1 acre). Therefore, rezoning Part 1 of the subject lands will legally identify to future purchasers that only a single detached dwelling and related residential accessory uses are permitted on the new lots. Rezoning Part 1 of the subject lands to the 'RH' Zone will identify the development that is appropriate on these new rural residential lots.

Also, the 'A' Zone and 'RH' Zone have the same development provisions (lot size, frontage, setbacks, and building height and size) except for minimum front yard setback (A = 13 metres or 43 feet, RH = 9 metres or 29.5 feet) and interior side yard setback (A = 3 metres or 10 feet, RH = 1.2 – 3 metres or 4 – 10 feet depending on the garage location and attachment). All of the surrounding rural residential lots are zoned 'RH' Zone. Rezoning Part 1 of the subject lands to the 'RH' Zone will provide the new lots with the same (slightly more flexible) development standards as the surrounding lots.

2. Permit three (3) of the four (4) new lots to have a lot size of 1,830 square metres (0.45 acres), whereas the Zoning By-law requires all new rural residential lots within hamlets to have a minimum size of 1,855 square metres (0.46 acres).

**Planning Comment:** The purpose of the minimum lot size provision in the Zoning By-law is to ensure that new lots are an appropriate size for their use (single detached dwellings on private services) and the neighbourhood (rural hamlet).

Three (3) of the four (4) new lots are 1,830 square metres (0.45 acres) in size, which does not conform to the minimum required lot size of 1,855 square metres (0.46 acres) in the Zoning By-law. The fourth lot is 2,072 square metres (0.51 acres) in size and conforms to the minimum required lot size. The size of the three non-conforming lots approximates the minimum required lot size and the new lots will be able to accommodate private services. Also, the new lots will have a lot frontage ranging from 30 metres (98.43 feet) to 33.97 metres (111.45 feet) such that the reduced lot size will not be noticed at the neighbourhood scale. Lastly, the existing lots in the Hamlet range in size such that the new lots will 'fit' with the scale and characteristics of the Hamlet.

Overall, it is Planning staff's opinion that the proposal is appropriate. A zoning deficiency chart has been included as Attachment 5. A draft Zoning By-law has been included as Attachment 6. 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, two members of the public raised concerns relating to the: loss of farmland view; length of construction noise and dust; loss of property value; size of three (3) of the four (4) lots, which they felt were too small and not compatible with the Zoning By-law; and presence of regulated lands. A public meeting was held as part of the severance process on July 28, 2020. The Committee of Adjustment considered the applicant's severance applications, the public's comments, and Planning staff's recommendations as part of their decision making process. The Committee conditionally approved the consent applications at the public meeting on the basis that they were consistent with the Provincial Policy Statement (2020), conformed to the Province's Growth Plan (2019) and Haldimand County Official Plan, and met the intent and purpose of the City of Nanticoke Zoning By-law NE-1 2000, now superseded by the Haldimand County Zoning By-law HC 1-2020. Approval of this Zoning By-law Amendment application is required as one of the conditions of the consent applications to finalize the severance applications.

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

With regards to previous comments, Part 1 of the subject lands has long been designated for hamlet residential uses. Part 1 is also located between two existing hamlet lots such that the lot creation proposal in this area is logical and efficient. Loss of farmland view, length of construction noise and dust, and loss of property value are not key planning matters that are considered. However, the future purchasers will be required to keep construction noise and dust to a reasonable level. Also, this report addresses the proposed lot sizes, which Planning staff consider appropriate. Lastly, the new lots are not regulated by the Grand River Conservation Authority (GRCA).

## **FINANCIAL/LEGAL IMPLICATIONS:**

The future property owners will be required to pay development charges through the building permit process.

## **STAKEHOLDER IMPACTS:**

**Bell Canada** – No comments received.

**Canada Post Corporation** – These 4 lots will be serviced by rural mailboxes to be installed by the customer for mail delivery. The customers must contact the Hagersville Post Office to register for mail delivery before they install their own rural mailbox to ensure proper requirements are met.

**Grand River Conservation Authority (GRCA)** – Information currently available at this office indicates that the lands at 517 Concession 14 contain watercourses, floodplain and the lands adjacent to these features.

The lands to be rezoned do not contain any features of interest to the GRCA.

The proposed application will rezone Part 1 of the subject lands from Agricultural to Hamlet Residential to fulfill a condition of the related consent applications to sever 4 residential lots.

Due to the presence of the above-noted features, portions of the lands at 517 Concession 14 are 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.

**Trans-Northern Pipeline** – No comments received.

**Railway** – No comments received.

**Mississaugas of the Credit First Nation** – No comments received.

**Six Nations Council** – No comments received.

**Union Gas** – Enbridge Gas Inc. operating as Union Gas, does have service lines running within the area which may or may not be affected by the proposed severance. Should the proposed severance impact these services, it may be necessary to terminate the gas service and relocate the line according to the new property boundaries. Any Service relocation required due to a severance would be at the cost of the property owner. Also, should future gas service be required to either the severed or retained parcel, a request for gas service needs to be submitted to the District Office.

**Hydro One (High Voltage/Corridor)** – No comments received.

**Hydro One (Local)** – No comments received.

**Emergency Services/Fire Department** – No objection.

**Solid Waste** – No comments received.

**Development & Design** – No concerns or objections to application.

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

**Building & Municipal Enforcement Services** – No objections. A 911 civic address application must be made for each of the severed parcels.

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

**Haldimand-Norfolk Health Unit** – No comments received.

## **REPORT IMPACTS:**

Agreement: No

By-law: Yes

Budget Amendment: No

Policy: No

## **ATTACHMENTS:**

1. Severance Plan.
2. Reference Plan.
3. Location Map.
4. Detail Map.
5. Zoning Deficiency Chart.
6. Draft Zoning By-law.