
HALDIMAND COUNTY

Report PDD-27-2021 Zoning By-law Amendment Application to Facilitate Consent – Koeppe



For Consideration by Council in Committee on April 20, 2021

OBJECTIVE:

To present the key planning considerations related to a Zoning By-law Amendment application to facilitate a consent application for residential lot creation in the Lakeshore Node of Hoover Point.

RECOMMENDATIONS:

1. THAT Report PDD-27-2021 Zoning By-law Amendment Application to Facilitate Consent – Koeppe be received;
2. AND THAT application PLZ-HA-2021-021 to amend the Haldimand County Zoning By-law HC 1-2020 to rezone the subject lands from the 'Agriculture (A)' Zone to the 'Lakeshore Residential – Holding, Special Provision RL.1 (RL-H), RL.1' Zone to facilitate consent be approved for reasons outlined in Report PDD-27-2021;
3. AND THAT the General Manager of Community & Development Services be authorized to remove the Holding (H) Provision;
4. 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;
5. AND THAT the by-law attached to Report PDD-27-2021 be presented for enactment.

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Approved: Craig Manley, MCIP, RPP, Chief Administrative Officer

EXECUTIVE SUMMARY:

The applicants submitted a Zoning By-law Amendment application to amend the Haldimand County Zoning By-law HC 1-2020 as a condition of consent to create a new residential lot in the Lakeshore Node of Hoover Point. The applicants are proposing to rezone the subject lands as follows (see Attachment 1):

1. Part 1 and Part 2 - 'Agriculture (A)' Zone to the 'Lakeshore Residential - Holding (RL - H)' Zone;
2. Part 2 - to recognize an existing detached residential accessory structure prior to the principal land use (single detached dwelling); and
3. Part 1 and Part 2 - to apply a Holding (H) provision to the subject lands until the following has been satisfied:
 - i. The applicants receive clearance from the Ministry of Heritage, Sport, Tourism and Culture Industries (MHSTCI) for an archaeological assessment; and

- ii. The applicants receive approval from the County for a lot grading plan and register a lot grading agreement on the title of the subject lands.

The Holding (H) provision is recommended to permit the lot creation to finalize while preventing building permits from being issued until archaeological and stormwater matters are appropriately addressed in accordance with Provincial and County policy. A special provision is recommended to address an existing shed without a principal land use on the subject lands. 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 by-laws. Approval of this application is required to fulfill conditions of the consent approval.

BACKGROUND:

The Committee of Adjustment conditionally approved consent application PLB-2020-111 on October 20, 2020 to create a new residential building lot in the Lakeshore Node of Hoover Point (Attachment 1). The subject lands are located in the geographic township of Rainham and are described as Rainham, Concession 1, Part Lot 5. The subject lands have no municipal address. The subject lands currently have 70.67 metres (232 feet) of frontage on Lakeshore Road (a municipal road) and are 1.13 hectares (2.79 acres) in size. The subject lands are vacant and contain Significant Woodlands. The subject lands abut Hoover Point Lane (a private road) to the south. Surrounding land uses include agriculture to the north and residential to the east, west, and south.

Following severance, the severed lot (Part 1) will have 52.67 metres (173 feet) of frontage on Lakeshore Road and will be 0.49 hectares (1.21 acres) in size. Part 1 will be rectangular in shape. The retained lands (Part 2) will have 18 metres (59 feet) of frontage on Lakeshore Road and will be 0.64 hectares (1.58 acres) in size. Part 2 will be irregular in shape (flag shape) and will abut Part 1 to the east and south of Part 1. Part 2 will back onto Hoover Point Lane. This Zoning By-law Amendment application is required as a condition of severance.

ANALYSIS:

The following planning considerations apply to this proposal:

Provincial Policy:

The Provincial Policy Statement (PPS) (2020) and A Place to Grow: Growth Plan for the Greater Golden Horseshoe (2020) provide 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 and the Growth Plan requires decisions to conform to the policies of the Growth Plan.

The subject lands are designated 'Resort Residential' and are located in the Lakeshore Node of Hoover Point. Lakeshore Nodes are rural cottage settlement areas and are not considered to be traditional settlement areas for year round living. Notwithstanding, Planning staff originally recommended that the consent application be deferred to require the applicants to regularize the lotting pattern and provide opportunities for future seasonal or year-round infill. However, the Committee of Adjustment approved the applicants' severance proposal as illustrated in Attachment 1.

This Zoning By-law Amendment application to rezone the subject lands to the 'Lakeshore Residential (RL)' Zone will align the zoning of the subject lands with the Official Plan designation ('Resort Residential') for the subject lands. While it is Planning staff's opinion that the lotting pattern was not ideal, it is Planning staff's opinion that the rezoning application does not conflict with provincial policy. More specifically, rezoning the subject lands to the 'Lakeshore Residential (RL)' Zone in line with the

Official Plan designation ('Resort Residential') in and of itself does not conflict with provincial policy. It will make the legal zone provisions for uses (residential) and setbacks on the subject lands clear and appropriate for the Lakeshore Node neighbourhood, while at the same time ensuring development does not move forward until other matters of Provincial interest are addressed (archeological assessment and stormwater review).

Further, provincial policy prohibits development and site alteration on lands containing archaeological resources or areas of archaeological potential unless significant resources have been conserved. To assist with determining if a property has archaeological potential, the Ministry of Heritage, Sport, Tourism and Culture Industries (MHSTCI) created a checklist for non-specialists. According to the checklist, if there is present or past water sources within 300 metres of a property or project area, an archaeological assessment is required because 80-90% of archaeological sites are found within 300 metres of water bodies (including lakes, rivers, streams, and creeks). The applicants have hired a licensed archaeologist to clear the severed lands (Part 1); however this process has not been completed. The applicants are planning to hold onto the retained lands (Part 2) as vacant land for the time being and are not proposing to complete an archaeological assessment. As such, Planning staff recommend that a Holding (H) provision be affixed to the zoning of the subject lands to prohibit building permits from being issued until the MHSTCI approves an archaeological assessment. The H provision can be removed from Part 1 and Part 2 of the subject lands at different times. Application of the H provision will allow the consent application to be finalized while at the same time ensuring the consent approval is consistent with provincial cultural heritage policies.

Lastly, provincial policy requires municipalities to plan for stormwater. The applicants are working through the grading plan and agreement process for the severed lands (Part 1). The applicants are not planning to complete a grading plan and register an agreement for the retained lands (Part 2) at this time. As such, Planning staff recommend that a Holding (H) provision be affixed to the zoning of the subject lands to prohibit building permits from being issued until the County approves a grading plan and a grading agreement is registered on the title of the subject lands. The H provision can be removed from Part 1 and Part 2 of the subject lands at different time. Application of the H provision will allow the consent application to be finalized while at the same time ensuring the consent approval is consistent with the provincial stormwater policies.

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 subject lands are designated 'Resort Residential' and are located in the Lakeshore Node of Hoover Point. Lakeshore nodes are areas with concentrated existing developments which are predominately recreational residences, and may include related commercial, institutional and recreational facilities servicing the area. The Lakeshore nodes are characterized by nodal or linear form of development in lakeshore locations. Minor infilling is permitted within the existing Lakeshore Nodes.

It is Planning staff's opinion that the proposal to rezone the subject lands to the 'Lakeshore Residential (RL)' Zone in line with the 'Resort Residential' designation conforms to the Haldimand County Official Plan. Also, this Zoning By-law Amendment application will remove agricultural permissions from the property and permit only residential uses which is more compatible with the location and size of the subject lands (being in a Lakeshore Node) and adjacent, residential lots. This application will also make the zone provisions and intended, residential land use of the subject lands clear.

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, building permits cannot be issued.

The subject lands are currently zoned 'Agriculture (A)' Zone. The applicants are proposing to rezone the subject lands to the 'Lakeshore Residential – Holding (RL-H)' Zone to permit a vacation home dwelling or single detached dwelling, with lesser frontage (18 metres or 59 feet), size (925 square metres or 0.22 acres), and setback requirements compared to the 'Agricultural (A)' Zone (frontage = 30 metres or 98 feet, and size = 1,855 square metres or 0.45 acres). The approved lots will satisfy the minimum 'RL' frontage and size requirements. A vacation home dwelling or single detached dwelling will fit on the subject lands in accordance with the required setbacks.

Also, there is an existing residential accessory structure (shed) located on Part 2 of the subject lands. The Zoning By-law does not permit a residential accessory structure to be constructed prior to the principal land use (vacation dwelling home or single detached dwelling). Given the location and size of the existing shed relative to the size of the subject lands and surrounding neighbourhood, Planning staff have no concerns with the existing shed remaining on the property without a principal land use.

Further, affixing a Holding (H) provision to the subject lands will clear conditions of the consent to facilitate actual lot creation but will require the applicants to address archaeological and stormwater requirements in accordance with Provincial and County policies prior to obtaining future building permits.

Overall, it is Planning staff's opinion that the proposal to rezone the subject lands is appropriate. The amending Zoning By-law is included with this report as Attachment 2. The Holding (H) provision removal by-law authorizing the General Manager of Community & Development Services to remove the Holding (H) provision from the zoning of the subject lands when the conditions are satisfied is included as Attachment 3. The Holding (H) provision removal process is completed "in house" recognizing that the conditions are typically legal and technical in nature.

Planning Opinion:

It is Planning staff's opinion that this Zoning By-law Amendment application to rezone the subject lands from the 'Agriculture (A)' Zone to the 'Lakeshore Residential (RL), Special Provision' Zone in line with the Official Plan designation ('Resort Residential') and to affix a Holding (H) provision to the zoning of the subject lands to permit lot creation to move forward while ensuring archaeological and stormwater matters are addressed prior to issuance of building permits is consistent with the Provincial Policy Statement (2020), conforms to a Place to Grow (2020), and conforms to the Haldimand County Official Plan. As such, Planning staff recommend approval of this application and passage of the attached by-laws.

FINANCIAL/LEGAL IMPLICATIONS:

Development Charges will apply at the rate in affect at the time of building permit issuance.

STAKEHOLDER IMPACTS:

Bell Canada – No comments provided.

Canada Post Corporation – Canada Post does not have any comments on this application. Should there be a new permanent residence, please have them register for mail delivery at the Selkirk Post Office.

Trans-Northern Pipeline – No comments received.

CN Rail – It appears that the proposed project is located over 300 metres of a CN right of way. Therefore, we do not have any requirements.

CP Rail – 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 / Corridor) – No comments received.

Hydro One (Local) – No comments received.

Emergency Services/Fire Department – No objection.

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

Forestry Operations – Forestry doesn't have any concerns with the Zoning By-law Amendment application. The applicant should be aware that the treed area on both lots meets the definition of a Woodland and is regulated pursuant to the Forest Conservation By-law 22/04. They will only be able to cut trees for building on the lots after they receive an approved building permit.

Finance – Development Charges will apply at the rate in affect at the time of building permit issuance.

Building & Municipal Enforcement Services – That a civic address needs to be assigned to both the severed and retained lands. MDS may apply.

Planning Comment: A civic address for both the severed and retained lands was required as a condition of severance. MDS does not apply, as the subject lands are located within a Lakeshore Node (defined, cottage settlement boundary).

Municipal Property Assessment Corporation – No comments received.

Haldimand-Norfolk Health Unit – No comments received.

REPORT IMPACTS:

Agreement: Yes

By-law: Yes

Budget Amendment: No

Policy: No

ATTACHMENTS:

1. Location Map.
2. Zoning By-law.
3. Holding Provision Removal By-law.