
HALDIMAND COUNTY

Report PDD-36-2021 Zoning By-law Amendment to Permit Seasonal Dwelling – Bickford and Meyers



For Consideration by Council in Committee on June 22, 2021

OBJECTIVE:

To present the key planning considerations related to a Zoning By-law Amendment to permit a seasonal dwelling to be constructed on a vacant lot of record fronting onto a private road in the Lakeshore Node of Featherstone Point.

RECOMMENDATIONS:

1. THAT Report PDD-36-2021 Zoning By-law Amendment to Permit Seasonal Dwelling – Bickford and Meyers be received;
2. AND THAT application PLZ-HA-2021-067 to amend the Haldimand County Zoning By-law HC 1-2020 by rezoning the subject lands from “Agriculture” to “Lakeshore Residential – Holding (RL – H)” and adding special provision RL-2 to permit a seasonal dwelling to be constructed on a vacant lot of record fronting onto a private road be approved for reasons outlined in Report PDD-36-2021;
3. AND THAT the by-law attached to Report PDD-36-2021 be presented for enactment;
4. AND THAT the Holding (H) Provision removal by-law attached to Report PDD-36-2021 be presented for enactment and the General Manager of Community & Development Services be granted authority to remove the Holding Provision when all conditions relating to the matter are satisfactorily addressed;
5. AND THAT the application is considered to be consistent with the Provincial Policy Statement (2020), A Place to Grow (2020), and other matters of Provincial Interest.

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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 to permit the construction of a seasonal dwelling on the subject lands. The subject application is required to permit the proposed construction because the subject lands front onto a private road in the Lakeshore Node of Featherstone Point and are currently zoned ‘Agriculture (A)’ Zone. The applicants are proposing to rezone the subject lands from the ‘A’ Zone (which permits a year-round dwelling) to the ‘Lakeshore Residential’ Zone (which permits a seasonal dwelling) and add a special provision to permit the construction of a seasonal dwelling fronting onto a private road. Planning staff recommend that a Holding (H) provision be affixed to the zoning of the subject lands to

address stormwater matters prior to issuance of building permits. 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.

BACKGROUND:

The applicants submitted a Zoning By-law Amendment application to request permission to construct a seasonal dwelling (cottage) on the subject lands (Attachments 1 to 3). The subject lands are a vacant lot of record. The subject lands are described as Geographic Township of Rainham, Concession 1, Part of Lot 9, and are municipally known as 20 Lake Erie Lane. The subject lands are located in the Lakeshore Node of Featherstone Point, which is an area with concentrated existing development which is predominately recreational residences, and may include related commercial, institutional and recreational facilities serving the area. The County's Lakeshore Nodes are characterized by nodal or linear form of development in lakeshore locations. The subject lands front onto the east side of Lake Erie Lane. The subject lands abut Upper Lake Lane to the north. Lake Erie Lane and Upper Lake Lane are both private roads. The subject lands have 30.48 metres (100 feet) of frontage on Lake Erie Lane, are 45.72 metres (150 feet) deep, and are 0.14 hectares (0.35 acres) in size. Surrounding land uses include agriculture to the north, and residential to the east, west, and south.

The subject lands are currently zoned 'Agriculture (A)' Zone. The Haldimand County Zoning By-law HC 1-2020 requires new dwellings (year round or seasonal) to front onto improved public roads or suitable common element roads within a plan of condominium. The subject lands front onto a private road system and have no means of gaining frontage on a public or common element road. As such, the applicants submitted a Zoning By-law Amendment application to:

- 1) rezone the subject lands from the 'Agriculture (A)' Zone to the 'Lakeshore Residential (RL)' Zone to align the zoning of the subject lands with the Official Plan designation to permit a seasonal dwelling; and
- 2) add a special provision to the zoning of the subject lands to permit the construction of a seasonal dwelling on the subject lands which fronts onto a private road, whereas the Zoning By-law requires improved public road or common element road frontage.

This proposal can be contemplated through a Zoning By-law Amendment application because the subject lands are located within an identified Lakeshore Node; proposals for construction of seasonal dwellings on existing lots of record within defined Lakeshore Nodes can be considered on a case-by-case basis through Zoning By-law Amendment applications. If these types of proposals satisfy all policy requirements and are considered accessible and safe for the provision of emergency services, the proposals can be approved on a case-by-case basis. Approval of the subject application is required for the applicants to obtain building permits.

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 subject lands are located within an existing Lakeshore Node (an identified recreational/cottage settlement area of the County). In terms of the PPS policies, the subject lands are considered to be within a rural settlement area and are classified as being on rural lands. The PPS requires planning authorities (i.e. Planning Staff and Council) to apply the relevant Building Strong Communities, Wise Use and Management of Resources, and Protecting Public Health and Safety policies of the PPS when directing development on rural lands.

Further, permitted uses on rural lands include resource-based recreational uses (including recreational dwellings), among other items. The PPS states that development that is compatible with the rural landscape and can be sustained by rural service levels should be promoted. Further, development shall be appropriate to the infrastructure which is planned or available, and avoid the need for the unjustified and/or uneconomical expansion of this infrastructure.

In terms of consistency with the PPS, the applicants are proposing to construct a seasonal (or recreational) dwelling on the subject lands. The subject lands are located outside of the prime agricultural area and within an existing and identified Lakeshore Node where recreational development is preferred, thereby avoiding prime agricultural lands. The Haldimand County Official Plan (OP) servicing policies are clear that municipal servicing will not be provided to this area. The subject lands are large enough to accommodate the proposed use (seasonal dwelling) and private servicing (i.e. a septic system). As part of the application package, the applicants submitted a septic design prepared by a qualified septic installer which the Building Services has preliminarily approved through review of this application. The subject lands are an existing lot of record and development of the subject lands will not preclude or hinder further expansion of the Lakeshore Node, if expansion is an identified need in the future. The subject lands are also located outside of the Lakeshore Hazard Lands designation and are not regulated by a conservation authority; the subject lands are not impacted by hazards.

Further, the Building Strong Communities policies of the PPS requires municipalities to plan for stormwater. The applicants hired a professional engineer to prepare a lot grading plan and provided it as part of the application package to ensure that once the subject lands are built-out they will be appropriately graded and will have no impact on surrounding properties in the neighbourhood. At the time of writing this report, the lot grading plan did not satisfy County standards. The Development and Design Technologist reviewing this application has provided the applicant's engineer with two options: complete additional investigation and amend the grading plan to County standards or review options to enter into a mutual drainage agreement with the neighbouring properties. It is Planning staff's opinion that the use of the subject lands is appropriate and that lot grading can be reviewed and amended further "in house" prior to issuance of building permits. To allow this proposal to move forward while ensuring stormwater management is appropriately addressed in accordance with Provincial and County standards, 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 the grading plan. Building permits cannot be issued until the H provision is removed.

Lastly, the Wise Use and Management of Resources policies of the PPS prohibit development and site alteration on lands containing archaeological resources and areas of archaeological potential unless significant archaeological 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 subject lands are located within 300 metres of Lake Erie. The applicants hired a licensed archaeologist to evaluate and clear the subject lands. The archaeologist has completed a Stage 1 and 2 archaeological assessment, which the MHSTCI have accepted. Therefore, the application is consistent with these policies.

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

A Place to Grow: Growth Plan for the Greater Golden Horseshoe (2020):

To address challenges related to the magnitude of growth that is expected over the coming decades for the Greater Golden Horseshoe (GGH) and to ensure the protection of finite resources, the Provincial Growth Plan (Growth Plan) builds on the PPS to establish a unique planning framework for the GGH that supports the achievement of complete communities, a thriving economy, a clean and healthy environment, and social equity. The *Places to Grow Act* requires decisions affecting planning matters to conform to the Growth Plan.

The subject lands are an existing lot of record within a Lakeshore Node. The Growth Plan directs that growth will be limited in settlement areas that are rural settlement areas; are not serviced by existing or planned municipal water and wastewater systems; or are in the Greenbelt Area. The Growth Plan does not provide any further policy direction beyond the PPS policies. It is Planning staff's opinion that the application 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 subject lands are located in the Lakeshore Node of Featherstone Point and are designated 'Resort Residential' in the OP. The OP permits development of seasonal dwellings on existing, lots of record fronting onto private roads within Lakeshore Nodes. The location and designation of the subject lands identifies that the long term intent of these lands is for recreational development, which includes a seasonal dwelling, provided the provision of emergency services can be provided. Emergency Services staff have reviewed the subject Zoning By-law Amendment application and have no objections to the construction of a seasonal cottage on the subject lands. As part of the application package, the applicants provided a legal opinion that they have the right to use the private road system to access their property. As discussed above, Building Services staff have preliminarily approved the septic design and Planning & Development, Development and Design staff will be in a position to approve the lot grading requirement when additional information is provided or when the applicants enter into a mutual drainage agreement.

Further, the OP states that it is implemented through various means including a Zoning By-law. It is the County's intention that most lands will be zoned for their existing use(s) and that any change in land use that conforms to the OP be accomplished through an application to amend the Zoning By-law. It is Planning staff's opinion that rezoning the subject lands from the 'Agriculture (A)' Zone (which permits a single family dwelling on a public road) to the 'Lakeshore Residential (RL)' Zone with a special provision to permit the construction of a seasonal dwelling fronting onto a private road that can be accessed by Emergency Services from April to October, aligns the zoning of the subject lands with the policies of the OP. Further, given that the subject lands front onto a private road, the subject lands would not qualify for the construction of a single family dwelling (year-round home) under the current 'A' Zone or the proposed 'RL' Zone. However, rezoning (or "down zoning") the subject lands to the 'RL' Zone will permit a seasonal dwelling (the 'A' Zone does not permit a seasonal dwelling) and make it more obvious that the intended and legal use of the subject lands is for seasonal use.

Overall, it is Planning staff's opinion that 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, building permits cannot be issued.

The subject lands are currently zoned 'Agriculture (A)' Zone. The 'A' Zone permits a single detached dwelling and ancillary uses (bed and breakfast, secondary suites, and home-based businesses), agricultural uses, and commercial uses provided all provisions are satisfied. The Zoning By-law prohibits new buildings and structures from being constructed on private roads.

To address this, the applicants submitted a Zoning By-law Amendment application to:

- 1) rezone the subject lands from the 'Agriculture (A)' Zone to the 'Lakeshore Residential (RL)' Zone to align the zoning of the subject lands with the Official Plan designation to permit a seasonal dwelling; and
- 2) add a special provision to the zoning of the subject lands to permit the construction of a seasonal dwelling on the subject lands which fronts onto a private road, whereas the Zoning By-law requires improved public road or common element road frontage.

The 'RL' Zone permits a vacation home dwelling, bed and breakfast, and home based businesses.

A Zoning Confirmation Form has been included with this report as Attachment 4. The proposal conforms to all other provisions of the Zoning By-law.

For the reasons listed in the sections above, it is Planning staff's opinion that the proposal satisfies Provincial and County policy frameworks. A Zoning By-law has been included with this report as Attachment 5. The Zoning By-law includes a Holding (H) provision to address stormwater matters. Planning staff recommend approval of this application and passage of the Zoning By-law. A Holding (H) provision removal by-law has been included as Attachment 6. Passage of this by-law will authorize the General Manager of Community & Development Services to remove the H provision when the conditions of the H provision have been satisfied without the need for another trip to Council.

Public Consultation:

As part of the application package, the applicants submitted a public consultation strategy. The applicants state that they met with a few neighbours last fall to discuss their proposal and would continue efforts. The required *Planning Act* notices have been carried out. At the time of writing this report, no public feedback had been received.

FINANCIAL/LEGAL IMPLICATIONS:

Not applicable.

STAKEHOLDER IMPACTS:

Bell Canada – No comment received.

Canada Post Corporation – Please be advised that Canada Post does not have any comments on this application for the development of 1 lot. Should the customer be a permanent resident and require mail delivery, please advise them to register at the Selkirk Post Office.

Trans-Northern Pipeline – No comment received.

CN Railway – This is to confirm we have reviewed the information and site location. CN Rail does not have any comments with regards to this application.

CP Railway – No comment received.

Mississaugas of the Credit First Nation – No comment received.

Six Nations Council – No comment received.

Union Gas – No comment received.

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

Hydro One (Local) – No comment received.

Emergency Services/Fire Department – No objections.

Planning & Development (Development and Design) – The grading/site plan for this property has **NOT** been completed, nor approved. Provided that the plan is acceptable, there is no issue with the applicants wanting to build a house on the subject lands.

Facilities, Parks Cemeteries & Forestry Operations – Forestry doesn't have any concerns with the proposed zoning amendment to facilitate the cottage construction since there will be no impacts on any Woodlands or County owned trees.

Treasurer/Finance Division – No comments received.

Building & Municipal Enforcement Services – No comments received.

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

Haldimand-Norfolk Health Unit – No comments received.

Legal & Support Services – There are no comments or concerns from risk management.

REPORT IMPACTS:

Agreement: No

By-law: Yes

Budget Amendment: No

Policy: No

ATTACHMENTS:

1. Location Map.
2. Owner's Sketch.
3. Proposed Elevation.
4. Zoning Confirmation Form.
5. Zoning By-law.
6. Holding Provision Removal By-law.