
HALDIMAND COUNTY

Report PDD-33-2021 Official Plan and Zoning By-law Amendment to Permit Commercial Uses – Twisted Lemon



For Consideration by Council in Committee on June 22, 2021

OBJECTIVE:

To consider an amendment and site specific provisions to the Haldimand County Official Plan and Haldimand County Zoning By-law HC 1-2020 to permit an outdoor patio on a permanent basis as well as the inclusion of an Inn. No expansion of the building is proposed.

RECOMMENDATIONS:

1. THAT Report PDD-33-2021 Official Plan and Zoning By-law Amendment to Permit Commercial Uses – Twisted Lemon be received;
2. AND THAT application PLOP-HA-2021-069 to amend the Haldimand County Official Plan designation of the subject lands to a site specific 'Residential' designation to recognize the existing restaurant as a primary use with an accessory patio and Inn suites as a secondary use and parking relief, be approved for the reasons outlined in Report PDD-33-2021;
3. AND that the by-law attached to Report PDD-33-2021 to adopt the Official Plan Amendment to the Haldimand County Official Plan be presented for enactment;
4. AND THAT application PLZ-HA-2021-070 to amend the Haldimand County Zoning By-law HC 1-2020 to a site specific Urban Residential Type 2I (R2) Zone, be approved for the reasons outlined in Report PDD-33-2021;
5. AND THAT the by-law attached to report PDD-33-2021 to amend the Haldimand County Zoning By-law HC 1-2020 be presented for enactment;
6. AND THAT the application is considered to be consistent with the Provincial Policy Statement 2020, Provincial Growth Plan 2020 or other matters of provincial interests.

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

EXECUTIVE SUMMARY:

A combined Official Plan and Zoning By-law Amendment application has been received from LandPro Planning Solutions on behalf of 2690421 Ontario Inc. (Twisted Lemon), to amend the Haldimand County Official Plan and Haldimand Zoning By-law HC 1-2020 to permit the restaurant (existing Twisted Lemon) as the primary use with a permanent outdoor patio, an Inn secondary to the restaurant, and recognize reduced parking provisions. Twisted Lemon is currently operating a restaurant with seating capacity of fifty-six people (56) and has three (3) bedrooms on the second floor that have been used

for the residential dwelling and which are proposed to be converted to be used as inn style rooms. The purpose of the *Planning Act* applications are to ensure that removing the residential component and including additional uses would be appropriate use of the site. The previous amendments were supported by staff and Council as the proponents still resided in the structure and maintained the residential aspect of the site. Removing the residential use and including the restaurant and inn, warranted a further analysis of compatibility of the restaurant size, inns, and parking within the area.

Staff have assessed the proposal relative to the appropriateness of the uses being located on the subject lands, land use compatibility and have determined the proposal to be supportable. In staff's opinion, the proposal aligns with Provincial Policy and the County Official Plan, and as such, is recommended for approval. A Site Plan Waiver application has been received, reviewed internally and staff have no concerns waiving the site plan control process since there is no development or alterations to the site that will change the usability or functionality of the site.

BACKGROUND:

The subject lands are located on the southwest intersection of Norton Street West and Munsee Street. The lands are designated 'Residential' and zoned 'Residential Type 2 (R2)' with special permissions. The lands have an existing entrance from Munsee Street South for the restaurant, with a private driveway for the dwelling off Norton Street West. There are 9 on-site parking spaces and 7 existing on-street parking spaces on Norton Street West. The proponents are requesting an amendment to the Haldimand County Official Plan and Haldimand Zoning By-law HC 1-2020 to establish the primary use as restaurant with an accessory outdoor patio, expanding the permitted uses to allow an Inn (three rooms), and recognize the deficient parking spaces of 9 which received a variance through application PLA-2017-078. The approved minor variance permitted an outdoor patio and granted relief to the parking requirements to 9 spaces on a temporary basis. The overall intent of the requested change is to allow only the existing uses on site as well as include the Inn and accessory patio on a permanent basis. In addition, the intent is to recognize the deficient parking for the Inn and restaurant. The inclusion of the Inn will generate the requirement of 1 more space for a total of 3 spaces than the previous residential component which required 2 spaces.

Originally built in the 1860's, the building was previously used as a place of worship up until 1996. The property was then used by a seamstress until the proponents purchased the property in 2005. This was their primary residence until they began to expand their catering business and establish the restaurant. The applicants began the planning process and a zoning application to establish the restaurant as a secondary use to the dwelling (By-law 611-HC-08). Twisted Lemon was officially opened in 2008. Since then, the owners have obtained the adjacent lands municipally known as 25 Munsee Street North which has become their primary residence (i.e. moved out of the second floor of the restaurant) and which generates approximately 70 percent of the vegetables used by the restaurant in the summer season.

The special provisions of the current by-law permits the restaurant as a secondary use to the residential component of the property. There are three bedrooms that are located above the restaurant that were solely used for the proponent's personal use and home prior to the purchase of and relocation to the dwelling on the adjacent lot. As the restaurant has become a destination within the Cayuga area the demand and desire to expand resulted in a temporary patio which seats 20. In 2017, the proponents applied for and received a minor variance for a period of 3 years to permit the patio. The trial was initiated to monitor the impact of noise and parking on neighbouring land owners. The patio was granted an extension in 2020 as a result of COVID-19 and aiding business owners. Overall, there have been no issues and no record of complaints received.

The residential portion of the structure is no longer required by the owners and they are proposing to expand the permitted uses to include an Inn. Renovations have been performed to the rooms to include

washrooms for each room. The Building & Municipal Enforcement division will inspect and confirm that the rooms meet Building Code for a hotel/inn should the OPA/ZBA applications be approved. In addition to the request to expanding the uses and with much success of the community funded patio, the proponents are requesting that the patio be recognized as a permanent use and address the existing reduced number of parking spaces on site to 9.

ANALYSIS:

Provincial Policy Statement

The Provincial Policy Statement 2020 (PPS) encourages developing strong communities that promote general wellbeing, while ensuring that development occurs in such a way that health, livability and safety are accounted for, and there is a wide range of land uses that are available to be realized. This includes residential, commercial, industrial and institutional uses. The subject application proposes to permit an outdoor patio secondary to a restaurant and Inn suites within a residentially dominant area. The PPS promotes a variety of land uses that help create a diverse and sustainable community and provide for economic development. The site is located on a corner lot with the front façade of the restaurant facing an arterial right of way that leads into the core area of Cayuga. The building and outdoor patio are pulled towards the street front and away from the adjacent residential structures to aide in mitigating nuisances and improving compatibility between uses. The expansion of uses on site will promote tourism for Cayuga and assist with the economic growth of Haldimand.

It is staffs opinion that the proposal is in keeping with the intent of the PPS.

Growth Plan for the Greater Golden Horseshoe

The Growth Plan for the Greater Golden Horseshoe is intended to inform growth in such a way to continue economic prosperity and diversity as possible. Uses such as what is proposed herein, are generally supported for its merits in terms of economic growth and by not having a negative impact on the surrounding community. The Growth Plan identifies and encourages growth for development and redevelopment within the delineated built boundary, where this property rests. Further economic growth and redevelopment will pose no negative impact on any agricultural lands or other sensitive lands uses and will occur where there is adequate infrastructure.

Haldimand County Official Plan

The subject lands are designated 'Residential' with special policy HCOP-16 and located within both the urban boundary and built boundary of Cayuga. The residential designation is intended to provide a variety of housing forms and facilities that support residential uses. Special policy HCOP-16, permits the following uses: a restaurant/café with seating for 56 patrons; a catering business; a classroom for food related workshops and cooking courses; retail sales of food related produce, and a small scale greenhouse. Currently, the commercial uses may only be permitted in conjunction with a residence on the property. The applicants are requesting to amend the Official Plan; the site specific Residential designation with the addition to an outdoor patio, an Inn (three rooms), and function without the residential component.

Land Use Compatibility

Where a new use is proposed on lands which abut a sensitive land use, a compatibility review must be undertaken to ensure the appropriateness of the development and potential for mitigation measures. While the immediate uses that surround the property are primarily residential, the broader neighbourhood is more varied, with a more detailed description provided below and illustrated in Attachment 1. Section F.1 of the Haldimand County Official Plan (OP) contains policies which outline

mitigation measures that can be utilized in situations where a new land use is going to be located close to a sensitive land use. The considerations are outlined below:

- Separation of uses increased setbacks;
Planning Comments: The provisions of the current Residential Type 2 (R2) zone enforce a minimum required setback of 4 metres (13 feet) to the exterior side yard lot line and 1.2 metres (4 feet) to the interior lot line. There are no additions to the existing building proposed and therefore the inclusion of uses will not encroach onto the surrounding land uses and will maintain adequate setbacks as identified in the Haldimand County Zoning By-law. To ensure that noise does not, and will continue to not have a negative impact on adjacent landowners, the proponents had provided landscaping around the patio and restaurant area when the patio was established.
- Screening and buffering such as landscape strips, architectural screenings, fences or berms;
Planning Comments: In order to reduce the potential for incompatibility, there is landscaping area around the patio. Furthermore, the proponents have been granted permission for the patio on a temporary basis in order to review and observe the nuisances that could arise such as noise. A list of conditions were included as part of the minor variance which will be described in detail further in the report which were intended to eliminate any noise impacts. Staff note that there have been no complaints regarding the patio since 2018. It is staff's opinion that the orientation of the patio towards the right of way, restrictions and enhanced landscaping have protected adjacent neighbours from noises and will continue to do so with a similar set of approval conditions (as the variance).

Furthermore, the inclusion of three Inn suites for public use will not be a noise generator as there are only three rooms and are of a small scale.

Therefore it is staff's opinion that there will be no negative impact on the adjacent sensitive land uses.

- Location of lighting so that it is deflected away or shielded from adjacent sensitive uses;
Planning Comments: The applicant has indicated that there is no new lighting proposed as the lighting is existing and proceeded through site plan control when the restaurant was established. All lighting will be consistent with County standards.
- Proper location of parking, loading and unloading areas, and outside storage; and
Planning Comments: The proponents have provided a concept plan as shown as Attachment 2, demonstrating the existing parking on site. No additional parking spaces are to be provided or removed as a result of the making the patio permanent or due to the inclusion of the three Inn Suites. Since the rooms were used for private and personal purposes prior, parking spaces were assigned to the rear of the restaurant where there is access to the upper rooms. These parking spaces will remain and be used strictly for the parking of the patrons staying in the proposed Inn suites.

Staff have completed an assessment of on-street parking available in the area in 2017 and determined that there are over 100 spaces available within a 100 metres distance of the property. The distance of 100 metres is considered as an 'A' Level of Service, meaning it is walkable and suited to this type of arrangement (i.e. parking and walking to the establishment). While it is expected that the current on street supply can more than service the additional users of the restaurant and the Inn, staff are of the opinion that the trial basis was successful as there were no complaints and encouraged walkability throughout the area.

- Provision of safe convenient pedestrian access with minimal inference from vehicular movement.

Planning Comments: Pedestrian traffic are providing safe and convenient forms of access to the existing restaurant. There will be no changes to the access since there are not alterations to the site are anticipated. The Inn suites will have pedestrian connection to the existing sidewalk infrastructure that can connect pedestrians to the downtown core of Cayuga as well as other areas of the town.

The expansion of additional uses complies with the policies for compatibility within the Official Plan which have been identified above. The restaurant has been operational since 2008 with the outdoor patio being established in 2018. Within that time, both the restaurant and outdoor patio have operated without recorded incident. Additionally, successful efforts have been put forth through restrictions to eliminate any potential concerns affecting the neighbourhood. There are no changes proposed to the built form. Based on the foregoing, it is staff opinion that the proposed amendment from Residential to Community Commercial is an appropriate use of land within the neighbourhood.

Water and Wastewater Servicing

The subject property is located within the urban boundaries as identified as Cayuga in the schedules of the Official Plan. The Official Plan sets out that such lands are to be municipally serviced. The addition of the patio as a permanent use and three Inn Suites will have no negative impact on the municipalities' infrastructure.

Zoning By-law

The proponent is seeking an amendment to the site specific Urban Residential Type 2 (R2) Zone. The special exception would limit the permitted uses to specifically a restaurant with accessory patio, an Inn with a maximum of three units, and reduced parking.

The lands are currently zoned Residential 'R2' with a special exception. Zone Exception HAL36.338 (By-law 611-HC/08) contains the special provisions that apply to this property which permit the use of a restaurant and By-Law 612- HC/08-SP apply Site Plan Control to the subject land.

In June of 2017, the Committee of Adjustment, approved a variance to permit the expansion of the restaurant by including a patio as well as providing relief for reduced parking on site. The Committee of Adjustment approved the application based on the following conditions, which are of relevance to this application:

1. The maximum number of seats (patrons) on the patio shall be 20;
2. Use of the patio will be limited to Tuesday to Saturday;
3. The hours of operation for the patio will cease at 11pm in accordance with the County's Noise By-law;
4. Only diners will be permitted on the patio; and
5. No music and entertainment will be permitted on the patio.

These conditions were put in place in order to minimize the impact on adjacent residential uses. The effectiveness of these conditions has been demonstrated by way of 3+ years of full operation without incident. As such, it is staff's opinion that these conditions should remain in place to ensure the continued compatibility with the adjacent sensitive land uses. To address this, the conditions have been included in the draft zoning by-law at Attachment 4. The patio, which is fully constructed and operational, will not be altered and will remain as shown on Attachment 2. Any further expansions will result in a future *Planning Act* application.

In addition to the provisions listed above, the proposed zoning by-law will further isolate the restaurant use from the residential use as well as include the use of three rooms for an Inn. Parking accommodations will not be hindered by the inclusion of three rooms. The intent of the rooms is to provide overnight accommodations which will in essence extend the stay of the restaurant patrons. The

parking spaces that were previously dedicated for personal use of the previous residential use will be dedicated to the patrons staying overnight and will not take away from the existing restaurant parking.

Site Plan Control

Site Plan Control is applied to a variety of zones throughout Haldimand County to ensure that land development is designed appropriately, safe, functional and minimizes potential impacts on neighbouring properties.

The applicants have proceeded through the site plan control process at the time when the restaurant was first established in 2008. As no changes are proposed to the site nor will there be an increase in the functionality of the site, staff are confident in waiving the site plan process. However staff note that site plan control will be applicable for any future alterations to the site.

Staff have reviewed and have no concerns waiving the Site Plan Control process based on the lack of change on the site functionality and usability.

Draft Amendments

Copies of the proposed draft Official Plan amendment (Attachment 3), and a Zoning By-law amendment (Attachment 4) have been prepared and attached to this report. With the approval of the requested Official Plan and Zoning amendment, the proposed development on the subject lands will have a site specific Official Plan policy added to the site and the Zoning By-law will have a site specific zoning provision added as well. These planning instruments will permit the desired uses.

This proposal has been reviewed through the applicable policies from the Province (Provincial Policy Statement and Growth Plan), and the County (Official Plan), and staff are of the opinion that the requested relief is appropriate.

The proponents have taken measures in order to reduce the impact on the neighbouring sensitive land use by incorporating landscaping around the patio, locating the patio further from the dwelling structures themselves, and including provisions as part of the temporary minor variance. It is staff's opinion that the temporary patio trial was successful and no complaints or issues have been raised. With the addition of the three Inn rooms, together with no balconies, it will not generate a noise source.

Public Input:

The proponents held an open house on May 11, 2021 that allowed neighbouring property owners the opportunity to discuss the proposed expanded uses. Through feedback and comments received from adjacent neighbours, the proponents generated a letter addressing those questions and concerns. The two questions and concerns were regarding parking and accessibility. Staff note that there will be no further parking reduction than what has been addressed through the previous minor variance. There are 9 spaces provided on site, 7 additional on street parking spaces, and there are over 100 spaces available within a 100 metres distance of the property based on the investigation from 2017. In terms of accessibility, this will be reviewed by the Building & Municipal Enforcement Division to ensure there is compliance with AODA. The major portion of the comments and emails received were in show of support for the facility. Staff did not receive concerns from residents regarding the proposal.

Planning Opinion:

Planning staff has reviewed the proposal in relation to Provincial and County policy frameworks and are of the opinion that the proposed amendments are consistent with and generally maintain the intent and purpose of the Provincial Policy Statement (2020), the Places to Grow Plan (2020) and the Haldimand County Official Plan. Additionally, the proposed amendment to the Zoning By-law maintains the intent and purpose of the Haldimand County Zoning By-law HC 1-2020. Therefore, Planning staff is supportive of the subject applications.

FINANCIAL/LEGAL IMPLICATIONS:

None.

STAKEHOLDER IMPACTS:

Building & Municipal Enforcement Services—No objections.

Roads Operations—No objections.

Planning and Development (Development and Design Technologist)—No objections.

Water and Wastewater Engineering & Compliance—No objections.

Emergency Services—No objections.

No comments were received from the public or the Mississaugas of the Credit First Nation, Six Nations Council, Hydro One, MPAC, and Union Gas.

REPORT IMPACTS:

Agreement: No

By-law: Yes

Budget Amendment: No

Policy: Yes

ATTACHMENTS:

1. Location Map.
2. A. Owner Sketch.
2. B. Owner Sketch.
3. Draft Official Plan Amendment.
4. Draft Zoning By-law.