
HALDIMAND COUNTY

Report PDD-04-2023 Removal of Holding Provision – 34 Johnson Road For Consideration by Council in Committee on January 17, 2023



OBJECTIVE:

To obtain Council's approval to remove a Holding (H) provision from the zoning of the subject lands to facilitate the construction of a single detached dwelling on a vacant lot of record in the Lakeshore Node of Johnson Road.

RECOMMENDATIONS:

1. THAT Report PDD-04-2023 Removal of Holding Provision – 34 Johnson Road be received;
2. AND THAT the request to remove a Holding (H) provision from the zoning of the subject lands to allow for the construction of a single detached dwelling be approved for reasons outlined in Report PDD-04-2023;
3. AND THAT the proposal is deemed to be consistent with the Provincial Policy Statement (2020) and conforms to A Place to Grow: Growth Plan for the Greater Golden Horseshoe (2020), Haldimand County Official Plan, and Haldimand County Zoning By-law HC 1-2020;
4. AND THAT the Holding (H) provision by-law attached to Report PDD-04-2023 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:

The objective of this report is to obtain Council's approval to remove the Holding (H) provision that was affixed to the zoning of 34 Johnson Road in 1988. The Holding (H) provision was affixed to the zoning of lots in the Lakeshore Node of Johnson Road due to the way in which the lots were created (via "checker-boarding") and to ensure development of the lots proceeded appropriately and safely. As the technical matters relating to the Holding (H) provision removal have been addressed through the subject application (payment of cash-in-lieu of parkland dedication, registration of a development agreement on the title of the subject lands, and County approval of grading and septic plans), Planning staff recommend that the Holding (H) provision be removed from the subject lands to allow for issuance of building permits for a single detached dwelling.

BACKGROUND:

The purpose of the subject application is to remove the Holding (H) provision from the zoning of the subject lands (Attachment 1) to permit the construction of a single detached dwelling (Attachment 2). The subject lands are described as Part of Lot 19 Concession 5 South of Dover Road, former Geographic Township of Dunn, now in Haldimand County, and are municipally known as 34 Johnson Road. The subject lands have 32 metres (105 feet) of frontage on the east side of Johnson Road (an open and maintained public road) and are 0.41 hectares (1.02 acres) in size. The subject lands are currently vacant.

The subject lands are located in the Lakeshore Node of Johnson Road, north of Lakeshore Road and east of Johnson Road. A similar application for 30 Johnson Road was considered and approved at the December 6th Council-in-Committee meeting. At that meeting, a question was raised about the number of other parcels within the node that would be subject to the same planning process, how many have been built upon and how many remain. In follow up to that question, staff prepared a map (Attachment 2) which identifies the lots existing within the node and which ones have had building permits issued; which parcels are vacant and which lots the Holding (H) provision still applies to. Within the area, there are fifty-seven (57) total lots, of which there are twenty-three (23) which have frontage on Johnson Road. Those 23 lots are characterized as follows:

- six (6) have had building permits issued for single detached dwellings;
- three (3) have received Council approval for Holding removals but not yet applied for building permits;
- one (1) current application for Holding Removal (subject application); and
- thirteen (13) have the potential for development subject to removal of the Holding provision
 - Of the thirteen lots, there are ten different owners.

Moreover, there are an additional twenty-nine (29) lots that are vacant and located on the unopen/unconstructed Boulder Road. These lots cannot be developed until the road is constructed, a secondary emergency access is established, lot grading and drainage is approved with a storm outlet, and parkland dedication is provided. The two key factors however are the road construction and secondary emergency access.

It is noted that there are five (5) additional lots on the south side of Lakeshore Road that would also be required to remove the Holding (H) provision prior to the issuance of any building permits.

The lots in this lakeshore node were created over fifty (50) years ago by individuals that divided their property and registered the lots in different names, a process commonly referred to as “checkerboarding”. During this period, there were few planning controls in place to ensure that new lot creation proceeded in an appropriate and safe way. As a safeguard, staff and previous Councils of the Town of Dunnville and Region of Haldimand-Norfolk felt it was imperative that something be implemented to ensure development proceeded appropriately and safely. Under Section 36 (1) “Holding provision by-law” of the *Planning Act*, Council is authorized to pass a Zoning By-law containing a Holding (H) provision to specify the use to which lands, buildings, or structures may be put at such time in the future as the H provision is removed following clearance of the conditions contained in the Zoning By-law by amendment to the Zoning By-law. As such, a Holding (H) provision was affixed to the zoning of the lots fronting onto Lighthouse Drive, Johnson Road, and Boulder Road which had the effect of preventing the lots from being developed until such time as specific technical conditions were addressed.

To that end, in 1988 the Town of Dunnville Council amended Zoning By-law 1-DU 80 to rezone the lands from “Agricultural (A)” Zone to “Seasonal Residential – Holding (RS – H)” Zone (now “Lakeshore Residential – Holding (RL – H)” Zone in the Haldimand County Zoning By-law HC 1-2020) and “Open Space – Holding (OS – H)” Zone via site specific Zoning By-law 1-DU 88. Zoning By-law 1-DU 88 outlined that the Holding (H) provision was to remain in place and restrict development on these lots

until such time as the creation of parkland or payment of cash-in-lieu of parkland is provided, a development agreement is registered on title, and the County approves a grading and drainage plan. Given the Holding (H) provision was applied via a Zoning By-law Amendment application in 1988, prior to the practice of Council delegating Holding (H) provision removal authority to staff (the General Manager of Community & Development Services) starting in 2011, the subject application requires approval by Council.

It is Planning staff's opinion that the conditions of the H-provision have been satisfied and the H-provision can be removed because the subject lands front onto Johnson Road (an open and maintained road), payment of cash-in-lieu of parkland dedication (\$500.00) has been received, the applicant has registered a development (lot grading) agreement on title legally binding the applicant to the County accepted grading plan, and the County has approved a grading plan for the subject lands (Attachment 3). The County has also reviewed and accepted a septic plan for the subject lands.

ANALYSIS:

The proposal before Council is to remove the Holding (H) provision from the subject lands. The conditions of the H provision include:

- 1) Cash-in-Lieu of Parkland Dedication;
- 2) Development (Lot Grading) Agreement;
- 3) Grading Plan; and

Additionally, the County requires these lots to demonstrate that private servicing can be adequately addressed. In this case, the County has also reviewed:

- 4) Septic Plans.

The conditions of the Holding (H) provision have been addressed as follows:

1) Cash-in-Lieu of Parkland Dedication

When new lots are created, developers and builders are required under the *Planning Act* to either set aside five percent (5%) of the lands to be developed for parkland (parkland dedication) or pay cash-in-lieu of parkland dedication if it is determined that there are adequate parks and recreational facilities to service the area. Parkland, or cash-in-lieu of parkland dedication (which was identified as the preferred option in this scenario), was never collected for the lots in the Lakeshore Node of Johnson Road when they were created (pre-1970), and as such, when the Holding (H) provision was applied to the lots in 1988, it stipulated that cash-in-lieu of parkland was to be collected prior to the development of the lands. The proponent submitted the \$500.00 cash-in-lieu of parkland dedication payment. It is Planning staff's opinion that the condition has been satisfied.

2) Development (Lot Grading) Agreement

The Holding (H) provision was also affixed to the zoning of the subject lands to ensure that a development agreement was entered into and a proper plan of subdivision was created (including the construction of Boulder Road, which is not applicable to this application as the subject lands front onto Johnson Road, an open and maintained County Road, rather than Boulder Road); since the H provision was affixed to the zoning of the subject lands, nobody has come forward with a plan of subdivision and comprehensive grading plan. In recent years, the County has entertained and supported a number of H provision removals where satisfactory grading can be accommodated onsite. The County's Development Technologist has accepted a grading plan prepared by a Professional Engineer for the subject lands. The applicant has entered into a development agreement relating to lot grading to ensure adherence to the

approved grading plan and mitigate any off-site impacts. It is Planning staff's opinion that the condition has been satisfied.

3) Grading Plan

The County's Development Technologist has accepted a lot grading plan prepared by KLS Engineering. It is Planning staff's opinion that the condition has been satisfied.

4) Septic Plans

The applicant is proposing to privately service the subject lands. The Senior Building Inspector has accepted the septic plans prepared by Attema Consulting Services Inc. It is Planning Staff's opinion that the condition has been satisfied.

Planning staff recommend that the proposal for removal of the Holding (H) provision be approved and the related by-law (Attachment 4) be passed since the conditions for the removal of the H-provision have been satisfied. The subject lands are designated 'Resort Residential' in the Haldimand County Official Plan and are located within the Lakeshore Node of Johnson Road. The subject lands are zoned 'Lakeshore Residential – Holding (RL – H)' Zone which permits a single-family dwelling or cottage, and all zoning provisions are satisfied. Removal of the H provision will permit Building & Municipal Enforcement Services to issue building permits.

FINANCIAL/LEGAL IMPLICATIONS:

The cash-in-lieu of parkland dedication fee of \$500.00 has been paid to the County in accordance with the *Planning Act*, the County's parkland by-law 2349/22, and Holding (H) provision By-law 1-DU 88. The parkland dedication fee will be held and utilized by the County in accordance with the *Planning Act* and by-law 2349/22. Development Charges will be paid at the time of building permit issuance.

STAKEHOLDER IMPACTS:

A resolution from a Council meeting in 2011, set out that all owners of the permitter lots (i.e. those with frontage on Johnson Road and Lighthouse Drive) were to receive notice of the process that is available to them to have the Holding (H) provision removed from their lands. That notice was prepared by Planning staff in 2011 and was issued. It clearly sets out the requirements described in detail in this report.

The *Planning Act* only requires public notice to be given to those individuals or groups that have given the Clerk of the municipality a written request for notice of the intention to pass an amending by-law to remove a Holding (H) provision from a Zoning By-law under subsection 36(4) of the *Act*. Since no requests were received, public notification was not required.

Planning & Development, Development Technologist – reviewed and accepted the lot grading plan.

Building & Municipal Enforcement Services, Senior Building Inspector – reviewed and accepted the septic plans and has no comments or concerns with the application.

REPORT IMPACTS:

Agreement: Yes

By-law: Yes

Budget Amendment: No

Policy: No

ATTACHMENTS:

1. Location Map.
2. Johnson Road/Lighthouse Drive Node Map.
3. Site & Grading Plan.
4. Draft By-law.