
HALDIMAND COUNTY

Report PDD-03-2023 Zoning By-law Amendment for a New Vacation Home Dwelling on Private Road – 1 Great Lakes Lane

For Consideration by Council in Committee on February 28, 2023



OBJECTIVE:

To consider a Zoning By-law Amendment application to permit a new vacation home dwelling to be constructed on a vacant lot of record fronting onto a private lane in the Lakeshore Node of Featherstone Point.

RECOMMENDATIONS:

1. THAT Report PDD-03-2023 Zoning By-law Amendment for a New Vacation Home Dwelling on Private Lane – 1 Great Lakes Lane be received;
2. AND THAT application PLZ-HA-2022-146 to amend the Haldimand County Zoning By-law HC 1-2020 by rezoning the subject lands from “Agriculture (A)” Zone to “Lakeshore Residential – Holding (RL – H)” Zone and adding special provision RL.6 to permit a vacation home dwelling to be constructed on a vacant lot of record fronting onto a private lane be approved for reasons outlined in Report PDD-03-2023;
3. AND THAT the Holding (H) Provision removal by-law attached to Report PDD-03-2023 be presented for enactment and the General Manager of Community & Development Services be granted authority to remove the Holding (H) Provision when all conditions relating to the matter are satisfactorily addressed;
4. 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 applicant submitted a Zoning By-law Amendment application to amend the Haldimand County Zoning By-law HC 1-2020 to permit the construction of a vacation home dwelling on the subject lands. The subject application is required to permit the proposed construction because the subject lands front onto a private lane utilized for access purposes only, 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 vacation home dwelling) and add a special provision to permit the construction of a vacation home dwelling fronting onto a private lane, (where the Zoning By-law requires frontage on an improved, public road). Planning staff recommend that a Holding (H) provision be affixed to the zoning

of the subject lands to require the applicant to enter into a limited servicing and drainage/grading agreement; and to receive clearance from the Ministry of Heritage, Sport, Tourism and Culture Industries (MHSTCI) for the submitted archaeological assessment 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 applicant submitted a Zoning By-law Amendment application to request permission to construct a vacation home dwelling (cottage) on the subject lands (Attachment 1). The Haldimand County Zoning By-law HC 1-2020 defines a vacation home dwelling as a dwelling containing only one dwelling unit which is used as a secondary place of residence, on an occasional basis from April through October inclusive in the same calendar year for vacation, recreation and relaxation purposes and where the owner or occupant of the dwelling has a principal place of residence elsewhere.

The subject lands are described as Concession 1, Part Lot 9, Geographic Township of Rainham, and are municipally known as 1 Great Lakes Lane (Attachment 2). The subject lands are located in the Lakeshore Node of Featherstone Point, which is an area with existing development which is predominately recreational residences.

The subject lands are currently vacant and front onto the north side of Great Lakes Lane. The Lakeshore Node of Featherstone Point and Great Lakes Lane extend to the west limit of the subject lands; the property to the west is a large farm parcel outside of the Lakeshore Node of Featherstone Point. To access the subject lands, the applicant must travel along Lakeshore Road (improved, public road) to Lake Erie Lane (private laneway) to Great Lakes Lane (private laneway). The subject lands have 61.03 metres (200 feet) of frontage on Great Lakes Lane, are 45.72 metres (150 feet) deep, with an area of 0.28 hectares (0.68 acres). Surrounding land uses include vacant lots to the north, residential to the east, Great Lakes Lane and residential to the south, and farmland to the west.

The subject lands are currently zoned "Agricultural (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 for safety and maintenance reasons. The subject lands front onto a private laneway 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 'Agriculture (A)' Zone to 'Lakeshore Residential (RL)' Zone to align the zoning of the subject lands with the Official Plan designation to permit a vacation home dwelling; and
- 2) add a special provision to the zoning of the subject lands to permit the construction of a vacation home 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 from April to October, the proposals can be approved. Approval of the subject application is required for the applicants to obtain building permits for a vacation home dwelling.

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 those 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 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 applicant is proposing to construct a vacation home 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 Senior Building Inspector has preliminarily approved through the 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 applicant 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 area.

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 (984 feet) 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 applicant hired a licensed archaeologist to evaluate and clear the subject lands of archaeological potential. The archaeologist has completed a Stage 1 and 2 archaeological assessment. A Stage 1 archaeological assessment includes review of geographic, land use, and historical information, property inspection, and contact with the Ministry to determine archaeological potential. A Stage 2

archaeological assessment includes the archaeologist surveying the property, including digging parallel rows of small holes, called test pits, down to sterile subsoil at regular intervals and sifting the soil to look for artifacts. The archaeologist recommended that based on the results of the Stage 2 test pit survey, the study area is considered to be free of archaeological material and that no additional archaeological assessments are recommended. The archaeologist requested that the MHSTCI review the archaeological assessment and provide a letter indicating their satisfaction that the fieldwork and reporting for the archaeological assessment are consistent with the Ministry's 2011 *Standards and Guidelines for Consultant Archaeologists* and the terms and conditions for archaeological licenses, and to enter this report into the Ontario Public Register of Archaeological Reports. The MHSTCI has provided the letter. 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, A Place to Grow 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. A Place to Grow directs that growth will be limited in settlement areas that are rural settlement areas (the subject lands are a rural, cottage settlement area); are not serviced by existing or planned municipal water and wastewater systems (the subject lands are not and will not be municipally serviced); or are in the Greenbelt Area (the County is not located within 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 A Place to Grow.

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 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 vacation home 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 the subject lands is for recreational development, which includes a vacation home dwelling, provided the provision of emergency services can be provided. Emergency Services staff have reviewed the subject Zoning By-law Amendment application, including a field inspection of the condition of the private lane, and have no objections to the construction of a vacation home dwelling on the subject lands. As part of the application package, the applicant provided a legal opinion that they have the right to use the private laneway system to access their property, and in turn construct a seasonal dwelling on the property. This has also been confirmed through discussions with the County's solicitor. Additionally, Building Services staff have reviewed and preliminarily approved a septic design and the Development Technologist has provided comments relating to a drainage and grading plan for the parcel, advising that a suitable design is achievable.

Further, the OP states that it is implemented through various means including a 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 fronting on a public road) to the 'Lakeshore Residential (RL)' Zone with a special provision to permit the construction of a vacation home 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 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 zoned 'Agriculture (A)' Zone. The 'A' Zone permits a single family 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 applicant submitted a Zoning By-law Amendment application to:

- 1) rezone the subject lands from 'Agriculture (A)' Zone to 'Lakeshore Residential (RL)' Zone to align the zoning of the subject lands with the Official Plan designation to permit a vacation home dwelling; and
- 2) add a special provision to the zoning of the subject lands to permit the construction of a vacation home 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 3. The proposal conforms to all other provisions of the Zoning By-law.

Additionally, the Zoning By-law requires that where a vacation home dwelling is located on a private road, a Limited Servicing Agreement be executed and registered on title. This implements the Lakeshore policies of the OP which state that municipal services (water and sewer) will not be provided to owners of lakeshore properties due to the prohibitive expense to ratepayers for providing municipal services and to express through County regulation, the limitations of servicing development on private roads and to protect the interest of the County by informing residents of the servicing limitations and the residents' personal liability associated with development on private roads. This agreement cannot be finalized without the approved lot grading plan and Council decision for approval. 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 agreement is executed and registered on title. Building permits cannot be issued until the H provision is removed.

The Holding (H) Provision also includes the requirement for an Archaeological Assessment, which is required based on the criteria of the MHCSTI archaeological criteria for review and resource potential in the area. A report has been submitted with the Ministry, but had not yet been accepted.

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 4. The Zoning By-law includes a Holding (H) provision to require that the lot grading plan be finalized and approved by the County, and registration of both a lot grading agreement and limited servicing. A Holding (H) provision removal by-law has been included as Attachment 5. Passage of the Holding (H) provision removal by-law will authorize the General Manager of Community & Development Services to remove the Holding (H) provision when the conditions of the H provision have been satisfied without the need for another trip to Council. This streamlines the development process and recognizes that the Holding (H) provision removal process is technical and legal in nature to ensure protection of County interests, and can be satisfied “in house”.

Public Consultation

As part of the application package, the applicant submitted a public consultation strategy. The applicant states that he has discussed his proposal with his neighbours to the south and two of his neighbours to the east. He states that his development suits the existing dwellings on the street and he has not received any negative feedback. 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:

The applicant will be required to enter into both a lot grading agreement and a limited servicing and with the County. Applicable Development Charges will apply at the time of building permit application submission.

STAKEHOLDER IMPACTS:

Development Technologist – A Full Lot Grading Plan is required and to be reviewed and accepted by Planning and Development staff prior to the issuance of a building permit.

Senior Building Inspector – No concerns.

Emergency Services – After site visit the road is in good condition and trees and vegetation are cut back. The only obstacle we would have is no turnaround for emergency vehicles. Since the County does not have a by-law for private lanes, we would have to approach this as a farm lane and drop hose on the way in.

Senior Economic Development Officer – Haldimand County’s Economic Development and Tourism Division has no comments on this proposal.

Property Coordinator – No concerns.

Project Manager of Forestry – Forestry is satisfied with the protection measures for privately owned trees. The proposed application will have no impact on any County-owned trees or Woodlands regulated under the County’s Forest Conservation By-law 2204/20.

Enbridge Gas Inc. – Thank you for your correspondence with regard to the proposed development. Enbridge Gas, operating as Union Gas, does have service lines running within the area which may or may not be affected by the proposed development. Should the proposed development 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 would be at the cost of the property owner. If there is any work (i.e. underground infrastructure rebuild or grading changes...) at our easement and on/near any of our existing facilities, please contact us as early as possible (1 month in advance at least) so we can exercise assessment of your work. The purpose is to ensure the integrity of our main is maintained and protected. Confirmation of location of our naturel gas pipeline should be made through Ontario One Call 1-800-400-2255 for locates prior to any activity.

Trans-Northern Pipelines Inc. (TNPI) – Thank you for contacting TNPI. We can confirm that TNPI has no infrastructure in the mentioned area.

Hydro One (Local) – Hydro One has no objections.

No comments were received from: Bell Canada, Canada Post, Mississaugas of the Credit Council, Six Nations Council, Hydro One (High Voltage/Corridor), Finance Division, MPAC, Haldimand-Norfolk Health Unit, Metro Loop, Rogers, CN Railway, and CP Railway.

REPORT IMPACTS:

Agreement: Yes

By-law: Yes

Budget Amendment: No

Policy: No

ATTACHMENTS:

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