
HALDIMAND COUNTY

Report PDD-05-2024 Zoning By-law Amendment to Rezone Subject Lands to a Site Specific Lakeshore Residential (RL) Zone, 2050 Second Avenue, Selkirk



For Consideration by Council in Committee on May 21, 2024

OBJECTIVE:

To Consider an application received for a Zoning By-law Amendment to rezone the subject lands to a site specific “Lakeshore Residential (RL)” with a “Holding (H)” provision, to permit the construction of a seasonal residential dwelling.

RECOMMENDATIONS:

1. THAT Report PDD-05-2024 Zoning By-law Amendment to Rezone Subject Lands to a Site Specific Lakeshore Residential (RL) Zone, 2050 Second Avenue, Selkirk be received;
2. AND THAT application PLZ-HA-2023-216 to amend the Haldimand County Zoning By-law HC 1-2020 by rezoning the subject lands to a Site Specific “Lakeshore Residential (RL)” Zone with a Holding (H) Provision, to permit a vacation home dwelling to be constructed on a vacant lot of record fronting onto a private lane be approved;
3. AND THAT the Holding (H) Provision removal by-law attached to Report PDD-05-2024 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 consistent with the Provincial Policy Statement, 2020, conforms to A Place to Grow: Growth Plan for the Greater Golden Horseshoe, 2020 and the Haldimand County Official Plan, and has sufficient regard for matters of provincial interest under the *Planning Act, 1990*;
5. AND THAT the by-law attached to Report PDD-05-2024 be approved at a future Council meeting.

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Reviewed by: Shannon VanDalen, MCIP, RPP, Manager of Planning and Development

Respectfully submitted: Mike Evers, MCIP, RPP, BES, General Manager of Community & Development Services

Approved: Cathy Case, Chief Administrative Officer

EXECUTIVE SUMMARY:

The applicant has submitted an application to amend the Haldimand County Zoning By-law HC 1-2020 to create a site specific “Lakeshore Residential (RL)” zoning with a Holding “(H)” provision. The application is intended to facilitate the development of seasonal residential dwelling on a vacant lot in

the Resort Residential Node of Summerhaven. This will bring the proposal in-line with the Official Plan and consistent with the Zoning By-law.

The Zoning By-law Amendment is required because the current By-law does not permit a building or structure to be erected, altered or enlarged on any lot in any zone unless the lot has the minimum required lot frontage on an improved street.

The Zoning By-law also requires that where a vacation home dwelling is located on a private road, a Limited Servicing Agreement is required.

Planning staff are of the opinion that this proposal is consistent with the Provincial Policy Statement, 2020 and the Provincial Growth Plan, 2020, and conforms to the Haldimand County Official Plan. Planning staff recommend approval of this amendment for the reasons outlined in this report.

A public notice sign was posted at the site on May 3, 2024, and was visible when the Planner conducted a site visit.

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 property is described as Walpole Concession 1 Part Lot 24, municipally known as 2050 Second Avenue (Attachment 2) and is an existing vacant lot of record. The subject lands are located in the Resort Residential Node of Summerhaven, which is an area with existing development which is predominately recreational residences.

The subject lands are currently vacant and front onto the south side of Second Avenue. To access the subject lands, the applicant must travel along Blue Water Parkway (improved, public road) then turn north onto First Street (private laneway) to Second Avenue (private laneway). The subject lands have approximately 15 metres (50 feet) of frontage on Second Avenue, are approximately 30 metres (100 feet) deep, with an area of approximately 445 square metres (4,791.6 square feet). Surrounding land uses are predominantly seasonal residential. The applicant proposes the construction of a 2-storey seasonal residential dwelling (vacation home), with two (2) parking spaces, and frontage on a private road. The dwelling will be supported by private services including a Class 4 septic system and associated leaching bed, and a 5,000 litre-capacity septic system (Attachment 2 and 3).

The subject lands are currently zoned “Lakeshore Residential (RL)” 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: rezone the subject lands to ‘Lakeshore Residential (RL)’ Zone with a special provision 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 Resort Residential 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.

Second Avenue and First Street are private roads, and are accessible from the nearest public right-of-way, Blue Water Parkway, located approximately 105 metres south of the subject lands (Refer to Attachment 2). The landowner of 2050 2nd Avenue has received legal permission from the owner of the private road (1st Street) for access to the subject property, as confirmed in a permission letter dated September 12, 2023. The area is comprised of similar sized lots and uses.

ANALYSIS:

Planning staff completed an analysis of the proposed Zoning By-law Amendment application against the applicable Provincial and County land use planning policy documents and legislation. The summary of this analysis is below:

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 Resort Residential 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 has submitted a lot grading plan and stormwater management plan, prepared by a qualified professional 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. At the Pre-Consultation meeting both the Mississaugas of the Credit First Nation (MCFN) and Six Nations of the Grand River Council requested completion of an Archaeological Assessment. The applicant has submitted a Stage 1 and Stage 2 Archaeological Assessment Report. The report has been submitted to the Ministry of Heritage, Sport, Tourism and Culture Industries (MHSTCI). 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. Provision of the MHSTCI letter is one of the matters that must be completed before the County will lift the Holding Provision on the subject property.

Planning staff are of the opinion that the application is consistent with the PPS.

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

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 services by existing or planned municipal water and wastewater systems (the subject lands are not and will not be municipally services); 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.

Planning staff are satisfied that the application conforms to A Place to Grow.

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 Resort Residential Node of Summerhaven 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 has obtained a letter advising that the owner of the lane has granted permission for the application to use the lane.

Further, the OP states that it is implemented through various means including a Zoning By-law. It is Planning staff's opinion that amending the zoning on the subject lands to include a site specific provision to the existing 'Lakeshore Residential (RL)' Zone 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 or proposed zoning. However, the subject amendment will permit the proposed seasonal dwelling.

Planning staff are satisfied 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 'Lakeshore Residential (RL)' Zone, which permits seasonal dwellings, however 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 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.

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.

A Holding (H) Provision is recommended to be affixed to the zoning, to remain in place until the following are completed: execution of a Limited Servicing Agreement, an Archaeological Assessment (which is required based on the criteria of the MHCSTI archaeological criteria for review and resource potential in the area), as well as completion of a Lot Grading Plan to show the proposed grading and drainage of the development. It is noted that the Archaeological Assessment 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 5. The Zoning By-Law (Attachment 5) 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".

FINANCIAL/LEGAL IMPLICATIONS:

Not applicable.

STAKEHOLDER IMPACTS:

Building & Municipal Enforcement Services: No comments/objections received.

Planning & Development – Development Technologist: No comments.

Mississaugas of the Credit First Nation: Stage 1 and Stage 2 Archaeological Assessments have been completed for the subject property and submitted to the Province for review. No objections have been received from MCFN.

Six Nations of the Grand River Council: Stage 1 and Stage 2 Archaeological Assessments have been completed for the subject property and submitted to the Province for review. No objections have been received from Six Nations.

Bell Canada: No comments received.

Canada Post Corporation: Please be advised that Canada Post does not have any comments on this application for a seasonal residence. Should this residence become permanent and require mail delivery, please have the customer register for mail delivery at the Selkirk Post Office.

Clerk: No comments received.

Emergency Services: No comments received.

Enbridge Gas: No comments received.

Engineering Services: No comments received.

Facilities, Parks, Cemeteries, and Forestry Operations: Forestry is satisfied with the tree protection measures identified on the site plan.

Haldimand Norfolk Health Unit: No comments received.

Hydro One: No comments received.

Legal & Support Services: No comments received.

Metro Loops: No comments received.

Ministry of Municipal Affairs & Housing: No comments received.

MPAC: No comments received.

Rogers: No comments received.

Public: No comments received.

REPORT IMPACTS:

Agreement: Yes

By-law: Yes

Budget Amendment: No

Policy: No

REFERENCES:

None.

ATTACHMENTS:

1. Location Map.
2. Owner's Sketch 1.
3. Owner's Sketch 2.
4. Owner's Sketch 3.
5. Draft By-law.