
HALDIMAND COUNTY

Report CDS-06-2024 Minister's Zoning Order Framework – Implications and Options



For Consideration by Council in Committee on June 18, 2024

OBJECTIVE:

To provide Council with information on the new Minister's Zoning Order Framework and the implications relative to the Nanticoke Minister's Zoning Order request.

RECOMMENDATIONS:

1. THAT Report CDS-06-2024 Minister's Zoning Order Framework – Implications and Options be received;
2. AND THAT Option _____, as described in Report CDS-06-2024, be approved as the preferred path forward relative to the Nanticoke Minister's Zoning Order request.

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Approved: Cathy Case, Chief Administrative Officer

EXECUTIVE SUMMARY:

On April 10th 2024, the Minister of Municipal Affairs (Minister) introduced a new Minister's Zoning Order (MZO) framework which is intended to guide all future MZO considerations. On the same date, the Minister issued a letter to the Mayor that overviewed the new framework and served as notice that the previous Nanticoke MZO request file was closed. The Minister indicated in his letter that any further consideration of the Nanticoke MZO would require a new submission that meets the requirements of the framework. The purpose of this report is to provide Council with a recap of background and an overview of the framework and options for its next steps.

BACKGROUND:

Nanticoke Minister's Zoning Order

Given the amount of time that has passed in relation to the Nanticoke Minister's Zoning Order (MZO), it is important to recap both the timeline and the proposal details. First, the timeline:

- Empire Communities made a presentation to Council on February 14, 2022 regarding its vision for developing 1,700 hectares (4,200 acres) in the Nanticoke area. As part of this presentation, Empire expressed its interest in Council considering support for a MZO;
- Council in Committee received a report from the County CAO on March 1, 2022, which outlined the Empire proposal, the factors for the County to consider (potential benefits, process required, consultation) and a draft MZO. Council considered and unanimously endorsed a proposal for a MZO;

- A resolution (decision) of Council to support the request for a MZO, and submit its request to the Province, was made on March 7, 2022;
- On March 8, 2022, the formal request for a MZO was submitted by the County to the Minister of Municipal Affairs and Housing;
- In April 2023, Council-directed public consultation took place consisting of two (2) public meetings;
- In May 2023, Council (re)confirmed its support for the MZO and passed a new resolution.

The details of the Nanticoke MZO have not changed since Council last considered the matter in May 2023. As a recap, the development is a privately initiated project (by Empire Communities) that includes the following details:

- 1,700 hectares (4,200 acres) of total land area;
- 1,010 hectares (2,500 acres) or 60% of the total land area to be used for residential development – this part of the project has the potential for 15,000 residential units and 40,000 new residents. A total of 2,000 (15%) of the new residential units would be dedicated to affordable housing;
- 690 hectares (1,700 acres) or 40% of the total land area to be used for employment development – this part of the project has the potential for 7,500 to 11,000 jobs on these lands:
 - There is potential for an additional 7,000 to 8,000 commercial retail and service jobs to support the new community (to be intermixed within the residential and employment areas);
- 40 hectares (100 acres) of waterfront lands to be dedicated (provided to) Haldimand County for purposes of recreational development (parks, trails, etc.);
- development of new wastewater treatment plant which could also accommodate/service the communities of Hagersville, Jarvis and Townsend in the long term; and
- extension of natural gas infrastructure and capacity to the area.

A copy of the concept plan is included as Attachment 1.

Empire Communities has recently confirmed their continued interest in an MZO to allow its proposed development to proceed.

New MZO Framework

Since Council last considered the MZO in May 2023, the County has not had any official correspondence in relation to the matter, until just recently. On April 10th 2024, the Minister of Municipal Affairs (Minister) introduced a new framework which is intended to guide all future MZO considerations. This initiative was identified as a priority when Minister Calandra took on the role in fall 2023. On the same date the framework was introduced, the Minister also issued a letter to the Mayor (Attachment 2) that overviewed the introduction of the new framework and served as notice that the existing Nanticoke MZO request/file was effectively closed. The Minister indicated in his letter that any further consideration of the Nanticoke MZO would require a new submission through the framework.

Based on the above, the previously supported Nanticoke MZO is no longer being considered by the Province. Council must now decide on its preferred course of action relative to the matter. The purpose of this report is to overview the framework’s implications and the options available to Council.

ANALYSIS

Staff have coordinated a number of meetings with Ministry staff to confirm our understanding of the **status** of the previous MZO request, the **mechanics** of the new framework and to verify what **options**

Council has in relation to same. The conclusions arrived at via these meetings – for each of the bolded subjects - are summarized in the sections that follow.

In terms of the **status** of the previous Nanticoke MZO, staff offer the following:

- The previously supported and submitted Nanticoke MZO no longer has any status – the Minister has effectively closed the file and no further consideration of previous submissions will be given at this time.
- For the Minister to consider the merits of the Nanticoke MZO, a new submission that meets the requirements of the recently released MZO framework would be required.
- In connection with the above, the previous Council resolution of support no longer has status and cannot be used as a means to support a new MZO submission – i.e. a new resolution would be required if Council wanted to move forward and maintain its support.

In terms of the **mechanics** of the new MZO framework, staff offer the following:

- A request for a MZO can be submitted by a variety of parties, including but not limited to, municipalities, organizations, businesses, or individuals. This means that either of Haldimand County or Empire can submit the Nanticoke MZO for the Minister’s consideration.
- While a variety of parties can submit a MZO, it must meet one of two intake thresholds for it to be considered:
 - a request that delivers on a provincial priority that is supported by a minister (for example, long-term care, hospitals, transit-oriented communities, educational facilities, housing priorities, economic development, manufacturing, etc.); or,
 - a request that is supported by a single-tier or lower-tier municipality (for example, through a municipal council resolution).

In the case of the Nanticoke MZO, the second intake threshold—support by a single-tier municipality—is the test that must be satisfied given the matter has not received the explicit support of a minister (which is the first threshold).

- There are 13 submission expectations (SEs) that must also be completed in order for the matter to be considered. The 13 SEs are included in Attachment 3 and include things such as descriptions of consultation (public, Indigenous communities), proposal rationale, construction timelines, servicing details, etc. In effect, these matters must be addressed in order for the submitted MZO request to constitute a ‘complete application’ and there are many similarities between the SEs and what would be required for a typical major planning application.

In terms of **options** for Council, staff offer the following:

1. Do nothing – this option is self explanatory and would represent Council not dealing with the matter any further. The file for the initial MZO request would remain closed and Council would not make any submissions or correspond further with the Province; or
2. Pass a resolution of support and direct staff to complete all of the work relating to the submission expectations laid out in the framework (i.e. items described in Attachment 2); or,
3. Pass a resolution of support and require Empire to make the submission under the new framework, completing all of the work relating to the submission expectations. Within the resolution Council would need to state that it supports Empire doing all of this work as the requester.

A few things to note with respect to options 2 and 3:

- Both options 2 and 3 are fully supported by the current MZO framework and are legitimate processes to get a MZO in front of the Minister for consideration;

- Option 2 would put all of the administrative, technical and consultative work to support the MZO on County staff. There is currently no capacity for staff to undertake such an assignment in the near term. One of two outcomes would result from option 2 being selected:
 - with current work program commitments, application volumes and staff complement, the MZO submission would be significantly delayed and likely not addressed until the end of the year or (more likely) early part of 2025; or
 - if this was given high priority by Council to complete, it would require staff to delay other significant projects (i.e. Population Forecasts, Archaeological Management Plan) and/or private planning applications.

A sample resolution with respect to Option 2 is as follows:

“THAT Haldimand County requests that the Minister of Municipal Affairs and Housing issue a Ministerial Zoning Order, for the development of employment, commercial, institutional and residential uses on lands in the Nanticoke area;

AND THAT Haldimand County staff undertake all of the required administrative, technical and consultative work associated with the submission expectations of the Minister’s Zoning Order framework.”

- Option 3 would put the responsibility for the administrative, technical and consultative duties with the developer. Given the MZO request is developer-driven, this would make the most sense logistically and financially. It ensures that taxpayers are not shouldering the cost for various submission expectations to be completed and it safeguards against delays in other existing applications and initiatives across the County that are already in progress. It also aligns better with the timelines of the developer as understood by staff.

A sample resolution with respect to Option 3 is as follows:

“THAT Haldimand County requests that the Minister of Municipal Affairs and Housing issue a Ministerial Zoning Order, for the development of employment, commercial, institutional and residential uses on lands in the Nanticoke area;

AND THAT Haldimand County supports Empire Communities Corp., or its assigned designate, in undertaking all of the required administrative, technical and consultative work associated with the submission expectations of the Minister’s Zoning Order framework and providing same to the Minister of Municipal Affairs and Housing for his consideration.”

FINANCIAL/LEGAL IMPLICATIONS:

Since the outset of the Nanticoke MZO process, questions have been raised regarding the legal ownership of the lands. Information provided to staff confirms that the lands in Nanticoke are under contract to be sold through the *Companies’ Creditors Arrangement Act* (CCAA) to DGAP Investments Ltd. (i.e. Empire). A decision issued by the Court of Appeal on May 8, 2024 dismissed the Motion for Leave to Appeal filed on January 2, 2024 by Stelco Inc. This decision is expected to now facilitate the transaction in the coming months, with the parties attending a case conference with the supervising Judge on June 17, 2024 to establish the closing mechanics for the transaction. Staff are advised that arrangements are underway between Stelco Inc. and DGAP Investments Ltd. to finalize Easement Agreements and Transfer Documents in lead up to the case conference scheduled for June 17, 2024 to finalize arrangements in respect of the transfer of ownership of the Nanticoke Lands to DGAP or its affiliate. Although land ownership is not an issue within the jurisdiction of the municipality, this information is relevant to the current status of the request from Empire.

STAKEHOLDER IMPACTS:

Not applicable.

REPORT IMPACTS:

Agreement: No

By-law: No

Budget Amendment: No

Policy: No

REFERENCES:

None.

ATTACHMENTS:

1. Concept Plan.
2. Minister Letter.
3. MZO Submission Expectations.