
HALDIMAND COUNTY

Report PDD-19-2024 Zoning By-law Amendment Application to Rezone the Subject Lands as a Condition of Consent, Nanticoke



For Consideration by Council in Committee on October 29, 2024

OBJECTIVE:

To consider a Zoning By-law Amendment application to recognize reduced frontage and prohibit future residential development on the retained farm parcel, to fulfil a condition of consent.

RECOMMENDATIONS:

1. THAT Report PDD-19-2024 Zoning By-law Amendment Application to Rezone the Subject Lands as a Condition of Consent, Nanticoke be received;
2. AND THAT application PLZ-HA-2024-157 to amend Haldimand County Zoning By-law No. HC 1-2020 to prohibit future residential development and home occupation opportunities on the retained farm lands at 1179 Concession 3 Walpole, and to permit the surplus farm dwelling lot to have reduced frontage be approved for reasons outlined in Report PDD-19- 2024;
3. AND THAT the proposal is deemed to be consistent with the Provincial Policy Statement (2020), Provincial Growth Plan (2020), and other matters of Provincial interest;
4. AND THAT the by-law attached to Report PDD-19-2024 be approved at a future Council meeting.

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

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

Approved: Cathy Case, Chief Administrative Officer

EXECUTIVE SUMMARY:

The Zoning By-law Amendment is required as a condition of consent for a surplus farm dwelling severance where the lands severed exceed the maximum lot size of the Surplus Farm Dwelling zoning provisions. As a result, the retained lands shall be rezoned to remove a single detached dwelling and accessory uses thereto (i.e., home occupation, secondary suite, etc.) as permitted uses in accordance with Provincial Policy. A site-specific provision is also required to address the deficiency in the lot frontage of the surplus farm parcel which is detailed below.

Planning staff are of the opinion that the proposal is in conformity with the Provincial Policy Statement (PPS), 2020, complies with the Growth Plan for the Greater Golden Horseshoe, 2020, conforms to Haldimand County's Official Plan and maintains the general intent and purpose of Haldimand County Zoning By-law No. HC 1-2020, as amended.

BACKGROUND:

Related Application

PLB-2024-034 (Consent Application)

The Committee of Adjustment conditionally approved consent application PLB-2024-034 on April 16, 2024 to create the surplus farm dwelling lot (Attachments 1, 2 and 3), together with an easement for hydro infrastructure over the retained farmlands in favour of the surplus farm dwelling lot.

Planning Staff recommended refusal of the consent application as it was deemed to not have regard for Section 51(24)(f) of the *Planning Act* nor did it conform to the intent of the Haldimand County Zoning By-law HC 1-2020, as amended.

Section 51(24) sets out a list of criteria that decision makers shall have regard to in making decisions regarding the division of land, including subsection 51(24)(f) which reads:

“S. 51 (24) In considering a draft plan of subdivision, regard shall be had, among other matters, to the health, safety, convenience, accessibility for persons with disabilities and welfare of the present and future inhabitants of the municipality and to,

(f) the dimensions and shapes of the proposed lots;

Staff were of the opinion that a proposed lot with a frontage of 5.74 metres (18.8 feet), where a minimum of 30 metres (98.4 feet) is required, did not meet the intent of the policies or represent good planning practices. However, as the Committee of Adjustment approved the application, the subject zoning amendment is required as a condition of consent to recognize the zoning provisions. Given the decision relative to the severance has been made, and the zoning is required to implement said decision, staff are in a position to bring this application forward with a supportive recommendation.

Current Proposal (PLZ-HA-2024-157)

Location and Description

The subject lands are described as Concession 4, Part Lot 15, Geographic Township of Walpole, Haldimand County and known municipally as 1179 Concession 3 Walpole. The lands are located northeast of the Hamlet of Nanticoke and directly east of Sandusk Creek.

The applicant received conditional approval for the severance of a surplus farm dwelling. The surplus farm parcel (Attachment 1 - Part 2) has a lot frontage of 5.74 metres (18.8 feet), an area of 0.66 hectares (1.63 acres) and contains a single detached dwelling and a large accessory structure. The retained farmlands (Attachment 1 - Part 1) contains an area of 42.4 hectares (104.8 acres) and is used for cash-cropping.

Surrounding land uses are primarily agricultural with a few non-farm residential lots to the east. The tributary that bisects the property is Regulated by the Long Point Region Conservation Authority (LPRCA), including Sandusk Creek to the west.

The purpose of this Zoning By-law Amendment application is to amend the Haldimand County Zoning By-law HC 1-2020 to:

1. Part 1: Rezone the retained farmlands by adding a special provision to the retained farmlands which prohibits future residential development in accordance with Provincial policy; and,
2. Part 2: Permit a lot frontage of 5.74 metres (18.8 feet) for the surplus farm dwelling lot whereas the Zoning By-law requires a minimum lot frontage of 30 metres (98.43 feet).

ANALYSIS:

The following key 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, that decisions affecting planning matters “shall be consistent” with the policies of the PPS.

The PPS directs, that prime agricultural areas shall be protected for long-term use for agriculture. In prime agricultural areas, agricultural uses, agriculture-related uses and on-farm diversified uses are permitted. Lot creation is discouraged and only permitted in very limited circumstances including surplus farm dwelling severances provided that: the surplus farm dwelling lot is limited to a minimum size needed to accommodate the use and appropriate sewage and water services; and the retained farmlands are rezoned to prohibit the construction of a new dwelling. In this case, the surplus farm dwelling lot is minimized to include the long driveway, the dwelling, private services, and a large accessory building. Approval of this Zoning By-law Amendment application will rezone the retained farmlands to remove a dwelling and related residential use as a permitted use.

Overall, it is Planning staff’s opinion that the proposal is consistent with the PPS.

Growth Plan for the Greater Golden Horseshoe (2020):

The purpose of the Growth Plan is to address challenges related to the forecasted growth and changes in the Greater Golden Horseshoe, and to ensure the protection and effective use of finite resources. The Growth Plan establishes a unique land use framework for the Greater Golden Horseshoe that supports the achievement of complete communities, a thriving economy, a clean and healthy environment, and social equity. Planning decisions must conform to the Growth Plan.

The Growth Plan does not provide direction on surplus farm dwelling severances. Therefore, the proposal conforms to the Growth Plan.

Haldimand County Official Plan:

The Haldimand County Official Plan (OP) creates the long-term framework for guiding land use changes in the County to 2026 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 designated ‘Agriculture’ in the Haldimand County Official Plan. The Official Plan builds on the PPS policies pertaining to a residence surplus to a farming operation, providing additional details. Section 5H.4 of the Official Plan outlines various criteria for a surplus farm dwelling severance in Haldimand County.

The OP states that a surplus farm dwelling severance may be granted for a habitable dwelling of a minimum age of ten years that is made surplus through farm amalgamation where it is part of a farm holding containing two or more habitable dwellings and where each farm is located within the County. No new residential dwelling is permitted on the retained farmlands. To ensure this, a Zoning By-law Amendment application is required to specifically exclude a dwelling from being permitted on the retained farmlands. The OP provides further surplus farm dwelling severance criteria related to: lot size, on-site servicing, farm viability following severance, Minimum Distance Separation (MDS) requirements, proximity of pits and quarries, public road access, and impacts on natural environment areas and/or cultural resources.

With regards to the surplus farm dwelling lot size, the OP directs that the surplus farm dwelling lot shall generally be 0.4 hectares (1 acre) to 0.6 hectares (1.5 acres) in size and shall minimize the amount of agricultural land or productive forest taken out of production. Consideration of varying the size of the surplus farm dwelling lot includes ensuring farm fields are not fragmented, environmental or topographic features are recognized, and the location of the surplus farm dwelling lot in relation to the existing buildings and structures.

In this case, the surplus farm dwelling lot was approved to be 0.66 hectares (1.63 acres) in size, influenced by the large setback of the dwelling and long driveway required. The approved lot size has been minimized to contain only the driveway, dwelling and accessory structures, and septic system.

Planning staff are satisfied that the proposal satisfies the intent and purpose of minimizing the surplus farm dwelling lot size to preserve agricultural lands.

Further, the OP directs that the surplus farm dwelling lot and retained farmlands shall be located with safe and direct access to a permanently maintained public road. In this case, both lots will have frontage on Concession 3 Walpole. The lot frontage of 5.74 metres (18.8 feet) minimizes the amount of agricultural lands that are removed from production.

All other surplus farm dwelling criteria were reviewed and deemed to conform to the OP policies at the time of severance. Overall, it is Planning staff's opinion that the proposal conforms to the OP. Approval of this Zoning By-law Amendment application will ensure Provincial and County surplus farm dwelling policies are satisfied.

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, lot creation is not permitted.

The subject lands, consisting of both the retained farmlands (Part 1) and the surplus farm dwelling lot (Part 2) are zoned 'Agriculture "(A)" Zone. The purpose of this Zoning By-law Amendment application is to amend the Haldimand County Zoning By-law HC 1-2020 to:

1. Rezone the retained farmlands (Part 1) by adding a special provision to the retained farmlands which prohibits future residential development in accordance with Provincial policy; and,

Planning Comment: Provincial and County policy permit a property owner to sever a dwelling from their farm provided they own two farms in the County each containing a dwelling, thereby making one of the dwellings surplus to their needs. To ensure that current and future property owners do not construct a dwelling on the retained farmlands from which the surplus farm dwelling was severed, Provincial and County policy require the retained farmlands to be rezoned for agricultural purposes only. This recognizes that farm operations are becoming larger scale and may include several farms that come with dwellings while at the same time protecting farmland from residential development and fragmentation.

Further, the Zoning By-law automatically rezones retained farmlands by removing a dwelling as a permitted use when the surplus farm dwelling lot is equal to or less than the preferred lot size of 0.6 hectares (1.5 acres) as an incentive to minimize surplus farm dwelling lots. Given the approved surplus farm dwelling lot size of 0.66 hectares (1.63 acres), the retained farmlands were not automatically rezoned, which necessitates this Zoning By-law Amendment application.

Overall, it is Planning staff's opinion that the approved surplus farm dwelling lot size is appropriate and that approval of this Zoning By-law Amendment application will ensure that the severance satisfies Provincial and County requirements.

2. Permit a lot frontage of 5.74 metres (18.8 feet) for the surplus farm dwelling lot (Part 2) whereas the Zoning By-law requires a minimum lot frontage of 30 metres (98.43 feet); and,

Planning Comment: The purpose of the minimum lot frontage provision together with the minimum lot size provision is to ensure that lots are an appropriate size and shape for their intended use. In this case, the surplus farm dwelling is existing and is sited far from the road, and is accessed via a long driveway. Requiring a lot frontage of 30 metres (98.43 feet) is undesirable as it would remove agricultural lands from production. It is Planning staff's opinion that the 5.74 metre (18.8 feet) lot frontage is appropriate as it will minimize the amount of agricultural lands removed from production while providing suitable access to the parcel.

Overall, it is Planning staff's opinion that the proposal is appropriate. A draft Zoning By-law has been included as Attachment 4. Planning staff recommend that the Zoning By-law be passed.

Planning Opinion:

It is Planning staff's opinion that the proposal is consistent with the Provincial Policy Statement (2020) and that it conforms to the Provincial Growth Plan (2020) and Haldimand County Official Plan. As such, Planning staff recommend approval of this Zoning By-law Amendment application and passing of the attached Zoning By-law.

Public Consultation:

As part of the severance process (which included a Notice of Public Meeting), no public comments were received. As part of the Zoning By-law Amendment process, a notice of complete application and notice of public meeting were mail to residents within 120 metres (394 feet) of the entire subject lands (Parcels 1 and 2). No comments were received as part of the public consultation process.

FINANCIAL/LEGAL IMPLICATIONS:

Not applicable.

STAKEHOLDER IMPACTS:

Mississaugas of the Credit First Nation – No comments received.

Six Nations of the Grand River – No comments received.

Building & Municipal Enforcement Services – No comments.

Haldimand County, Planning & Development-Development Technologist – No comments or objections to the Zoning By-law Amendment process.

Municipal Property Assessment Corporation (MPAC) – No comments received.

Long Point Region Conservation Authority – No objections received.

Emergency Services – No comments received.

REPORT IMPACTS:

Agreement: No

By-law: Yes

Budget Amendment: No

Policy: No

REFERENCES:

None.

ATTACHMENTS:

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