

Date: September 9, 2020

Report To: Mayor and Council

From: Cody Vangel, Chief Building Official & Municipal Planner

Re: B3-2020: Application to Remove Holding Provision – Ryan Lundy – Eighth Street East

Background

An application has been submitted by authorized agent for the subject lands, Ryan Lundy, requesting to remove the holding provision from the zoning designation to permit the construction of a single detached dwelling. The subject land is located on Eighth Street East and legally described as PCL 12043 SEC RAINY RIVER; PT LT 19 RIVER RANGE MCIRVINE PARTS 1 & 2, RR138; FORT FRANCES. The holding provision on the land halts any development from taking place unless mayor and council agree to pass a by-law to remove said holding provision.

It is believed that the holding provision has been assigned to this property and many others in the area due to the lack of fire protection via municipal fire hydrant as well as lack of municipal sewer and water services.

Two other properties within the area have successfully removed the holding provision from their properties. One of which was approved to use both well and septic, where the other was approved for well as they do have access to a municipal sewer tie in.

It should also be noted that there are multiple properties along Frog Creek Road and McIrvine Road, albeit zoned Resource Development (RD), which do not contain holding provisions on their zoning designation which subsequently do not have access to municipal sewer, water or fire hydrants.

Property History

The property is located on Eighth Street East between Williams Avenue and Mill Road. The subject land is bound by railway to the south, residential type one with a holding provision to the east, residential type one with a holding provision to the west, and residential type one with a holding provision to the north. The property to the north of the subject land is sometimes locally referred to as an old air strip.

The property does not have any existing structures and it is not serviced by municipal water or sewer.

Official Plan

The property is designated as a **Living Area** which supports the use a residential in the form of a single detached dwelling.

The Official Plan States the following regarding holding provisions:

5.4.3 Holding Provisions

5.4.3.1 Purpose of Holding

The Zoning By-law will incorporate provisions for Holding Zoning which may be applied on lands where the lands are pre-zoned for a use, but presently there exist a number of conditions which must be satisfied prior to development. Lands subject to Holding Zoning will be identified with an "H" symbol beside the land use symbol on the Zoning map.

5.4.3.2 Application of the Holding Provision

Holding provisions will be applied where there is a need for additional conditions which cannot be applied on a pre-zoning basis or through the Site Plan Approval process.

5.4.3.3 Interim Uses for Lands Subject to Holding

The Zoning By-law may specify interim uses which may be deemed compatible and/or permissible, even though lands are subject to a Holding Provision.

5.4.3.4 Lifting of the Holding Provision

The Zoning By-law will be amended to remove the Holding symbol when it has been determined that the conditions requiring the Holding have been satisfied. Such conditions may include, but are not limited to:

- a) Completion of special studies related to the area, or site's opportunities or constraints, or the impact of development and mitigation thereof;
- b) The grading of the site;
- c) The provision of road infrastructure, including, but not limited to, the road base, streetlights, signage and traffic control signals;
- d) The provision of water, wastewater, or stormwater servicing for the lands;
- e) Satisfying certain financial requirements of the municipality;
- f) Any other matter provided for by the provisions of the Planning Act.

5.4.3.5 Stakeholder Consultation

Consultation related to lifting of the Holding provision will be done in accordance with the Planning Act.

Zoning

The property is currently zoned **Residential Type One with a holding provision (R1-H)**. The holding provision is required to be removed to facilitate any development on the lands and to achieve a zoning designation as **Residential Type One (R1)** where the following uses are permitted:

- a) single detached dwelling
- b) home occupation
- c) group home
- d) community garden

The zoning by-law 03/14 states the following regarding the holding provision:

3.10 HOLDING PROVISIONS

Where the zone symbol on Schedule 'A' is followed by an 'H', the lands shall be deemed to be in a special Holding Zone. Council may pass a By-law to remove the Holding provision when Council has approved a Site Plan or a Subdivision Agreement has been registered against the title of the lands. No new buildings or structures may be constructed on the lands until the Holding Provision (H) has been removed. Until such time as the Holding Provision has been removed by a By-law passed by Council, the lands may be used for existing uses in accordance with the provisions of the applicable zone.

Provincial Policy Statements

The Planning Act requires that zoning by-law amendments including removal of holding provisions be consistent with provincial policy statements as identified in the 2020 Provincial Policy Statements (PPS). Applicable PPS 2020 statements have been attached with this report.

Divisional Comments

Fort Frances Power Corporation – No comments received.

Fort Frances Fire Rescue – Nearest fire hydrant is over 200m away. If there was ever a fire at the property, fire rescue service would have to deploy the majority of all 4-inch supply line from the fire hydrant to the pumper truck.

Fort Frances Public Works – The property is not serviced, nor are there mains in front of the property for service connection. Watermain ends approximately 250ft east of the northeast property corner (water line is a service main 25mm copper with existing connections on the South side of Eighth Street); sewer main ends approximately 240ft East of the NE corner of the property (250mm PVC main). Storm sewer is open ditches, with a PVC subdrain located on the South side of Eighth in front of the property. Will need to conform with all aspects of the Northwestern Health Unit for septic and well installation. Further at some time in the future we will likely be installing sewer and watermain along this road segment. At that time services will be ran to property and in the future they property owners would have to pay for those services when they connect to those.

Fort Frances Recreation & Culture – No comments received.

Fort Frances Planning & Development - In the event of approval the below conditions are recommended. This proposal would allow the municipality to generate a greater tax assessment rather than a vacant lot. Other properties towards the airport are serviced by well and septic. To comply with NWHU regulations for well and septic, with proof of approvals prior to building permit.

Committee of Adjustment

The Committee of Adjustment considered this matter at their August 12, 2020 session with recommendation to approve with the following conditions:

1. That prior to any development in, on, or with respect to the property, the owner shall have executed an agreement in form and substance satisfactory to the municipality as to or in respect of existing and future water and septic services in, on, and to the property including, without limitation, provisions confirming responsibility and liability of the owner(s) for and in respect of services whether past, current or future
2. That the above stated agreement provide verbiage relating to mandatory connection to municipal water and sewer in the event they are ever extended to the property in the future
3. That the above stated agreement include verbiage regarding noise and vibration due to proximity to the railway

Planning and Development Executive Committee

The Planning and Development Executive Committee considered this matter at their September 8, 2020 session with recommendation to approve of removing the holding provision subject to the following conditions:

- a) That permission be granted to service one single detached dwelling plus potential associated second dwelling unit
- b) That prior to any development in, on, or with respect to the property, the owner shall have executed an agreement in form and substance satisfactory to the municipality as to or in respect of existing and future water and septic services in, on, and to the property including, without limitation, provisions confirming responsibility and liability of the owner(s) for and in respect of services whether past, current or future, and that said agreement be registered on title
- c) That the above stated agreement provide verbiage relating to:
 - mandatory connection to municipal water and sewer in the event they are ever extended to the property
 - noise and vibration due to proximity to the railway
 - fire rescue general limitations
- d) That approval of well and septic be conditional to successfully removing the holding provision from the zoning designation
- e) That the by-law to remove the hold, if approved with conditions, be registered against the title to the property

Respectfully submitted

A handwritten signature in black ink, appearing to read 'Cody Vangel', with a stylized, flowing script.

Cody Vangel, EIT
Chief Building Official & Municipal Planner

Council approval of this report will agree to the recommendation of the Committee of Adjustment and the Planning and Development Executive Committee to remove the holding provision from the lands defined within this report subject to the conditions outlined in this report.