



Subject: Recommendation Report for the Removal of a Holding Provision at 409 Davis Street, File D14-12-21

To: Council

From: Planning and Development Department

Report Number: 2021-254

Meeting Date: September 27, 2021

Recommendation:

That Planning and Development Department Report 2021-254 be received;

That the By-law attached as Appendix A of Planning and Development Report 2021-254 be approved, removing the Conversion Holding (CH) Provision from the Zoning of the property; and

That Planning staff be directed to notify the owner/applicant accordingly.

Purpose:

The purpose of this report is to provide Council with information and a recommendation regarding the removal of a Holding Provision (H) from the property legally known as Part 1 and Part of Lot 9 on Plan 849 in the former Township of Humberstone, now in the City of Port Colborne, Regional Municipality of Niagara, municipally known as 409 Davis Street.

Background:

By-law 6575/30/18 was passed on April 23, 2018 which changed the zoning of the subject parcel from NC – Neighbourhood Commercial to R2-CH – Second Density Residential with a Conversion Holding provision. The Conversion Holding (CH) provision was added to recognize the past commercial use on the property and to ensure the safe transition to a residential property. The intended zoning of the subject parcel cannot be established until the Holding provision is lifted in accordance with Section 36 of the Planning Act. The Conversion Holding provision is permitted to be lifted once the following condition has been cleared:

- 1) Where a zone symbol contains the suffix “CH” with or without a special provision (e.g. R1-CH or R1-1-CH), the zoning shall not take effect until the prescribed conditions are met including obtaining a Record of Site Condition from the Ministry of the Environment.

Once the above has been completed by the applicant, the owner is able to apply to the City of Port Colborne for the removal of the CH on the property. City Council, by way of passing a by-law, can remove the CH if satisfied the condition has been cleared (Appendix A).

Discussion:

The City has received confirmation from Andre Breberina, P. Geo. (Qualified Professional) that, based on the property meeting applicable exemption criteria, a Record of Site Condition (RSC) is not required to be filed under Ontario Regulation 153/04 (Appendix B). Planning staff are confident in the Qualified Person’s findings and concur that the Holding Provision can be removed accordingly.

Internal Consultations:

Planning staff have been working in conjunction with Economic Development and Tourism staff to assist the property owner in lifting the Holding Provision on the property.

Financial Implications:

There are no financial implications.

Public Engagement:

Notice of Intention to remove the Holding Provision was circulated in accordance with Section 36 of the *Planning Act*. Staff note that Section 36 of the *Planning Act* exempts Holding Provision removal by-law from being appealed to the Ontario Land Tribunal unless City Council fails to make a decision.

Strategic Plan Alignment:

The initiative contained within this report supports the following pillar(s) of the strategic plan:

- Service and Simplicity - Quality and Innovative Delivery of Customer Services
 - People: Supporting and Investing in Human Capital
 - Governance: Communications, Engagement, and Decision-Making
-

Conclusion:

Based on the findings of the Qualified Person, Planning staff is confident the Record of Site Condition is not required for the property. Therefore, the Planning and Development Department recommend the approval of the Holding Provision removal by-law attached as Appendix A.

Appendices:

- a. By-law for the Removal of the Holding Provision
- b. Andrea Breberina, P. Geo., Opinion Letter

Respectfully submitted,

David Schulz
Planner
(905) 835-2900 ext. 202
David.Schulz@portcolborne.ca

Report Approval:

All reports reviewed and approved by the Department Director and also the City Treasurer when relevant. Final review and approval by the Chief Administrative Officer.