PORT COLBORNE

Subject: **Recommendation Report for Removal of a Holding Provision at 301 Mitchell Street, File D14-06-21**

To: **Council**

From: **Planning and Development Department**

Report Number: 2021-82

Meeting Date: March 8, 2021

Recommendation:

That Planning and Development Department Report 2021-82 be received;

That the holding provision for 301 Mitchell Street be removed;

That the By-law attached as Appendix A to Planning and Development Report 2021-82 be brought forward for approval; 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 of Lots 18 and 19 on Plan 283, in the former Township of Humberstone, now in the City of Port Colborne, Regional Municipality of Niagara, municipally known as 301 Mitchell Street.

Background:

The application proposes to remove the Holding Provision (H) from the property in order for the intended Second Density Residential (R2) zoning to take place.

Zoning By-law 6575/30/18 was passed on April 23, 2018 which changed the zoning of the subject parcel from R2 – Second Density Residential 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 removal of the CH. City Council, by way of passing a by-law, can remove the CH if they are satisfied the condition has been cleared (Appendix A).

Discussion:

Planning and Development staff has received confirmation from Hallex Environmental Ltd. (Qualified Person) 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 is confident in the Qualified Person's findings and concur that that the Holding Provision can be removed accordingly.

Internal Consultations:

Planning staff has been in consultation with the Building Division as the owner is eager to obtain a Building Permit for the property. The issuance of the Building Permit is dependent on the removal of the CH from the property.

Financial Implications:

There are no financial implications.

Public Engagement:

Notice of Intention to remove the Holding Provision was circulated to property owners in the area on February 25, 2021. Staff note that Section 36 of the *Planning Act* exempts Holding Removal by-laws from being appealed to the Local Planning Appeal Tribunal unless Council fails to make a decision.

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.   Hallex Environmental Phase One 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 approval is by the Chief Administrative Officer.