



Staff Report

Planning and Development Services – Planning Division

Report To: Committee of the Whole
Meeting Date: September 22, 2020
Report Number: PDS.20.89
Subject: File Update - LPAT appeal (Mountainside Towns ZBA)
Prepared by: Denise Whaley, Planner II

A. Recommendations

THAT Council receive Staff Report PDS.20.89, entitled “File Update - LPAT appeal (Mountainside Towns ZBA)”;

AND THAT the Director of Legal Services and/or Town legal counsel be authorized to take the appropriate actions necessary, including retention of professional services and attendance at any discussion, negotiations, and proceeding related to this Local Planning Appeal Tribunal (LPAT) matter.

B. Overview

The purpose of this report is to advise Council on the status of a Zoning By-law Amendment application that was refused by a decision of Council on June 29, 2020. On June 29, 2020 the decision of Council was to refuse the application based on Council’s opinion that the application was not consistent with the Town’s Official Plan and that there were outstanding concerns regarding impacts on existing infrastructure. Council’s decision regarding the application has now been appealed to the Local Planning Appeal Tribunal (LPAT).

C. Executive Summary

The Town recently completed its review of a Zoning By-law Amendment application requesting to change the zoning category to permit redevelopment of 104 and 108 Settlers Way into a maximum of 7 dwellings (5 townhouses and 2 semi-detached units).

Council rendered a decision to refuse the application. This decision has been appealed to the Local Planning Appeal Tribunal (LPAT) by the applicant. As such, Council will need to determine how the Town will defend those decisions now before the Tribunal.

D. Background

The lands that are the subject to the appeal are 104 and 108 Settler's Way (South Part of Lot 19, Concession 2).

A staff report for the Zoning Amendment application was brought forward to the Committee of the Whole on June 16, 2020. The staff recommendation was to approve the application and enact a Zoning By-law Amendment to change the zoning symbol of the property from Residential One (R1-1) to Residential Two Exception with holding symbol (R2-119-h35), to permit the development of five (5) townhouses and two (2) semi-detached dwellings on the property.

On June 29, 2020 the decision of Council was to refuse the application based on Council's opinion that the application was not consistent with the Town's Official Plan and that there were outstanding concerns regarding impacts on existing infrastructure.

A *Notice of Refusal* of the application was prepared and circulated by staff as required under the *Planning Act*. The Town subsequently received an appeal of the decision of Council filed by the applicant and a compiled record for the appeal was prepared by staff and forwarded to the Tribunal.

E. Analysis

The Tribunal has received the appeal package from the Town and has assigned it case #PL200306. No proceedings have been scheduled at this time.

If the appeals are to proceed Council will need to defend its decisions. Therefore, Council will need to consider; 1) the retaining of legal counsel, 2) the retaining of an expert witness, and 3) the amount of funds to be allocated to be represented as a party before the Tribunal.

Regarding item 2 above, it should be noted that Planning staff cannot provide the expert testimony on the behalf of the Town in these appeals. The reason is that the professional opinions and recommendations provided by staff on these applications are contrary to the opinions and decisions rendered by Council.

F. The Blue Mountains Strategic Plan

Goal #4: Promote a Culture of Organizational & Operational Excellence
Objective #2 Improve Internal Communications Across our Organization
Objective #4 To Be a Financially Responsible Organization

G. Environmental Impacts

No adverse environmental impacts are anticipated as a result of this report.

H. Financial Impact

Additional costs will be incurred by the Municipality given that the decisions of Council have been appealed to the Local Planning Appeal Tribunal (LPAT). For reference purposes, preparation for and attendance at a one (1) day LPAT hearing is estimated to be \$28,000.00 per appeal. This estimate was provided by Sam Dinsmore, Deputy Treasurer/Manager of Accounting and Budgets.

I. In consultation with

Trevor Houghton, Manager of Community Planning

Nathan Westendorp, Director of Planning and Development Services

Will Thomson, Director of Legal Services

J. Public Engagement

The topics of this Staff Report was the subject of Public Meeting which took place on May 14, 2018.

Comments regarding this report should be submitted to Denise Whaley, Planner II
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K. Attached

None

Respectfully submitted,

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Planner II

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Director of Planning and Development Services

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