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Date: February 28, 2019

To: Mayor and Council

Author: Robert Brown, H. Ba, MCIP, RPP
Manager, Planning Services

RE: 281 Main St. E – Compliance Status Update

Report No.: PDS 2019-009

AIM

To provide the Mayor and Council with an update, as requested, on the status of the site plan compliance actions related to noise at 281 Main St E.

BACKGROUND

At the February 11, 2018 Council meeting information was presented outlining the compliance actions that had been taken to-date regarding the noise levels generated by the new carwash located at 281 Main St E. An impacted neighbor to the west of the subject property also attended as a delegation outlining their concerns with the progress of the compliance actions to-date. Council in turn requested that an update be provided within 30 days.

DISCUSSION

After the initial status report to Council the property owner's solicitor provided comment on that report and indicated that they believe there were some inaccuracies with the information that was outlined to Council as follows:

- i) The property owner was not provided any information on the requested 60 dBs noise level requirement prior to the Council meeting;

Comment: The report was presented to Council on May 8, 2017. The property owner was provided with the report to Council on April 26, 2017 and provided the site plan agreement for review which they commented on May 8, 2017 prior to the meeting.

- ii) The property owners took no action on the letters of compliance that were provided;

Comment: The property owners did response to each of the letters however only to indicated that they had an outstanding FOI request and they were waiting on the results to consult with their lawyer before taking any action. Staff acknowledged this response but did not indicate that this was addressing the compliance issue.

- iii) That a letter was provided in June from the manufacturer of the carwash dryers;

Comment: The letter was not in the file or in any electronic files however once it was supplied it simply answered a question that staff had asked, was there any additional measures that the manufacturer could take to reduce the noise? The answer was no.

Staff directed the property owners to take actions toward compliance of the sound levels. They secured the services of Baird AE to complete an acoustical assessment of the carwash and the current noise levels being generated. The report is attached as Appendix A. The report concludes that the carwash is in compliance with the noise level requirements and that no further action is required by the owners.

Staff have reviewed this report and undertook the following:

- i) consulted with our outside legal counsel on the matter;
- ii) followed-up on earlier discussions with Dillon Consulting;
- iii) reviewed information that was collected at the time of the site plan approval as well as data collected after the facility was operational.

Based on this staff believes that there are a number of issues with the Baird report as follows:

- i) the consultant did not undertake any on-site sound measurements;
- ii) on-site measurements in the Baird report were the same measurements provide to the Town in July of 2018 by the property owners;
- iii) the conclusions are based on a sound modelling program and not supported with any current on-site measurements;
- iv) the consulting engineer has not provided any indication of his qualification in the area of acoustical assessment;
- v) they have not indicated any reference to what MOECC acceptable levels are or how assessment is to be completed i.e. ambient noise level determination.

Staff is recommending Dillon Consulting be directed to complete a noise impact assessment including suggested corrective measures at the property owners expense.

LINK TO STRATEGIC PLAN

The is no link to the Strategic Plan

FINANCIAL CONSIDERATIONS

Dillon Consulting provided a cost estimate for the completion of the required work. The Town will retain Dillon however, the final cost of the work will be billed to the property owner.

CONSULTATIONS

CAO, Planning's solicitor

RECOMMENDATION

It is recommended that Council receive the report outlining the compliance status update for the carwash located at 281 Main St. E. and direct staff to retain Dillon Consulting to complete the noise impact assessment at the expense of the property owners.

Robert Brown

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Manager, Planning Services

Peggy Van Mierlo-West

Peggy Van Mierlo-West, C.E.T.
Chief Administrative Officer