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To: Mayor and Council

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Manager, Planning & Development Services

RE: Status Update - 950 Seacliff & ATI

Report No.: PDS-2017-003

AIM

To provide Council with information on the status of:

- i) an agreement to construct a single detached dwelling on the property known locally at 950 Seacliff Drive (County Road 20), and
- ii) site plan agreement completion and ongoing odour control issues at 329 County Road 34 E (ATI).

BACKGROUND

950 Seacliff

In 2008 Council approved a zoning amendment on the subject property to permit the establishment of a home occupation (contractor's office and shop) in a detached accessory structure. Later in 2009 a standard site plan agreement was approved for the permitted development. In addition a separate agreement between the owner and the Town was executed requiring that a single detached dwelling be constructed on the site within two years of the date of the agreement (February 2010).

ATI

Since 2009 Council has been provided with a number of status updates on the final completion of the approved development on the ATI site. Much of the issue at the site has centered around odour issues and the volume of materials being stored on the site and not readily processed. For much of the last two years the odour issue has been directed to and dealt with on an ongoing by the Ministry of Environment and Climate Change

(MOECC). The Ministry has more recently taken increasing enforcement action in order to address the odour issue and restrict the addition of more vine materials on the site.

DISCUSSION

950 Seacliff

A review of the 2008 Council meeting minutes related to the approved zoning amendment was undertaken to better understand the actions taken and the ultimate outcome of the request at that time. The planner of the day did not initially support the zoning amendment as the use was not agriculture related and was not a home occupation or home industry even under the former Gosfield South Zoning By-law. The zoning amendment that was eventually approved in 2008 was predicated on the owner applying for site plan approval and entering into an agreement with the Town to construct a single detached dwelling within two years. Although these requirements were not noted as part of the approval, this approach was basically conditional zoning which was and remains a possible course of action but only where policies are outlined in the Official Plan.

As part of the development of the agreement, at the time, there was legal consultation undertaken and based on the information in the file the enforcement of the requested agreement was questioned at the time. The concern was related to whether the requirement was a reasonable condition of the site plan approval as outlined in Section 41(7) of the Planning Act.

The owner's plans at that time were to have a home and business located on the subject lands something that is very common with home builders in smaller communities. The owner was prepared to move forward with the plans but eventually realized that perhaps in the long-term this was not advisable financially or operationally.

As of today construction of the single detached dwelling has not been completed as per the terms of the agreement with the Town. The owner is still aware of the terms of the agreement and has recently spoken with our department on the possible construction of a dwelling but with no specific timeline in mind.

ATI

The 2009 site plan and subsequent 2013 site plan amendment have, with one exception, been fully completed. All buildings have been constructed and lot grading and landscaping done. The inspection and upgrading of an existing septic system is outstanding however it is our understanding that this work is being undertaken. In addition to the required site plan conditions ATI has installed an odour control system as well as installed other odour control measures, as ordered by MOECC, which included covering of the vine material pile, leachate pond odour control and the prohibition on receipt of any additional vine waste. MOECC was asked as part of this status update to Council to provide an update on their actions related to ATI which is attached to this report as Appendix 'A'.

LINK TO STRATEGIC PLAN

There is no link to the Strategic Plan for either item.

FINANCIAL CONSIDERATIONS

950 Seacliff

Based on comment from the Building Department at the time of the zoning approval, removal of the building if the Town enforced the terms of the agreement would cost approximately \$20,000. This cost has likely increased somewhat over the last eight years and also does not take into consideration the potential legal cost associated with a potential dispute over removal of an actively operating business.

ATI

There are no financial considerations at this time related to the status update.

CONSULTATIONS

950 Seacliff

The principle source of information on this item was the existing files from 2008. Much of the staff around at that time is no longer with the Town.

ATI

The MOECC was the principle contact as much of the outstanding concern is related to odour and the continued acceptance of additional vine waste.

CONCLUSIONS

950 Seacliff

If we reset the clock to 2008 and review the use of the subject property in the context of the current Official Plan policies and Provincial Policy much the same conclusions can be made. This property is designated Agriculture and the use is not agriculture-related. However, there are provisions made for some limited non-residential use in agricultural areas subject to certain criteria under PPS. The conclusion in 2008 was that the use was not permitted but did note that a planning justification report may have provided rationale for the requested zoning change. While it is believed that this is true I believe there is adequate justification based on the size of the parcel and its former use which ultimately impacted the properties continued use as productive agricultural land.

In moving forward it is suggested that the zoning of the property be amended once more to clearly permit the current use as a contractor's yard, shop and office, not as a home occupation, including permitting the potential for the development of a single detached dwelling in the future. A contractor's yard, shop and office is listed as a permitted accessory use in the Agriculture '(A1)'. The purpose of the new zoning amendment would

be to permit the use as a main use. The zoning could also include provisions making all development on the site subject to site plan control.

ATI

At this point the only outstanding item related to the site plan approval is the septic upgrades for which there is an active permit. All other buildings and support facilities have been completed as outlined in the approved and/or amended site plan approval. Ongoing compliance with the agreement will continue to be monitored. Contact will also be maintained with MOECC on the status of the Director's order and what the final outcome is with a status update to Council once this has occurred.

RECOMMENDATION

It is recommended that:

- 1) Council receive the attached report for information purposes on the status of a 2008 agreement requiring the construction of a single detached dwelling within two years on property located at 950 Seacliff Drive (County Road 20).
- 2) Council direct administration to have the property owner submit an application for consideration of a zoning amendment to address the use and continued operation of a contractor's yard and shop on the subject lands at 950 Seacliff Drive (County Road 20).
- 3) Council receive the attached report for information purposes on the status of the site plan approval and associated agreement for property located at 329 County Road 34 E also known at the ATI site.

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