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To: Mayor and Council

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RE: Public Notice Requirements under the Planning Act

Report No.: PDS-2017-001

AIM

To provide Council with a detailed understanding of the public notice standards in the Planning Act and the rationale for their continued use as the accept standard of public notice for Planning Act applications filed with the Town of Kingsville.

BACKGROUND

Based on a request of Council, Administration believed it was important to provide Council with a more wholesome understanding of the public notice requirements used by Planning & Development Services (PDS)

DISCUSSION

All public notice requirements that have been and continue to be used by PDS are based on the legislative Planning Act requirements that are utilized province wide by all municipal planning staff. These are not minimum standards of notice they are the standard required to comply with the notice requirements under the Act based on each application type as follows:

| Type of Application | Notice Required | Circulation Distance | # of days notice required | Appealable |
|----------------------------|-----------------|----------------------|---------------------------|-------------------|
| Consent | Yes | 60 m | 14 | Yes |
| Minor Variance | Yes | 60 m | 10 | Yes |
| Zoning | Yes | 120 m | 20 | Yes |
| OPA | Yes | 120 m | 20 | Yes |
| Site Plan | No | n/a | n/a | By applicant only |
| Removal of H | Yes | 120 m | 20 | No |
| Plan of Subdivision | Yes | 120 m | 20 | Yes |
| Part Lot Control Exemption | No | n/a | n/a | No |
| Site Plan Amendments | No | n/a | n/a | By applicant only |
| Development Agreements | No | n/a | n/a | No |

The vast majority of applications which are processed experience no issues as result of the use of these standards. More complex applications, particularly plans of subdivision, not only have the standard notice requirements but also under the Act require that open houses are undertaken. It has also been my experience with other potentially contentious applications that wider circulation distances are voluntarily undertaken where there may be a larger scale impact on the community.

Standard notification format prior to March of 2015 was a combination of direct circulation to affected property owners and newspaper advertisements. This approach was extremely costly to applicants and the Town and in the majority of applications, unnecessary over circulation particularly for basis applications. The use of the newspaper also does not afford the ability to provide more detailed information directly to affected land owners. The current standard notification process has been direct mailing to affected property owners within the circulation distance and has included such additional items like survey sketches and site plans of proposed developments. Newspaper circulation is also no longer used for basic circulations as it may not have a reliable circulation level to meet the requirements under the Act.

In addition to direct notifications by mail applications which require notice also require the posting of a sign on the lands which are the subject of the application(s). This is provided to the applicant and is required to be posted during the notification period applicable to the application.

Enhanced Notification Standards

It is not suggested that enhancing circulation distances on planning applications is necessarily a negative undertaking but it is important to understand the impact it has and the method by which it must be undertaken to provide consistency in the planning process for all applicants. Widening circulations adds cost to applications which are paid for directly

by the applicant. A doubling of the required circulation distance means a minimum 100% increase in the circulation's costs. For example in rural areas the standard notification for a consent application will typically encompass up to about a dozen property owners or about \$10 in postage for your standard notice. Doubling this requirement means the cost basically increases to about \$20. Not a significant cost but an increase nonetheless. In urban settings this change is considerably more dramatic because of the density of development. The same consent application may cover 35 to 45 property owners with a cost of up to \$36 at present or \$72 if you double the circulation.

These examples are the low end of the potential costs. Rural zonings at 120 m are proportionately in line with a consent. Urban however represents a much greater cost for example the standard notice will cover 60 to 80 property owners at 120 m (\$64 x 2) keep in mind that you also have to circulate a notice of passing. Double the circulation, double the cost to approx. \$256 per application for notices only.

At present the Act only recognizes direct mailings or newspaper advertisements, e-mail circulations or posting on Town websites are not acceptable however can be used as supplementary to the requirements.

In addition to the associated cost of enhanced notification is how do you determine what your enhanced standard is going to be? i.e. how do you modify the chart outlined in this report. This would include determining circulation distances, if it is not 60 m or 120 m what is it and why? Keep in mind that the Town has to justify and defend increasing Provincial standards. A more critical question would be in relation to applications which do not require public notice. If Council were to determine that it wants all planning applications circulated regardless of the Act requirements not only do circulation distances have to be determined but notice protocol and content have to be outlined. The regulations for notices in the Act are very specific to content and even wording in notices of public meetings and this is legislation that has been tested, modified over time, legally reviewed and utilized with very little change for over the last 20 years. In short it is defensible and consistent for all planning applications.

The other concern that presents itself for requiring public notice contrary to the Act is the message that it sends to the public. Input from ratepayers is always important and is something that the changes to the Act, in recent years, continue to enhance. However, in cases where public input is collected via a public meeting and relied on incorrectly in the decision making process, what then? Without the ability to appeal Council's decision either by the public or an applicant you place an application in limbo and risk possible legal action.

During the pre-consultation stage, for any planning application, staff layout very clearly and specifically, what the requirements are and the process that will be followed including notification. If no notice is required and Council decides to arbitrarily change the rules to require notice at a given Council meeting prior to issuing a decision despite the applicant fulfilling the complete application requirements the Town is not following its own Official Plan policies. Approval authorities often ask for additional information in cases where a requested approval may be unclear i.e. traffic studies, drainage reports, landscaping plans etc. This type of request is still frustrating for an applicant but is generally taken in stride and addressed. Process changes are very different. Rules change, request to update, alter or modify a process are undertaken regularly, but not in the middle of the game. PDS

welcomes requests to review processes and we often review and modify how we do things to streamline that process and keep Kingsville moving in a positive direction. However, we are also mindful of the timing of any change as to not impact on existing applications.

Lastly, and what is likely most important is what message does enhanced notification sent to the development community. Council pays very close attention to what other neighbouring municipalities and even other small communities across Ontario are doing so as not to put Kingsville at a disadvantage in terms of fees, charges, application costs or complex time consuming approval processes.

LINK TO STRATEGIC PLAN

Both the existing Strategic Plan and draft form of the new Plan seek to achieve the streamlining of Town activities. The subjective enhancement of notification protocols and regulations beyond what the Act requires appear to be contrary to process streamlining.

FINANCIAL CONSIDERATIONS

Enhanced notifications have several direct and indirect cost implications including increased application cost to applicants, increase time and cost to the Town, delayed applications, sending of the wrong message to the development community and sending the wrong message to the public in general.

CONSULTATIONS

This is an internal matter specific to PDS and provided for information purpose to Council.

RECOMMENDATION

It is recommended that:

- i) Council receive the report for information purposes on the details of public notice standards in the Planning Act and the rationale for their continued use as the accepted standard of public notice for Planning Act applications filed with the Town of Kingsville.
- ii) Council endorse the continued use of public notice standards as outlined in the Planning Act and direct Administration to continue to enhance the information and communication provided to the public consistent with those standards.

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