

Staff Report to Council

Title: 30 Rae Street Karn-Request for Review to Ontario Land Tribunal

Report Number: Development Services-2023-28

Director: Infrastructure & Development

Manager: Development Services

Meeting Date:
Wednesday, September 13, 2023

Date to be considered by Council:
Wednesday, September 13, 2023

Recommendation:

That Council direct staff to submit to a Request for Review to the Ontario Land Tribunal to confirm that the approved storm water design and site layout aligns with the Tribunal's decision for Case No PL190104.

Executive Summary:

This report is to inform Council of a pending Site Plan Agreement between the Municipality of Kincardine and the owner, Donald Karn, to develop a residential site at 30 Rae Street in Tiverton. The site consists of 14 semi-detached units, and one single-detached unit, for a total of 29 residential units. There's also an internal road network and a storm water management block. The re-zoning of the property to permit the development was appealed and has since progressed through the Local Planning Appeal Tribunal (LPAT) – now the Ontario Land Tribunal (OLT) where a hearing was held and a decision to uphold the development was rendered. The Minutes of Settlement from the LPAT included amending the zoning provisions that identified the SVCA and the Municipal Engineer shall approve the storm water management design as part of the development approval which has been satisfied. To achieve this, the developer was required to reconfigure certain design elements. This report will review the settlement conditions and variations from the original site plan submitted for zoning purposes.

Strategic Priorities:

B.5-Evaluate and proactively plan for infrastructure to meet population growth and long-term sustainability

Financial Considerations:

The applicant is responsible for all costs related to this file. Deposits have been obtained.

Policy:

N/A

Context and Background Information:

The subject property is located at 30 Rae Street in Tiverton on an irregularly shaped lot. The proposal is to develop 14 semi-detached units and one single-detached unit for a total of 29 residential units. There is an internal street network fronting onto Rae Street, and a storm water management block contained on the subject property.

Zoning By-law Amendment No. 2019-021 (ZBA) for the subject lands was appealed to the Local Planning Appeal Tribunal. The Parties reached a settlement in 2020 which allowed the Tribunal to dispose of the appeal.

The site is zoned R2-g-H, which included a holding provision. The zoning amendment specifically identified through the minutes of settlement referenced the provisions of Bylaw 2019-021 as approved by the Municipality of Kincardine. Specific zoning provisions were outlined in section 3 of the approval for semi-detached dwellings.

Through the LPAT's decision, section 3(v) of the ZBA was amended with the following provisions:

v) The 'H- Holding' provision may be removed when Council is satisfied that the following condition has been met:

a) That a Site Plan Agreement has been entered into between the owner and the Municipality and registered on title to the lands which includes:

- i) the erection of a wood privacy fence along the north lot line of the Lands and the planting of 3 maple trees at locations at or near the fence on the Lands, said locations shall be determined by the Applicant, and*
- ii) the installation of a stop sign for traffic entering onto Rae Street from the Lands.*

b) Add to paragraph 3 of the Decision the following:

vi) The Lands are subject to stormwater management, which shall be approved by Saugeen Valley Conservation Authority and the Municipal Engineer in accordance with appropriate plan(s) and report(s) submitted by the applicant.

One of the referenced documents in the settlement is the "Site Plan dated February 2018, Revision 3 September 2018". This design takes into account the proposed residential layout, street configurations, access and storm water management design. Particular attention to the stormwater design shows the stormwater being directed off-site. Traditional designs require on-site retention / detention where storm water flows can be released in a controlled manner,

thus mitigating downstream effects and drastically improving qualitative controls. Overall, the design of the storm water management system could not be approved as conceptually proposed in order to align with the conditions as laid out through the LPAT decision.

For the stormwater management plan to be approved by Saugeen Valley Conservation Authority (SVCA) and the Municipal Engineer, it needed to be moved within the site, which is a change from the site plan cited in the zoning amendment. With this change, municipal staff consulted with County staff and requested that a Planning Justification Report be submitted to support the changes to the Site Plan as this also required a re-configuration of the Single-Family Dwelling and the Semi-Detached Units within the development. With the re-configuration complete, the developer was able to provide an acceptable storm water management design that both SVCA and the Municipal Engineer are satisfied and provided their approvals for the revised stormwater management plan.

Although there were some changes to the original layout of the Site Plan to accommodate the stormwater management plan, it is the opinion of Municipal and County staff that the intent of the zoning amendment decision from LPAT has been adhered to in the revised plans:

- The number of buildings and residential units remains the same.
- All yard setbacks are met or exceeded.

Staff recognizes that through the passing of Bill 109, the provision of the Municipality to enter into a Site Plan Agreement is now through the delegated authority of the CAO. Again, these are some of the deviations that staff has had to address in determining alignment with the intent of LPAT's decision. By nature of LPAT's decision, staff were challenged with adherence to one provision which caused a deviation from another provision.

In assessing the deviation from the original site plan, confirmation was required from OLT that the adjustment to the site plan would still align with their decision. From here the response from OLT was that a "Request for Review" would need to be submitted to OLT. As part of the submission requirements, all parties have been consulted on the proposed changes which will be submitted to OLT in support of the proposal.

Staff feels that through correspondence with the County Planner, developer, and the receipt of an updated Planning Justification Report that the proposed design represents sound design principles that align with the previous decision from LPAT. All zoning parameters outlined in the previous decision will be maintained, along with a future report to lift the holding provision that will address the site specific provisions to enter into a Site Plan Agreement, erection of a wood privacy fence along the north lot line, planting of 3 Maple Trees, and the installation of all proper road signage in accordance with all Traffic Laws.

Consultation Overview:

- SVCA
- Municipal Engineer
- County Planner
- Developer
- Municipal Staff
- Local Planning Appeal Tribunal

Origin:

Site plan approval/Development application

Implementation Considerations:

Following a decision of the OLT, if successful a Site Plan Agreement FYI report would be placed on an upcoming agenda. If all were to advance, the development would be in a position to proceed with construction which would create additional homes in the community.

Risk Analysis:

The developer is unable to proceed with their development of zoned lands which impacts the overall housing supply in the community.

Attachments:

1. LPAT Decision Zoning Amendment – September 8, 2020
2. Site plan Submission – November 28, 2022
3. Site Plan Submission - February 2018 (REV 3 Sept 2018)
4. 05006 Planning Justification Update

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