



TOWN OF JACKSON

TOWN COUNCIL

AGENDA DOCUMENTATION

PREPARATION DATE: April 10, 2018
MEETING DATE: April 16, 2018

SUBMITTING DEPARTMENT: Legal
DEPARTMENT DIRECTOR: Audrey Cohen-Davis
PRESENTER: Lea Colasuonno

SUBJECT: Appointment of Hearing Officer for Appeal of 315 North Cache Street Building Permit

STATEMENT/PURPOSE

The purpose of this item is for Town Council to appoint a hearing officer to preside over the Appeal of an Administrative Decision of the Planning Director regarding 315 North Cache Street.

BACKGROUND/ALTERNATIVES

On February 13, 2018 the Town, via its Planning Director, denied Building Permit B18-0003 for 315 North Cache Street. Division 8.8.3 of the Town of Jackson Land Development Regulations empowers an individual aggrieved by a decision of the Planning Director to appeal that decision. On March 14, 2018 the owner of 315 North Cache Street initiated an appeal of this building permit denial, thus instigating the administrative process of the Town of Jackson Land Development Regulations.

According to the Land Development Regulation appellate procedures, the “Town Council shall designate a Hearing Officer or the chair of the Board of Adjustment to preside over the appeal.” Staff recommends Council appoint a hearing officer to preside over this appeal, rather than appointing the chair of the Board of Adjustment. In the latter scenario, the Board of Adjustment Chair must both administer the adjudicative hearing process and serve as a voting member of the appellate body. While this does not create any conflict of interest issues, given the challenge of performing both tasks, Staff recommends Council bifurcate the roles – appointing an independent hearing officer to govern the process and allowing the chair of the Board Adjustment to focus on his/her review of the matter exclusively. It is noteworthy that the Legal Department will represent the Planning Director in this matter, and thus is unable to also advise the Board of Adjustment.

Staff identified two candidates for Council consideration, both of which are qualified, available and endorsed by both Town Staff and the appealing party. These candidates and each’s associated rates are:

Bret King: Mr. King’s work \$275.00/hr.; Associate working on the matter \$150.00/hr.; Clerk working on the matter \$30.00/hr.

George Kuvinka: \$375/hr. (Mr. Kuvinka is willing to moderate this in line with what has been paid previously).

ALIGNMENT WITH COUNCIL’S STRATEGIC INTENT

This item aligns with Council’s goal to timely and efficiently deliver quality services in a fiscally responsible and coordinated manner by ensuring property owners have access to a fair, impartial process for appeals of Planning Director decisions.

ATTACHMENTS

None.

FISCAL IMPACT

The fiscal impact of this item will vary depending on a few factors. First, the cost of the hearing officer will depend on the complexity and length of the appeal process, for example the number of motions reviewed, and the hourly rate paid for the appointed hearing officer's work. Second, an appeal to the District Court of the Town's final decision in this matter is permitted, resulting in potential further litigation costs.

STAFF IMPACT

The impact of this item will be within the Planning, Legal and Town Clerk Departments. The Town Clerk foresees minimal impact from the need to serve as a repository and records manager for the appellate process. The Legal and Planning Departments will experience a more substantial impact because Planning Staff will serve as fact witnesses and will need to provide information for the Legal Department's case filings, witness testimony, etc. These departments will work on this item over the next four months (the appellate process is set for 120 days under the Land Development Regulations.)

LEGAL REVIEW

Complete.

RECOMMENDATION

Staff recommends Council appoint one of the hearing officer candidates provided above but makes no recommendation as to which of the qualified candidates should be selected.

SUGGESTED MOTION

I move to appoint _____ as the Hearing Officer to preside over the appeal of Building Permit B18-0003 for 315 North Cache Street and that such appointment become effective immediately.
