

The Corporation of the Town of Lakeshore

Report to Council

Community & Development Services

Building Services



To: Mayor & Members of Council

From: Morris Harding, Manager of Building Services, Chief Building Official

Date: November 3, 2020

Subject: 4202414 Canada Ltd. – Request to Extend Conditions for Building Permit

Recommendation

The applicable fees and charges collected relating to Conditional Building Permit 2015-320 be refunded to 4202414 Canada Ltd for the reasons described in the report presented at the November 10, 2020 Council Meeting.

Background

In 2012, 4202414 Canada Ltd applied for a building permit for a retirement home to be constructed in the community of Stoney Point. Based on the plans submitted, and other submissions, the Town categorized the project as Institutional for the purpose of development charge calculations.

On October 3, 2019, 4202414 Canada Ltd submitted a request to the Town for an extension of the building permit that expired September 6, 2017. With the expiry of that permit, also expired the reduced Development Charge rate previously authorized by Council. Administration does not have the authority to re-issue a building permit at the reduced Development Charge rate. Council must extend the preferred rate to the developer.

At its November 5, 2019 Council meeting, 4202414 Canada Ltd was granted an extension to its conditional building permit through Motion #500-11-2019:

Extend permits for one year, on condition that there be no extensions, at 2015 rates.

Carried

The extension was until November 5, 2020 at which time construction was required to be substantially started. As of November 3, 2020 construction has not commenced.

Time of Payment of Development Charges

Development charges are imposed, calculated, payable and collected upon **issuance of a building permit** for a development. Under the Town's Development Charges By-law, in accordance with section 27 of the *Development Charges Act*, Council may, from time to time, and at any time, enter into agreements providing for all or any part of a development charge to be paid before or after it would otherwise be payable.

A review of the Development Charges By-law resulted in a new schedule (with increased fees) that came into effect mid-2015.

Council provided 4202414 Canada Ltd (and other applications in progress at that time) with the opportunity to be grandfathered under the pre-2015 rate schedule provided they met the following conditions:

- 1) Pre-consultation completed by June 15, 2015 and; (complete)
- 2) Building Permit Application submitted by September 30, 2015; and (complete)
- 3) Building permit issued by December 31, 2015. (Outstanding)

The Development Charge fees quoted for the project in 2012 (the time of original application) were **\$360,315.00** based on the institutional rate of \$3.14/sq. ft. on 114,750 sq. ft. The application did not proceed to the permit stage and fees were not collected in 2012.

Deferrals

Council, at its August 11, 2015 meeting, approved the request from 4202414 Canada Ltd to further defer payment of the development charges for its project in Stoney Point.

At its March 7, 2017 meeting, Council approved the request from the proponent for a third deferral, (CR 78-3-2017) as follows:

1. Council approve the third request of 4202414 Canada Ltd. to defer payment of Development Charges for its project in Stoney Point;
2. The payment schedule shall be as follows:
 - \$94,887.99 on February 28, 2017 (Paid)
 - \$94,618.49 on April 28, 2017 (Paid); and,
3. The Development Charges shall be paid in full by the dates prescribed. If the conditions are not complied with, the applicable fees and charges shall be returned to 4202414 Canada Ltd with no further extension.
4. Interest be applied in accordance with the Tariff of Fees By-law 87-2016 on all amounts owing January 1, 2017 until paid in full.

Comments

On five previous occasions: August 11, 2015, September 27, 2016, March 7, 2017, January 16, 2018, and November 5, 2019, Council has provided ongoing support for this project by providing a reduction in the payment of fees and extensions for the start of construction.

All applicable fees and charges were paid by 4202414 Canada Ltd and a Building Permit application with preliminary foundation drawings was submitted to the Town for review in 2012. In this case, the amount of review required by staff of the Building Permit plans was very minimal, as it was only preliminary foundation drawings.

If building permit fees are paid by a proponent, the building is not built and a refund is requested, the refund amount is based on the Tariff of Fees By-law. In this case, Administration would recommend the full amount be refunded due to the minimal amount of review required.

At this point, the failure to commence construction in 2020 has not fulfilled the remaining conditions of Council's previous extension of dates and terms to 4202414 Canada Ltd. Thus, Administration has no authority to issue a building permit at pre-July 1, 2015 development charge rates. Due to the inability of the proponent to advance this project within the last eight (8) years, Administration is recommending that all fees and permits be refunded.

The related Site Plan Application has lapsed, as it was tied to the proponent obtaining a building permit and commencing construction. As is our normal practice with all complex development applications, a site plan agreement needs to be signed by the proponent and the municipality before a building permit is issued.

The proponent has reduced the building from three storeys to two storeys. The reduction of 31,278 sq. ft. also reduced the development charges applicable to the project. Currently the proposed project has 94 washrooms with various fixture counts, and there are 84 kitchens with 2 plumbing fixtures per kitchen. As of October 2020, the Stoney Point Sewage Treatment plant is operating at 160% capacity. With the additional flows expected from the proposed retirement home project, the Sewage Treatment plant would be operating at approximately 190% capacity.

Due to the limited capacity, the Official Plan criteria for servicing needs to be reviewed when considering additional development in Stoney Point. Section 3, Managing Growth, states:

- *that sufficient municipal sanitary sewage, stormwater management, potable water treatment and transportation capacity can be provided to meet the needs of the area;*
- *allow for infilling and rounding out of existing development provided that the development is within the reserve sewage system and/or reserve water system capacity; and*

- *provided site conditions are suitable for the long-term provision of such services.*

Further, Section 7.3.1.1, Municipal Water & Sewage Services, of the Official Plan provides guidance for the review of significant development:

“The following policies will apply to community structure policy areas serviced by municipal sewage and water services:

- a) The Town will ensure that both municipal water supply and sewage systems perform within permitted operating standards. Prior to development approval involving significant lot creation and/or development, the Town may require the preparation and approval of a functional servicing report. Notwithstanding any land use designations, limitations on the capacity or operating performance of the municipal potable water and sewage systems will be a constraint to further development. The Town will continue to monitor treatment capacities and operational effectiveness of these municipal systems.”*

Considering the servicing constraints at the Stoney Point sewage treatment plant, and in keeping with the Official Plan policies, the Town and proponent would need to carefully consider how to manage the sewage generated by the proposed retirement home. Until that review has been completed, development should not proceed.

Conclusion:

Although the proponent has previously paid fees, applied for a building permit and submitted a partial set of drawings, the date to begin construction lapsed in June 2018 and again on November 5, 2020. Administration recommends that the conditions of the conditional building permit not be extended, and that the applicable fees and charges collected related to permit 2015-320 be returned.

Others Consulted

420414 Canada Ltd

Financial Impacts

In 2015 Development charges (DC) totaling \$369,495 and Building Permit fees of \$83,768 were collected from 4202414 Canada Ltd. Additionally, DC discounts of \$150,322.50 were funded from taxation, in relation to permit 2015-320. Total DCs allocated for this project were \$519,817.50.

In 2019 based on a reduction of 31,278 square feet of the building area development charges totaling \$100,715.16 were refunded to 4202414 Canada Ltd. The total applicable DC's relative to this project from 2019 are \$419,102.34.

In comparison, at the current 2020 DC rate of \$8.37/sq. ft. based on the new proposed 83,472 sq. ft. building total development charges would be \$698,660.64 without any discounts being applied. This represents an overall savings to 4202414 Canada Ltd of

\$279,558.30. It is also noted that the proposed rate in the draft Development Charges Study is \$9.90/sq. ft.

The overall savings to 4202414 Canada Ltd will need to be funded from the tax levy. Given that \$150,322.50 has already been funded, an additional \$129,235.80 will need to be funded.

Should Council approve the recommendation to not reinstate the permit, all fees and charges collected including Building Permit fees of \$83,768 would be returned to the proponent in 2020.

Attachments:

Attachments 1 and 2, Submissions from the Proponent

Report Approval Details

Document Title:	4202414 Canada Ltd. Request to Extend Conditions for Building Permit.docx
Attachments:	- Attachment 1 - Letter from Joe Papineau October 6, 2020.pdf - Attachment 2 Papineau Letter of support - October 19th 2020.pdf
Final Approval Date:	Nov 4, 2020

This report and all of its attachments were approved and signed as outlined below:

Rosanna Pellerito

Kristen Newman

Truper McBride