
Subject: Regional Development Charges Deferral Request – 683 York Road, Niagara-on-the-Lake

Report to: Corporate Services Committee

Report date: Wednesday, June 15, 2022

Recommendations

1. That the request for payment deferral of Regional Development Charges associated with 683 York Road, Niagara-on-the-Lake, **BE DENIED**; and
2. That this report **BE CIRCULATED** to the Town of Niagara-on-the-Lake.

Key Facts

- The purpose of this report is to provide further information to Corporate Services Committee regarding the Committee delegation made on behalf of the property owner of 683 York Road, Niagara-on-the-Lake (NOTL) for the deferral of Regional Development Charges (RDC) until the development is ready for occupancy and to recommend that Committee deny this request.
- As per the Regional Development Charges Deferral Policy this property does not meet the criteria for development types that are eligible for deferral.
- The total RDCs requested to be deferred for this property are estimated to be \$1,039,363 based on 2022 rates as outlined in Table 1.

Financial Considerations

Currently, there are no financial considerations associated with the report. At the present time, the property is ineligible to receive a deferral of the payment of RDCs under the Regional Development Charges Deferral Policy. Should Council elect to extend a deferral to this property, the deferral is estimated to be \$1,039,363 based on 2022 commercial DC rates as outlined in Table 1. If a deferral is extended to the property there will be a financial impact to the Region of lost interest that could be otherwise earned.

Table 1 – Summary of Development Charges

Building Type	2022 Rate	SQFT	Total DC Payable
Commercial	\$ 14.20	73,194.59	\$ 1,039,363
Industrial	\$ 5.89	73,194.59	\$ 431,116

Committee should be aware that the rate at which RDCs are charged is based on use as defined in the RDC By-law 2017-98. Regional Staff informed NOTL's Chief Building Official that the Commercial RDC rate was to be charged at the time of permit issuance as they could not confirm the eventual use of the building. Should the use of the property meet the definition of industrial use under the By-law once the tenants are secured, the difference in RDCs payable between the commercial and industrial rate will be refunded.

Analysis

On March 18, 2022, the Region's RDC Team received correspondence from Emilio Raimondo (Architect, Raimondo & Associates). In this email it was identified that the property owner was in the process of obtaining a building permit to construct the shell of their superstructure at 683 York Road, NOTL. This email was to request that the Town of NOTL provide a conditional permit agreement without payment of Regional and Municipal DCs as they would be seeking to defer these charges. Further communications resulted in a request for the Region to provide a deferral of RDCs payable until a future date. Based on the information provided it was determined that a foundation permit for the property was issued in 2007. At the time of foundation permit issuance RDCs payable at that time were deferred. RDCs are payable upon building permit issuance, however in 2007 the DCA was not clear that payment was at first building permit issuance, therefore collecting payment at that time was left to interpretation of the Chief Building Official. A foundation was constructed, however no further permits were obtained for the building until the request for a shell permit in 2022.

There is no provision in the Regional Development Charges Deferral Policy that would allow for a deferral of RDCs payable for this property. The RDC Deferral Policy outlines specific development types that are eligible for RDC deferral under the policy which are:

- Affordable housing developments that received funding through an agreement with Niagara Regional Housing or designated agency of Niagara Region.
- Developments that have received conditional/pending approval for a RDC grant.

- Developments that Regional staff have identified as eligible for a future Municipal Capital Facility Agreement where RDCs will be exempted.
- Developments that are eligible for a transitional provision in an approved Regional development charge By-law.

Staff informed Mr. Raimondo that there were no provisions under the deferral policy for which this project was eligible. Staff noted that the Niagara Region in its current DC By-law has an Industrial Use DC Grant Program and instructed the developer how to apply online. Staff noted that if the developer believed that the building would meet the definition of industrial as noted in the application, they would be encouraged to submit a grant application before or within 90 days of receiving their building permit up to August 31, 2022 when the DC By-law expires and this program is no longer available. A new Employment RDC grant program was approved under the Niagara Region Incentives Policy and could be available to the development if they meet the outlined criteria.

Subsequent communications with Mr. Raimondo revealed that the eventual tenants of the proposed structure at 683 York Road had not yet been secured, therefore it was unknown if the building would meet the definition of industrial use to be eligible for receipt of the Industrial Use Development Charge Grant Program. Due to the uncertainty of the intended use of the building, Regional Staff informed the developer that they would be required to pay RDCs in full at the time of permit issuance. However, if the developer did secure a tenant that meets the RDC By-law's Industrial Use definition during or post-construction that the Region would re-evaluate their application at that time. If approved the Regional portion of DCs could be refunded up until August 31, 2022. At this time, a building permit can be issued without knowing the eventual use of the building as the current permit application is to construct the shell, or superstructure, only for an Industrial building complex. The property's classification for zoning and the determined use for the calculation for DCs can vary, zoning outlines specific use that is permitted on a property, in this case the current zoning allows for industrial with some commercial activity, however determination of use for DCs is specific based on definitions as outlined in the RDC By-law. There will be additional permits for the interior fit out of each unit, at that time the exact intended use for each unit will need to be known.

On April 7, 2022 Michael Colaneri and David Morse brought forward a delegation to NOTL's planning committee. As a result of this delegation NOTL Council approved a motion to defer municipal DCs until the building is ready for occupancy. This motion was further amended on April 25, 2022 when NOTL Council approved the following amended motion:

With respect to 683 York Road, Council defer the development charge payments until the building is ready for occupancy; and further that Council refer the request to the Niagara Region to request a deferral of the collection of the Niagara Region's portion of the development charges, and if approved and subject to the approval of the Town's Chief Building Official, a building permit be issued.

Given that the proposed development does not meet the criteria to be eligible for deferral of RDCs under the Regional DC Deferral Policy, staff recommends that the request to defer RDCs be denied.

Alternatives Reviewed

Any deferral or extension outside of the existing RDC Deferral Policy or any grant awarded outside of an existing grant program would be in contravention of the current DC By-law 2017-98 and Regional Development Charges Deferral Policy. Though Council can offer a deferral under section 27 of the Development Charges Act, Regional Staff does not support the extension of a deferral agreement with regard to the property as Staff have prepared a Council-approved deferral policy to avoid deferral requests not tied to items outlined in the policy.

Relationship to Council Strategic Priorities

RDCs are the major source of funding for growth projects in the capital budget. As such, RDCs assist in achieving the strategic priorities of a fiscally sustainable government.

Other Pertinent Reports

None.

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