

CITY OF FORT SASKATCHEWAN

Deferral of Off-Site Levy Payments for Fort Industrial Estates Stage 6

Motion:

That Council direct Administration to amend Development Agreement DA-2009-02, Schedule F-5, clause 4(b) from December 31, 2016 to December 31, 2018, which approves a deferral of off-site levy payments in accordance with Bylaw C1-14 3(h)(iv).

Purpose:

For Council to consider extending deferred levy payments in Fort Industrial Estates Stage 6 until December 31, 2018.

Background:

Development Agreement DA-2009-02 covers the Light Industrial Area in Fort Saskatchewan that is currently being developed by TAG Developments (formerly Trans America Group). The area is located south of Highway 15, bound in the west by East Gate Business Park and in the east by Strathcona County. The Development Agreement was first endorsed on September 2, 2009 with six subsequent addendums.

In 2010, the developer began preparing the Stage 3 Development Agreement addendum. At the time, Off-Site Levy Bylaw C33-07 required that all levy payments were to be provided in two installments; the first payment of 50% was due upon signing, and the second 50% installment was due one year later. The developer submitted a request to Council that the Off-Site Levy Bylaw be amended to include a clause that levy payments for industrial areas be deferred until the time of lot sale. This request was approved by Council on May 11, 2010.

In July 2010, Council approved a deferral request for Fort Industrial Estates Stage 3 (DA-2008-02; Addendum 2), allowing 100% of the levy payment to be deferred until the time of lot sale. As a protective measure for the City's interests, caveats were registered on Title prohibiting lot sales until after levy payments had been received.

In June 2014, Council approved a second deferral request allowing 100% of the levy payments to be deferred until the time of lot sale or the date of December 31, 2016, whichever came first.

On May 18, 2017 TAG Developments submitted a letter asking to extend the deferred levy payment until the time of lot sale or December 31, 2018 (Appendix B).

Plans/Standards/Legislation:

TAG's request is in line with current Off-Site Levy Bylaw C1-14. The Bylaw contains the following clauses on the application of the levy:

- 3(h)(iii) the deferred portion of the Off-Site Levy shall be a maximum of FIFTY (50%) PERCENT of the Off-Site Levy payable, and the maximum period for deferral shall be one (1) year from the date of entry into the Development Agreement; or*
- 3(h)(iv) any other form of payment deferral for the Light/Medium Industrial Development Area as approved by Council.*

Outcome:

There are a number of reasons to grant and not grant deferral of an off-site levy payment. These reasons include:

Reasons to grant a deferral:

- 1) Potential to use the deferred payment to promote Fort Saskatchewan's industrial district:
 - The deferral could promote economic investment and Fort Saskatchewan's business friendly approach. TAG has expressed the intent to use the deferred funds to develop show suites to market the lots to potential investors considering Fort Saskatchewan.
- 2) Balance the cost of developing the large parcels necessary for industrial development:
 - Off-site levies are charged on the developable area of the subdivision. Because industrial parcels are large, the off-site levies owing are greater than typical residential developments.
- 3) Balance the risk associated with slower land absorption:
 - Light and medium industrial land absorption is generally slower than commercial and residential. The residential approach of securing a percentage of deposits prior to subdivision does not work for industrial. Nor does the commercial approach of securing an anchor tenant first. As such, industrial developers subdivide based on greater speculation, which increase the risk but is necessary for attracting users. Deferring the levy payment until lot sale decreases this risk.

Reasons to not grant a deferral:

- 1) Not a recommended practice by off-site levy bylaw development experts:
 - Legal counsel and professionals that assist in developing off-site levy bylaws recommend off-site levies be paid in full at the time of subdivision endorsement or issuance of a development permit. Deferring payment to a later date exposes the municipality to risk, which could require legal action and/or a stop work order, both of which are time consuming and costly.
- 2) Increases the City's administrative cost:
 - The deviation from standard practice requires additional tracking from multiple departments, consuming staffing resources that increase in complexity with each deferral.
- 3) Impacts to the Off-Site Levy Reserve:
 - The levy reserve is shorted interest that would have accrued if payments were received up front or on time. Should other industrial developers move to Fort Saskatchewan the shortfall would be shared amongst all contributors to the levy through regular updates to the Off-Site Levy Bylaw.
 - Delayed contributions to the Levy Reserve could result in insufficient funding being available for infrastructure projects when needed. The infrastructure costs would need to be up fronted by a developer or the City, which could reduce the City's debt capacity, pose additional potential risk, and or discourage development by not providing needed infrastructure.

Administrative Recommendation:

Administration is recommending this request for an off-site levy deferral be approved by Council as the final deferral. The deviation from the standard practice increases the administrative tracking cost with each request. The City is exposed to risk that industry professionals advise against. Furthermore, the delays required to sort through the request place a burden on the Reserve that could impact other industrial developers. Recognizing the long-term impacts of

the deferral, the short-term reality is providing time to absorb the outstanding costs into business operations would assist the developer. The approach of allowing the deferral as a final deferral aids the developer, but positions Administration to manage the outstanding deferrals as an anomaly instead of as an adjustment in practice.

Administration recommends this deferral be provided as the last deferral.

Alternatives:

1. Council may direct Administration to defer the levy payment to the requested December 31, 2018 date by passing the motion listed above.
2. Council may direct Administration to defer the levy payment to a date of Council's choosing.

Financial Implications:

There are currently outstanding charges owed on the deferred levy payment. A deferred levy payment of \$730,934.00 was due on December 31, 2016.

Attachments:

1. Appendix A - DA-2009-02 Schedule "A" – Development Area
2. Appendix B - Request for Extension of Deferred Levies
3. Appendix C – Location Map

File No.: Deferral of Levy payments in Fort Industrial Estates Stage 6 Development

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