

To: COUNCIL

Meeting Date: 3/14/2023

Subject: Request to Amend Development Covenants and Restrictions for the Time for Development – Boxwood Business Campus

Submitted By: James Goodram, Director Economic Development

Prepared By: Laura Pearce, Senior Economic Development Officer

Report No.: 23-032-CRE

File No.: C1101

Wards Affected: Ward 1

RECOMMENDATION(S):

THAT report 23-032(CRE), re: Request to Amend Development Covenants and Restrictions for the Time for Development - Boxwood Business Campus be received;

AND THAT Council authorize the Mayor and Clerk to execute documentation to amend the Development Covenants and Restrictions to allow for a one (1) year extension to the construction start date AND a one (1) year extension to the substantial completion date, without penalties, to be granted to businesses/developers noted in Appendix A to this report, subject to the satisfaction of the City Solicitor.

EXECUTIVE SUMMARY:

Purpose

A request for Council to approve an additional extension to the start of construction dates and substantial completion dates for the remaining eligible developments within the Boxwood Business Campus. The existing dates and new proposed dates are included in Appendix A to this report.

Key Findings

Under the Agreement of Purchase and Sale for properties purchased within the Boxwood Business Campus, the owner is required to commence construction and be substantially complete within the times specified in the Agreement.

Based on Clause 3d of the Development Covenants and Restrictions in the Agreement, if an extension of time is granted then the owner is required to pay liquidated damages to the City.

In September 2020 and in December 2021, Council approved an extension to the start of construction dates and substantial completion dates for the remaining eligible developments within the Boxwood Business Campus by one (1) year respectively due to the onset of the Covid-19 pandemic.

Due to the ongoing various economic impacts and material shortages, industrial development has been delayed within the prescribed timelines for some properties within Boxwood.

Staff is proposing an additional one (1) year extension as noted above to allow eligible businesses noted in Appendix A time to procure materials while continuing with their respective developments in Boxwood, without any penalties being assessed.

Financial Implications

Registration costs to amend the development covenants will be incurred per file in the amount of \$82 inclusive of tax for an anticipated total of \$246 inclusive of tax. This cost will be funded by the City from the Economic Development Division budget.

STRATEGIC ALIGNMENT:

- ☒ Strategic Action; or
- ☐ Core Service

Objective(s): ECONOMIC INCLUSION AND SUPPORT - Establish and extend inclusive programs to support business readiness and workforce development and help local businesses to thrive

Strategic Action: Not Applicable

Program: Business Attraction & Retention

Core Service: Not Applicable

The development of the Boxwood Business Campus supports the City's objective to assist with the creation of high quality and diverse employment opportunities. Providing latitude with an additional one (1) year extension for the time of development will now assist businesses in these economically challenging times and provide additional time for them to receive the outstanding materials required to complete their building.

BACKGROUND:

Currently, all Agreements of Purchase and Sale for properties in the Boxwood Business Campus contain Development Covenants and Restrictions requiring the owner to start construction within one (1) year of acquisition and then be substantially complete within

one (1) year from said start of construction. For several, these covenants were amended in September 2020 and December 2021 to allow for a further one (1) year extension respectively. Failure to meet these timelines causes liquidated damages to be assessed against the owner pursuant to the Agreement of Purchase and Sale and amending covenants.

The intent of having development timelines was to ensure that developments within the Boxwood Business Campus moved forward expeditiously and that a momentum surrounding the development of the park was achieved. In addition, another goal of the timelines was for the projects to move forward quickly to lead to the creation of new jobs and new assessment for the City. The pandemic and resulting material and labour shortages have lengthened development timelines which are out of the developer's or City's control.

In September 2020 and in December 2021 (Report 20-192 (CRE) and 21-326 (CRE) respectively), Council approved an extension to the start of construction dates and substantial completion dates for the remaining eligible developments within the Boxwood Business Campus by one (1) year respectively due to the onset of the COVID-19 pandemic.

Many of these one-year extensions are now expiring. Developers in the Boxwood Business Campus, and other areas of the city, have noted to Staff that they are experiencing severe delays in development due to construction material shortages, increase in interest rates and contractor availability.

Given the challenges noted above, some developers are still unable to fulfil their timeline obligations noted in the Development Covenants and Restrictions. Accordingly, Staff are respectfully requesting Council to approve an additional extension to the timelines for development within the Boxwood Business Campus.

ANALYSIS:

The COVID-19 pandemic created economic uncertainty and a financial strain on the City, its residents, and its businesses. Additionally, developers have experienced delays with material availability, interest rate hikes and contractor availability. These delays have lengthened the time necessary for the development of the industrial facilities in Boxwood.

In consideration of these noted delays, the City is proposing to assist the remaining developing businesses within the Boxwood Business Campus through the request of an additional one (1) year extension to the start of construction date AND an additional one (1) year extension to the substantial completion date. No liquidated damages would apply during that additional period. The properties proposed to be included are:

1. 100 Goddard Crescent: This is the last property of six (6) to be developed by the same purchaser and it is currently in the City's formal site plan process.
2. 115 Goddard Crescent: The building permit has been issued and construction is anticipated to begin in Spring 2023.
3. 50 Goddard Crescent: The client is intending to submit a site plan later in 2023 with intentions to construct a building in 2024.

For clarity, Staff has prepared the chart found in Appendix A to this report that details the existing dates and the new proposed dates for the start of construction and completion. Additionally, a map of the specific properties can be found in Appendix B.

Eligibility

For Council's information, any property that has currently been granted an extension is eligible for this further extension, provided that any and all associated penalties are not outstanding.

EXISTING POLICY / BY-LAW(S):

Timing of development and penalties are regulated as per the respective Development Covenants and Restrictions registered on title on the subject properties.

FINANCIAL IMPACT:

As the developers are required to pay liquidated damages to the City (which are calculated based on the amount of municipal taxes which the owner would have been required to pay had a building or buildings been constructed and any difference in land value), approval of the recommendations contained in this report will delay the collection of the increase in municipal property taxes resulting from development of the subject sites noted in Appendix A.

Registration costs to amend the development covenants will be incurred per file in the amount of \$82 inclusive of tax, for a total of \$246 inclusive of tax. This cost will be funded by the City from the Economic Development budget.

PUBLIC VALUE:

Does not apply

ADVISORY COMMITTEE INPUT:

Not Applicable

PUBLIC INPUT:

Posted publicly as part of the report process.

INTERNAL / EXTERNAL CONSULTATION:

Financial Services has been consulted on this report.

CONCLUSION:

Staff recommends that an additional one (1) year extension to the construction start date and substantial completion date be granted without penalties to businesses/developers noted in Appendix A, as outlined in this report.

REPORT IMPACTS:

Agreement: **Yes**

By-law: **No**

Budget Amendment: **No**

Policy: **No**

APPROVALS:

This report has gone through the appropriate workflow and has been reviewed and or approved by the following as required:

Director

Deputy City Manager

Chief Financial Officer

City Solicitor

City Manager

ATTACHMENTS:

1. 23-032 (CRE) Appendix A – List of Properties Eligible for the One (1) Year Extension
2. 23-032 (CRE) Appendix B – Map of Properties Eligible for the One (1) Year Extension