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Date: August 28, 2017
To: Mayor and Council
Author: Kevin Girard, Manager of Municipal Services
RE: Mettawas Lane Development Extension Request
Report No.: MS 2017-42

AIM

To provide Council with an update on the completion of the Mettawas Lane development deficiencies.

BACKGROUND

As previously discussed in report number MS 2017-09 (Mettawas Lane Development Deficiencies) drafted by the Director of Municipal Services. Council originally entered into a Development Agreement with 1147160 Ontario Limited in May of 2005 passing By-Law 40-2005 to create 31 lots on lands within Part Lots 1 through 6, 28 to 32, Blocks B, C, and D on Plan 965 and Parts 1 to 3 on 12R-17281 in the Town of Kingsville.

Since the original by-law (40-2005), two amendments have been made. The first, by law 65-2009, allowed the Developer until November 09, 2011 to complete the outstanding issues. Many attempts were made since the expiration of this amendment with no action made by the Developer. In an effort to move forward, Municipal Services retained a third party engineering firm to review the outstanding deficiencies and provide estimates to rectify outstanding issues from the Development Agreement. The intention was to complete the outstanding works through the tendering process and have all the associated costs be charged back to the Developer.

This triggered action from the developer that lead to a delegation to Council and by-law 33-2017, allowing the Developer until September 1, 2017 to complete the already past due issues. By-law 33-2017 has been attached for your convenience.

DISCUSSION

Since the passing of the latest amendment, by-law (33-2017), a site meeting to discuss curb and gutter replacement was had between the Developer and the Town. Another meeting is scheduled to happen in the near future for the discussion of base asphalt replacement following the geotechnical report that was provided to the Town on August 16, 2017, approximately 2 weeks prior to the September 1, 2017 deadline.

Also, a cheque in the amount of \$11,130 has been received in compliance with paragraph 3 of the amended Development Agreement (by-law 33-2017) for sidewalks.

On August 11, 2017, Michael Laba, solicitor for the Developer, reached out to the Director of Corporate Services requesting delegation status. He was subsequently advised that the delegation could be heard at the August 28, 2017 Council Meeting. On August 18, 2017, correspondence from Mr. Laba was received by the Town requesting an extension of the September 1, 2017 deadline by 60-90 days.

Administration believes that the Developer has had ample time to complete the outstanding work from the original agreement in 2005 and that any more delays are a misuse of Town resources.

LINK TO STRATEGIC PLAN

Promote the betterment, self-image and attitude of the community.

To become a leader in sustainable infrastructure renewal and development.

FINANCIAL CONSIDERATIONS

The Engineer's estimate provided by N.J. Peralta to address the outstanding deficiencies is valued at \$214,700 not including HST.

Actual unit prices and construction costs in conjunction with relative project management and contract administration costs will be assumed by 1147160 Ontario Limited in accordance with the Development Agreement.

In the event 1147160 Ontario limited defaults on payment of works as undertaken by the Town, the Town will take steps to realize payment from the Performance Security on file. The Town is currently in possession of the original Subdivision Bond in the amount of \$224,244.18.

CONSULTATIONS

Chief Administrative Officer
Director of Municipal Services
Director of Corporate Services
N.J. Peralta Engineering

RECOMMENDATION

That Council not approve the extension requested by the Developer; and that Council approve Municipal Services to complete the outstanding work in accordance with the Town's procurement policy and to charge back the cost to the Developer; and further, that Council approve Municipal Services to enter into agreements with successful Contractors in order to correct all outstanding deficiencies as defined as soon as practicable.

Respectfully Submitted,

Kevin J. Girard

Kevin J. Girard, P.Eng
Manager of Municipal Services

G.A. Plancke

G.A. Plancke, Civil Eng. Tech (Env.)
Director of Municipal Services

Peggy Van Mierlo-West

Peggy Van Mierlo-West, C.E.T.
Chief Administrative Officer