

COMMUNICATION 132130

Received From: Niki Dwyer, MCIP RPP, Director of Development Services
Addressed To: Committee of the Whole
Date: October 26, 2021
Topic: McArthur Island Development Permit Agreement Amendment

BACKGROUND

In November, 2020 the Town executed a Development Permit Agreement with the joint proponents of the proposed McArthur Island development application. The approval was issued as a conclusion to the application's review which formally commenced in March 2019.

In addition to outlining a number of special conditions pertaining to the physical construction of the development, the Agreement included a phasing schedule for the works to be completed in both the short term and long-term. This phasing arrangement was further recognized through a Development Permit Amendment which applied a Holding provision to the long-term phases of the development.

The approved phasing plan included the issuance of a building permit for phases 1, 2 and 3 (inclusive) within one (1) year of the execution of the Agreement. The conditions for the approval of phases 4 and 5 were required to be satisfied within two (2) years of the signing of the Agreement.

Figure 1 – Phasing Plan



The Development Permit Agreement contemplates the following “Expiry” conditions:

7. Expiry

- (a) *If a building permit has not been issued within one (1) year for Phases 1, 2 and 3 from the date of execution of this Agreement, the approval inherent herein shall be null and void, unless an extension is granted in writing by the Town.*
- (b) *If all requirements for the development of Phases 4 and 5, including the issuance of a building permit and the execution of an amendment to this Agreement, have not been satisfied within two (2) years from the date of execution of this Agreement, the approval of Phases 4 and 5 shall be null and void, at the Town’s discretion, unless an extension is granted in writing by the Town, with any such extension being subject to the imposition of updated or amended requirements for these subsequent phases of development.*

COMMENTS

Over the past year the proponents have worked with Town staff as well as representatives of the Mississippi Valley Conservation Authority to submit the necessary documents for the issuance of building permits for phases 1 and 2 before the specified deadline.

During the course of these discussions however, it has become evident that there is a significant volume of outstanding work that is required to consider phase 3. As a result, it is not possible for a building permit to be issued for phase 3 before the specified deadline.

It is recommended that an amending agreement be executed with the proponent to group phase 3 with the later phases 4 and 5.

This arrangement will still recognize the requirement for the development to commence on phases 1 and 2 before the end of November 2021, failing which the entire approval will lapse.

Staff views this amendment to be reasonable and appropriate as the building which is identified as phase 3 is physically separate from phases 1 and 2 and is proposed to be developed into a complementary but distinct use (being an artisan workspace).

The site works to be completed as part of phases 1, 2 and 3 inclusive will still be required and securities as originally calculated will not be recognized for a reduction.

STAFF RECOMMENDATION:

THAT Council directs Staff to execute a Development Permit Amending Agreement to recognize Phase 3 of the McArthur Island Development approval as part of, and subject to, the conditions for Phases 4 and 5.