TORONTO

REPORT FOR ACTION

Development Charges Deferral for Anishnawbe Health Toronto at 425 Cherry Street East

Date: March 29, 2021
To: City Council
From: Chief Financial Officer and Treasurer
Wards: All

SUMMARY

In response to the March 10, 2021 Council request, this report comments on the feasibility of deferring the payment of development charges as long as the proposed development at 425 Cherry is maintained and operated as a non-profit Indigenous health care centre.

The City currently imposes development charges based upon a bylaw that was approved by Council on April 18, 2018. In the case of Anishnawbe Health Toronto, there is a proposal to construct a new four storey medical office building at 425 Cherry Street. Development charges are anticipated to total $624,243.36 and are being requested to be deferred. Development charges for this project are normally due and payable at the issuance of a building permit.

While it is feasible to provide a deferral through a section 27 agreement, staff recommend that Council refer this request to the comprehensive bylaw review currently underway. This report seeks authority to enter into an agreement to defer payment until that review has been completed and where Council may see it fit to provide an exemption of the charges. This report has been prepared in consultation with the City Planning, Legal Services, and Toronto Building.

RECOMMENDATIONS

The Chief Financial Officer and Treasurer recommends that:

1. City Council authorize the Chief Financial Officer and Treasurer, in consultation with the Chief Building Official and Executive Director, to enter into an agreements in a form satisfactory to the City Solicitor, to defer the payment of development charges for 425 Cherry Street based on the general terms and conditions in Attachment 1, including any amendments to previously executed agreements, as necessary, relating to the payment of development charges.

2. City Council direct the Chief Financial Officer and Treasurer to review this matter as part of the development charges bylaw review process currently underway.

FINANCIAL IMPACT

Anishnawbe Health Toronto Health Centre, Indigenous Hub, has a proposal to construct a new four storey medical office building at 425 Cherry Street. Development charges are payable in the amount of $624,243.36 for a total ground floor gross floor area (GFA) of 1,409 m^2. Non-ground GFA of 2,770 m^2 is exempted from development charge per the City's bylaw. With a deferral, development charges revenues are not foregone, but collected at a later date. In general, development charge deferrals delay collection of revenue for the City, and can increase debt financing requirements during the deferral period and/or delay construction of growth-related projects until the funds are collected and available for capital investment.

If Council proceeds with the recommendation in this report, collection of payment will deferred to the bylaw review, where Council may see it fit to provide an exemption, foregoing to collect the amount in full.

DECISION HISTORY

At its meeting on March 10, 2021, City Council adopted MM30.25 "Requesting the Deferral of Development Charges for Anishnawbe Health Toronto at 425 Cherry Street East" and directed staff to report to the April 7 and 8, 2021 meeting of City Council on the feasibility of deferring the payment of development charges in the amount of $624,243.36 for Anishnawbe Health Toronto Health Centre, Indigenous Hub, a proposal to construct a new four storey medical office building at 425 Cherry Street, as long as it is maintained and operated as a non-profit Indigenous health care centre.

1. http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2021.MM30.25

COMMENTS

This report responds to a Council request to report on the feasibility of a development charges deferral for Anishnawbe Health Toronto, as long as the property is maintained and operated as a non-profit Indigenous health care centre.

Development charges are fees that a municipality imposes against land to pay for increased capital costs required because of increased needs for services arising from new development. The *Development Charges Act, 1997* (DCA) provides guidance on when development charges are to be calculated and collected. The rules on how development charges are payable, and what types of developments are exempt from payment are set out in the City's development charges bylaw. Under the City's current bylaw, Anishnawbe Health Toronto would not be considered an exempt use and would be required to pay development charges for the ground floor GFA as a condition of building permit issuance. The non-ground floor space is exempted from the charges.

In response to recent legislative changes to the DCA, staff have begun a comprehensive review of the development charges bylaw. The review is expected to be completed in spring 2022, with the end goal being delivery of a new development charges bylaw for Council consideration. Staff recommend that deferral requests be considered as part of the comprehensive bylaw update, rather than as site specific long-term deferral requests brought forward through Council.

The City Solicitor has expressed concerns with unsecured long-term deferral agreements noting challenges with the ability to collect development charges from current or future owners related to the lack of legislative authority under the DCA to ensure collection, such as the inability to register agreements on title to land and lack of priority lien status of outstanding charges being added to the tax roll. In addition, long-term deferral are administratively onerous to monitor and maintain.

Accordingly, staff recommend that development charges for this project be deferred to the development charges bylaw review process based on the general terms and conditions in Attachment 1. By doing so, development charges would be deferred to the earlier of:

1. The date of enactment of a new development charges bylaw
2. The date that the building is no longer maintained and operated as a non-profit Indigenous health care centre
3. The sale of the property, unless the agreement is assigned to a new owner who is also a non-profit Indigenous health care operator.

With this format, development charges will be re-calculated at time of new bylaw, depending on the rules in effect at that time which are developed as part of a comprehensive process. If the new bylaw to be enacted in 2022 does not provide an exemption or a reduction in the rates for this use, then the owner will be required to pay some or all of the development charges for the current development proposal based on the rates and policies applicable at that time. Council will also have an option to provide a further deferral as may be deemed appropriate.

While a long-term deferral option is available to Council, it does have drawbacks as noted in this and past reports. When providing a deferral without financial security or other means of enforcing payment, the City assumes the collection risk in the event of default. Unlike the standard method of collecting payment as a condition of permit issuance, when a deferral is provided to a development with no financial security required, the collection of development charges after they have been deferred is not guaranteed.

In conclusion, staff recommend that payment be deferred and considered as part of a comprehensive bylaw review. It is not recommended that long-term unsecured deferrals become standard practice at the City, and instead staff recommend that they be considered through the bylaw review.

CONTACT

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SIGNATURE

Heather Taylor
Chief Financial Officer and Treasurer

ATTACHMENTS

Attachment 1: General Terms and Conditions of the Development Charges Non-Profit Indigenous Health Care Centre – 425 Cherry Street

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1. Agreements

    a. The owner must enter into an agreement with the City under Section 27 of the *Development Charges Act, 1997*.

2. Term of Deferral

    a. Development charges shall be deferred until the earlier of:
        i. The date of enactment of the next development charges bylaw that replaces the current 2018 development charges bylaw;
        ii. The date that the building is no longer maintained and operated as a non-profit Indigenous health care centre (Will need a definition for "non-profit Indigenous health care centre"); or
        iii. The sale of the property, unless the agreement is assigned to a new owner who will continue to operate and maintain the building as a non-profit Indigenous health care centre.

3. Amount of the Development Charges

    a. The development charges shall be calculated based on the prevailing rates and policies in effect at the end of the term of the deferral. If the new development charges bylaw to be enacted in 2022 does not provide an exemption for non-profit Indigenous health care provider, then the owner will be required to pay the development charges for the current development proposal, which will become due and payable upon the date that the new bylaw is enacted by Council based on the rates and policies in effect at that time.

4. Registration on title

    a. The owner agrees to have the notice of the development charges payment agreement, including its schedules, to be registered on title to the Lands at the cost of the owner.

    b. If notice is not accepted by the Land Registrar, the owner agrees that the Site Plan Agreement or other development agreement as necessary, may include reference to the DC payment agreement or include the particulars of the development charges deferral, at the City's discretion.

5. Event of default

    a. In the event of default, development charges may be added to the property tax roll with applicable interest penalties.

6. Annual reporting

a. The owner agrees to provide the City on January 15 annually evidence to the satisfaction of the City that it continues to be maintained and operated as a non-profit Indigenous health care centre.

7. Administrative Amendments

a. The Chief Financial Officer and Treasurer, in consultation the City Solicitor, shall be authorized to make administrative amendments to this program and include any additional terms and conditions as may be deemed necessary to protect the City's financial interests and administer the program.