

DEVELOPMENT COMMENCEMENT EXTENSIONS

EXECUTIVE SUMMARY

This report is seeking approval to amend the Land Use Bylaw, Bylaw 1P2007, as indicated in Attachment 1 to allow more flexibility in the date by which certain developments must commence under an approved development permit. This change will extend the commencement deadline from a maximum of 4 or 5 years to a maximum of 6 or 7 years and provide the potential for two year extensions instead of one year extensions currently allowed for.

The amendment would, in most cases, reduce the significant delays, costs and uncertainty associated with development permit expiry and resubmission. Since introducing the extension provisions, projects with a combined estimated total construction value of \$600 million have exhausted their extensions and the permits have lapsed. A portion of those projects, representing approximately half of that value, have reapplied for the same or similar developments, but have experienced increased costs and delays. The remaining projects have not reapplied. Based on the historical review an additional two years would adequately address the issue most builders faced while still obtaining valuable community reengagement if a development is stalled longer term.

The amendment would also reduce the administrative and clerical effort involved in submitting and reviewing extension requests on a yearly basis. Extensions will only be granted when there have been no significant changes in policy or context from the time of approval, ensuring development continues in alignment with administration policy and Council direction.

Unforeseen circumstances such as third party approvals or an economic downturn can delay the commencement of quality development. The proposed amendments to the Land Use Bylaw address this issue by allowing longer extension time periods to allow for more time prior to construction. This will facilitate a quick response by builders to improved market conditions, injecting capital into a fledgling economy.

Allowing a longer commencement timeframe is supported by the Continuous Process Improvement initiative of the Industry/City Work Plan.

ADMINISTRATION RECOMMENDATION(S)

That the SPC on Planning and Urban Development recommend that Council direct Administration to bring forward directly to the 2017 June 12 Combined Public Hearing, without going through Calgary Planning Commission, the necessary amendments to Land Use Bylaw 1P2007 to implement the changes to development commencement extensions as identified in this report.

RECOMMENDATION OF THE SPC ON PLANNING AND URBAN DEVELOPMENT, DATED 2017 APRIL 12:

That the Administration Recommendation contained in Report PUD2017-0325 be approved.

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Excerpt from the Minutes of the Regular Meeting of the SPC on Planning and Urban Development, Dated 2017 April 12:

“And further, that the distribution from today’s meeting be attached to the Report prior to being forwarded to Council.”

PREVIOUS COUNCIL DIRECTION / POLICY

At the 2009 September 14, public hearing, through CPC2009-122, Council decided to:

1. “ADOPT the proposed amendments to Land Use Bylaw 1P2007 as set out in Appendix II to amend the specified provisions, in accordance with the Land Use Planning and Policy recommendation;
2. Give three readings to the proposed Bylaw 31P2009; and
3. DIRECT ADMINISTRATION to prepare appropriate amendments to the fee schedule as prescribed by resolution of Council, in accordance with the Land Use Planning and Policy recommendation.”

Moved by Alderman Lowe, Seconded by Alderman Fox-Mellway.

BACKGROUND

During the Industry/City Work Plan update at the SPC on Planning and Urban Development meeting on 2017 January 11, Councillor Demong and Councillor Sutherland enquired about concerns that they have heard from industry about extensions of commencement. This had been an area of focus and Administration has completed the necessary research and prepared this recommendation that addresses commitments made in that discussion (see Attachment 3).

In 2009, Council amended Land Use Bylaw 1P2007 to add provisions enabling the General Manager or a delegate to make administrative decisions on development commencement extensions. For construction related Development Permits, the development must commence within two or three years, depending on the land use district. The current development commencement extension provisions allow for a maximum of two one-year extension periods, after which the development permit lapses and is no longer valid.

Administration has recently received enquiries to allow additional extensions beyond the two one-year extensions currently allowed. Reasons provided include that there is a soft market for their particular development, construction financing is challenging, or lack of pre-leases. Additionally, there are anecdotal observations that some customers are purposefully delaying development permit approval so that the construction commencement timeline is not started. This causes an increase in backlog applications and introduces inefficiencies in the approvals system. Furthermore, the looming expiry can lead to a token effort at construction commencement to keep their permit from expiring. With no intention to complete the

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construction at the current time, this can lead to concerns about derelict sites and neighbour complaints.

Applications for development commencement extensions are made by the development permit holder. There is no fee for this service and the delegate of the General Manager of Planning and Development has the discretion to either grant or not grant a commencement extension. If an extension is supported, there are no changes to the approved plans or conditions of approval and there is no opportunity for an appeal to the Subdivision and Development Appeal Board.

When an extension is requested by a customer, an administrative review determines if there have been any tangible changes to:

- Land use district of the property;
- Adjacent land use districts;
- Applicable policies;
- Applicable levies;
- Adjacent developments or changes in context; and
- Impacts of uses with separation distances (competitive interests).

If an extension is not granted, the customer may commence development within the original commencement date or make an application for a new development permit when the permit lapses.

INVESTIGATION: ALTERNATIVES AND ANALYSIS

As noted in the preceding section Administration has received a number of enquiries about longer extension periods from both members of Council and Industry representatives. Due to the 2009 implementation date of the current extension rules there is not a long history of records to draw from. However, there are some important observations that can be made and conclusions that can be drawn.

Upon investigating the data it was found that the provisions to allow extensions to the commencement date in 2009 have successfully supported the construction of \$613 million of improvements across the City. It should be noted that these projects may have been built without the extension provisions, but with increased delay and at a significant cost of resubmission and review.

While extensions have remained a modest proportion of yearly development permit numbers, they tend to be requested on larger projects. Over the seven-year period to 2017, March 31 291 development permits have had extensions granted (70 of which required a second extension), which represents one per cent of development permits eligible for extensions. However, the average construction value of projects requesting an extension is \$6.2 million. When low density residential is removed from the data the average construction value is \$10.2 million.

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Extension requests tend to increase when the economy slows and decrease when the market conditions improve. While there was no option for builders to request extensions during the 2008 downturn the effects can still be seen in the years following (See Attachment 2) with a decreasing or flat trend until 2015 when extensions began an upward trend – presumably due to the current downturn. 2016 was the height of extension requests in the short history of records, though the data is trending much higher for 2017. Extrapolating the Q1 volume of extensions suggests that there could be approximately 150 by year end, representing a 90% increase over the 2016 high water mark.

Since introducing the extension provisions 28 DPs have lapsed after exhausting their two one-year extensions. These projects represented an estimated total construction value of \$600 million over 5 years. Of those lapsed DPs 16 were reapplied for with an identical or similar development proposal with a total estimated construction value of \$310 million. The average time span between the application lapsing obtaining a new approval was 14 months, with only two extending beyond 24 months.

In the years following the 2008 downturn it can be observed on Chart 2 in Attachment 1 that builders used the extended approvals to quickly take advantage of improved lending conditions and market demand. During the recovery between 2010 and 2012 extended approvals accounted for \$375 million in improvements that otherwise would have been delayed or in some cases abandoned.

The amendments to the Land Use Bylaw shown in Attachment 1, replace the one-year extension periods with two-year extension periods which would allow for an extension to the development commencement date of up to four years beyond the standard 2 or 3 year period. It would also provide for an administrative review to determine if policy or context of the area has changed significantly necessitating a rejection of the extension and requiring a revised proposal.

Based on the historical review an additional two years would adequately address the issue most builders faced. Through internal deliberation it is proposed that a limit to extensions was still valuable to obtain community input regardless of a lack of policy changes affecting a proposal.

Extrapolation of current data indicates that in 2018 and 2019 alone the value of permits that may lapse could be in the range of \$500 million – \$600 million. To further the City's goal of economic resiliency it is anticipated that this proposal will provide industry an opportunity to respond quickly to an improvement in market conditions, injecting capital into a recovering economy.

Stakeholder Engagement, Research and Communication

In February and March 2017, meetings were held with the Building Industry Land Development (BILD) Industrial/Commercial, Condo/Multifamily Committees. The BILD Committee stakeholders were in support of the proposed changes as they are looking for more certainty and stability of their DP approvals.

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March 15, 2017 this concept was presented to the Continuous Process Improvement Advisory Committee that included a broad cross section of industry representatives and was met with widespread support.

A project description and information was provided to the Federation of Calgary Communities on the proposed amendments. They posted information on their blog with links to the draft bylaw and project information seeking comments from community members. No comments have been received.

No letters were received in objection or support of the proposed amendments.

Strategic Alignment

Administration is focused on three key result areas – Advancing the Municipal Development Plan (MDP) and the Calgary Transportation Plan (CTP), Realizing Development and Safe Buildings.

The proposed amendments advance the MDP and CTP by continuing the administrative review on approved developments that have not been constructed to ensure that they still meet the policies and standards of the day. The proposed amendments also increase the likelihood of realizing development since cancelled approvals are a disincentive for the customer to continue to pursue construction.

One of the key principles of the Continuous Process Improvements initiative is to make Calgary a more attractive place for real estate development and redevelopment. The proposed amendment aligns with this principle by taking a pragmatic approach on development approvals.

It is anticipated that the proposal will further the City's Economic Resiliency Strategy, specifically Result #5 (Prepare for Future Growth) and Result #6 (Retain Investment Projects) by allowing industry to quickly respond to improvements in market conditions and accelerate a recovering economy. This impact was observed after the 2008 downturn.

Social, Environmental, Economic (External)

There are no social or environmental impacts as a result of the amendments.

The proposed amendments support development in Calgary by allowing a balance of certainty for customers and stakeholders while providing more flexibility in the amount of time between the development permit approval and the commencement of construction. This flexibility helps to ensure that Calgary remains an attractive place to do business without compromising future policy goals.

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Financial Capacity

Current and Future Operating Budget:

There may be a minor timing impact to the current and future operating budget as City services and revenue from those services would be delayed.

Current and Future Capital Budget:

There may be a minor impact to the timing of collection of the Established Area Offsite Levy. The Established Area Levies are collected at the time of occupancy and a development completion permit. Granting a development commencement extension only delays the time of the levy payment. Longer extension periods will not impact the levy amount a developer owes.

Interdepartmental discussions identified there would be no impacts for the Centre City Levy and the Rivers District Community Revitalization Levy, or the Greenfield Areas of the Off-site Levy Bylaw because these levies are collected through agreements, not the development permit.

Risk Assessment

The proposal would reduce the frequency of 'check ins' with administration from once per year to every other year. Administration feels that this is an acceptable trade-off to reduce the red-tape of reapplying and reviewing annual extension requests. If significant changes to policy, levies, context etc. are anticipated, a shorter extension period can be granted. Changes to a number of factors that influence the appropriateness of an approval extension need to be considered carefully when considering a request. The risk associated with these changes are mitigated through conducting an administrative review. A development commencement extension may not be granted if there have been tangible changes to:

- land use districts;
- applicable policy;
- levies;
- adjacent developments;
- impacts of uses with separation distances (competitive interests); or
- context relative to other developments in the area.

As the current downturn continues, the additional two years of extensions may not be enough to realize all development proposals where builders would aim to take advantage of the extensions. Administration will monitor the data and consult with Industry on the effects of this change.

If this proposal is not adopted it is anticipated, though current and historical observations, that customers may delay getting their development approvals introducing inefficiencies into the approval process. Additionally projects that are approaching expiry may in some cases make a token effort to commence construction such as stripping and excavation – which may result in inconvenience and complaints by neighbours.

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REASON(S) FOR RECOMMENDATION(S):

The City continues to support quality developments during an economic downturn. The amendment improves stability for industry stakeholders by facilitating longer extension time periods without compromising the potential for changes in policy and standards. Support for increasing the length of extension as defined in the Land Use Bylaw has been driven by discussions with members of Council and from customer feedback. Any risks will be managed comprehensively through existing business processes in collaboration with other departments.

Attachments

Attachment 1 – Proposed Amendments to the Land Use Bylaw

Attachment 2 – Historical Data on Extensions

Attachment 3 – Letter from Joel Armitage to Council following January 11, 2017 PUD

Attachment 4 – Distribution: Letter from NAIOP Calgary, BOMA Calgary and BILD Calgary Region