



Subject: *Local Improvement Charges - Sidewalk to Hwy 214 development owned by E.l.t. Property Holdings Limited*

To: Corporate & Residential Services Committee

Date Prepared: Feb 19, 2021

Related Motions: C20(94)

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Summary

In April 2020, Council approved a development agreement for E.l.t. Property Holdings Limited that states the developer shall pay, at a minimum, the frontage portion of a sidewalk fronting onto their property. This report outlines the options for sidewalk construction and the related amendments required to Bylaw F-100 to register this local improvement.

Financial Impact Statement

The cost of the sidewalk is approximately \$900,000. The portion being proposed as a recoverable from E.l.t. Property Holdings Limited is \$195,985 (Local Improvement \$132,985 + admin fee of 7%) towards the project. The remainder of the project will be funded through external funding and General Tax Rate if carried out as a larger Active Transportation project or on the Urban Service Rate (USR) if a stand-alone project.

Recommendation

It is recommended that, regardless of what type of sidewalk construction ends up happening out Hwy 214, E.l.t. Property Holdings Limited be charged \$132,985 which is the estimated cost of building the infrastructure. In the event that it is constructed as a stand-alone project an additional 7% administration fee to manage the project is recommended. Also, that the sidewalk not be constructed until there is significant investment in the property, namely an occupancy permit for the mixed-use building. The recommended amendments to bylaw F-100, Local Improvement Charges Bylaw are in the report.

Recommended Motion

Move that the Corporate & Residential Services Committee recommend that Council give first reading to Bylaw F-100-7, an amendment to Bylaw F-100, Local Improvement Charges Bylaw to add:

- *the extension of sidewalks from the Elmsdale Superstore property to the subject property PID 45085248.*

Background

E.l.t. Property Holdings Limited - Development Agreement

In April 2020, Council approved a development agreement for E.l.t. Property Holdings Limited that states the developer shall pay, at a minimum, the cost of the sidewalk fronting on to their property as a frontage portion of the total cost of the sidewalk cost.

As discussed in the staff report on this development (*Resubmission of application by Leno Ribahi to enter into a development agreement for a mixed-use development*, dated February 28, 2020), policy ED34 of the Municipal Planning Strategy sets out requirements for Council to consider when reviewing an application for mixed use development on land zoned Regional Commercial (RC). One of these requirements is to connect the property to an existing sidewalk or trail network, if such a network is accessible.

There is no existing sidewalk or trail network for the development to connect to. A sidewalk along Highway 214, from this development to the existing Superstore sidewalk, would connect properties in this Regional Commercial Zone, along Highway 214. In January 2020, the cost of the sidewalk construction was estimated at \$600,000. Updated cost estimates have the cost of this sidewalk to be approximately \$900,000.

Related Motion C20(94) - April 2020

Moved that Council give final consideration and approval to enter into a development agreement for a mixed-use development on land located at PID# 45085248, Highway 214, Elmsdale; with an amendment to the Development Agreement, permit section, as follows:

A Development Permit shall not be issued until a sidewalk from the Superstore to the subject property is an approved project of Council under the Local Improvement Bylaw with the owner of the subject property at minimum paying the cost of the sidewalk fronting onto their property.

Local Improvement - Background

Council has a local improvement bylaw that outlines how infrastructure projects in a specific area are charged to that particular neighbourhood. There are also instances from years past where projects have been done with agreements for repaying infrastructure loans are made with the property owners; these projects are often where some payments are made by the property owners and the Municipality agrees to pay the remaining costs upfront, to be repaid by future development. Staff have determined that these should be in Appendix A of the Local Improvement Bylaw (to come in a separate report).

In the case of sidewalks, there have been two instances where the cost of sidewalks has been recovered from adjacent property owners. In the 1990's there was a project to widen the road and add a turning lane on Hwy 214 by McDonald's - this was part of the McDonald's and Irving development agreements and included sidewalk installation as part of the project. At the time there were three other properties that were to be charged a fee should they eventually develop as commercial properties. Two of these three properties still have a charge pending.

The other instance was in the Elmsdale Business Park in 2012 where the cost of sidewalks/curb/ gutter, as part of the extension of Park Road, was charged to the existing private land owners as a local improvement. In 2008 the cost of upgrading Park Road to include sidewalks was not recovered from the private land owners as, in this case, the Municipality was upgrading the infrastructure to the benefit of the developer (East Hants) and not the existing property owners who had purchased land from the developer.

All other sidewalks on main routes through the corridor (Hwy #2 & Hwy #214) were constructed by the Municipality and paid for through infrastructure funding or through the urban service area rates in place at the time - using reserves or debt charges, approximately \$12.5 million worth of investment on Hwy #2. This funding model is the new precedent for sidewalk construction in the corridor.

Discussion

With the requirement in the development agreement with E.I.t. Property Holdings Limited that the developer of this property be required to pay for at least the frontage of sidewalk along their property, Council needs to establish how and when the sidewalk will be paid for. In order to bring some certainty to the development agreement, the local improvement calculation needs to be added to Bylaw F-100.

The Project

This project was not on the short-term capital plan for the Municipality however it would have eventually been needed as the growth management area was built out along the Hwy 214 commercial zone. The subject development is driving the need for this infrastructure and will be the trigger for this project to go forward. The questions become - when should the sidewalks be built? And who should pay the cost?

The Municipality should set the expectation of the earliest the project will proceed. The recommendation from staff is that a significant investment in the property should have taken place prior to constructing the sidewalk, this will avoid building a sidewalk without the demand at the other end.

The Municipality also needs to protect against setting an absolute value on construction as the timing of the development may be such that infrastructure costs are significantly more than the anticipated \$900,000 in 2020 dollars. In order to minimize municipal risk yet bring certainty to the developer, the \$900,000 estimate in 2021 should be increased each January 1st by the Infrastructure Construction Index for Canada (ICIC), including (for the year 2023 and onward) the January 1st of the construction year. This index provides municipal government with information that can be employed in contract escalation, cost-benefit analysis, benchmarking studies and time series analysis.

About the ICIC: <https://www23.statcan.gc.ca/imdb/p2SV.pl?Function=getSurvey&Id=1277271>

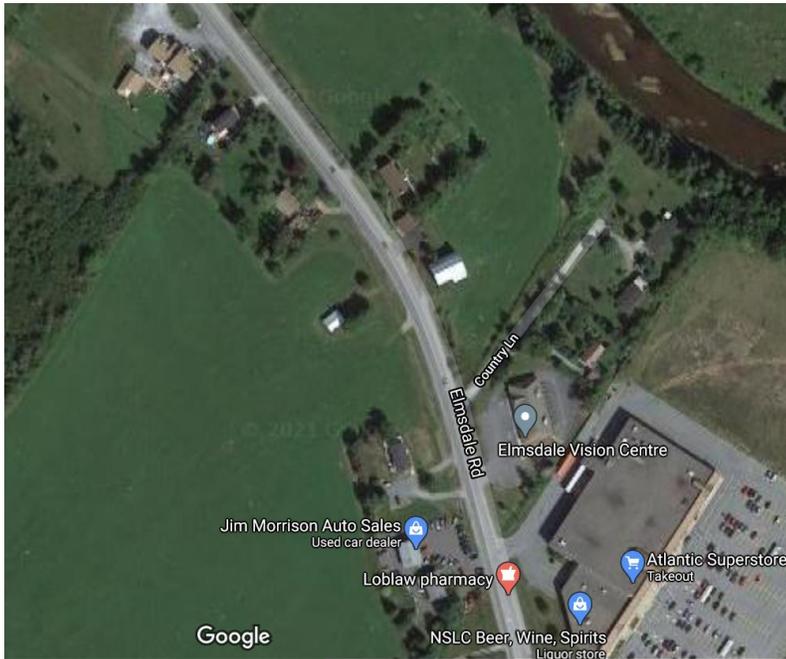
Data: <https://www150.statcan.gc.ca/t1/tbl1/en/tv.action?pid=1810002201>

This project has been included in an application for active transportation funding and if this funding is received, the project would be constructed in late 2021, early 2022. If no external funding is received for this project, the design work would be done in 2021 with construction tenders to be issued, provided municipal staff capacity to do so, following the occupancy permit of one of the planned residential buildings.

The Neighbourhood

This project will service an area that has traditionally been filled by residential properties with family homes on them. Existing commercial properties fronting on the sidewalk (or on the other side of the road) include a daycare (has both residential and commercial components to the building), a vision center/bank and an auto sales building. Part of the sidewalk would front on the back of the Superstore property. All other properties along the frontage are existing residential or farm properties.

Properties in this area were all subject to a servicing local improvement in 2004/2005 where they each paid for water and wastewater connection to the system when it was extended.



Funding Alternatives

Staff have prepared a table in Appendix A that shows the cost of the sidewalk if shared amongst all properties that front on the sidewalk. Using a proration based on frontage, the cost to E.l.t. Property Holdings Limited is estimated at \$132,985.

Scenario 1: As an Active Transportation Project

If this project is funded as part of the Active Transportation Funding application - Project Scope \$1.7m, this portion is to include a 3 meter-wide active transportation sidewalk.

Formula for project funding:

E.l.t. Property Holdings Limited: \$132,985

Debt: (25% of project - E.l.t. Property Holdings Limited portion)

Provincial/federal funding: 75%

Scenario 2: As a Sidewalk Project

If this project is funded as a stand-alone sidewalk project - Project Scope \$900,000, to include a 1.8m concrete sidewalk (same price as a 3m active transportation trail).

As a stand-alone project being driven by one particular development, staff would recommend the local improvement charge include an administration fee (payable to the project). This is consistent with other agreements where development has driven the administration of the municipality to facilitate a project to the benefit of one particular development/customer.

Estimate of Admin Fee:

The administration/engineering fee would cover all elements of establishing the local improvement charges, legal fees associated with the project, finance, engineering and project oversight. Council should consider a 5% to 10% administration fee - staff's recommendation is 7%.

ADMINISTRATION FEE

EST. PROJECT COST	%age	ADMINISTRATION FEE
\$900,000	5	\$45,000
\$900,000	5.5	\$49,500
\$900,000	6	\$54,000
\$900,000	6.5	\$58,500
\$900,000	7	\$63,000
\$900,000	7.5	\$67,500
\$900,000	8	\$72,000
\$900,000	8.5	\$76,500
\$900,000	9	\$81,000
\$900,000	9.5	\$85,500
\$900,000	10	\$90,000

Formula for Sidewalk funding

As a sidewalk project, Council will need to consider who pays the remaining portion of the sidewalk (\$900,000 less the E.l.t. Property Holdings Limited).

Option 1 - LI/USR

E.l.t. Property Holdings Limited pays \$195,985 (Local Improvement + admin fee of 7%), with the remainder being paid for by the Urban Service Rate through reserves/debt charges.

Option 2 - Full LI

Full Local Improvement model based on frontage (see table - Appendix A)

- The cost to the residential/farm properties along the route would be significant (range from \$30,000 to \$126,000 each).
- This would be due and payable either upfront or over 10 years.
- This is not recommended as it is inconsistent with sidewalk projects along Hwy #2 that fronted on existing residential/commercial/farm properties.

Option 3 - LI/USR/Future Development

E.l.t. Property Holdings Limited pays \$195,985 (Local Improvement + admin fee of 7%), with the remainder being paid for by the Urban Service Rate through reserves/debt charges, recovery from future commercial development fronting on Hwy 214

- Comparable is the Hwy #214 third lane project from 1998 (McDonald's intersection)
- Several large tracks of land, as well as properties on Country Lane, would make this a difficult scenario to build out as the future development of these properties is entirely unknown
- Since 1998 Council has built several million dollars' worth of sidewalks along Hwy 2 without charging future commercial development
- When properties change to commercial, the USR paid will be \$0.657/\$100 vs. \$0.07/\$100 of assessment, contributing significantly more to the overall debt burden of the USR.

Summary of Options

- 1) Project is done as a part of the \$1.7 million active transportation project, E.l.t. Property Holdings Limited pays \$132,985 (Their portion based on frontage), with 75% external funding and GTR picks up remainder.

- 2) Project is done as a \$900,000 sidewalk extension, E.l.t. Property Holdings Limited pays \$195,985 (Their portion based on frontage plus an administration fee of 7%), USR picks up the remainder.
- 3) Project is done as a \$900,000 sidewalk extension, E.l.t. Property Holdings Limited pays \$195,985 (Their portion based on frontage plus an administration fee of 7%), USR and future development pays the remainder (need to establish the formula and future triggers).

Conclusion

E.l.t. Property Holdings Limited is driving the need for this sidewalk extension. Per the development agreement, they are required to pay for the sidewalk in front of the properties serviced by the development. The remainder of the properties around the development are established properties with no more direct benefit from a sidewalk extension than other properties throughout the Corridor who have seen sidewalks constructed in front of their property. The Urban Service Rate would normally pay for the extension of sidewalks and this case is no different, the timing of when the sidewalks would be needed is the element being affected by this development.

Recommendation

It is recommended that, regardless of what type of sidewalk construction ends up happening out Hwy 214, E.l.t. Property Holdings Limited be charged \$132,985 which is the estimated cost of building the infrastructure. In the event that it is constructed as a stand-alone project an additional 7% administration fee to manage the project is recommended. Also, that the sidewalk not be constructed until there is significant investment in the property, namely an occupancy permit for the mixed-use building. As such, the following addition to bylaw F-100, Local Improvement Charges Bylaw are recommended for first reading:

9. ACTIVE TRANSPORTATION EXTENSION - PID 45085248

- (a) The project involves the construction of 550 meters of active transportation routing extending along Hwy 214, from the existing sidewalk to the end of the subject properties. The estimated cost of the total project is \$900,000.
- (b) The subject property shall be subject to a local improvement charge of \$132,985 for the subject infrastructure. If construction occurs in 2023 onwards, this charge will increase by the Infrastructure Construction Index for Canada, including the January 1st of the construction year.
- (c) The subject property shall be subject to an administration fee of \$63,000 (7% of \$900,000) if the project is done as a standalone project. The administration fee is part of the local improvement charge for the purpose of the lien and collection.
- (d) The local improvement charge will be payable at the issuance of a development permit for the mixed-use building in the development agreement.
- (e) At the sole discretion of the Municipality, construction is contingent on the issuance of an occupancy permit for the mixed-use building in the development agreement.
- (f) The local improvement will be a lien on the property once an engineering design tender is issued by the Municipality.

(g) If the Municipality constructs the subject infrastructure prior to development activity on the property, the local improvement charge will be payable at the issuance of the first development permit.