



Staff Report

Planning and Development Services – Planning Division

Report To: Committee of the Whole
Meeting Date: December 09, 2019
Report Number: PDS.19.152
Subject: Thornbury Craft Cider & Beer – Facility Expansion
Sanitary Connection Contribution/Deeming By-law
Prepared by: Nathan Westendorp – Director of Planning & Development Services

A. Recommendations

THAT Council receive Staff Report PDS.19.152, entitled “Thornbury Craft Cider & Beer – Facility Expansion Sanitary Connection Contribution/Deeming By-law”;

AND THAT Council enact a Deeming By-law so that the owner’s various lots are deemed not to be separate Lots in a Registered Plan of Subdivision within the meaning of the *Planning Act*.

AND THAT Council advise the Applicant (Thornbury Craft Cider & Beer) that the Town will not be contributing financial resources towards the construction of a new sewer connection for the proposed facility expansion and the applicable Site Plan Control Agreement shall be drafted by the Town Solicitor with wording that reflects Council’s position.

OR

AND THAT Council Select Option ___ as substantively outlined in PDS.19.152.

B. Executive Summary

This report requests direction from council with regard to any financial resources the Town will be contributing toward a connection to the Town’s sanitary sewer system. This direction will be required for the Town Solicitor to prepare and finalize the Site Plan Agreement for the expansion of the Thornbury Craft Cider & Beer facility.

The report also is to provide Council with an analysis for a Deeming By-law that proposes to merge the owner’s various lots together into one singular parcel in order to permit an addition onto an existing industrial building (Thornbury Cidery).

C. Background

Planning Services received a Site Plan Approval application on July 24, 2019, for the lands municipally known as 90 King Street East. The applicant proposes to construct an addition to the existing industrial building in order to expand the current brewing and production operations taking place on the lands. The new addition will centralize the cidery production and brewing operations of Thornbury Cider into one building. Various site improvements are included in the proposal, including the provision of an additional parking area and landscape features. New municipal service connections are proposed along either the King Street frontage or to a connection at the corner of McAuley Street North and Huron Street East.

Application File # P2772

Location: 90 King Street East, Thornbury

Application Received Date: July 24, 2019

Official Plan Designation: Downtown Area

Zoning Bylaw: General Employment (M1) Minor Variance A17-2018 was granted by the Committee of Adjustment on July 17, 2019, and provides for the following relief from the Zoning By-law in order to facilitate the proposed building expansion:

- 1) To permit a front yard setback of 1.0m, whereas a minimum of 15.0m is required in the M1 zone;
- 2) To permit an interior side yard setback of 3.0m, whereas a minimum of 5.0m is required in the M1 zone;
- 3) To permit a rear yard setback of 4.3m, whereas a minimum of 9.0m is required in the M1 zone; and
- 4) To permit a minimum of 33 required parking spaces, whereas a minimum of 38 spaces are required for the proposed addition.

One of the conditions to the approval of Minor Variance A17-2018 is that the owner is required to merge in title of the properties.

Location

The subject lands are located on the north side of King Street East. Surrounding land uses include lands zoned for residential uses to the north, with lands predominantly zoned for commercial uses to the east, west, and south.

Figure 1: Aerial Photo of Subject Lands



In support of the application, the Town received a site plan drawing and complete engineering drawings, as well as an Odor Assessment Report.

D. Analysis

Sanitary Sewer System

One primary issue that has required significant discussion and coordination was related to wastewater treatment and connection to the Town's sanitary sewer system. Working with staff from the Town's Operations Department, discharges from the existing cidery and the new brewery will be treated at the Thornbury Wastewater Treatment Plant. However, due to the characteristics of the discharge, the applicant will be entering into a High Strength Agreement with the Town.

Connection Options

The applicant had initially expressed a preference to establish a new connection to the Town's sanitary sewer system at King Street since the existing connection is not on public lands and represents a less than optimal design for both the Town and the applicant. Due to the historic nature of the existing connection, the associated sewer lines currently cross lands owned by another private party without a legal easement. As such, Town staff have indicated that the planned brewery will be required to establish a new connection to the Town's sanitary sewer.

It is anticipated that the King Street sanitary sewer connection work would be completed after the Town's Winter Control limits are lifted in May 2020. Town Operations Department staff have agreed that a sanitary sewer connection at King Street could be a workable solution. It will require construction activity in/around King Street during the Spring of 2020, very likely including impacts on traffic travelling on King Street, due to connection construction associated lane closures. Another sewer connection option exists that would allow for construction to occur prior to the lifting of Winter Control. This preferred option involves connecting to the Town's sanitary sewer system in a northerly direction at the corner of McAuley Street North and Huron Street East, via Town owned lands. At this point in time, Town Operations staff,

Development Engineering staff and the Applicant's consultant are confirming the details of the viability of this option. Once this work is complete, the Town will incorporate the drawings for the most appropriate connection into the Site Plan Approval. It should be noted, that upon connections to the Town's sanitary sewer system, it is Town staff's position that the existing sanitary connection would be decommissioned by the applicant. Terms and timing of the construction of the sewer connection and the decommissioning of the existing connection would be set out in the Site Plan Agreement.

Financial Contribution

With most matters having been dealt with, staff require direction regarding the Town's role, if any, in the financial responsibility of the new sewer connection. Consistent with normal standard practice, it is Town staff's recommendation that the development applicant should pay for any capital infrastructure costs that have not been identified in the Town's Development Charges Bylaw. This is the position that most municipalities take and one that has been taken by the Town in numerous other development files. This position has been communicated on a number of occasions to the applicant. Nonetheless, the applicant has previously advised Council that it is only willing to contribute up to \$5,000.00 towards the costs associated with the required sanitary sewer connection. Based on high level estimates the applicant has advised the Planning & Development Services Department that the sewer connection costs associated with either option are expected to be approximately \$85,000. However, note that these costs are high level and Town staff estimates expect costs to be at least \$100,000.

Upon Site Plan Approval, the Town's current practice is to provide a 30-day window to finalize an associated Site Plan Agreement. This agreement deals with a variety of implementation matters, including timing, financial obligations of the applicant including securities, municipal contributions (if any), development charges that are payable, etc. Direction from Council is required as the details need to be incorporated into the Site Plan Agreement. It should be noted that due to the size of the facility expansion, the Development Charges Act exempts this proposed development from paying development charges to the Town. Furthermore, the Town has identified the sidewalks along this segment of King Street, including directly in front of the subject property, within the Town's Development Charges bylaw. As the Town has been collecting development charges to fund the installation of the sidewalks, the applicant will not be responsible for their installation. While the Mayor and Clerk have delegated authority to execute Site Plan Agreements, financial contributions such as what is being asked for by Thornbury Craft Cider & Beer require a decision of Council.

Therefore, the following options are available to Council for a decision:

OPTION #1 – STAFF RECOMMENDATION

THAT Council advise the Applicant (Thornbury Craft Cider & Beer) that the Town will not be contributing financial resources towards the construction of a new sewer connection for the proposed facility expansion;

AND THAT the applicable Site Plan Control Agreement be drafted by the Town Solicitor with wording that reflects Council's position.

OPTION #2

AND THAT Council advise the Applicant (Thornbury Craft Cider & Beer) that the Town will contribute no more than 25% of the financial resources towards the construction of a new sanitary sewer connection for the proposed facility expansion to an upset limit of \$50,000.00;

AND THAT the applicable Site Plan Control Agreement be drafted by the Town Solicitor with wording that reflects Council's position.

OPTION #3

AND THAT Council advise the Applicant (Thornbury Craft Cider & Beer) that the Town will contribute all of the financial resources towards the construction of a new sanitary sewer connection for the proposed facility expansion save and except a contribution of \$5,000.00 from the Applicant;

AND THAT the applicable Site Plan Control Agreement be drafted by the Town Solicitor with wording that reflects Council's position.

Deeming By-law

Section 50(4) of the *Planning Act* provides in part the following:

Designation of plans of subdivision not deemed registered

(4) The council of a local municipality may by by-law designate any plan of subdivision, or part thereof, that has been registered for eight years or more, which shall be deemed not to be a registered plan of subdivision for the purposes of subsection (3).

The "Town Plot" plan of subdivision has been registered for more than eight years.

In support of their Site Plan Control application, and in order to expand their building, the applicant was required to receive approval of Minor Variance A17-2018. This Minor Variance was granted by the Town's Committee of Adjustment on July 17, 2019. One of the conditions to the approval of Minor Variance A17-2018 is that the owner is required to merge in title of the properties.

The purpose of this Deeming By-law is to ensure that the various separate parcels that comprise the owner's total land holdings will be merged into one contiguous parcel of land, thereby preventing these parcels from being separately conveyed again without an approved Consent (severance) or a Plan of Subdivision.

This Deeming By-law, once enacted and passed by council, would be subsequently registered on title and will ultimately enable the Owner to undertake the future expansion of the industrial building without concern about "building over" what had been once separate lot lines.

The owner has undertaken a consolidation of the various PINs (Property Identification Numbers) of the subject properties. However, legal counsel has confirmed that the consolidation of the PINs is insufficient to ensure that the subject properties are lawfully merged in title. As such staff recommend that council enact and pass a Deeming By-law to ensure that the condition of the Minor Variance can be cleared and processes can continue towards Site Plan Approval. Without the conditions of the Minor Variance being met, the Town is not in a position to grant Site Plan Approval.

A Public Meeting is not required under the *Planning Act* for a Deeming By-law however notice has been provided beyond the minimum standards outlined in the *Planning Act*.

E. The Blue Mountains Strategic Plan

Goal #1: Create Opportunities for Sustainability

Objective #1 Retain Existing Business

Objective #2 Attract New Business

Objective #3 Promote a Diversified Economy

Objective #4 Support Value-Added Agriculture and Culinary Tourism

Objective #5 Improved Visibility and Local Identity

Goal #3: Support Healthy Lifestyles

Objective #3 Manage Growth and Promote Smart Growth

Goal #4: Promote a Culture of Organizational & Operational Excellence

Objective #4 To Be a Financially Responsible Organization

Objective #5 Constantly Identify Opportunities to Improve Efficiencies and Effectiveness

Goal #5: Ensure Our Infrastructure is Sustainable

Objective #4 Ensure that Infrastructure is Available to Support Development

F. Environmental Impacts

No environmental impacts are directly associated with the recommendations of this report.

G. Financial Impact

The staff recommended option has no financial impact on the Town. The Town has not budgeted for a financial contribution towards a connection to the Town's sanitary sewer system at King Street. Town funds will be required that were not provided for in the 2019 Budget.

H. In consultation with

Trevor Houghton, Manager of Community Planning
Brian Worsley, Manager of Development Engineering
Allison Kershaw, Manager of Water/Wastewater
Ruth Prince, Director of Finance & IT Services

I. Public Engagement

The topic of this Staff Report has not been subject to a Public Meeting and/or a Public Information Centre as neither a Public Meeting nor a Public Information Centre are required by the Planning Act. Comments regarding this report should be submitted to Nathan Westendorp, directorplanningdevelopment@thebluemountains.ca

J. Attached

1. Draft Deeming By-law

Nathan Westendorp, RPP, MCIP
Director of Planning and Development Services

For more information, please contact:
Nathan Westendorp
directorplanningdevelopment@thebluemountains.ca
519-599-3131 extension 246

The Corporation of the Town of The Blue Mountains

By-Law Number 2019 –

Being a By-law to designate a Plan of Subdivision, or part thereof, not to be a Registered Plan of Subdivision for the purposes of Subsection 50(3) of the Planning Act.

Whereas the Council of The Corporation of the Town of The Blue Mountains has authority pursuant to subsection 50(4) of the Planning Act, R.S.O. 1990, c. P. 13, as amended, to designate a Plan of Subdivision, or part thereof, that has been registered for eight years or more, to be deemed not to be a registered Plan of Subdivision for the purpose of subsection 50(3) of the Planning Act;

And Whereas Lot 15 and Part Lots 16, 17 and 18 Northeast of King Street Plan Thornbury Parts 8 and 10 Plan 16R9726; together with an easement over Part Lot 18 Northeast of King Street Plan Thornbury Part 11 Plan 16R9726, in favour of Part 10 Plan 16R9726 as in GY19607 are currently separate Lots within the Registered Plan;

And Whereas the Town Plot has been registered in the Registry Office for the Registry Division of the County of Grey for eight years or more;

Now Therefore Council of The Corporation of the Town of The Blue Mountains hereby enacts as follows:

1. That PIN 37140-0579 (LT) being Lot 15 and Part Lots 16, 17 and 18 Northeast of King Street Plan Thornbury Parts 8 and 10 Plan 16R9726; together with an easement over Part Lot 18 Northeast of King Street Plan Thornbury Part 11 Plan 16R9726, in favour of Part 10 Plan 16R9726 as in GY19607; Town of the Blue Mountains are hereby deemed not to be separate lots within a registered Plan of Subdivision for the purposes of Subsection 50(3) of the Planning Act.
2. This By-law shall come into full force and take effect on the date it is enacted by the Council of The Corporation of the Town of The Blue Mountains, subject to the provisions of subsection 50(27) of the Planning Act.
3. This By-law shall be registered by The Corporation of the Town of The Blue Mountains in the Land Registry Office for the Registry Division (16) of the County of Grey.

Enacted and passed this 16th day of December, 2019.

Alar Soever, Mayor

Corrina Giles, Clerk