



Report to: Development Services Committee

Report Date: June 28, 2011

SUBJECT: **UPDATE REPORT**
Gemcross Developments
(Constrada Aggregate Recycling Facility)
350 Rodick Road

File: ZA 08 119862

PREPARED BY: Scott Heaslip, Senior Project Coordinator, Central District

REVIEWED BY: Richard Kendall, Manager, Central District

RECOMMENDATION:

1. That the staff report dated June 28, 2011 entitled "Update Report, Gemcross Developments, (Constrada Aggregate Recycling Facility), 350 Rodick Road;" be received.
2. That the temporary zoning amendment application by Gemcross Developments (Constrada Aggregate Recycling Facility) to permit the existing aggregate recycling facility at 350 Rodick Road for an additional three years, be denied for the reasons outlined in the staff reports dated June 2, 2009 and June 28, 2011.
3. That Staff be authorized and directed to do all things necessary to give effect to this resolution.

PURPOSE:

The purpose of this report is to update Development Services Committee on the status of the application to permit the continued operation of the Constrada Aggregate Recycling facility at 350 Rodick Road, and to submit a recommendation.

ORIGIN:

On June 14, 2011, Council received petitions and depositions from residents and businesses concerned about the activities of the Constrada Aggregates Recycling Facility at 350 Yorktech Drive. Council directed staff to provide an update report to Development Services Committee on June 28.

DISCUSSION:

Gemross Developments (Constrada) operates an aggregate recycling facility on the east side of Rodick Road, south of Highway 7. This facility was approved by the Town in 2002 as a temporary use, not to exceed 6 years. In 2005, the temporary use by-law was extended for three years, to a maximum total of 6 years.

On May 7, 2008, Constrada applied to extend the temporary use by-law for an additional three years.

On June 14, 2008, the temporary use by-law expired. It should be noted that uses authorized by temporary use by-law do not enjoy legal non-conforming status following expiration of a temporary use by-law.

On November 18, 2008, a public meeting was held to consider the requested extension. Committee raised a number of issues and concerns, including site contamination, the economics of environmental remediation, truck traffic and circulation patterns, guarantees that the use will not become permanent, and sediment control. Committee referred the application back to staff for a report and recommendation.

On June 2, 2009, staff reported to Development Services Committee (report attached as Appendix 'A') recommending that the application be denied. Committee resolved to defer a decision on the application and directed staff to explore opportunities together with the applicant to establish a reserve fund that will be put toward the future clean up of the site, and to review and report back on the environmental conditions and monitoring program. The minutes of the June 2, 2009 Committee meeting are attached as Appendix 'B'.

The following has occurred since the June, 2009 report:

1. In August, 2009 the applicant submitted an Environmental Impact Assessment Report "investigating the potential for environmental impacts from the facility." The report concluded that "no further investigation is required at this time." The Town's Environmental Assets Group reviewed the report and exchanged further correspondence with the consultant. (Town staff comments dated January 18, 2010 and consultant response dated March 14, 2011 attached as Appendices 'C' and 'D')

The Town's Environmental Assets Group advises that they continue to be concerned with the environmental impact of the facility, as follows:

- The operation continues to generate significant sediment and dust.
 - There is significant sediment accumulation on Rodick Road and in the outlet sewers discharging to the Beaver Creek.
 - The site is adjacent to a sensitive watercourse Beaver Creek. The continued discharge of sediment to the watercourse is harmful to aquatic habitats.
2. In 2009 and 2010, staff had discussions with the applicant focusing on the following items:
 - Environment – in particular, identified concerns relating to particulates, dust and runoff into Beaver Creek.
 - Committee's requests for establishing a "reserve fund" for future site remediation and re-use.

- Timelines and long term future of the site.

Staff have not received complete responses from the applicant pursuant to these discussions.

3. In 2010, Constrada installed a sediment control facility at the entrance to reduce the amount of mud tracked onto the road.

COMMENT:

The Constrada facility has continued to operate for more than three years after expiration of the temporary use by-law in 2008.

The 2009 staff recommendation for denial of the application for extension of the temporary use was considered by Committee, but discussion was deferred pending additional information from the applicant.

The applicant has not satisfactorily addressed the issues identified by Council at the November 18, 2008 public meeting, and by staff in our June 2, 2009 report. (Appendix 'A')

The facility has continued in operation beyond the six years originally agreed to between the parties and is causing issues and concerns to area residents, and businesses, and should be closed in accordance with the original agreements.

The applicant has been advised that this matter will be before Development Services Committee on June 28.

FINANCIAL CONSIDERATIONS AND TEMPLATE: (external link)

Not applicable.

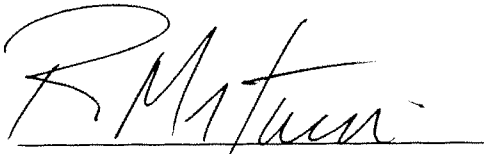
ALIGNMENT WITH STRATEGIC PRIORITIES:

The proposed development has impacts relating to a number of the Town's Strategic Priorities, in particular Environment and Transportation/Transit.

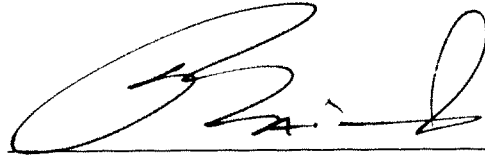
BUSINESS UNITS CONSULTED AND AFFECTED:

The applications were circulated to Town departments and public agencies for comment.

RECOMMENDED BY:



Rino Mostacci, M.C.I.P, R.P.P
Director of Planning and Design



James Baird, M.C.I.P, R.P.P
Commissioner, Development Services

ATTACHMENTS:

- Appendix 'A' – Planning staff report dated June 2, 2009
- Appendix 'B' – Development Services Committee June 2, 2009 extract
- Appendix 'C' – Memorandum from Asset Management Department dated January 18, 2010
- Appendix 'D' – Response letter from applicant's environmental consultant dated March 14, 2011

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