

**DATE:** June 9, 2025

**REPORT NO:** PD-23-2025

**SUBJECT:** **Information Report**  
**Legion Villa Fee Waiving Request**

**CONTACT:** Gerrit Boerema, Director, Growth and Sustainability

**OVERVIEW:**

- On the May 12<sup>th</sup> Growth and Sustainability Committee Meeting the Project Development Committee of the Legion Villa submitted a written request to waive planning and building related fees for a new 52 unit senior apartment building located at 161/171 Mill Street in Smithville.
- The [letter from the Legion Project Development Committee](#) also requested general support for the project.
- The proposed 6 storey, 52 unit apartment building requires a zoning bylaw amendment and site plan approval. A public meeting was held on May 12<sup>th</sup>, 2025 together with [Information Report PD-20-2025](#).
- The Legion has also applied to the Township Committee of Adjustment for a boundary adjustment, which the Committee of Adjustment approved in 2024.
- The Project Development Committee is requesting that the Township waive all Planning and Building related fees, which amount to \$22,777 for Planning Fees and approximately \$93,000 for Building Permits.
- Development Charges (DCs) are exempt for non-profit housing developments, which amounts to an exemption of \$776,360.
- This Information Report provides the Mayor and Council options to respond to this request.

**RECOMMENDATION:**

1. That, Information Report PD-23-2025 titled “Information Report, Legion Villa Fee Waiving Request” dated June 9, 2025, be received.

**ALIGNMENT TO STRATEGIC PLAN:**

**Theme #**

- Build a safe, connected, caring and active community.

**BACKGROUND:**

Representatives from the Legion Villa’s Project Development team have presented a

number of times before Committee and Council regarding the proposed 52 unit senior apartment development located at 161/171 Mill Street. The Legion Villa currently provides not-for-profit housing to seniors in two buildings on the property, and they are now proposing a third building.

The development has required the Legion to seek approval of a boundary adjustment, a zoning bylaw amendment and site plan approval to facilitate the proposed 6 storey, 52 unit rental building.

On September 11<sup>th</sup>, 2023, representatives from the Legion and Niagara Regional Housing presented a request to Council to waive planning fees a building permit fees to show support for the project. [Recommendation Report PD-59-2023](#) was prepared and submitted to Council recommending that the most transparent avenue to provide fee relief would be to create an Affordable Housing Community Improvement Plan under the Planning Act and that money be included in the 2024 budget. Council supported this recommendation, however, funds were not allocated in the 2024 budget but rather the 2025 budget.

Representatives from the Legion also presented their fee waiving request to Council on January 13, 2025. The [slideshow for their presentation](#) indicated their request to waive/refund approximately \$20,000 in planning fees, and \$100,000 in Building Permit fees.

## CURRENT SITUATION:

Most recently, the representatives from the Legion submitted a [written letter](#) which was included on the May 12<sup>th</sup> 2025 Growth and Sustainability Committee Meeting outlining their request for municipal support and for Council to provide a response.

Administration has calculated the planning fees at \$22,777, and have calculated the Building Permit fee at \$92,301.55, using the approved Consolidated User Fees and Charges by-laws in effect at the time of writing this report. The Development Charges that would be subject to exemption amount to \$776,360 and were calculated using the current Development Charges rates, as at the right of writing this report. The Development Charges amount was calculated using the one bedroom apartment category, based on information known by Administration.

Application	Fee	Status
Pre-consultation Fee	\$500	Waived
Boundary Adjustment Certification Fee	\$2,318	Paid and Complete
Zoning Bylaw Amendment	\$10,619	Paid March 4 & May 8 2025 and In Progress
Site Plan Preliminary	\$3,114	Paid
Site Plan Formal	\$6,226	Not paid
<b>Total Planning Fees</b>	<b>\$22,777</b>	

Building Permits	\$92,269.15 (968.4 sq. m x 6 floors x \$15.88/sq. m.)	Required at time of permit application
<b>Total Building Fees</b>	<b>\$92,269.15 (based on 2024 fees)</b>	
Development Charges	\$14,930/unit x 52 units = \$776,360 Based on apartment – 1 bedroom category	Subject to exemptions under the DC Act
<b>Total Development Charges</b>	<b>\$776,360</b>	

There remain a number of options for the Mayor and Council to consider when reviewing this request, which are summarized below:

### 1. Continue work on the Affordable Housing CIP

The Affordable Housing CIP Request for Proposals (RFP) is currently being finalized. A consultant would be retained to complete a Housing Needs Assessment and the CIP, which could include options for retroactive grants to cover all, or a portion of planning and building related fees. The Affordable Housing CIP could also provide grants at the time of occupancy. Affordable Housing CIP's are regulated under Section 28 of the Planning Act, and allow municipalities to enter into agreements with affordable housing providers, and have those agreements registered on title ensuring that the units remain affordable for a set period of time.

### 2. Amend the Consolidated User Fees & Charges By-law

Currently, the Consolidated User Fees & Charges By-law, as approved by Council on December 9, 2024, includes the following clause:

*“8. The user fees and charges that comprise this By-law may not be waived upon request under any circumstances, in either full or in part, unless required or allowed by external government legislation.”*

If desired, Council could amend the Fees and Charges By-law to provide delegated authority to the Mayor (and/or CAO) to waive or reduce a fee or charge (excluding development charges) under certain circumstances. There are anti-bonusing provisions under the Municipal Act which limit Council's ability to waive fees for specific developments and or specific developers/owners.

### 3. Utilize Strong Mayor Powers

The Strong Mayor Powers (set out in [Part VI.1 of the Municipal Act, 2001](#)) do not permit the Mayor to unilaterally waive a fee or charge set by by-law.

The Mayor could, however, bring a by-law forward to Council to “advance a prescribed provincial priority” (i.e., more homes faster) by reducing fees and charges related to development (e.g., by a set % or under certain circumstances such as affordable

housing), and if more than 1/3 of Council agrees, it would go into force and effect, pursuant to [s. 284.11.1 of the \*Municipal Act, 2001\*](#). An agreement between the Legion Villa and the Township should be implemented if this option is utilized to ensure that the units remain affordable for a set period of time, similar to an agreement done under a CIP program.

#### 4. Create a Small Business Support Program

Often referred to as Incubator Hubs, the *Municipal Act, 2001*, allows Municipalities to establish programs to assist small businesses, subject to certain conditions and can include various forms of financial assistance. Municipalities with a CIP typically do not include development-related businesses within this type of program.

While there have not been any formal announcements or information released, additional funding opportunities may become available through new Federal and Provincial legislation and programs.

### **FINANCIAL IMPLICATIONS:**

As the Legion Villa is a non-profit housing provider, seeking to provide affordable and attainable rental units, the Development Charges Act, under section 4.2, (in conjunction with the Township's Development Charges By-Law 2024-70, under clause 3.7) provides a mandatory exemption for paying Development Charges to the Township and Region.

Per section 4.2 of the Development Charges Act:

- “(1) “Non-profit housing development” means the development of a building or structure intended for use as a residential premises and developed by,
- (a) a corporation to which the Not-for-Profit Corporations Act, 2010 applies, that is in good standing under that Act and whose primary object is to provide housing,
  - (b) a corporation without share capital to which the Canada Not-for-profit Corporations Act applies, that is in good standing under that Act and whose primary object is to provide housing, or
  - (c) a non-profit housing co-operative that is in good standing under the Co-operative Corporations Act, 2022, c. 21, Sched. 3, s. 4.
- (2) A non-profit housing development is exempt from development charges. 2022, c. 21, Sched. 3, s. 4.”

The Township would seek confirmation to solidify that the applicant meets the applicable criteria to receive a Development Charges exemption.

It is very important to note that when a development is exempt from DCs, the municipality must fund the foregone DC amount back into the DC reserve funds. In other words, the DC reserve funds need to reflect the DC exemption amounts, as if the reserve had actually received the DC monies. This required funding applies to all forms

of exemptions. This is a requirement of the Development Charges Act, as the Act does not allow exemptions or reductions to one type of development to be made up through higher DC charges to other forms of development.

Therefore, the Township would need to fund the cost of DC exemptions from existing tax and ratepayers, in the absence of upper level funding programs. As noted above, the total exempted DCs for this development would be \$776,360. Given the significant value, a funding source would need to be identified, to ensure compliance with the Act.

Furthermore, the representatives from the Region have requested that all of the Township's planning fees, totalling \$22,777, be waived and that the Building Permit fees of \$92,269.15 be waived. Unlike DCs, there is no explicit provincial requirement that mandates municipalities to fund building permit or planning fee waivers from a specific source. However, when a municipality chooses to waive these user fees, the result is a loss of revenue. In the case of Building Permit fees, this loss of revenue would result in the inability to recover full costs associated with the services prescribed by the Building Code Act.

Council approved \$15,000 for the creation of an affordable housing CIP for 2025. The Request for Proposal is being finalized, however, through discussions with various consultants, the cost to create an Affordable Housing CIP could be greater than the amount budgeted for. If this is the case, Administration will be seeking a Budget Amendment to proceed with this project work. Following creation of a CIP program, Council would also need to provide funding for the program to award the grants to affordable housing projects.

#### **INTER-DEPARTMENTAL COMMENTS:**

This report has been reviewed by Township Legal Counsel, the Director of Corporate Services/CFO, the CAO and the Clerk.

Development Engineering, Infrastructure and Fire have provided comments on the related zoning bylaw amendment and site plan applications, which will be brought forward in a separate report.

#### **CONCLUSION:**

Representatives from the Legion Villa have submitted multiple requests to waive their planning and building related fees for their new 52 unit non-profit senior's apartment. In a previous resolution by Council, administration has been directed to complete an Affordable Housing Community Improvement Plan in 2025. This work is underway but will not be completed until later in 2025. In addition, once a CIP is created, Council would need to provide additional funding to issue grants for affordable housing projects.

#### **ATTACHMENTS:**

1. Legion Villa Request Letter – May 2025

**Prepared & Submitted by:**

**Approved by:**

**Gerrit Boerema**  
**Director, Growth and Sustainability**

**Truper McBride**  
**CAO**