

STAFF REPORT: Financial & Information Services

REPORT TO: Finance & Administration
Committee

MEETING DATE: November 17, 2009

REPORT NO.: FIS.09.61

SUBJECT: Pre-payment of Development
Charges

PREPARED BY: Robert Cummings, Director of
Financial & Information Services

A. Recommendations

THAT Council receive Staff Report FIS.09.61, "Pre-payment of Development Charges" for information purposes; and,

THAT the proponent's request that current commercial Development Charges of \$58.36 per sq. metre, as set out in By-law 2005-27, be frozen for their proposed development pending all required reviews by Town officials be refused.

B. Background

Blue Sky Realty and Ron Morrison made a presentation to Council on November 9, 2009 requesting that current commercial Development Charges of \$58.36 per sq. metre, as set out in By-law 2005-27, be frozen for their proposed development pending all required reviews by Town officials.

The new Town Wide Development Charge By-law is expected to be adopted by Council for 2010. The new charge for commercial purposes in the Thornbury West service area is \$185.29 is per sq. metre. Therefore it would be considerably advantageous for the developer to pay the current rate.

As for the timing of payments, the current Town Wide Development Charge By-law, 2005-27, contains the following clause;

Phasing, Timing of Calculation and Payment

17. (1) The development charges set out in this By-law are not subject to phasing in and are payable in full, subject to the exemptions and credits herein, from the date this By-law comes into force.

(2) Subject to Subsection (3), Subsection (4), Section 22 and Section 23, the development charge shall be calculated as of and shall be payable on the date the first building permit is issued in relation to a building or structure on land to which the development charge applies.

(3) Notwithstanding Subsection (2) the Roads & Related Services, Sanitary Sewage System, and Waterworks System services components of the development charges for residential development and commercial resort development that require approval

of a plan of subdivision under section 51 of the Planning Act or a consent under Section 53 of the Planning Act for which a subdivision agreement or consent agreement is executed by the owner shall be calculated and shall be payable immediately upon executing the agreement, pursuant to Section 26 of the Act. The terms of such agreement shall then prevail over the other provisions of this section.

(4) Notwithstanding Subsection (2) and Subsection (3), the Town may enter into an agreement, including the provision of security for the owner's obligations under the agreement, with an owner who is required to pay a development charge providing for all or any part of a development charge to be paid before or after it would otherwise be payable, pursuant to Section 27 of the Act. The terms of such agreement shall then prevail over the other provisions of this section.

Subsection 1 is fairly self explanatory in that the Town does not discount or phase in Development Charges. Subsection 2 states that the typical timing of Development Charges is under building permit application.

Subsection 3 allows the Town to collect hard services at subdivision approval for those developments that are residential in nature only. Typically, the collection of Development Charges for commercial or industrial development only happens at building permit issuance. The Town charges based on square metre, not a standardized unit charge like residential developments, and only know the actual charge once the building permit, stating the building footprint, has been issued.

Subsection 4 is where the ideals of collection of payment can be twisted. This section reads in essence that the Town can enter into an agreement for payment at any other time before or after building permit so long as they want to. This section is the piece of the puzzle that could allow the proponent to "pre-pay" DC charges at current rates. The Town has in the past not allowed for this to happen. The Town has had developers ask for relief when a subdivision agreement is in the works but wouldn't be completed until January-February of a year. Town staff has in the past relied on our By-law and past practice to reject the idea of skirting increases due to annual inflationary factors and Development Charge By-law updates. This request asks to "lock in" the current charge to ensure they don't have to pay for the new rate, which is going up substantially and primarily due to real increases in construction costs.

Town staff has spoken with Hemson Consultants regarding this issue and have been informed that they have never heard of a municipality allowing for the pre-payment of DC's under commercial applications. Hemson believes that this practice isn't followed mainly due to the uncertainty in the final footprint of the structures. It was mentioned in the discussion that some municipalities have allowed for residential developments to pre-pay in order to gain relief from the inflationary increases, however it still is an uncommon practice.

The biggest issue with this request falls within the nature of the development. Since this is a commercial development and we do not have a finalized site plan agreement, which would take a few months, nor a finalized draft plan approval or subdivision agreement, how do we assess a fair charge for total building foot print? This is why the Town's

current By-law anticipates collection of DC's for commercial and industrial development at building permit. At the building permit stage, the Town knows what to actually charge.

This request, if granted, would set precedent for other developers to approach Council regarding their own initiatives. The issue then becomes compounded as staff try to estimate DC's for any number of developers that want this advantage.

Additionally, the Town underwent an early renewal of their DC By-law because DC's calculated in the Town Wide Development Charge By-law 2005-27 were no longer in line with the actual costs to build the capital infrastructure for growth. The new proposed By-law takes into consideration the recent actual costs of construction and a stronger growth estimate to calculate a relevant Development Charge for the expected growth of the Town. Every development that pays DC's under the 2005 By-law is generating a shortage in the future service levels or putting pressure on taxation to pay for growth. As this By-law is currently in effect, the DC's contained in it are the charges the Town must live with until the more relevant proposed By-law is adopted.

The comparison of the DC's in the 2005 By-law to the proposed By-law show a significant increase in the charges. As mentioned above, this is largely due to significant inflationary pressures in the construction industry over the past 5 years. The Town is not alone in this experience. Other municipalities that have recently updated their DC By-laws have observed similar results.

Another driver for the increase in non-residential DC's is that the 2005 Background Study incorporated four distinct Development Charges for commercial developments. The charges were based on a highly complicated calculation using best guesses by the Planning Department for differing intensifications of commercial development. This ranged from the most intensive for things such as restaurants to the least for such structures as conference centers and maintenance buildings. The calculation used a gross floor area multiplied by intensification usage to assume a person per square metre use to then calculate an equivalent per unit rate based on the standard residential unit charge. This was a very convoluted methodology that was almost impossible to explain and was hard to justify. The current Background Study uses a method commonly used by most municipalities in Ontario by establishing a 10 year household growth and using the newest Stats Can employment statistics to generate a 10 year employment growth. The employment growth is then used to establish additional commercial space by multiplying the employment growth by the average space per employee in The Blue Mountains. The change in calculation methodology now means that all commercial space pays the same rate versus a differing rate based on intensification use which was hard to substantiate.

Non-residential DC's do not contribute to growth-related capital works in the Library or Parks and Recreation. Also, the non-residential share of total growth-related capital works equates to 5% of the total. Residential DC's pick up the other 95%.

C. The Blue Mountains' Strategic Plan

Providing a strong, well managed municipal government

D. Environmental Impacts

n/a

E. Budget Impact

Discounts to the Development Charges payable will result in pressure on taxation and rates. Alternatively, Council could choose to lower the service level provided to future residents.

F. Attached

1. Comparison of Commercial / Retail Development Charge Rates per square metre

Respectfully submitted,

Signature

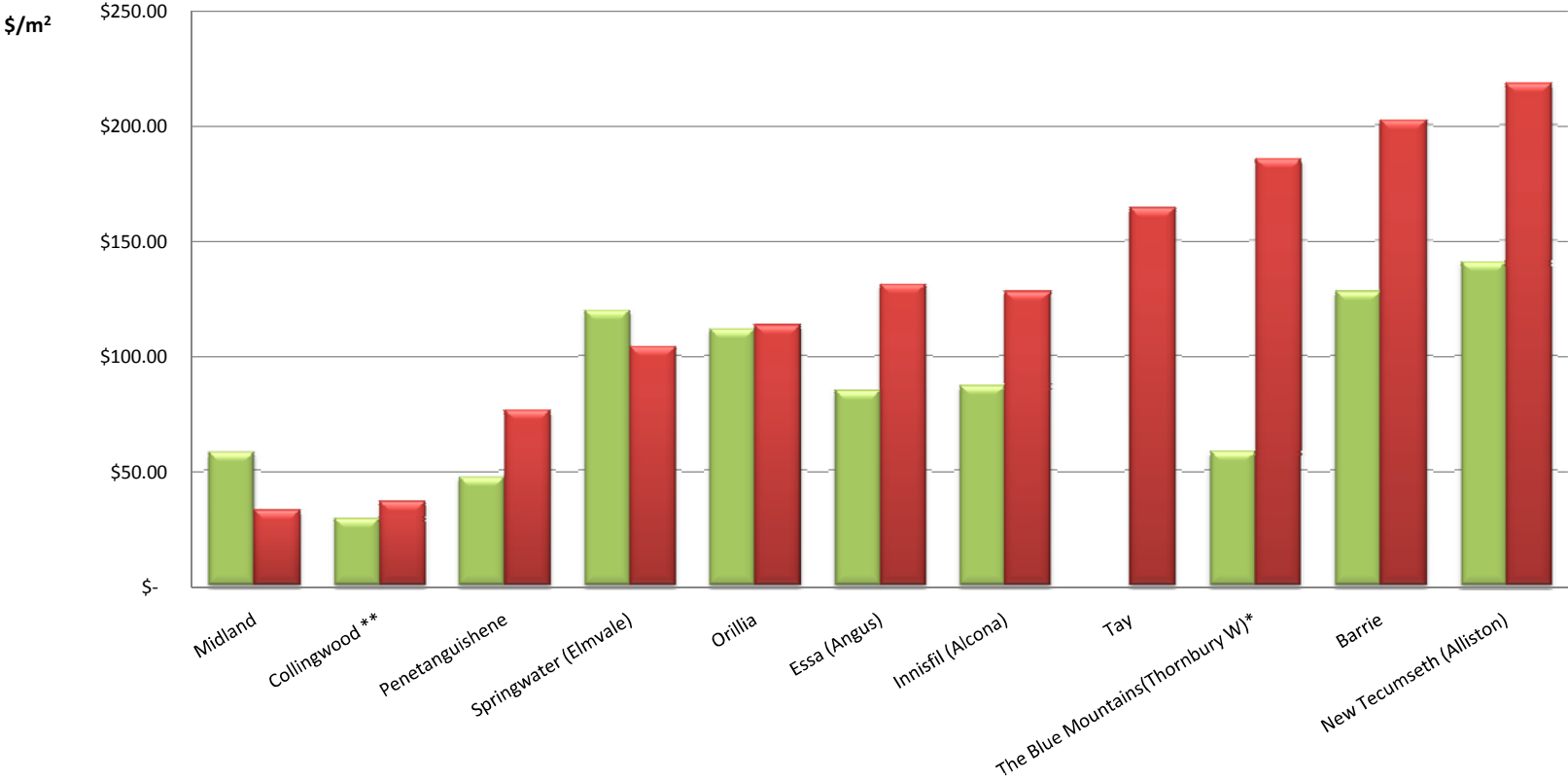
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Commercial/Retail DC Rates per Square Metre



* Proposed non-residential development charge per square metre

** Phased-in amount

■ Charge in effect prior to passage of new by-law
 ■ Newly approved rate by council or proposed