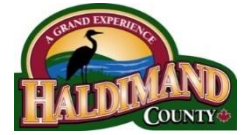

HALDIMAND COUNTY

Report PED-PD-03-2018 Deferral of Development Charges – Wabasso Gardens



For Consideration by Council in Committee on January 16, 2018

OBJECTIVE:

To consider a request from Wabasso Gardens for deferral of Development Charges relating to the construction of an assisted living seniors project in Dunnville.

RECOMMENDATIONS:

1. THAT Report PED-PD-03-2018 Deferral of Development Charges – Wabasso Gardens be received;
2. AND THAT the deferral of Development Charges be approved on the basis of the criteria and principles outlined in Report PED-PD-03-2018 for Wabasso Gardens and be subject to the terms and parameters as set out in Report PED-PD-03-2018;
3. AND THAT the Mayor and Clerk be authorized to execute any agreement or legal documents associated with the deferral of development charges;
4. AND THAT a non-refundable Deferral of Fees administrative processing charge of \$500.00 be applicable to the subject request.

Prepared by: Mike Evers, MCIP, RPP, BES, Manager, Planning & Development

Prepared by: Mark Merritt, Treasurer

Respectfully submitted: Craig Manley, MCIP, RPP, General Manager of Planning and Economic Development

Approved: Donald G. Boyle, Chief Administrative Officer

EXECUTIVE SUMMARY:

The subject report responds to Council's direction to staff to assess a request from Wabasso Gardens in Dunnville for deferral of development charges (DCs) for a set period of time. Staff is recommending a deferral of DCs for a maximum period of five (5) years based upon: i) the type of housing that is proposed (seniors assisted living) which serves to address a critical need in the community; and, ii) the complexities surrounding the redevelopment of the subject lands. The terms of the deferral include requirement for full payment plus applicable accumulated interest within five years of the approval. Any deferred fees will be subject to accumulated interest, compounded at a rate being equivalent to the County's short term borrowing costs plus 0.25%. An agreement that incorporates these terms will be completed and registered on title.

BACKGROUND:

Previous Policy

In 2009, County Council approved a deferral of fees policy which was applicable to medium to large scale residential developments. The policy was developed in order to provide a method of promoting development in Haldimand County without contravening current legislation. The deferral of payment of certain fees related to subdivision development was viewed as a method to help reduce 'up front' development costs, and by doing so, spur development and encourage some developers that are considering investing in Haldimand County to invest here. To avoid "bonusing" provisions under the *Municipal Act* and maintain equity for all developers, parameters were included in the required payment arrangements to eliminate the financial risk to the County and its taxpayers while ensuring all developers are treated fairly and equitably, whether they choose to use this program or not. The policy as it exists today, sets out very detailed eligibility criteria and principles which must be adhered to/met for any deferral consideration.

Current Request

Council in Committee received a delegation at its December 5, 2017 meeting from Wabasso Gardens in Dunnville. The delegation put forward a request for deferral of development charges as a means to assist in the construction of an assisted living project for seniors on Cross Street in Dunnville. The total development charge value is approximately \$58,000. While the project does not fit the project profile that is currently laid out in the deferral of fees policy (i.e. medium to large scale residential subdivisions that are developed in a number of phases over time), the nature of the use and complexities involved with this project merit consideration. As such, pursuant to the County's current Development Charges by-law and underlying Provincial legislation, a project-specific consideration is required for any deferral consideration. The subject report is a response to Council's direction to assess the suitability of the request and provide a set of recommendations of how a deferral should be structured for the Wabasso Gardens project.

ANALYSIS:

The Wabasso Gardens project, which consists of 36 assisted living dwelling units in a 2 storey building, has secured zoning and site plan approval and is in the process applying for a building permit. It is at the building permit stage that current applicable development charges would normally be paid. According to the developer, various factors have added to the costs of development which has created some financing challenges as the project is prepared to go to construction tender. This has now lead the developer to make the request for deferral of development charges. To assist in the assessing the suitability of the request, staff have examined two aspects as follows: i) site characteristics and conditions; and, ii) housing type/need.

i. Site characteristics and conditions

The site characteristics and conditions have lead to some significant increases in the costs of development. The main drivers in this respect are as follows:

- The site is considered infill and is generally surrounded by low density development. This has added costs to the design stage as the complex nature of grading/drainage and stormwater management has to be addressed;
- Restrictions to existing County water and sanitary infrastructure at the property line (i.e. Cross Street), resulted in the need to service the site from the south (i.e. Forest Street) where constraints do not exist. This lead to the need to secure servicing easements (survey, legal costs) and add significant length (thus cost) to the necessary infrastructure given the servicing routing required;

- The site was a brownfield property, being one where a previous industrial use existed and resulted in real soil contamination. As a result, the site required extensive soil remediation to bring it to a residential standard that is suitable for development;
- The legacy of an old County laneway, that provided rear yard access to a number of private residential properties, had to be accommodated in the site design and function. This resulted in additional cost associated with extensive legal work, land surveying and negotiations with neighbouring landowners, as well as a County road closure process and acquisition of the land by the developer; and
- All of the above matters combined to extend the development approvals process thus resulting in delays to project start-up. Delayed start-up has resulted in increased construction and material costs.

ii. Housing type/need

The Wabasso Gardens project would provide 36 assisted living residential units for seniors. At present, there are extensive waiting lists for these types of units at both the Haldimand War Memorial Hospital (HWMH) and Grandview Lodge. It has been acknowledged and expressed in the County's Official Plan that this type of development is in demand and that the County should work to encourage developers to pursue projects that would fulfill this housing need. The developer has also indicated that based on his work within and his ties to the HWMH and health care community, the need is growing locally while the interest in developing these types of projects is not keeping pace. Based on a review of recent development inquiries and pre-consultation meetings, staff can corroborate the fact that there is very limited development industry interest in advancing with support housing at this time.

Based on the above, staff is of the opinion that a project-specific deferral of development charges is appropriate to support a project that is positioned to address a growing housing need in the community of Dunnville (and County as a whole). Staff have used the existing deferral of fees policy as the framework for this request. Given that this request is scoped to development charges only, a significant component of the deferral process has already been addressed (i.e. identifying which fees are appropriate to defer). Based on this, staff have developed a payment deferral program which is detailed as follows and which is to be laid out in an agreement that is registered on title:

1. Timing of Payments/Collection Methodologies/Securities

The intention of the developer is to defer fees for a maximum period of 5 years. Staff is proposing that repayment would take place by the end of the 5 year period at the latest; thus, there would not be any requirement for regularly timed payments (i.e. monthly/yearly). The intent of this is to provide some flexibility to the developer with respect to payment of the specific fee to encourage the development. In this regard, it is not appropriate to have regular repayment terms as the underlying principle is not to act in the place of a financial institution. The flexibility to pay the development charge fees relative to the cash flow of the development is considered the fundamental benefit of this project specific deferral agreement. As such, based on available cash flows, the proponent can pay all amounts, in full, prior to the expiry of the 5 year term with no additional penalties or interest.

It is also recommended to have the proponent provide the County Treasurer with a "pro-forma" financial statement/cash flow related to the proposed development. This will allow staff to evaluate the financial stability of the underlying project and assess the ability of the proponent to meet the financial obligations of the recommended deferral of fees. The "pro-forma" financial cash flow analysis would, at a minimum, provide an analysis of proposed inflows and outflows over the proposed period of deferral of fees. In addition, the proponent must remain current with all amounts owing to the County (i.e. property taxes, miscellaneous fees and charges, etc.) during the deferral period to remain eligible. This will assist staff in monitoring the credit worthiness of the developer during the deferral period. Any default in these provisions would deem the deferral agreement void and all amounts owing would become due and

payable immediately. These financial security provisions are all requirements of the current fees deferral policy.

In addition, if there is any other default under the agreement or, the development no longer meets the eligibility requirements under this program (e.g. housing type is proposed to change), all deferred fees will be immediately due and payable. All fees remaining unpaid after they become due and payable, in addition to any other remedies available to the County under municipal law, will be added to the property tax roll(s) (or property tax rolls within which the property is comprised) and collected in a similar manner as property taxes (including, but not limited to, being recognized as a priority lien status). The County also reserves the right to add these unpaid fees to any other tax rolls to which the proponent may be a party.

It should be noted that there is the possibility in the event that these fees are recovered through property taxes that the purchasers of the applicable units will become liable for these amounts. However, significant precautions have been implemented to avoid this situation. In addition, as the agreement will be registered on title and the deferral of fees will be disclosed, it is assumed that a prudent purchaser, through their respective agent(s), will take the necessary provisions to protect their interest for these outstanding amounts.

2. Interest Applicable on Deferred Fees

Given the required fees, as approved by County by-laws, are being recommended to be paid at times other than when they are normally due and payable, to avoid “bonusing” provisions under the *Municipal Act* and maintain equity for all developers, interest must be applied on deferred fees. Development charges are deposited into interest bearing reserve funds that accumulate compounded monthly interest. As such, is recommended that the interest be compounded monthly based on the original deferred fees as well as the accumulated interest.

As the County collects development charges for future capital projects, if the applicable fees are not received when normally required, the County would need to “borrow” these funds to finance the underlying costs. As a result, the applicable interest rate should be equivalent to the County’s short term borrowing costs. As the maximum term of the agreement is five years, it is recommended to use the posted rates under the Infrastructure Ontario loan program, as updated from time to time. It is recommended to add an additional zero point two five percentage (0.25%) to the stated rate for a five year serial debenture. The additional percentage reflects the effective rates under public debenture issuances and to cover legal and administrative costs associated with a debenture loan. This rate is readily available on Infrastructure Ontario’s website and reflects the estimated short term borrowing cost to the County. The County’s current short term borrowing rate, as at December 1, 2017, is 2.36% for a five year serial debenture. As a result, the applicant’s interest rate would be 2.61%, compounded monthly all outstanding amounts.

Interest would therefore be calculated monthly, at the applicable rate at the beginning of the month (adjusted from time to time) and would be applied to the principal and outstanding interest at that time.

3. Specific Agreements to Be Registered on Title and Annual Reporting Requirements

As noted above, the provisions recommended will require a legal agreement to be executed between the applicant and the County. This agreement will be registered on title and the registration will indicate the deferred development charge fees at the time of registration. This will ensure any interested parties reviewing the title to the applicable property would be aware of the liens associated with this agreement. Similar development charge deferral agreements are very lengthy and as a result, will require a review by the County’s solicitor.

It is also recommended that annual cash flow reporting be required under the agreement. This will assist in evaluating the applicant’s continued ability to repay the deferred amounts. It is recommended that, at any time during the agreement, if the applicant no longer meets the eligibility requirements

under the deferral program (e.g. housing tenure proposed to change) that all deferred fees and accumulated interest thereon will be immediately due and payable. This will ensure that, in the event that there are financial concerns over the repayment of these deferred fees, staff can react in a timely manner to recover the funds outstanding to the County. If these statements are not submitted within the required timeframe, this would result in a default under the agreement, and all amounts would become immediately due and payable.

Next Steps

Should the recommendations be approved by Council, staff will develop a detailed agreement which incorporates the above details relative to payment schedule and interest. This agreement will be reviewed with the developer and County solicitor and upon execution (signing by all parties) will be registered on title.

FINANCIAL/LEGAL IMPLICATIONS:

It is anticipated that the proposed administrative fee of \$500 would cover the costs to review/administer the underlying agreement related to the recommended fees deferral. This fee is slightly less than the fee required under the current deferral policy but the scale of the project is less complex. Staff have reviewed the proposed development and have determine the applicable development charges required at this time to be approximately \$58,000 at the current rates. The actual development charges to be deferred will be determined at the time of building permit issuance. As the interest recommended under the proposed deferral incorporates any potential borrowing costs of the County and associated administrative costs, there are no relevant financial “bonusing” provisions to this development over any other similar type of development.

The registration of the agreement on title and priority lien collection status on any defaulted payments should also protect any security/default payment issues that may arise (although not anticipated at this time).

STAKEHOLDER IMPACTS:

Not applicable.

REPORT IMPACTS:

Agreement: Yes

By-law: No

Budget Amendment: No

Policy: No

ATTACHMENTS:

Not applicable.