



Town of Newmarket
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Rice Commercial Group Development Charges Pre-Payment Agreement Staff Report to Council

Report Number: 2021-66

Department(s): Planning and Building Services, Financial Services

Author(s): Phoebe Chow, Senior Planner - Policy

Meeting Date: October 4, 2021

Recommendations

1. That the report entitled Rice Commercial Group Development Charges Pre-Payment Agreement dated October 4, 2021 be received; and,
2. That Council directs the Director of Financial Services to enter into a pre-payment agreement under section 3.11 of the Town's Development Charges By-laws 2019-46 and 2019-47 with the Owner of 1240 Twinney Drive; and,
3. That the Director of Financial Services be delegated the authority to enter into any future pre-payment agreements under section 3.11 of the Town's Development Charges By-laws 2019-46, 2019-47 and 2019-48, with developers; and,
4. That Staff be authorized and directed to do all things necessary to give effect to this resolution.

Purpose

The purpose of this report is twofold: 1) to seek Council's direction to enter into a pre-payment agreement under section 3.11 of the Town's Development Charges By-laws with Rice Commercial Group, and 2) to recommend Council delegates to the Director of Financial Services the authority to enter into any future pre-payment agreements with other developer(s) under section 3.11 of the Town's Development Charges By-laws 2019-46, 2019-47 and 2019-48.

Background

Davis Drive 404 Retail GP Inc. and RCG Grey 404 GP Inc. (Rice Commercial Group) (the Owner) are the owners of the properties at 7-77 Harry Walker Parkway S (formerly 1250 Davis Drive) and 1240 Twinney Drive (Subject Lands)(see Attachment 1 for location). The subject lands previously supported an automotive manufacturing building and warehouse of approximately 18,643 square metres. A demolition permit to demolish the warehouse was issued on October 31, 2016.

Since the demolition of the warehouse, the Owner has received Site Plan approval to partially redevelop the Subject Lands with eight new commercial buildings, municipally known as 7, 17, 27, 37, 47, 57, 67, and 77 Harry Walker Parkway S (Phase 1). The Owner is now ready to submit a Site Plan amendment application to the Town to facilitate Phase 2 at 1240 Twinney Drive for a large format retail store.

Discussion

Reduction of Development Charges Expires on October 31, 2021

The Town's Development Charges By-laws 2019-46, 2019-47 and 2019-48 provide for a reduction to development charges for redevelopments if a building or structure was demolished on the same property within 60 months prior to the date of payment of development charges. The amount of the development charges reduction is calculated based on the type and square footage of the building that was demolished.

The 60-month period for the Owner expires on October 31, 2021. To qualify for the reduced development charges for the Phase 2 redevelopment resulting from the demolition of the warehouse, the Owner must pay the development charges for Phase 2 by October 31, 2021 or else the said reduction of development charges would no longer be available to the Owner.

COVID-19 Pandemic Caused Uncertainties to the Redevelopment of Phase 2

The COVID-19 pandemic negatively impacted many industries globally including retail. The Owner has cited that the delay in moving forward with the redevelopment was, in part, due to the related impacts of the COVID-19 pandemic on businesses. Specifically, Phase 2 was put on hold pending tenant confirmation of the contract to move forward. As businesses are slowly opening back up, the Owner has advised Planning staff that the Site Plan Amendment application for Phase 2 redevelopment is ready for submission. However, given the development charges reduction will expire on October 31, 2021, there is insufficient time to review and process the Site Plan Amendment application, and a building permit for the Phase 2 will not be ready by October 31, 2021. As such, the Owner is requesting to enter into a pre-payment agreement with the Town in order to secure the reduction of development charges prior to the expiration of the 60-month period.

Development Charges By-law Allows Council to Enter into Pre-Payment Agreements

Typically, development charges are payable prior to the issuance of a building permit and as noted previously, a building permit for Phase 2 will not be ready by October 31, 2021. However, the Town's Development Charges By-laws allow development charges to be prepaid earlier through a pre-payment agreement with the Town. Section 3.11 of the Development Charges By-laws states:

3.11 Despite subsection 3.10, Council, from time to time, and at any time, may enter into agreements providing for all or any part of a development charge to be paid before or after it would otherwise be payable.

As permitted by the Development Charges By-laws, Council may allow the Owner to pay the development charges for Phase 2 in advance of issuance of building permits by entering into a pre-payment agreement with the Owner. The pre-payment agreement would facilitate early payment of development charges and allow the development charges reduction to be applied to the development charges for Phase 2, if payment is made by October 31, 2021. The Owner agrees with this arrangement and is ready to enter into a pre-payment agreement with the Town, subject to Council's direction.

Delegated Authority to Enter into Future Pre-Payment Agreements with Developers

Staff do not anticipate there will be many pre-payment agreement requests from other developers. Despite that it is an option available in accordance with the Town's Development Charges By-laws, typically, developers would not pay development charges in advance of planning or building permit approvals as pre-paying development charges poses financial risk. However, due to the pandemic, there may be other developers that would need the extra time to support their businesses. As such, staff is requesting that Council delegate to the Director of Financial Services the authority to enter into any future pre-payment agreements.

Conclusion

The Town's Development Charges By-laws recognize that Council has the ability to collect development charges before they would otherwise be payable. In this case, staff acknowledge the impact that the COVID-19 pandemic has had on many businesses and recommend that Council support the Owner by entering into a pre-payment agreement prior to October 31, 2021.

Business Plan and Strategic Plan Linkages

- Economic Leadership and Job Creation

Consultation

Planning and Financial Services staff have consulted Legal Services staff on this matter.

Human Resource Considerations

None

Budget Impact

None

Attachments

Attachment 1 – Location Map

Approval

Adrian Cammaert, Manager, Planning Services

Jason Unger, Director, Planning and Building Services

Mike Mayes, Director, Financial Services

Peter Noehammer, Commissioner, Development & Infrastructure Services

Contact

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