

TO: GENERAL COMMITTEE

SUBJECT: DEVELOPMENT CHARGES APPEAL SETTLEMENT

WARD: ALL

PREPARED BY AND KEY CONTACT: M. VILLENEUVE, SUPERVISOR OF DEVELOPMENT CHARGES EXT. 4503
C. GILLESPIE, SENIOR MANAGER OF CORPORATE FINANCE AND INVESTMENTS EXT.5743

SUBMITTED BY: C. SMITH, ACTING CHIEF FINANCIAL OFFICER EXT.5130

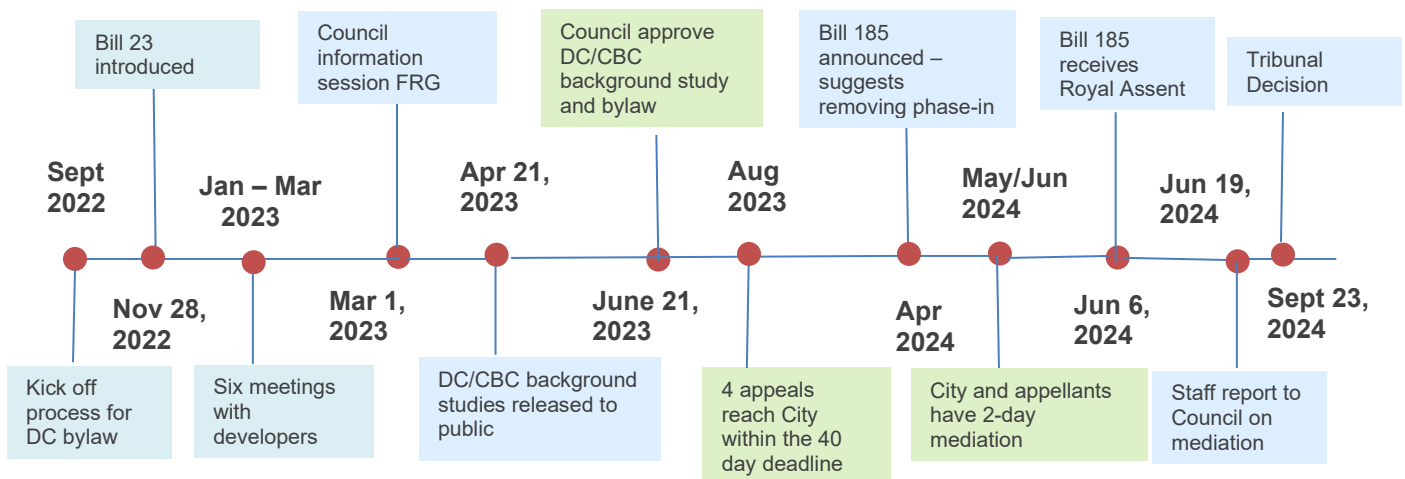
CHIEF ADMINISTRATIVE OFFICER APPROVAL: M. PROWSE, CHIEF ADMINISTRATIVE OFFICER

RECOMMENDED MOTION

1. That staff enter into a Section 27 Agreement with the developer of 440 Essa Road attached as Appendix “A” to Staff Report FIN016-24, subject to the agreement conforming with the following general terms and conditions:
 - a) Recognize the frozen rate applicable to the property as of December 2020 plus applicable indexing at a rate of 3.84% per annum;
 - b) Permit the development charges to be paid in instalments applicable to rental developments under Section 26.1(3) of the Development Charges Act; and
 - c) That the terms of the agreement be subject to building permits being issued within 12 months of the agreement.
2. That all appropriate refunds related to the Development Charges (DC) appeal settlement be issued.

PURPOSE & BACKGROUND

3. This report is being presented following successful mediation of the 4 Appeals relating to Development Charges By-law 2023-74.
4. The following is a timeline of the DC process and legislative changes to date:



City received appeals from four appellants, mainly contesting costs were too high

5. The DC Act provides that any member of the public may appeal a DC By-Law within 40 days after it is passed. The City's DC By-Law 2023-074 was appealed by 4 appellants:
 - a) Salem Landowners Group
 - b) Hewitt's Creek Landowners Group
 - c) 440 Essa Developments Inc. (o/a One Urban Developments Inc.)
 - d) Barrie Central Developments Inc. (34-50 Bradford Street)
6. The main challenge to the City's DC By-Law from the appellants was that the DC rates were too high due to the following:
 - a) The estimated cost of replacing existing assets is too high
 - b) The estimated cost of required future capital works is too high
 - c) The estimated benefit to existing taxpayers is too low
 - d) The estimated post period benefit to development beyond the 2041 planning horizon is too low.

The City entered Tribunal led mediation with appellants ahead of scheduled September DC appeal hearing

7. The DC appeal was scheduled to be heard by the Ontario Land Tribunal (Tribunal) over a 4-week period beginning in late September 2024. Since the DC appeal process had begun, staff had been exchanging information with the appellants to reduce the items that had been contended. Additionally, staff and all of the appellants had engaged in a Tribunal led Mediation process in a further effort to resolve the DC appeal issues ahead of the upcoming hearing.
8. The Mediation efforts included two full days of meetings and the sharing of information over a two-week span. The City was represented by staff from Finance; Engineering and Facilities; along with Hemson Consulting Ltd (Hemson), who performed the background study, and external legal counsel.
9. The four Appellants had agreed to resolve their DC appeals with reductions of \$11,984 (11%) per Single and Semi-Detached unit in the former Boundary and \$15,049 (12%) per Single and Semi-Detached unit and corresponding decreases to other unit type rates.
10. One appellant, 440 Essa Developments Inc (o/a One Urban Developments Inc.), additionally requested a Section 27 deferral agreement with respect to their development committing to frozen rates as of December 2020.

440 Essa Developments Inc. (o/a One Urban Developments Inc.)

11. This developer has a Site Plan Application proposing to build a mixed-use building with 262 Rental Apartments (39 of which might may the "Affordable Residential Unit" criteria) and Ground Floor Commercial.

12. This developer had indicated that they would not accept the settlement unless staff brought forward a Section 27 Agreement specifically for this Development that would include the following terms:
 - a) recognize the frozen rate applicable to the property as of the date the site plan application was submitted and deemed complete (which is December 23, 2020), and
 - b) permit the development charges to be paid in instalments applicable to rental developments under section 26.1(3) of the Development Charges Act
13. On June 19, 2024, Council motion 24-G-170 directed staff to settle these matters with the following terms which are reflected in the drafted Section 27 Agreement (Appendix "A"):
 - a) recognize the frozen rate applicable to the property as of December 2020 plus applicable indexing at a rate of 3.84% per annum
 - b) permit the development charges to be paid in instalments applicable to rental developments under Section 26.1(3) of the Development Charges Act
 - c) that the terms of the agreement be subject to building permits being issued within 12 months of agreement.

Proactively Reduced Rates

14. Additionally, on June 19, 2024, Council directed staff to proactively reduce the development charge rates to those that had been negotiated. On June 20, 2024, the City's rates were so adjusted.

ANALYSIS

15. As part of any settlement or ruling by the Ontario Land Tribunal, the Development Charges Act requires the municipality to issue refunds including interest for any development charges paid during the by-law over and above the negotiated settlement. The estimated refunds are approximately \$5.2 million plus interest of \$200K. These refunds will come from the development charge reserves.
16. The agreed settlement achieves a balance of financial prudence while supporting Council's housing target pledge and Council's strategic goal of affordable places to live.

ENVIRONMENTAL AND CLIMATE CHANGE MATTERS

17. There are no environmental or climate change matters related to the recommendation.

ALTERNATIVES

18. There are no alternatives available for consideration by Council as direction was given to reach a settlement with the developers based on the parameters laid out in Staff Report FIN013-24.

FINANCIAL

19. The financial impact of the DC Rates settlement is approximately \$5.4M in refunds for already collected DC amounts plus an estimated \$108M over the next 5 years in DC collections which is partially offset by an estimated \$65M increase in DC collections due to Bill 185 removing the phasing in of development charge rates. The financial impact of the Section 27 Agreement with 440 Essa Developments Inc is estimated to be between \$4.3M and \$4.8M in additional lost DC revenue.

-
20. If necessary, the City will manage the reduction in DC revenues by deferring projects or entering additional front end credit agreements with developers. The City has begun the process of updating master plans for the planning horizon 2051, and can bring forward a new DC background study and related DC by-law for Council's consideration in 2028.
21. **LINKAGE TO 2023-2026 STRATEGIC PLAN**
22. This matter is related to the goals identified in the 2023-2026 Strategic Plan:
- affordable places to live
 - infrastructure investments
 - responsible governance



Appendix "A"

Section 27 Agreement