

The Corporation of the City of Kawartha Lakes
Council Report

Report Number EA2019-006

Date: March 26, 2019
Time: 2:00 p.m.
Place: Council Chambers

Ward Community Identifier: Ward 2

Title: Request by Shield Storage Centres Inc. for Deferral of Development Charges

Description: This report appries Council of the request by Shield Storage Centres Inc. to have development charges deferred until a new development charges by-law takes effect.

Author and Title: Adam Found, Manager of Corporate Assets

Recommendation(s):

That Report EA2019-006, Request by Shield Storage Centres Inc. for Deferral of Development Charges, be received.

Department Head: _____

Financial/Legal/HR/Other: _____

Chief Administrative Officer: _____

Background:

Co-owned and operated by Jay Allen, Shield Storage Centres Inc. is a business providing storage services in Bobcaygeon. In a letter to the Chief Building Official and Manager of Corporate Assets dated July 10, 2018, Mr. Allen requested the City to grant him a special exemption from the water and sewage development charges (DCs) relating to a proposed expansion to his existing storage unit business at 221 Main Street, Bobcaygeon. This letter is attached hereto as Appendix A.

The Manager of Corporate Assets, having conferred with Watson and Associates and the Chief Building Official, replied to Mr. Allen with a letter dated July 24, 2018. That letter, attached hereto as Appendix B, informs Mr. Allen that his request for a special exemption from water and sewage DCs cannot be granted as that would contravene the City's DC by-law and thus the *Development Charges Act*. Mr. Allen followed up with a letter dated July 24, 2018, which is attached hereto as Appendix C.

In a letter to the CAO dated November 1, 2018, attached hereto as Appendix D, Mr. Allen outlines his rationale for storage unit DCs to be based on the industrial DC rate or a discounted commercial DC rate. In a subsequent letter to the CAO dated November 28, 2018, attached hereto as Appendix E, Mr. Allen requests a deferral of the commercial-industrial difference in DCs so as to permit the matter to be considered by the DC Task Force as part of the City's 2019 DC by-law update.

On February 22, 2019, staff met with Mr. Allen to further discuss his request for a deferral of DCs. This report appraises Council of the outcome of that meeting.

Rationale:

Like numerous other municipalities, the City levies DCs at differential rates across commercial, institutional and industrial categories of non-residential development. The rationale for the differential application of DC rates is that demand placed on municipal services by a given amount of non-residential development tends to vary across these three general categories. Relative to industrial development, commercial and institutional development are expected to generate 2.4 and 1.7 times the employment density, respectively, according to the 2015 DC Background Study. Hence, DC rates are higher for commercial development than for other types of non-residential development.

Within each of the three categories of non-residential development there is still further variation in the demand on municipal services according to the specific nature of development. For instance, within the commercial category, a brewery would be expected to require greater water system capacity than would a bakery of the same scale. Respecting each municipal service, therefore, a spectrum

exists for each non-residential development category, ranging from low- to high-demand.

Data and administrative limitations, however, generally preclude finer differentiation of DC rates beyond the three standard non-residential categories of development. In recognition of this, subsection 3.03 of the City's DC by-law (By-Law 2015-224) makes clear that, for a given type of development within a given municipal service area, DC rates are invariant to differential demands on or benefits from municipal services across specific developments.

Without such a provision, DCs would be subject to potentially every conceivable variation in anticipated demands on or benefits from municipal services. As a result, the administration of DCs would become costly and intractable given the myriad of ways in which developments might differ, and it would moreover become subject to undue uncertainty, subjectivity and delay. Given DCs are paid on a one-time, upfront basis, it is unrealistic to expect DC rate and administrative structures to reflect variation in anticipated municipal servicing impacts in every particular case.

The essence of Mr. Allen's objection to paying DCs at the prevailing commercial DC rate is that (i) his proposed development is to be located on land zoned for industrial uses and that (ii) storage units place little demand on water and sewage systems compared to other forms of commercial development. Definitions of development types vary across DC, zoning and other by-laws. Regardless of the zoning of the land under a development, the DC by-law's definitions of development type must be applied in the calculation of DC payments.

While storage units generally place little demand on water and sewage systems compared to other forms of commercial development, Mr. Allen's proposed development will nonetheless still place some demand on these municipal services. One reason is that the proposed development constitutes an expansion to an existing commercial development (office and storage space) connected to Bobcaygeon's water and sewage systems. Another reason is that, as a condition of development, Mr. Allen has installed a fire suppression system. This is expected to utilize water for the purposes of system testing, system flushing and fire suppression. To ensure adequate water flow and pressure are available upon activation of the fire suppression system, appropriate capacity must be reserved in Bobcaygeon's water system. The proposed development would therefore place a material, albeit relatively low, demand on water and sewage services.

In Mr. Allen's estimation, this demand is sufficiently low such that storage units ought to reside in the industrial category of non-residential development. One challenge with this approach is that it runs counter to prevailing practice across Ontario municipalities; storage units are widely considered commercial in nature, given they are not used to manufacture products (industrial) or provide non-profit

or benevolent services (institutional). The greater challenge, however, is that the City's DC by-law does not permit the City to charge to a commercial development any DC rate other than the applicable commercial DC rate.

As stated in his November 28, 2018 letter to the CAO, Mr. Allen is willing to pay, under the current DC by-law, DCs at the urban industrial DC rate and have the commercial-industrial difference in DCs deferred until the new DC by-law takes effect. On February 22, 2019, staff met with Mr. Allen to discuss his request at which it was agreed that for administrative purposes it was preferred that Mr. Allen revise his request for DC relief. As a result, Mr. Allen is now requesting to have the full amount of DCs deferred until the new DC by-law takes effect, at which point the DC payment owing would be recalculated in accordance with the applicable DC rate in effect at that time.

The purpose of the requested DC deferral, as revised, is the accommodation of Mr. Allen's intention to table the matter of storage unit DCs with the DC Task Force as part of the City's 2019 DC by-law update. While storage unit DCs would then be specifically considered in the course of preparing the DC study, the outcome of the DC by-law update will not necessarily be satisfactory to Mr. Allen or any other storage unit developer. Specifically, Mr. Allen acknowledges the DC rate underlying the calculation of the subject DCs could very well increase in transition from the current to the new DC by-law.

The DC deferral requested by Mr. Allen is permitted by the City's DC by-law provided Council approves it as part of an agreement, typically a subdivision or site plan agreement. Council Policy CA2016-001 (Development Charge Deferral Policy) permits non-residential DCs to be deferred only to time of building permit issuance. Section 5.06(b) of the City's DC by-law, however, enables Council, through an agreement, to determine the dates on which DC payments are calculated and made payable. As such, Council could exercise this section of the DC by-law and enter into an agreement with Mr. Allen to defer the payment and calculation of the subject DCs until the new DC by-law is in effect.

Other Alternatives Considered:

Respecting the requested DC deferral, the alternatives to Mr. Allen are as follows:

1. Pay DCs Under the Current DC By-Law: With this option, the subject development would proceed under the current DC by-law, and DCs would be paid in accordance therewith at the applicable commercial DC rate in effect at the time of building permit issuance for the development.
2. Pay DCs Under the Forthcoming DC By-Law: With this option, the subject development would proceed under the forthcoming DC by-law, and DCs would be paid in accordance therewith at the applicable DC rate then in

effect at the time of building permit issuance for the development. Staff is targeting an effective date of January 1, 2020 for this by-law.

Neither alternative requires any special resolution of Council as each represents a scenario under which the subject development is for DC purposes treated as any other storage unit development in the same circumstances. Accordingly, it would be superfluous for this report's recommendations to propose such a resolution.

Should Council nevertheless resolve to grant the deferral of DCs requested by Mr. Allen, and hence override its DC Deferral Policy, staff suggests Council do so by providing the following direction:

That notwithstanding Council Policy CA2016-001, the site plan agreement for the storage unit development proposed at 221 Main Street, Bobcaygeon by Shield Storage Centres Inc. provide for the fully secured deferral of development charges whereby the development charges are payable 15 days after a by-law to replace By-Law 2015-224 comes into force and are determined in accordance with the applicable development charge rates then in effect.

As By-Law 2015-224 expires on November 25, 2020, under this approach the latest the deferred DCs would become payable would be December 10, 2020.

Financial/Operation Impacts:

Based on the applicable 2019 commercial DC rate, the subject development would be expected to generate about \$232,314 in DC revenue. This reflects Mr. Allen's current development application, which relates to 2 of 9 phases of storage unit development planned for the same site. The requested DC deferral applies to the first two phases only. As the forthcoming DC by-law's DC rates are yet to be determined, the potential change in DC revenue that would arise from granting the requested DC deferral is unknowable at this time.

Relationship of Recommendation(s) To The 2016-2019 Strategic Plan:

The recommendations of this report align with the following strategic enablers identified in the Corporate Strategic Plan: (i) Responsible Fiscal Resource Management and (ii) Efficient Infrastructure and Asset Management.

Consultations:

CAO
Director of Engineering and Corporate Assets
Chief Building Official

Andrew Grunda, Principal of Watson and Associates
Jay Allen, Co-Owner of Shield Storage Centres Inc.

Attachments:

Appendix A: Letter by Jay Allen to the Chief Building Official and Manager of Corporate Assets, Dated July 10, 2018



Letter by Jay Allen
Dated July 10, 2018.

Appendix B: Letter by the Manager of Corporate Assets to Jay Allen, Dated July 24, 2018



Letter to Jay Allen
Regarding DCs Relate

Appendix C: Letter by Jay Allen to the Manager of Corporate Assets, Dated July 24, 2018



Letter by Jay Allen
Dated July 24, 2018.

Appendix D: Letter by Jay Allen to the CAO, Dated November 1, 2018



Letter by Jay Allen
Dated November 1, 2

Appendix E: Letter by Jay Allen to the CAO, Dated November 28, 2019



Letter by Jay Allen
Dated November 28,

Department Head E-Mail: jrojas@kawarthalakes.ca

Department Head: Juan Rojas, Director of Engineering and Corporate Assets