

Staff Report

Report To: City Council

Report From: Jacklyn Iezzi, Senior Planner
Matthew Pierog, Engineering Technologist

Meeting Date: July 22, 2024

Report Code: OP-24-003

Subject: Cost Sharing Apportionments – 3195 East Bayshore Road
(Sky Dev)

Recommendations:

THAT in consideration of Staff Report OP-24-003 respecting cost-sharing apportionments for off-site improvements to 32nd Street East, 9th Avenue East, East Bayshore Road and related underground infrastructure required to facilitate the development of eight (8) six-storey apartment buildings containing 89 dwelling units each, for a total of 712 units at 3195 East Bayshore Road, City Council:

1. As outlined in Schedule 'A' of the report, approves:
 - a. The City's contribution to replace the existing 32nd Street East watermain;
 - b. The procurement of a pressure reducing/pressure sustaining valve and chamber to be installed on 32nd Street East;
 - c. Resurfacing 50 percent (50%) of 32nd Street East, east of the site entrance into 3195 East Bayshore Road to 9th Avenue East; and
 - d. Straightening the existing deviated watermain on East Bayshore Road; and
2. Directs staff to bring forward a by-law to authorize the Mayor and Clerk to execute a Master Servicing Agreement with the Owner of

3195 East Bayshore Road for infrastructure upgrades and cost-sharing apportionments as outlined in Schedule 'A' of the report.

Highlights:

- In June and November of 2022, City Council approved Zoning By-law Amendments (ZBA 38 and 42) to facilitate the development of 3195 East Bayshore Road for eight (8) six-storey apartment buildings containing 89 dwelling units each, for a total of 712 units.
- At the time of approval of the ZBA, it was noted that various off-site infrastructure upgrades would be required to facilitate the development (see Staff Report [CS-22-119](#) and [CS-23-011](#)).
- In January of 2023, the Owner submitted a complete application for Site Plan Approval (ST2022-013). The Director of Community Services approved the application as the authorized person for the purposes of Section 41(4.0.1) of the Planning Act, subject to conditions (see Staff Report [DA-23-004](#)).
- Among other matters, the conditions of site plan approval require that the Owner enter into a Servicing Agreement with the City for off-site improvements to 32nd Street East, East Bayshore Road, 9th Avenue East, and related underground infrastructure as detailed in Schedule 'A' of this report.
- The purpose of this report is to outline the financial responsibilities and proposed cost-sharing apportionments between the property Owner, the City, and the County of Grey for the construction of the infrastructure upgrades. The proposed infrastructure upgrades, which are to be partially funded by the City, are beneficial in the absence of the proposed development, as select underground infrastructure is nearing the end of its useful life.
- In September 2023, City Council approved the Multi-Year Capital Plan (2024-2028) which included \$840,000 allocated for the off-site improvements associated with the development of 3195 East Bayshore Road (\$700,000 from water rates, \$50,000 from taxation and \$90,000 from Road Rehabilitation).

Strategic Plan Alignment:

This report supports the delivery of Core Service.

Climate and Environmental Implications:

There are no anticipated climate or environmental impacts.

Previous Report/Authority:

Staff Recommendation Report [CS-22-119](#) – ZBA 38

Staff Recommendation Report [CS-23-011](#) – ZBA 42 (Removal of Holding)

Staff Recommendation Report [DA-23-004](#) – Site Plan Approval for 3195 East Bayshore Road

Staff Recommendation Report [CR-23-080](#) - Council Resolution of Approval of Minutes (10-b) for the Multi-Year Capital Plan (2024-2028) from July 2023 (approved September 25, 2023)

Background:

In June of 2022, the Owner of 3195 East Bayshore Road submitted a complete application for a Zoning By-law Amendment (ZBA 38). The effect of ZBA 38 was to rezone the subject lands to 'Multiple Residential' (MR) with a Holding Provision (H), Special Provision 14.55, and 'Hazard Lands' (ZH) to facilitate the development of eight (8), six-storey apartment buildings containing 89 dwelling units each, for a total of 712 units. City Council approved ZBA 38 in September of 2022, in consideration of Staff Report [CS-22-119](#), and subsequently adopted ZBA 38 via By-law No. [2022-103](#).

In November of 2022, the Owner submitted a complete application for a Zoning By-law Amendment (ZBA 42) to facilitate the removal of the Holding provision (H) on the subject lands, which was placed to require further analysis of land use compatibility, urban design, servicing, and other matters, prior to development. City Council approved ZBA 42 in January of 2023, in consideration of Staff Report [CS-23-011](#), subject to the property owner entering into a capital cost recovery agreement with the City detailing capital contributions to be made by the Owner for costs the City has incurred related to various infrastructure upgrades on East Bayshore Road (EBR). These include the upgrading of the EBR Sewage Pumping Station and the construction of a 1.5 m sidewalk on the east side of EBR, from the Grey County Rail Trail to the south limit of the subject property line (on the north side of the Kenny Drain). On June 12, 2023, City Council passed By-law No. [2023-073](#), authorizing a Capital Cost Recovery Agreement (CCRA) between

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the Owner and the City, and subsequently adopted ZBA 42 via By-law No. [2023-074](#) to remove the “H” provision.

The CCRA has been registered on the title of the subject lands, and ZBA 38 and 42 are in full force and effect. The CCRA previously approved by Council provides the foundation for the Master Servicing Agreement. Through the CCRA, the developer is required to pay a capital cost recovery contribution of \$1,294,910 for fence removal, wastewater sewer upgrades, and sidewalk construction completed by the City.

At the time of approval of ZBA 38 and ZBA 42 (see Staff Report [CS-22-119](#) and [CS-23-011](#)), it was noted that various infrastructure upgrades would be required to facilitate the development, including, but not limited to, the following:

- Construction of a 1.5 m concrete sidewalk from the Kenny Drain northward along the East Bayshore Road frontage of the property to 32nd Street East.
- Construction of a northbound right-turn lane at the East Bayshore Road entrance into the site and at the intersection with 32nd Street East.
- Upgrades to the existing watermains on East Bayshore Road and 32nd Street East.
- Installation of a pressure reducing/pressure sustaining valve (PRV) and chamber to allow connection of the Industrial Pressure Zone (IPZ) to the Municipal Pressure Zone (MPZ) water distribution system.
- Upgrades to the portions of East Bayshore Road and 32nd Street East, fronting the subject lands to include sidewalks or multi-use paths, streetlighting, and landscaping.

It was further noted that a Servicing Agreement between the City and the Owner would be required for the development, describing future capital contributions and cost-sharing for infrastructure improvements at the time of site plan approval.

On January 30, 2023, the Owner submitted a complete application for site plan approval. The City’s Director of Community Services approved the application as the authorized person for the purposes of Section 41(4.0.1) of the Planning Act, subject to conditions (see Staff Report [DA-23-004](#)). Among other matters, site plan approval conditions require the Owner to enter into

Site Plan and Servicing Agreements with the City. The Site Plan agreements related to work on the subject property whereas the Servicing Agreement relates only to off-site works. The approved Site Plan is attached as Schedule 'B'.

The Owner's consulting engineer has provided a Class "C" cost estimate for the required off-site infrastructure upgrades. The purpose of this report is to outline the financial responsibilities and proposed cost-sharing apportionments between the property Owner, the City, and the County of Grey for the construction of the infrastructure upgrades. Certain infrastructure upgrades are required to facilitate the development whereas others have been identified in the City's capital replacement program and are at or near the end of their projected useful life. These works would be required with or without the proposed development and are identified as City costs in Schedule 'A'.

Analysis:

This section outlines the various improvements required to 32nd Street East, 9th Avenue East, East Bayshore Road and related underground infrastructure and associated cost apportionments between the City, the Owner, and the County.

It merits note that East Bayshore Road is a County Road. As such, all improvements to the road cross-section are subject to approval by the County and require a separate agreement with the County. City Staff continue to work closely with the property Owner and County Planning and Transportation Services Staff to help facilitate the completion of the required agreements at the County level.

City Staff are recommending that the cost-sharing apportionments for the off-site improvements be specified in a Master Servicing Agreement. The amount of the City's contributions will be based on actual costs, to a maximum upset limit specified in the agreement as discussed further below and in the 'Financial Implications' section of this report. Should the cost-sharing apportionments as outlined in this report be approved, the Master Servicing Agreement will be brought forward to City Council at a future meeting for authorization by by-law and subsequently registered on title of the lands.

Detailed design drawings (e.g., plan and profile) for the infrastructure improvements and the provision of securities will not be required as part of

the Master Servicing Agreement. Rather, it is proposed that these matters would be addressed in future, amending Servicing Agreement as off-site improvements are completed together with on-site development as the phases of development proceed. The Site Plan Agreement identifies various trigger points for the execution of amending Servicing Agreements to facilitate the phased completion of the off-site improvements, based on the number of units/buildings constructed on-site. The trigger points are described in greater detail below and are summarized generally in Schedule 'A'.

Section 26 of the [City's Delegation of Powers and Duties By-law \(2014-109\)](#) delegates signing authority for Servicing Agreements to the Director of Public Works and Engineering and the Manager of Engineering Services, acting jointly, where:

- An agreement is required to satisfy a condition of Planning Act application approval imposed by the City's approval authority and,
- Prior notice has been provided to City Council through an open report.

The Master Servicing Agreement and associated amending agreements are required to fulfill conditions of Site Plan Approval (City File No. ST2022-013, see Report [DA-23-004](#)), granted on August 28, 2023. This report, together with the Master Servicing Agreement, is intended to serve as prior notice to Council, as required by delegation, of the need for amending Servicing Agreements. Signing authority for these agreements will therefore be delegated to Staff, in accordance with the existing authority provided under the Delegation of Powers and Duties By-law.

The amending Servicing Agreements are anticipated to be technical in nature and are required primarily to facilitate the detailed design of the off-site improvements (e.g., plan and profile, photometric lighting, etc.) and the provision of securities equal to 100 per cent of the value of off-site works. It merits note that if the City's maximum upset limit for any off-site improvement, as specified in the Master Servicing Agreement, is exceeded, the amending agreement would be brought forward to City Council for approval prior to the works commencing.

32nd Street East

The Functional Servicing & Stormwater Management Report submitted in support of the site plan approval application indicates that the site will

connect to a replaced watermain on the Municipal Pressure Zone (MPZ) and will be connected via a Pressure Reducing Valve (PRV) to the existing watermain in the Industrial Pressure Zone (IPZ), constructed within the 32nd Street East road allowance. Additional improvements to the road cross-section include the addition of a 3.0 m wide paved multi-use pathway on the south side of the road, landscaping, drainage, and upgrades to existing or the installation of new street lighting retaining wall and guardrail abutting the roadway, and asphalt road re-surfacing.

Staff recommend a cost-sharing formula between the City and the Owner for the off-site infrastructure improvements on 32nd Street East, as identified in Schedule 'A'. The upgrades will meet the needs of the development at 3195 East Bayshore Road and are aligned with the City's approved multi-year capital plan.

The total cost to the City for the watermain upgrades and partial road re-surfacing is estimated to be \$650,000. The City's contribution will be based on actual costs, to a maximum upset limit of \$710,000. The watermain replacement and associated infrastructure costs are identified in the Water/Wastewater 10-year capital plan; the City's portion of the cost will be funded from water revenue or reserves, as described in the 'Financial Implications' section of this report.

The Owner will front-end the construction costs, except the purchase and delivery of the PRV, which is the responsibility of the City. The Owner will be required to pay a capital contribution of \$100,000 for their share of the purchase and installation costs associated with the PRV.

An amending Servicing Agreement with the City providing for the completion of the 32nd Street East off-site improvements will be required prior to the issuance of a Building Permit for the first (1st) building on-site (89 units).

9th Avenue East

As a part of site plan approval, improvements to the road cross-section include the construction of a 3.0 m wide asphalt multi-use pathway on the west side of the roadway, landscaping, drainage, and upgrades to existing or the installation of new streetlighting. The Transportation Plan (Schedule 'C') of the City's 2021 Official Plan designates this portion of 9th Avenue East as a future Arterial Road. The improvements to 9th Avenue East are in support of the policies of the City's OP, which generally require that Arterial roads have sidewalks on both sides of the roadway (policy 5.1.3.13) and that new

development be designed to be walkable and bike-friendly by including multi-use trails, sidewalks and/or paved shoulder where appropriate to integrate with the overall complete transportation system (policy 5.1.5.1).

The required off-site improvements to 9th Avenue East are to be completed at the expense of the property owner. An amending Servicing Agreement with the City providing for the completion of the 9th Avenue East off-site improvements will be required prior to the issuance of a Building Permit for the sixth (6th) building on-site (534 units). The completion of this work coincides with the requirement to complete the 6.0 m wide emergency access onto 9th Avenue East, as shown on the approved Site Plan attached as Schedule 'B', in accordance with National Fire Protection Agency (NFPA) Regulation 1140 and City Standards, based on the number of units constructed.

The existing watermain on 9th Avenue East is approximately 60 years old and is identified for replacement in the City's 10-year capital plan. A future watermain replacement and the restoration of 9th Avenue East to an asphalt roadway will be completed by the City as a capital project in the future. Prior to the issuance of a Building Permit for the first (1st) building on-site, the City will collect a capital contribution from the Owner in the amount of \$60,000 for future road resurfacing on 9th Avenue East. The \$60,000 capital contribution to road resurfacing is in addition to the works being completed by and at the expense of the Owner in the right-of-way to provide for a new multi-use pathway, among other matters.

East Bayshore Road

The Transportation Impact and Parking Study submitted in support of the site plan approval application indicates that an additional northbound right-turn lane is required on East Bayshore Road at the proposed driveway connection and at the intersection with 32nd Street East. Due to the additional pavement width associated with the turn lane at 32nd Street East, a watermain re-alignment/extension and a stormwater culvert replacement/extension are required. Proposed improvements to the road cross-section include a sidewalk fronting the development and landscaping/drainage improvements adjacent to the roadway on the County boulevard.

Staff recommend a cost-sharing formula between the City, the County, and the property owner for the off-site infrastructure improvements to East Bayshore Road, as identified in Schedule 'A'. The total cost of the watermain

straightening to the City is estimated at \$120,000. The City's contribution will be based on actual costs, to a maximum upset limit of \$130,000. The watermain re-alignment/extension is identified in the Water/Wastewater 10-year capital plan. The City's portion of the cost will be funded from water revenue or reserves, as described in the 'Financial Implications' section of this report.

The property owner is responsible for the costs associated with upgrading the east side of EBR to a full urban cross-section, including the construction of a 1.5 m wide concrete sidewalk across the EBR frontage. An amending Servicing Agreement with the City providing for the construction of approximately half of the required 1.5 m sidewalk, from its current terminus to the north side of the 15.4 m wide site access onto EBR, will be required prior to the issuance of a Building Permit for the second (2nd) building (178 units). The completion of this work coincides with the requirement to construct the site access onto EBR, as shown on the approved Site Plan attached as Schedule 'B', in accordance with NFPA Regulation 1140 and City Standards, based on the number of units constructed on-site.

An amending Servicing Agreement with the City and the County, providing for the completion of the East Bayshore Road off-site improvements including the right-turn slip lanes, culvert replacement and extension, watermain straightening, and extension of the 1.5 m wide concrete sidewalk across the EBR frontage of the site, will occur in two (2) stages.

An amending Servicing Agreement with the City and the County will be required prior to the issuance of a Building Permit for the fourth (4th) building on-site (356 units) to facilitate the construction of right-turn slip lane on EBR at the sight entrance, as informed by the Owner's consulting traffic engineer. Upgrading of the east side of East Bayshore Road to a full urban cross section, from south of the Kenny Drain to the north side of the 15.4 m wide site access onto EBR, including the extension of the existing 1.5 m concrete sidewalk from its current terminus south of the Kenny Drain with temporary provision for connection to the existing asphalt boulevard will be required to be completed simultaneously with the right-turn slip lane.

An amending Servicing Agreement with the City and the County will be required prior to the issuance of a Building Permit for the eighth (8th) building on-site (712 units) to facilitate the construction of the right-turn slip lane on EBR at 32nd Street East, together with the culvert replacement and extension, watermain straightening, and upgrading of the remaining portion of the east

side of EBR from the north side of the 15.4 m wide site access to 32nd Street East, including extension of the 1.5 m concrete sidewalk. Completion of the watermain straightening and the culvert replacement and extension simultaneously with the right-turn slip lane at 32nd Street East is logical to avoid interfering with the newly constructed road in the future. Completion of the culvert replacement and extension towards the end of on-site development also ensures that the existing culvert is not replaced prematurely, in advance of its useful life.

Financial Implications:

The estimated total cost to the City for this project is \$770,000, with an upset limit of \$840,000 (including the 1.76% non-refundable HST, payable by the City).

The total cost of the off-site improvements for East Bayshore Road, 32nd Street East, and 9th Avenue East are estimated at \$3,900,000, plus HST, with the Owner and County covering costs exceeding the City's allotted \$840,000.

The City's \$840,000 upset cost is to be funded by:

- \$700,000 from water rates (2022, 2023 and 2024 capital budget).
- \$90,000 for road-related cost from the Road Rehabilitation budget.
- \$50,000 from taxation.

These projects are identified in the City's five-year capital budget.

Completion of the off-site improvements will be initiated at the various trigger points identified in the Site Plan Agreement and summarized generally in the 'Analysis' section and Schedule 'A' of this report.

The proposed development is considered a 'Rental Housing Development' as defined by the City's Development Charges By-law. The development received approval of a zoning by-law amendment and site plan approval prior to March 1, 2026. Therefore, the development will be exempt from the payment of Development Charges upon the issuance of a Building Permit, provided the first permit is issued on or before March 1, 2028. Development charge exemptions beyond the life of the City's DC By-law, being October 23, 2034 are not guaranteed.

It merits note that 32nd Street East road reconstruction from 9th Avenue East to East Bayshore Road and 9th Avenue East road reconstruction from Beta Street to 32nd Street East are included in the City's Development Charges

Background Study however, in both projects, the Owner's contribution or cost share has been discounted from the DC eligible amount. This leaves the remaining amount as a City only cost that would be recovered in part (up to 10%) through DCs as a general growth-related cost. The Owner's contributions to the required improvements to 32nd Street East, 9th Avenue East, East Bayshore Road and related underground infrastructure will therefore not be captured in development charges, should they become payable.

Communication Strategy:

A Public Meeting was held, and public notice was provided in accordance with the requirements of the Planning Act as part of the Zoning By-law Amendments (ZBA 38 and ZBA 42) required to facilitate this development.

This report will be published in the Council meeting agenda and minutes and presented at a regularly scheduled meeting of Owen Sound City Council.

City Planning and Engineering Services Staff have been in contact with the Owner throughout the various Planning Act approvals processes.

Staff will notify the Owner of Council's decision on this report via email.

Consultation:

This report was prepared in consultation with the Owner, the Owner's consulting engineer (KWA Consulting), and the City's Development Team. The City also retained KWA Consulting for preparation of a functional design and cost estimate for off-site improvements.

Attachments:

Schedule 'A': Summary of Infrastructure Upgrades, Cost Sharing
Apportionments and Timing

Schedule 'B': Approved Site Plan (City File No. ST2022-013)

Recommended by:

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Submission approved by:

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