



**Ministry of
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Affairs**

Dealing with Developers

Saskatchewan Urban Municipalities Association
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- Introduction
 - Growth Trends
 - Consideration for Growth
 - Negotiating
 - Servicing Agreements
 - Contract Zoning
 - Discretionary Uses
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- New growth and development opportunities
 - Successful places have a plan
 - Successful places encourage investment and have a framework in place to facilitate development
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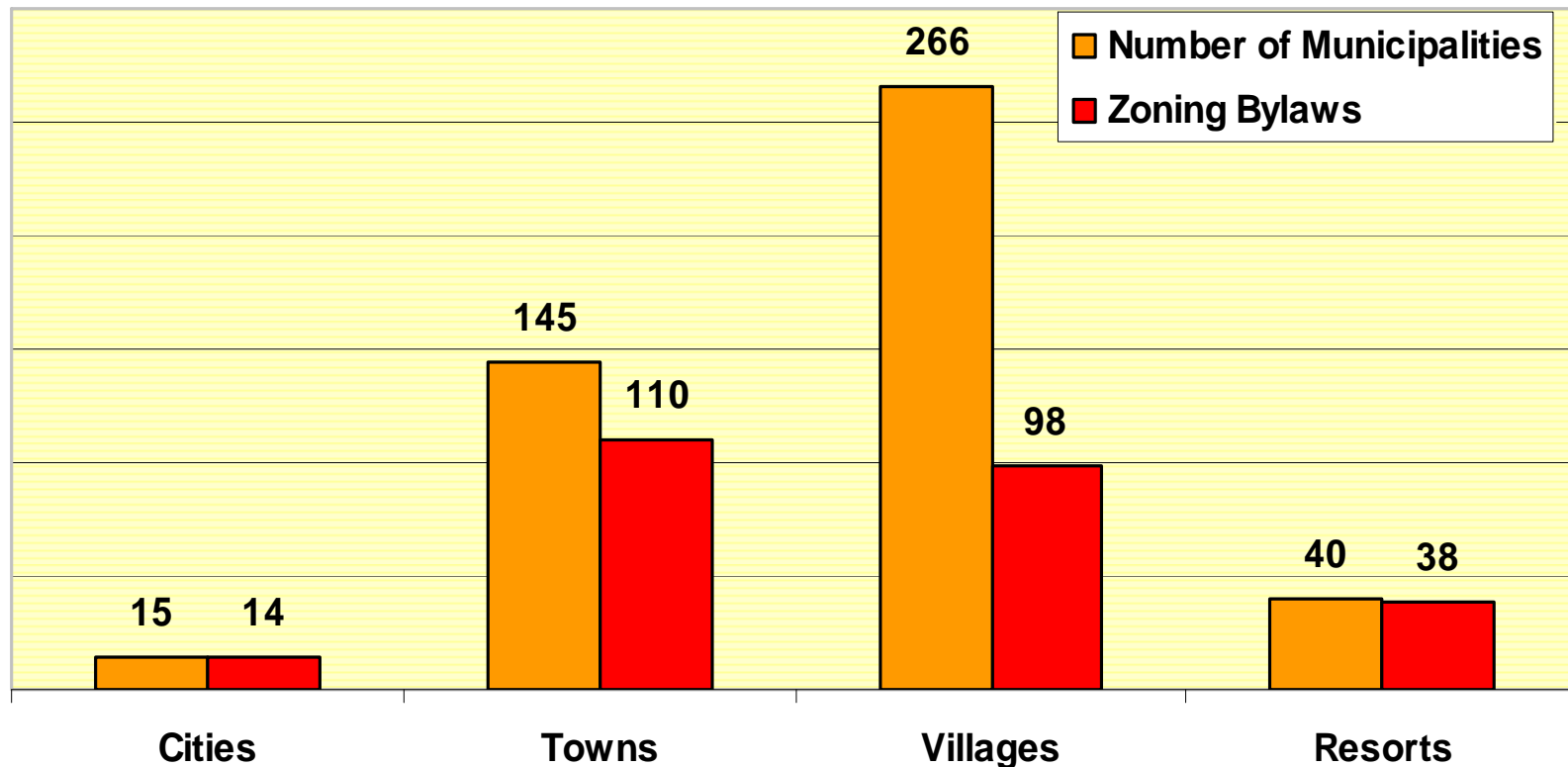
Urban Municipalities - Official Community Plans





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Urban Municipalities - Zoning Bylaws





Subdivision Activity

	2003 -04	2004 -05	2005 -06	2006 -07	2007- 08	2008- 09	2009 -10
Applications Received	939	938	925	1042	1725	1797	1072*
New Sites Approved	1729	1805	2216	2468	4272	6541	3763* 5000**
Change from Previous Year	+17%	+4%	+22%	+11%	+74%	+53%	

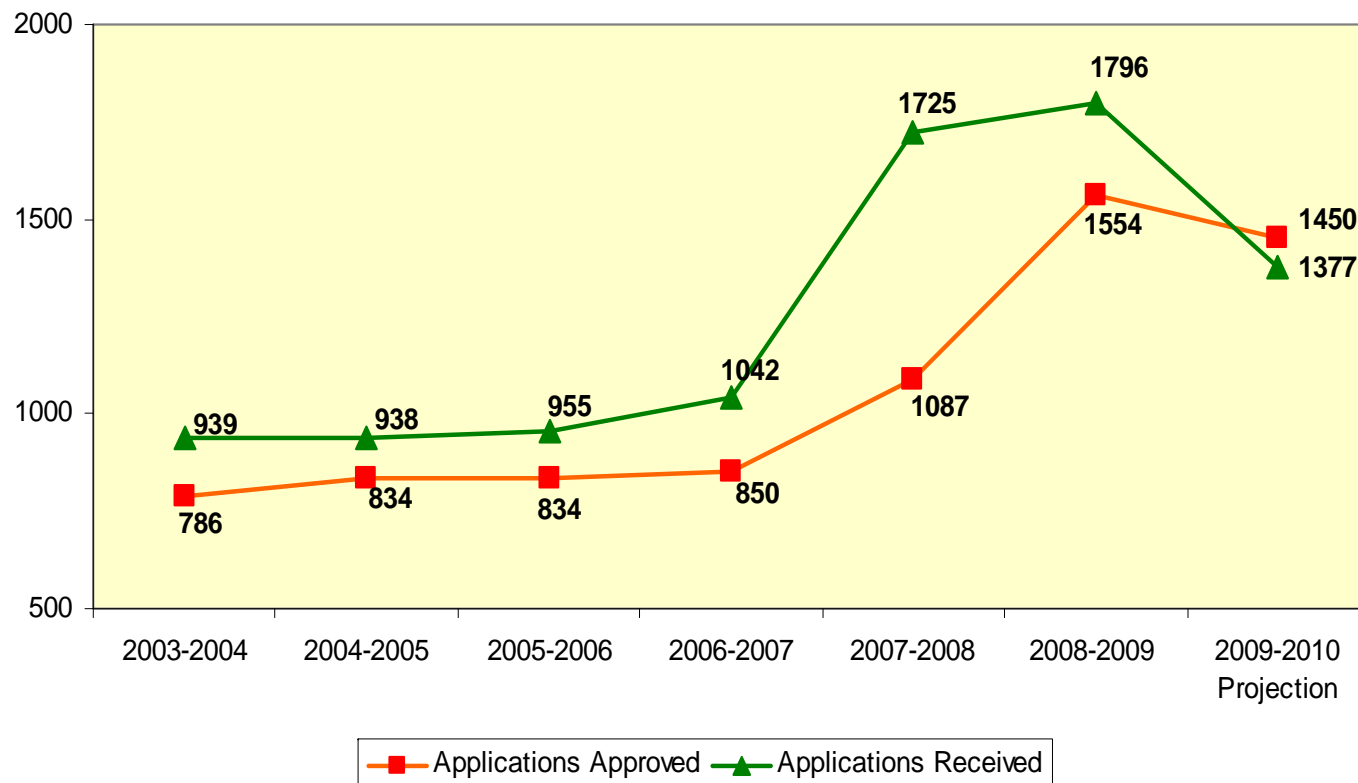
* 2009-10 statistics to January 22, 2010

** 2009-10 – projected to March 31, 2010



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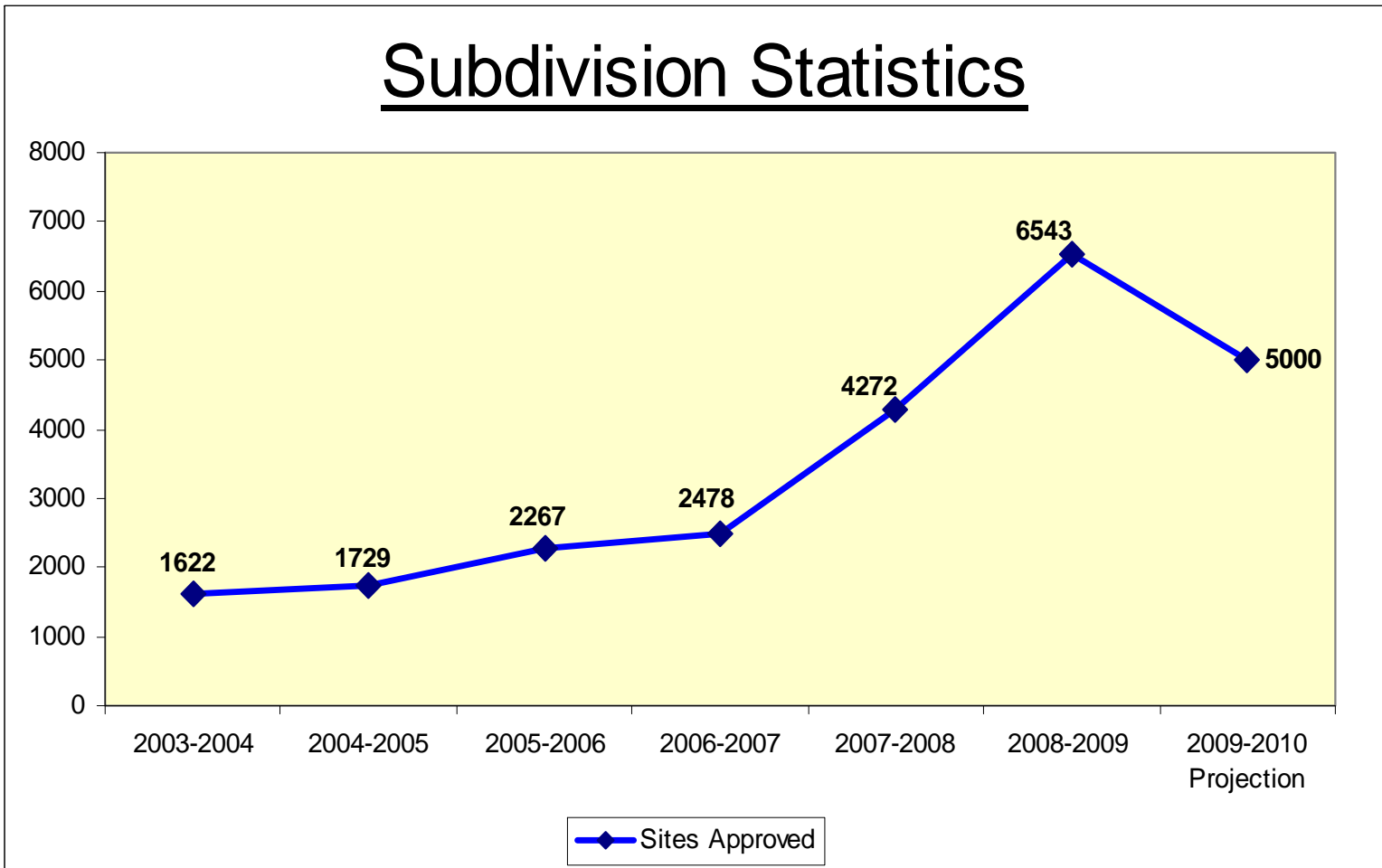
Application Statistics





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Subdivision Statistics





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Municipal Challenges

- Lack of vacant sites
 - Aging or inadequate infrastructure with limited financial resources
 - Escalating costs of construction
 - Skilled labour shortage
 - Stricter environmental standards
 - Water quantity and quality
 - Limited local planning and development expertise
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Why should Municipalities Plan?

- Planning supports environmental, economic, and social sustainability
 - Sustainability means meeting the needs of today in a way that allows us to meet the needs of tomorrow
 - Development decisions made by municipal officials before 1905 still have a dramatic effect on our everyday lives (housing, roads, industry)
 - Planning and development decisions will have an effect long after your term, career, or lifetime
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- Investing in the future:
 - Is a shared responsibility
 - Takes time, effort and resources
 - Engages citizens, business and developers
 - Plan your strategy to facilitate and service development now - before the project is seeking your approval.
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- A municipality's inventory of
 - Municipal assets
 - Recreational, commercial, industrial and residential capacity
 - Condition of existing infrastructure
 - Community partnerships with business
 - Employment and training opportunities
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What does Growth Cost?

Municipalities need to be aware of all the costs involved in servicing a new lot, including:

- Sewer, water, storm and hydrant mains and connections
 - Streets and lanes
 - Share of arterial and collector access
 - Share of lagoons, trunks, sanitary waste facilities
 - Parks, and recreational facility shares
 - Street lights signs and boulevard development
 - Professional fees - engineering, planning, legal, and administration
-



Questions:

- How many municipalities require a servicing agreement?
 - How many charge Servicing Fees?
 - How many charge more than \$5000/lot?
 - How many charge more than \$10,000/lot?
 - How many of you know how much it costs to service a lot in your community?
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Municipal Servicing Estimates (2008)

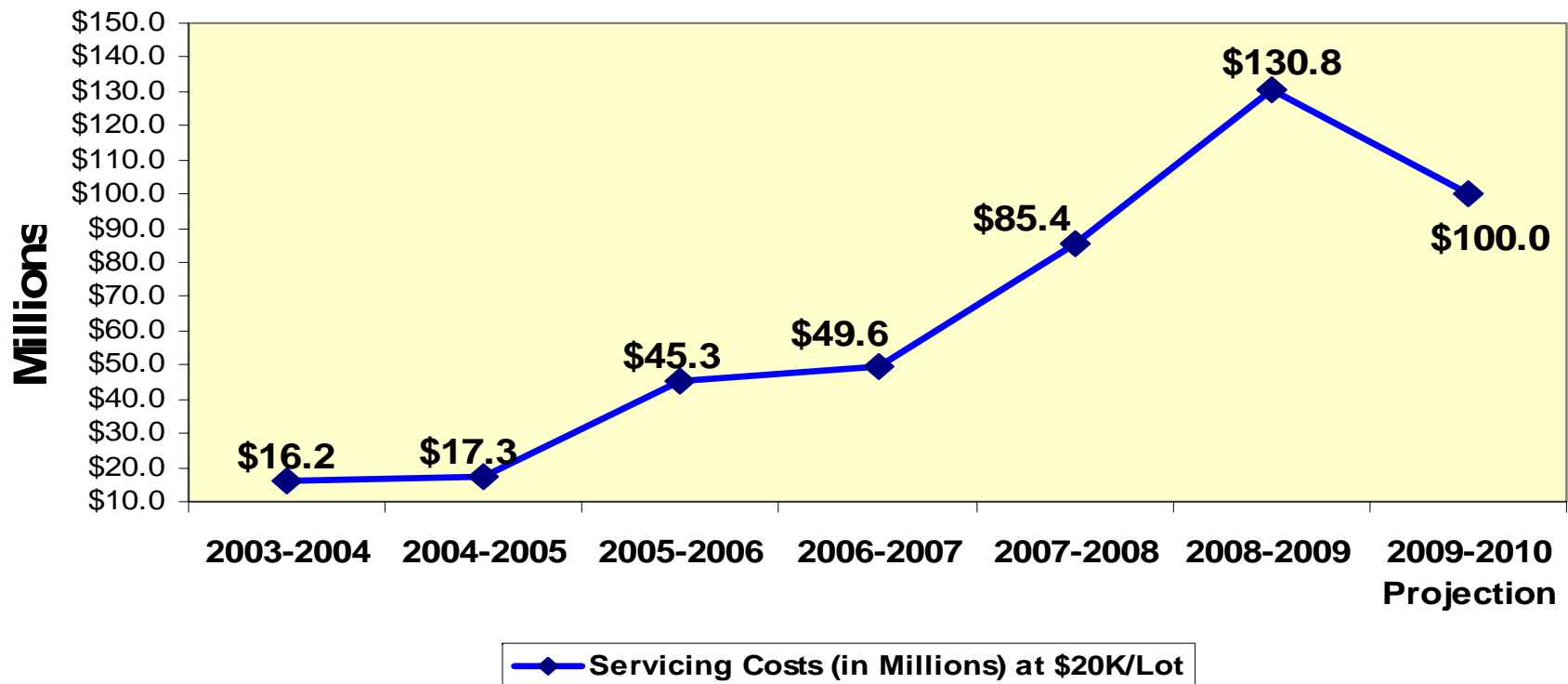
- Average \$20,000 to \$25,000/lot in Small Towns
- Average \$35,000 to \$40,000/lot in Cities
- Additional Costs for surveyors, road upgrades, service connections and shallow utilities can average \$8,500 to \$12,500/lot
- At this time construction cost were rising nearly 2% per month ... *that was 24 months ago!*

- Figures presented during SUMA 2008 Conference by Associated Engineering



What does Growth Cost?

Cost of Municipal Servicing at \$20K/Lot





- Requires a plan and political will to follow it
 - Allows a municipality to ensure that its growth is:
 - Desirable, beneficial and viable
 - Orderly and cost efficient for the municipality, developer and ratepayers
 - Respectful of existing community development, character and infrastructure
 - Entails setting out a position and a willingness to negotiate beneficial outcomes for the community
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- Is a dialogue intended to:
 - resolve disputes
 - produce an agreement upon courses of action
 - bargain for individual or collective advantage
 - craft outcomes to satisfy various interests
 - Good faith negotiation is the primary method of alternative dispute resolution.
 - A good agreement is one with optimum gain not necessarily maximum gain.
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The Negotiating Position

- The words negotiate, negotiable, and negotiation do not appear in *The Planning and Development Act, 2007* (PDA), but describes how certain processes work.
 - Describes process where there is an agreement that both parties must agree or go to appeal.
 - Where agreement cannot be reached, the Saskatchewan Municipal Board (SMB) will arbitrate.
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Why is the Municipality 'Negotiating'

- Negotiation/appeal process is necessary because:
 - Municipal intent, requirements or likelihood of approval is not known in advance of application.
 - There is a possibility that requirements might be 'unreasonable'.
 - The subdivision or development process cannot proceed without the action, agreement or approval.
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What is Negotiable?

- Negotiation is used where flexibility on a case by case basis is desirable.
 - Flexibility is tempered by adopted policies, criteria, standards and bylaws.
 - Processes we will look at include:
 - Servicing Agreements
 - Contract Zoning
 - Discretionary Use Permits
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Servicing Agreements

- Purpose of Servicing Agreement
 - What it can address
 - Consider your Negotiating Position
 - Improving your Position
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Servicing Agreements

- *Purpose of Servicing Agreement*

- Servicing agreements are a tool that municipalities may use during the subdivision process to:
 - recoup the capital cost of municipal services both on and offsite that support the proposed subdivision; and
 - Ensure that appropriate and necessary infrastructure is provided to a development to the standard required by the municipal Council
 - A servicing agreement must be specifically requested by the municipality
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Servicing Agreements

- What it can Address (Sec. 172 PDA)

- Servicing agreements may provide for:
 - Installation of infrastructure by the developer, connections to existing services and other works that council may require
 - Fees to recapture capital costs to provide, alter, upgrade or expand municipal servicing
 - Timelines
 - Sharing of certain costs
 - oversized infrastructure, park improvements, facilities, etc.
 - Performance bonds or securities
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Servicing Agreements

- Consider your Negotiating Position

- Subdivision cannot be approved until the agreement is signed, if requested.
 - Subdivision cannot be approved without zoning.
 - Agreements may be appealed to SMB to set terms or determine if an agreement is necessary
 - A signed agreement cannot be appealed
 - Municipality is ultimately responsible for the level of service, insufficient fees, maintenance and replacement
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Servicing Agreements

- Improving your Position

- Undertake a study of capital costs to support your servicing fees, adopt fees by bylaw, and apply them consistently if they apply.
 - Require developer to install most infrastructure so municipality is not liable for cost overruns.
 - Include any costs for inspections by an engineer
 - Have a template agreement that accounts for the typical requirements for subdivision.
 - Have it reviewed by a solicitor.
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Servicing Agreements

- Improving your Position

- Inform applicants of expected infrastructure requirements and fees early in the process.
 - Set the initial terms of the agreement; do not ask them to provide you with a proposal.
 - Do not prematurely zone land.
 - Review your capital costs at least every 2-5 years to adjust for inflation
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Contract Zoning Agreements

- Purpose of Contract Zoning
 - What they address
 - Limitations
 - Consider your Negotiating Position
 - Strategies and Methods
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Contract Zoning Agreements

- Purpose of Contract Zoning

- Contract zoning rezones a property to another district to allow a specific use or operation.
 - Zoning is conditionally granted, provided the use/operation adheres to terms of the contract.
 - The zoning amendment is not in effect until the contract is signed and registered on title.
 - The official community plan must have guidelines respecting when contract zoning agreements may be used.
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Contract Zoning Agreements

- *What it can Address (Sec. 69 PDA)*

- The contract zoning agreement sets out:
 - A description of the proposal;
 - Uses and development that may occur on site;
 - Site layout, parking, landscaping, and access;
 - Time limits for completion of development or terms/conditions in the agreement; and
 - A condition stating that none of the land or buildings will be used except in accordance with the agreement
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Contract Zoning Agreements

- *Limitations*

- Council must already have a zoning district that allows the proposed use or development.
 - Council may not relax bylaw standards under the contract, only further restrict or prohibit.
 - Adoption and amendment to a contract must follow the zoning bylaw amendment process.
 - Contract Zoning is for the development of a single site.
 - Selective use of this tool is recommended.
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Contract Zoning Agreements

- Consider your Negotiating Position

- This tool allows negotiation on zoning approval, but Council is never required to approve a rezoning.
 - The contract registration runs with the land.
 - Council may void the contract (zoning) if terms are not upheld or timelines are not met.
 - Property reverts to previous zoning where void.
 - The applicant still requires a development permit after registration of the contract.
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Contract Zoning Agreements

- Strategies and Methods

- Use to diffuse public concern over specific rezoning applications or projects.
 - The contract may be amended as part of the zoning bylaw.
 - Use to ensure proposals proceed as proposed
 - Voided contracts do not create non-conforming rights; all disallowed uses must cease.
 - Performance bonds may be required to assure implementation of timelines or terms.
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Discretionary Use Conditions

- Purpose of Discretionary Uses
 - What can be addressed
 - Consider your Negotiating Position
 - Strategies and Methods
-



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Discretionary Use Conditions

- Purpose of Discretionary Uses

- A discretionary use:
 - ❑ is a use council may not always approve or only approve in select circumstance.
 - ❑ May be refused, approved or approved w/ conditions.
 - ❑ Complies with zoning standards, Statements of Provincial Interest (SPI), evaluation criteria, and is compatible with the immediate area.
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Discretionary Use Conditions

- What can they Address

- Conditions reflect zoning bylaw objectives.
 - Conditions secure objectives respecting:
 - Site design and layout;
 - Accessibility, vehicular and person traffic, and parking;
 - Minimization of emissions, noise, glare, dust and odor;
 - Landscaping, screening, open space, lighting and signage.
 - Conditions ensure approval meets use criteria.
 - Development levies may be applied if a development levy bylaw has been adopted
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Discretionary Use Conditions

- Consider your Negotiating Position

- Strictly speaking not a negotiation process, but an approval/appeal process.
 - Cannot approve uses that do not meet bylaw criteria, standards, or SPI.
 - Conditions may be appealed to the Development Appeals Board & SMB
 - No appeal to unconditional approval or refusal.
 - Write criteria and standards in your bylaw to support the municipality in an appeal
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Discretionary Use Conditions

- Strategies and Methods

- Set discretionary use criteria to limit uses that cause infrastructure issues or land use conflict.
 - Ensure reasonable standards for infrastructure, landscaping, access, etc are in your bylaw.
 - Direct harmful or controversial uses to suitable areas in the official community plan; preempt applications with policy.
 - Train appointed DAB members; educate them in municipal policies, standards and objectives.
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Questions and Comments

- Servicing Agreements?
- Contract Zoning?
- Discretionary Uses?
- Municipal responsibilities?

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