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2007 DEVELOPMENT CHARGE BY-LAW REVIEW
DRAFT BACKGROUND STUDY

(Regional Council at its meeting of April 19, 2007, adopted the foregoing Clause with issues in the Study relating to the transit, rapid transit and subway components referred to the April 26, 2007 Council Workshop for further discussion.)

The Finance and Administration Committee, having concluded the statutory public meeting with respect to this matter, recommends:

1. Receipt and referral of the following communications to the Commissioner of Finance and granting of deputant status where requested:

Paula Tenuta, Director, Municipal Government Relations GTHBA-UDI, One Industry-One Voice, March 26, 2007, requesting deputant status for Fraser Nelson, GTHBA-UDI York Chapter Chair and March 30, 2007, forwarding comments on the proposed by-law

Sam Speranza, Director of Developments, ZZEN Group, March 29, 2007, requesting deputant status

Marco Filice, Director of Development Liberty Development Corporation, March 29, 2007, requesting deputant status

Steve Upton, Vice President, Development Planning on behalf of Tridel, March 29, 2007, requesting deputant status

Steven A. Zakem, Aird & Berlis, Barristers and Solicitors, April 2, 2007, on behalf of Loblaw Properties Limited, requesting deputant status

Mr. Art Welter, Vice President, Development, Trinity Development Group Inc., April 2, 2007 (subsequently requesting deputant status)

Randy Grimes, Director, IBI Group, March 29, 2007, regarding the GTHBA-UDI York Chapter Review of the Development Charges Background Study

Robert A. Dragicevic, Senior Principal, Walker, Nott, Dragicevic Associates Limited, March 27, 2007, on behalf of the Mount Pleasant Group of Cemeteries

Debbie Pacchiarotti, Director of Development, Fieldgate Commercial Properties Limited, April 2, 2007

Daniel Belli, Vice President, Real Estate, M.A.M. Group Inc., April 4, 2007

Angelo Baldassarra, History Hill Group, April 4, 2007

Michael Mercer, Blake, Cassels & Graydon LLP, Barristers & Solicitors, April 4, 2007

David A. McKay, MHBC Planning, April 5, 2007

2. **Receipt of the following communication and referral of it to the Commissioner of Finance and the Commissioner of Transportation and Works:**

Bruce Kerr, Slokker Real Estate Group, regarding property in the Township of King.

3. **Receipt of the presentation from Lloyd Russell, Commissioner of Finance and Warren Marshall, Manager, Capital & Development Financing;**

4. **Receipt of the following deputations and referral of them to the Commissioner of Finance:**

Fraser Nelson on behalf of the Greater Toronto Homebuilders Association-Urban Development Institute, York Region Chapter and Metrus Properties (who filed a copy of his deputation)

Sam Speranza, Director of Developments, ZZEN Group

Marco Filice, Director of Development, Liberty Development Corporation

Steve Upton, Vice President, Development Planning, Tridel

Steven A. Zakem, Aird & Berlis, Barristers and Solicitors, on behalf of Loblaw Properties Limited

Mr. Art Welter, Vice President, Development, Trinity Development Group Inc.

5. **The Commissioner of Finance report to the May 3, 2007 meeting of the Finance and Administration Committee on input received at this meeting and further discussions with representatives of the development industry as well as the following:**

a) potential provisions for transitioning development charge increases;
b) the percentage that development charges represent as part of ICI development costs;

c) reference to proposed rates with full cost recovery for 2003 hard costs;
d) discounting; and
e) maintaining the Region's competitiveness.

6. Adoption of the recommendations contained in the following report, March 15, 2007, from the Commissioner of Finance:

1. RECOMMENDATIONS

It is recommended that:

1. Council receive the Draft 2007 Development Charge Background Study (Attachment 1) to be used as the basis for the statutory Public Meeting to be held on April 5, 2007 in accordance with the Development Charges Act, 1997.

2. The proposed timetable for enactment of the Development Charge By-law (Attachment 2) be endorsed.

2. PURPOSE

The Region is currently undertaking a comprehensive review of the Region-wide Development Charge ("DC") By-law. A Statutory Public Meeting in accordance with the *Development Charges Act, 1997* has been scheduled for April 5, 2007. In accordance with provincial legislation, a supporting background study must be available two weeks prior to the public meeting. This report tables the draft 2007 Development Charge Background Study, and a proposed timetable for enactment of the DC By-law.

3. BACKGROUND

On May 25, 2006, Council directed staff to proceed with a comprehensive review of the DC By-law, in an effort to enact a revised DC By-law prior to the current By-law's June 22, 2007 expiry date. In accordance with the *Development Charges Act, 1997, ("the DC Act")* a DC Background Study supporting the DC By-law and associated policies must be completed. The background study provides the basis for the quantum of the development charge. It should be noted that this review does not include GO Transit capital as it is governed by a separate by-law which expires on December 31, 2008.

4. ANALYSIS AND OPTIONS

4.1 Executive Summary – Draft DC Background Study

The following are key areas that have been covered in the draft DC Background Study.

4.1.1 Infrastructure Capital Costs

It is estimated that $6.8 billion of infrastructure will be required to service growth within York Region to the year 2031 for roads, water and sewer programs. This compares to $3.5 billion included in the 2003 Background Study for these services, which covered the period to 2026. It is estimated that $0.9 billion of infrastructure will be required to service growth to 2016 for general services and a further $1.0 billion for the Spadina subway extension.

Category	**Estimated Costs**
Transportation – Roads	$4,082.2 M
Sewer	$1,897.7 M
Transportation – Subway	$973.3 M
Water	$861.7 M
Transportation - Transit (excluding subway)	$784.3 M
General (excluding transit)	$135.0 M
Total	**$8,734.3 M**

Once the above figures are adjusted to exclude capital grants, subsidies, other contributions that will be made to York Region towards infrastructure capital costs, the total capital costs attributable to development are $4.9 billion.

4.1.2 Existing Development Charge Rates

The following outlines the Region's residential and non-residential development charge rates currently in effect.

**Residential Development Charge Rates
As of February 1, 2007**

	Single and Semi-Detached	Multiple Unit Dwelling	Apartments	
			2 or more Bedroom	Less than 2 Bedroom
Hard Services:				
Water	$4,811	$4,124	$3,024	$1,925
Sewer	$4,721	$4,047	$2,968	$1,888
Roads	$4,613	$3,956	$2,901	$1,842
Subtotal	$14,145	$12,127	$8,893	$5,655
Transit	$1,261	$1,042	$769	$490
General Services:				
Police	$195	$159	$117	$74
EMS	$37	$31	$22	$15
Capital Growth Studies	$43	$35	$24	$16
Long Term Care	$164	$132	$98	$62
Public Health	$42	$33	$24	$16
Public Works	$66	$54	$38	$24
Subtotal	$547	$444	$324	$207
GO Transit	$296	$233	$171	$108
Total	**$16,249**	**$13,846**	**$10,157**	**$6,460**

**Non-residential Development Charge Rates
As of February 1, 2007**

	Per Sq. Ft. of G.F.A.	
	Industrial/Office/ Institutional	Retail
Water	$0.74	$1.74
Sewer	$0.71	$1.67
Roads	$1.84	$3.50
Transit	$0.51	$0.75
General Services	$0.17	$0.22
Total	**$3.97**	**$7.88**

A comparison of current development charge rates in neighbouring municipalities can be found in Attachment 3 to this report.

It is important to note that in 2003, Council reduced the non-residential DC rates, as an economic incentive to development. The rates shown above reflect this reduction.

4.1.3 Draft Revised Development Charge Rates

The following is a summary of the draft revised residential and non-residential development charge rates based on a full cost recovery methodology.

Draft Revised Residential Development Charge Rates

	Single and Semi-Detached	Multiple Unit Dwelling	Apartments	
			2 or more Bedroom	Less than 2 Bedrooms
Hard Services				
Water	$3,006	$2,491	$1,878	$1,211
Sewer *	$9,578	$7,937	$5,984	$3,859
Roads	$6,913	$5,728	$4,319	$2,785
Subtotal - Hard	$19,497	$16,156	$12,181	$7,855
Transit	$497	$398	$293	$200
General Services				
Police	$274	$219	$162	$110
EMS	$68	$54	$40	$27
Growth Studies	$36	$29	$21	$14
Long Term Care	$232	$186	$137	$93
Public Health	$62	$50	$37	$25
Public Works	$91	$73	$54	$37
Subtotal - General	$762	$610	$450	$305
GO Transit **	$296	$233	$171	$108
Total Excl. Subway	$21,052	$17,397	$13,095	$8,468
Subway***	$1,918	$1,534	$1,132	$773
Total	**$22,970**	**$18,931**	**$14,227**	**$9,241**

* - Rates do not apply to the Nobleton community.
** - Not subject to this review.
*** - Not imposed until revised DC legislation is adopted

(Note: The GO Transit and the Nobleton Sewer rates are those in effect as of the preparation of this background study.)

Draft Revised Non-Residential Development Charge Rates – Full Cost Recovery Per Square Foot of Gross Floor Area

	Industrial / Office / Institutional	Retail	Average Non-Residential
Water	$1.97	$2.74	$2.62
Sewer*	$4.41	$5.30	$4.92
Roads	$3.25	$11.29	$5.03
Transit	$0.18	$0.61	$0.28
General	$0.20	$0.30	$0.22
Total Excl. Subway	$10.02	$20.24	$13.07
Subway**	$0.70	$2.36	$1.07
Total	**$10.72**	**$22.60**	**$14.14**

* - Rates do not apply to the Nobleton community.
** - Not imposed until revised DC legislation is adopted
(Note: The Nobleton Sewer rates are those in effect as of the preparation of this background study.)

4.2 Issues Examined

Staff examined a number of issues in preparation of the 2007 draft development charge rates. These issues and staff recommendations are as follows.

4.2.1 Non-Residential Rate Discounting

The current average full cost recovery development charge rate for non-residential development is $8.20 per square foot of gross floor area (in 2003 dollars). In 2003, as an economic incentive to development, Council reduced the non-residential charge, with retail development being charged at $3.85 per square foot, and non-retail development being charged at $2.75 per square foot. These rates would be increased annually throughout the term of the by-law, but would not reach the full cost recovery rates.

In accordance with the DC Act, the revenue shortfall resulting from this discount must be recovered from non-DC sources, i.e., tax levy and user rates. For example, currently, a water or sewer project that is considered fully growth-related is eligible to recover only 80% of its costs from development charges, due to the current discount policy. The remaining 20% of the project costs are recovered from user rates.

The 2007 ten year capital plans estimate that an average of approximately $32.5 million per year will be required from water and sewer user rates to fund the shortfall of water and sewer capital recoveries resulting from the current non-residential DC rate discount. Similarly, an average of approximately $20.0 million per year will be required from the Regional tax levy to fund the DC rate discount.

As part of the preparation of the draft background study, staff examined various scenarios that include elimination or reduction of the current DC discounts. Attachment 4 outlines some examples of potential strategies to reduce / eliminate this discount and the associated impact on capital cost recovery.

4.2.2 Transit Development Charge

The ten year transit capital program included in the 2003 DC By-law review totalled $2.2 billion, with approximately two-thirds of the cost assumed to be recovered from senior levels of government. The DC Act states that costs eligible to be recovered from DC must be calculated using a service level based on the average of the previous ten years. This penalizes municipalities like York Region that are introducing new services, as there is a minimal historic service level, which results in a smaller component of future costs that can be recovered from DC.

As well, transit services under the DC Act are treated differently from roads in two significant ways. First, unlike road capital expenditures, a mandatory 10% reduction in costs eligible for recovery from development charges must be applied to transit capital expenditures. Second, although municipalities plan roads and transit services as an integrated transportation system, transit services cannot be grouped with roads for the purposes of reserve funds, draws and credits. This would appear to further reduce the total transit capital expenditures eligible for recovery from DC.

Based on average historical service levels as prescribed by the DC Act, approximately 5% of the Region's $796 million share of total capital costs included in the 2003 DC By-law would be eligible for recovery from development charges at the beginning of the ten year planning period, increasing to 33% by the end of the ten year period. The single family dwelling DC rate for transit calculated under the current development charge legislation would have been less than $400 per unit.

During the 2003 DC By-law review process, numerous discussions with key development stakeholders were held. As a result of these discussions, instead of using the historical ten year average service level standard for determining DC rates, the transit DC rate was calculated using a projected ten year average service level standard based on year 2012, which assumes all works included in the Region's ten year capital plan have been completed. The DC By-law also included a phase-in of the transit component of the DC rate from $775 to $1,945 per single family dwelling (SFD), to reach a 25% cost recovery of the Region's net capital costs by the end of the four year term of the by-law. The amount of each step of the transit rate phase-in would be dependent upon the percentage of the annual budgeted transit expenditures spent. Despite the consultation with stakeholders, the Region received an appeal of the By-law regarding the transit DC calculation. This appeal has since been resolved.

For the 2007 By-law, calculation of a transit charge under a strict interpretation of DC Act restricts cost recovery to approximately 3%, which is not sufficient to fund transit infrastructure to service growth. In order to move towards a sustainable funding model for York Region transit services, York Region staff have reviewed options to increase recoveries for transit. One of these options which has been included as part of the DC calculation was to re-categorize several road widening projects identified to support transit initiatives as transportation/roads costs, which improves the capital recovery for the entire transportation portfolio. Details pertaining to this are included in the draft Background Study.

Subway

As part of the proposal for construction of the Spadina Subway extension to the Vaughan Corporate Centre, new legislation regarding DC's for the Spadina Subway is to be enacted. It will facilitate an increased cost recovery for the subway, as compared to existing legislation. Although regulations have not yet been adopted, staff have calculated the proposed subway development charge rates in accordance with the proposed legislation and included the subway costs as part of the Region-wide development charge, consistent with the Region's current methodology. Through consultations, stakeholders in the development industry have also indicated their preference to the application of a Region-wide charge as opposed to applying the charge on an area-specific basis.

It is important to note that, although the DC rates for the subway have been calculated, it is proposed that the imposition of the subway DC rates would not commence until the revised legislation has been enacted by the Province. If the regulations alter the calculation and result in a lower DC rate, an amendment to the rates would be brought forward.

Subsequent to the preparation of the background study, staff has continued to review the calculation for this service, and will bring forward alternative calculation methodologies.

4.2.3 Centres and Corridors

Focusing growth and infrastructure investment in Centres and Corridors has been a key goal of the Regional Official Plan since its adoption in 1994. The Region has designated four regional centres: Markham, Newmarket, Richmond Hill and the Vaughan Corporate Centre. These four centres are intended to be vibrant, higher density, mixed use precincts. These four regional centres are intended to contain the highest densities in order to support rapid transit services and provide a broad mix of uses that will serve the entire region.

York Region's Centres and Corridors Strategy identified several potential initiatives that could be undertaken to promote development in Regional centres and corridors. These initiatives included the review of the current development charge structure. The firm of Hemson Consulting Ltd. was retained to undertake a review of financial strategies and options for encouraging intensification in Regional centres and corridors. The main area of focus of the study was development charges, and the possible restructuring or differentiation of the current DC rates within defined centres and corridors.

Findings from this review indicated that there may be a cost justification to examine a differentiated Regional development charge within centres and corridors for roads and transit infrastructure, as opposed to other urban and greenfield development. This would require a change to the uniform Region-wide DC rate methodology, resulting in a lower charge within centres and corridors for certain services, and a higher charge outside of these areas.

York Region has begun to explore how a Centres and Corridors DC strategy could be implemented to ensure that the guidelines of the DC Act are met and what impact the differentiated rate could have in encouraging intensification. Some factors influencing this issue are outlined below:

- In the initial centres and corridors report, Making it Happen, completed in November 2002, proforma statements were prepared by Royal LePage Advisors for construction of both an office building and an apartment condominium. These statements indicated that development charges represent approximately 2% of the cost of an office building and approximately 6% of an apartment condominium. (Note: York Region staff are in the process of having these statements updated)

Factors such as parking represent a greater proportion of costs than development charges.

- The study was based on master plans updated in 2002-4. New master plans proposed to be finalized in 2008 will most likely impact the study findings.

Staff recommends that implementation of a centres and corridors strategy be deferred and the impacts re-examined upon completion of the updates to York Region's Master Plans.

4.2.4 Calculation Methodologies

York Region was challenged by the development industry on certain assumptions included in the DC rate calculation during the last by-law amendment process. Two key areas of concern for the development industry are the split between retail and non-retail costs and how to deduct for excess capacity (existing and post-period benefit) for water and sewer services.

<u>Retail / Non-retail Cost Split</u>

The non-residential DC rate is split into two categories: retail development and industrial / office / institutional ("non-retail") development. Non-residential capital costs are allocated to these categories based on an assessment of the consumption of each service by retail and non-retail uses. Since non-residential costs cannot be shifted to residential development, any shift in non-residential cost allocation must be borne by the other non-residential use (i.e. a reduction in non-retail costs must be absorbed by retail development). The 2003 DC By-law used a survey of water use for selected businesses in three municipalities to allocate costs between retail and non-retail uses. This resulted in a larger proportion of costs being allocated to retail uses, resulting in a higher retail development charge. The By-law was appealed by retail proponents, challenging the validity of the survey. During appeal resolution discussions, the use of the employment growth mix forecast was tabled as a practice used by other municipalities to split water and sewer costs.

Staff recommendation is to use the growth forecast for retail versus non-retail to split the costs for water and wastewater until such time that a measure more indicative of usage patterns is established and to continue to use the Region's existing methodology for other services.

<u>Post Period Benefit</u>

The *DC Act* stipulates that a DC By-law cannot collect for services that benefit existing development. As well, costs to service growth beyond the planning period of the by-law cannot be collected in the current by-law, and must be collected in future by-laws. The development industry had challenged how the Region accounts for capacity servicing the existing community, and capacity created to service beyond the planning period. Staff has reviewed current and future servicing capacities of the water and sewer system, and have made appropriate adjustments. These adjustments, totalling $97.9 million for water and $267.0 million for sewer capital costs, are detailed in the draft Background Study.

4.3 DC By-law Review Process

The Region's DC By-law review process was authorized by Council in 2006. Regional staff has had extensive consultation with the development industry during the review. Staff held seven comprehensive meetings with the development industry, including sessions in February and March 2007 to review specific project cost issues. Discussions with representatives from the development industry are ongoing.

A Public Meeting is scheduled for April 5, 2007. As the current DC By-law expires June 22, 2007, it is proposed that, based on the input from the Public Meeting, staff present the revised DC Background Study and DC By-law to Finance and Administration Committee on May 3, 2007, and to Council on May 17, 2007 for enactment. In order to allow development proponents with applications currently being reviewed an opportunity to finalize their applications, it is proposed that the revised DC By-law would take effect June 18, 2007.

5. FINANCIAL IMPLICATIONS

It is estimated that approximately $8.7 billion of infrastructure will be required to service growth within York Region to the year 2031. Development charges are a major source of capital funding for the Region's growth-related capital program, and will be required to finance the capital costs associated with the rapid growth forecasted within the Region. Enactment of the revised DC By-law helps to ensure that the growth-related capital costs are borne by the development creating the need for these works.

Council's decision regarding the non-residential DC rate will determine the amount of the annual subsidy (DC discount) provided towards the growth-related infrastructure through tax levy and user rates, and will impact future budgets and levy requirements. This matter has been highlighted in previous budgets and financial status reports, and represents a significant impact on current tax levy and user rates. The opportunity exists to mitigate this burden through the revised DC by-law.

The decision regarding the methodology to use for transportation development charge calculations will impact the affordability of continued expansion of transit within the transportation service envelope throughout York Region.

6. LOCAL MUNICIPAL IMPACT

Development charges are a significant source of funding for the Region's growth-related capital programs. The completion of these capital infrastructure works facilitates the co-ordinated build-out of proposed developments within the area municipalities.

7. CONCLUSION

The Draft 2007 DC Background Study has been prepared in accordance with *the DC Act*, and will form the basis of the statutory Public Meeting to be held April 5, 2007. In recognition of the June 22, 2007 expiry date of the current DC By-law, it is recommended that the timetable for enactment of a revised DC By-law attached to this report be endorsed.

The Senior Management Group has reviewed this report.

(Attachment 1 was forwarded to all Members of Council with the Agenda for this meeting and Attachments 2 and 3 are attached to this report.)