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DEVELOPMENT CHARGES CONSIDERATION FOR ANGUS GLEN DEVELOPMENT LTD. – VILLAGE GROCER TOWN OF MARKHAM

The Finance and Administration Committee recommends the adoption of the recommendation contained in the following report dated April 12, 2010, from the Commissioner of Finance.

1. RECOMMENDATION

It is recommended that:

1. Regional Council approve a proposal for Angus Glen Development Ltd. - Village Grocer to pay Regional development charges at 50% retail and 50% non-retail rate for 3,128 square metres for this development.

2. PURPOSE

This report outlines a proposal to treat development charges for Angus Glen Development Ltd. – Village Grocer development in the Town of Markham at 50% of the retail and 50% of the non-retail rate.

3. BACKGROUND

2007 Development Charge By-law includes methodology changes that result in increased rates

The current Region-wide development charge by-law was approved by Council and came into force on June 18, 2007. This by-law included several methodology changes, one of which was a shift to full cost recovery of growth-related capital costs, which resulted in increased non-residential Regional development charges. As a result, Regional staff has received requests to consider retail uses as non-retail where possible.

In the case of lands, buildings or structures used or designed or intended for use for both non-retail and retail uses, the development charges otherwise applicable are determined based on the principal use of the development. The principal use is based on that use which has the greater gross floor area in the structure. In most mixed use developments, the principal use of the structure is easily determined as the uses are well defined and one use is the dominant use. For example, a structure that has a warehouse component and a small reception/showroom in it to sell products to the public may have areas disproportionate in size and typically are split 80% non-retail and 20% retail. The

Regional development charge by-law would then be based on the principal use, i.e. non-retail and would be calculated accordingly. The development considered in this report, however, has a much different profile.

4. ANALYSIS AND OPTIONS

Development Charges are imposed based on type and use of structure

Development charges apply to the development of any land, building or structures within York Region. For residential units, they are calculated based on the type of dwelling unit. For non-residential development, the development charge is based on the type of development, retail or non-retail (industrial/office/institutional) and on the gross floor area of the proposed use. The development charges for non-residential development are imposed at building permit issuance. Generally, the use is defined by the Chief Building Officer and the rates are applied by the area municipality. These rates are paid in order to receive the building permit.

There are also developments within York Region that are considered to be mixed use developments. These developments may consist of components that are residential and retail, or retail and industrial, or retail and office, etc. In these cases, regional staff provide direction to the area municipality, based on Section 3.13 of the Development Charges By-law, to collect the Regional component of the development charges based on the principal use (greater than 50%).

Angus Glen Development Ltd – Village Grocer requests a split in the imposition of Regional development charges

On October 29, 2009, Angus Glen Development Ltd. – Village Grocer provided the details of the site plan application in the Town of Markham. The site is located at 4472, 4476 16Th Avenue in the Town of Markham (see attachment 1). The proposed gross floor area and defined uses are detailed below in Table 1.

Table 1
Angus Glen Development Ltd. – Village Grocer Details by square metres

Type of Use	Area (m2)
Retail Space (ground floor)	1,461
Manufacturing Space (basement floor)	1,269
Office Space (second floor)	398
Total	3,128

Subsequent to correspondence from Angus Glen Development Ltd. – Village Grocer, Regional staff met a number of times with the applicant to review their request and to gain a better understanding of the proposed development. As result of these meetings, the applicant has provided detailed information such as a list of vendors for the manufacturing space and the anticipated portion of the uses for the office space. As well, the applicant has indicated that the proposed structure is to be used on a 50% basis for retail and 50% for manufacturing. The manufacturing space is used primarily to service clients outside of this location.

Based on the information provided, Regional staff have determined that the proposed structure does not have one principal use. The proposed structure is apportioned at 50% for retail and 50% for non-retail.

Regional Staff recommend collecting development charges based on proposed uses

According to the Regional development charges by-law and its associated policies, development charges for this structure are to be based on principal use. As mentioned above, the proposed structure does not have a well defined principal use and the development charges by-law currently does not contemplate structures that have a gross floor area that is split 50% for retail and 50% for non-retail. Therefore, Regional staff recommends that development charges for the structure be calculated based on 50% retail and 50% non-retail.

An extension to the existing deferral time period has been requested but is not recommended

Along with the details provided above, the applicant requested that Regional staff consider accepting a security for the applicable development charges to be drawn on over a 5 year period as opposed to over a 3 year period. The 3 year draw down option is the option which is currently available to all retail developments in the development charges by-law. Staff recommend not changing the 3 year draw down option to 5 years at this time as the deferral reduces the funds available to pay the large growth costs currently being experienced, particularly in the water and wastewater areas.

Staff recommend no change in policy regarding request to extend deferred payments from three to five years.

5. FINANCIAL IMPLICATIONS

Table 2 provides the details of the potential impact of considering the 50% retail and 50% non-retail development charge calculation.

Table 2
Angus Glen Development Ltd. – Village Grocer Development Charges
Calculation Details

Rate to be applied	Development charges to be generated
Retail for entire structure	$721,911
Non-retail for entire structure	$329,972
50% retail and 50% non-retail	$525,942

If the Region imposed retail rates on the entire structure, it gains approximately $400,000 in development charges compared to consideration of the structure at the non-retail rate. Alternatively, if the treatment of the Regional development charges would be 50% retail and 50% non-retail, it would result in the potential foregoing of approximately $200,000 in development charges compared to the retail rate.

Development charges finance the major portion of growth related capital infrastructure. Any Regional development charges foregone would have an impact on the funding of these growth related capital projects and this would result in the burden being borne by either the tax levy or water and wastewater user rates.

6. LOCAL MUNICIPAL IMPACT

There is no local municipal impact as the area municipality development charges do not differentiate between retail and non-retail development charges rates. However, it is important to note that Development charges are the primary funding source for the Region's growth related capital infrastructure and the treatment of developments may impact the completion of capital infrastructure works.

7. CONCLUSION

On October 29, 2009, Regional staff received a request to approve the treatment of development charges for the Angus Glen Development Ltd. – Village Grocer development in the Town of Markham at 50% retail and 50% non-retail rate. The request is based on the fact that the principal use of the proposed structure is not clearly defined, with almost equal square footage for retail vs non-retail. Accordingly, regional staff recommends that the rate of the development charges for the proposed structure be imposed at 50% retail and 50% non-retail rate.

For more information on this report, please contact Kelly Strueby at Ext. 1611.

The Senior Management Group has reviewed this report.

(The attachment referred to in this clause was included in the agenda for the May 6, 2010 meeting.)

Attachment 1

ANGUS GLEN

October 29, 2009

Regional Municipality of York
Finance Department
Capital and Development Financing
17250 Yonge Street
Newmarket, Ontario
L3Y 6Z1

Attention: Lloyd Russell, Commissioner of Finance & Treasurer

Re: Development Charge Payment
Village Grocer, 4472, 4476 16th Avenue, Markham

The Village Grocer recently received Site Plan Approval from the Town of Markham to construct a supermarket which will be located on the north side of 16th Avenue, west of Kennedy Road, and will consist of 1,461m2 (15,727 sf) of retail space, 1,269m2 (13,659 sf) of basement space for food and meat preparation and 398m2 (4,289 sf) of office space. Angus Glen Development is assisting the Village Grocer in constructing this development, which is expected to break ground in the next two months.

Currently the Village Grocer operates as two separate operations. The Village Grocer retail supermarket is located at 548 Carlton Road with the prepared food and meat business and its associated offices, known as the Village Kitchen Limited, being located at 190 Bullock Drive. The Village Kitchen operation sells prepared food and meats to over 50 vendors in the GTA. Approximately 90% of the food and meats prepared on site are shipped to the outside vendors, with the remaining 10% sold within the Village Grocer supermarket. The construction of the new building at 4472 16th Avenue will allow for each of the businesses to be consolidated in one building.

We acknowledge the Region's Development Charge By-law provides that for the purpose of calculating the required development charge payments for developments that are designed to contain retail and industrial/office uses, the development charge rates are to be calculated based upon the principal use of the development. Notwithstanding this provision we are requesting you assess the 1,461m2 of supermarket GFA at the retail rate and assess the 1,269m2 of basement GFA that will be used for food and meat preparation and the 398m2 GFA of office space at the industrial/office rate.

It is noted that the Region provides Retail development with the option of securing development charge payment obligations through the provision of a Letter of Credit which would be drawn over a three year period. Rather than secure the payment obligations through a Letter of Credit we would request your consideration to allow the Village Grocer to secure this obligation by way of security in the form of a mortgage subordinated to Village Grocer lender or other such means as may be agreed to with the Village Grocer. In addition we would propose an agreement between the Region and Village Grocer that would provide cash payments to the Region on a yearly basis over a 5 year period to address the Development Charge payments.

ANGUS GLEN DEVELOPMENT LTD.
10080 Kennedy Road, Markham, Ontario L6C 1N9
(905) 887-5799 Fax: (905) 887-5197

Thank you for your consideration of these requests and if you have any questions with respect to the above please contact me at 905 887-0090 x408.

Sincerely,

Patrick O'Hanlon
President

Copy: Evan Macdonald, Village Grocer