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WOODBINE AVENUE BY-PASS CONSTRUCTION AND PREPAID DEVELOPMENT CHARGE CREDIT AGREEMENT PRINCIPLES TOWN OF MARKHAM

The Planning and Economic Development Committee recommends the adoption of the recommendations contained in the following report from the Commissioner of Planning and Development Services, the Commissioner of Finance and the Commissioner of Transportation and Works:

1. RECOMMENDATIONS

It is recommended that:

1. Regional staff be authorized to proceed with negotiating principles of a prepaid development charge credit agreement with the Town of Markham and the West Cathedral Developer Group for the accelerated construction of the Woodbine Avenue By-pass, at an estimated cost of \$14.3 million.
2. Regional staff be authorized to proceed with negotiating terms with the Town of Markham for detailed design, property acquisition, contract administration, approval, tender, construction and maintenance of the Woodbine Avenue By-pass (Phase 1 and 2) by the Town of Markham, which includes the terms with the Town of Markham outlined above.
3. Regional Chair and Clerk be authorized to execute the agreement subject to the Town of Markham confirming receipt of funding from the West Cathedral Developer Group as outlined in this report.

2. PURPOSE

The purpose of this report is to obtain Council authorization to permit Regional staff to negotiate a Prepaid Development Charge Credit Agreement with the West Cathedral Developer Group and with the Town of Markham to advance the construction timing of Regional infrastructure required for the development of West Cathedral lands. This report outlines the proposed principles of the agreement for constructing and advancing the construction timing of the Woodbine Avenue By-pass north of Major Mackenzie westward through the developer group's lands to north of Elgin Mills Road (Phase I and II, see *Attachment 1*).

3. BACKGROUND

The Cathedral Secondary Plan – OPA 42 covers an approximate area of 310 ha (764 acres), north of Major Mackenzie to just north of Elgin Mills Road between the Highway 404 and Woodbine Avenue and some lands east of Woodbine Avenue. Approximately 102 ha (251 acres) of the total area is identified as residential area and approximately 52 ha (128 acres) as employment lands. The secondary plan identifies approximately 4,500 units with a forecasted population of 13,000 to 14,000 persons and additional employment of 13,000 persons.

On October 31, 2001, the Planning and Economic Development Committee received Amendment No.31 to the York Region Official Plan for “Regional Road By-passes”. The purpose of the amendment was to allow construction of By-passes throughout the Region (as required) without having to amend the Regional Official Plan.

York Region’s Transportation Master Plan, June 2002 shows the Woodbine By-pass as a need within the ten year time horizon. In addition, subsequent transportation impact studies undertaken in support of the proposed developments in the west Cathedral Secondary Plan area also have identified the need for the Woodbine Avenue By-pass within the ten year time horizon.

In September 2002, York Region initiated a Class Environmental Assessment (Class EA) to address increasing traffic volumes along Woodbine Avenue between Major Mackenzie Drive and 19th Avenue and to address concerns about traffic impacts within the Hamlet of Victoria Square.

On June 26, 2003, Regional Council adopted recommendations contained in Clause No. 10, Report No. 6 of the Transportation and Works Committee including the following: “The preferred solution to widen Woodbine Avenue (Y.R. 8) from Major Mackenzie Drive to (Y.R. 25) to 19th Avenue (Y.R. 29) to a four-lane cross section, and detailed By-pass alignment around the Hamlet of Victoria Square and the new residential portion of the Cathedral Secondary Plan, as determined through the Transportation and Class Environmental Assessment study” be endorsed.

The Woodbine Avenue Class EA was filed for the 30 day public review ending October 30, 2003 and was approved by the Minister of the Environment on May 12, 2004. Construction of this project has been identified in the Region’s 2005 Ten Year Capital Plan as a 2012 project at an estimated cost of \$16.5 million. It should be noted that Transportation and Works staff have revised the estimated cost of \$16.5 million to \$18.7 million for this project. The revised cost was based on a more detailed assessment of the Woodbine Avenue By-pass project and includes costs associated with property acquisition and provisional items on behalf of the Town of Markham (*see Section 4.2*).

On February 28, 2005 the Town of Markham reported to their Council on the proposed Town’s involvement in the Woodbine Avenue By-pass construction. Subsequently, the

Town of Markham forwarded a resolution requesting the Region to advance the construction timing of Phase III of the Woodbine Avenue By-pass to 2009.

In order to proceed with the buildout of its subdivision within the Cathedral Community, the Developer Group has expressed interest in advancing the construction timing of the Woodbine Avenue By-pass road project to coincide with development of their subdivisions.

4. ANALYSIS AND OPTIONS

4.1 Planning Considerations

4.1.1 ROPA 31

Amendment No. 31 to the Regional Official Plan (ROPA 31) was adopted by Regional Council on November 8, 2001 and approved by the Ontario Municipal Board on August 29, 2003 and February 28, 2005. ROPA 31 shows the location and general alignment of the Woodbine By-pass around the community of Victoria Square on Map 9 of the Regional Official Plan.

4.1.2. ROPA 46 for Lands North of Victoria Square

Lands located to the north of the Cathedral Secondary Plan (OPA 42), extending to the Markham/Whitchurch-Stouffville boundary, are proposed to be redesignated from “Rural Policy Area” to “Urban Area” by Amendment No. 46 to the York Region Official Plan. A public meeting was held on May 4, 2005, and no additional issues were raised by the Town, public or other commenting agencies. The northern portion of the By-pass is located on these lands.

A portion of these lands is located in the Provincial Greenbelt Plan and designated “Protected Countryside”; however, as the amendment application was submitted prior to December 16, 2004 it is “transitioned” and further processing can continue. It should be noted that no portion of the by-pass itself is located within the Provincial Greenbelt Plan. Regional planning staff anticipates reporting to Committee and Council on the disposition of the Regional Amendment in June 2005.

Section 24 of the Planning Act indicates that no public work shall be undertaken that does not conform to the Official Plan or an adopted amendment to the Official Plan.

4.1.3. Local OPA for Lands North of Victoria Square

The Town of Markham has adopted a local Official Plan amendment (OPA 113) that provides a secondary plan framework for the lands subject to ROPA 46. The local official plan amendment application is also “transitioned” with respect to the Provincial Greenbelt Plan. The general alignment of the Woodbine By-pass is shown in the local official plan amendment. Regional staff anticipates reporting to Committee and Council on OPA 113 concurrently with Regional Amendment No. 46.

Amendment No. 113 establishes development policies and general land use designations that will be further refined by a subsequent and more detailed secondary plan. Regional Planning staff anticipates issuing a decision on this more detailed local official plan amendment establishing the secondary plan early in 2006.

4.1.4. Plans of Subdivisions

The Regional Planning department has received 5 plans of subdivision located on the west side of Woodbine Avenue, in the Cathedral Secondary Plan area (OPA 42). Table 1 shown below identifies the subdivision and proposed residential units and employment area.

Table 1
West Cathedral Community Subdivision Information

Subdivision 19T#	Applicant	Status	Residential Units	Employment Area (ha)
19T-05M06	Monarch Development	Proposed	489	5.654
19T -95075	Clemente Tucciarone et. al	Proposed	210.5	0
19T-01M01	Cathedral Town Limited, 404 Developments Inc and Slovak Greek Catholic Church Foundation	Phase 1 - Draft Plan Approved	301	19.409
		Phase 2 - Proposed	1,427.5	
19T-01M07	Cathedral Town South 2014039 Ontario Ltd.	Proposed	395	5.78
19T-01M04	Barrowcrest Developments Inc.	Proposed	224	5.29
OPA/Zoning	Loblaws Properties	Proposed	0	5.63
Total			3,047	41.763

The total number of proposed and draft approved residential units in the above noted plans of subdivision is 3,047. No plans of subdivision have been submitted to the Region to-date for the lands north of OPA 42.

4.1.5 Comparison of Road Works with Plans of Subdivision

- Plans of subdivision south of Elgin Mills Road consist of 2,558 residential units, 36.109 hectares of employment land. (Phase 1 area of By-pass)
- Plans of subdivision north of Elgin Mills Road to north limit of Cathedral Secondary Plan (OPA 42) consist of 489 residential units and 5.65 hectares of employment land. (Phase 2 of By-pass)
- The Area north of the Cathedral Secondary Plan (OPA 42) in OPA 113 area, consists of approximately 22 hectares for residential use and 135 hectares of employment land. (Phase 3 of By-pass *see Attachment 1*)

4.2 Road Works

4.2.1 Woodbine Avenue By-pass

There are definite advantages to constructing the road improvements along Woodbine Avenue, in particular the By-pass section, concurrent with adjacent land development. The Woodbine Avenue By-pass will be the main north-south access for the West Cathedral development lands, without the By-pass in place, an interim road network via the existing Woodbine Avenue will be required to service these lands. Given that the proposed By-pass is a key component of the road network for the West Cathedral plan area, coordination and agreement with the West Cathedral Developer Group, Region and the Town of Markham will facilitate the construction and required dedication of land for the Woodbine Avenue By-pass right-of-way.

Preliminary meetings with the West Cathedral Land owners were held and a staging plan was presented to Regional and Town of Markham Staff (*see Attachment 1*). It is proposed that the By-pass will be constructed in three stages. Phases I and II of the By-pass is proposed to be financed by the West Cathedral Group (*see Attachment 1*). Phase III is proposed to be constructed by the Region in 2012 as identified in the 10 year program or possibly by up-front financing with the developers to the north of Cathedral Community if those lands in Phase III begin to develop prior to the current projected timing of development.

As indicated in Section 4.1.3 ROPA 46, the lands north of the Cathedral Secondary Plan are currently designated as “Rural Policy Area”. A Regional Official Plan Amendment is required in order to redesignate the lands from “Rural Policy Area” to “Urban Area”. Therefore, the construction of the Woodbine Avenue By-pass cannot proceed as one project, and must be constructed in various Phases. Phases I and II can be constructed together, and due to the current planning status of the lands Phase III may be delayed. It should be noted that the Town of Markham has forwarded a resolution requesting the Region advance the construction timing of Phase III to 2009. The Region will review the request as part of the implementation of this project, based on the progress of the buildout of the community.

The following table shows the proposed advanced construction timing for the three phases of the By-pass and most recent cost estimates:

Table 2
Estimated Advanced Timing of Construction and Cost Breakdown

Woodbine By-Pass	Estimated Timing	Estimated Cost
Phase 1- South terminus of Woodbine Avenue By-pass to Elgin Mills Road	2007/2008	\$11.4 M
Phase II – Elgin Mills Road to north limits of Cathedral Community Plan (OPA 42)	2009	\$2.9 M
Phase III - Current “Urban Area” Boundary to the North terminus of the Woodbine Avenue By-pass	2012 or earlier	\$4.4 M
Total		\$18.7 M

It is important to note that without Phase III completion, the By-pass will not be able to undertake its intended role of redirecting through traffic away from Woodbine Avenue in the Hamlet of Victoria Square, and as such will function as a collector type road facility feeding mostly internal vehicular traffic. Therefore, it is recommended that the Town construct, own and operate Phase I and Phase II of the Woodbine Avenue By-pass. The developer group would be responsible for providing financing for the cost of the Phase I & II works to the Town. The Town would then construct and operate the two phases of the By-pass. Upon completion of Phase III, the Region would assume the entire By-pass. The existing Woodbine Avenue will remain a Regional Road until the entire By-pass has been completed. Once Phase III has been completed, responsibility for Woodbine Avenue will be transferred to the Town of Markham.

The Woodbine Avenue By-pass, when completed, will function as the preferred route for through vehicular traffic for the Cathedral Community and Victoria Square Hamlet. The proposed four lane Woodbine Avenue By-pass, once complete, will negate the need to widen the existing Woodbine Avenue from north of Major Mackenzie Drive to just south of the Hamlet of Victoria Square. Therefore, the proposed By-pass is considered to be a project substitution for the proposed widening of the existing Woodbine Avenue.

4.2.2 General Road Principles

The following are general principles for the Development/Transportation Staging Plan for the Woodbine Avenue Road works:

- Woodbine Avenue By-pass right-of-way of 36 metres plus additional widening where required, for Phase 1 and Phase II and possible Phase III must be dedicated by the West Cathedral Developer Group to the Town of Markham.
- The participating landowners will provide land for a 20 metre right-of-way free of all cost and encumbrances. The Region is to compensate, by way of development charge credits, the developers group for the additional property required beyond the 20 metre

- dedication (i.e. 16 metres of right-of-way DC credit compensation), as the By-pass has a 36 metre right-of-way designation in accordance with Regional Policy.
- It is proposed that The Town of Markham will manage the detail design, property acquisition, approvals, tender, award, contract administration, maintenance and construction of Phases 1, and II and *possibly Phase III*. The design must be in conformance with York Region Road design standards and current quality assurance and quality control requirements. Provisions for Regional design sign offs and construction acceptance will be included.
 - The West Cathedral Developer Group will be required to detail further the staging Plan as it relates to the interim arrangement/connection to the existing Woodbine Avenue until the By-pass has been constructed (i.e. the Old Woodbine Ave will function as the main north-south arterial road facility until such time as the entire By-pass has been completed). A detailed transportation/development staging plan will have to be undertaken by the developers group and approved by the Region and the Town of Markham.
 - Old Woodbine Avenue will remain a Regional Road until the entire By-pass has been completed. Once Phase III has been completed, the Town of Markham will assume Old Woodbine Avenue, and York Region will assume the operation and maintenance of the By-pass.
 - The Region will not compensate by way of DC Credits for works that are deemed to be “throw away” costs, in accordance with the Regional DC Credit policy (i.e. not in ultimate location). The Region will work with the Town and Developer Group in order to reduce throw away costs.
 - Construction of the By-pass shall be fully integrated with development of the adjacent lands (i.e. grading, underground services, utilities, etc). Costs shall be appropriately apportioned between the development and the road works for all utilities and underground services.

4.3 Water and Sewage Considerations

4.3.1 Water Supply

The proposed subdivisions within the Cathedral Community will be serviced by the PD7 system in the north and the PD6 system in the south.

Short term servicing for PD6 will be provided through the existing watermain on Woodbine Avenue, which extends north from 16th Avenue to Major Mackenzie Drive. Long term servicing will be provided through the proposed Major Mackenzie watermain. This watermain is scheduled in the 10 Year Capital Plan for completion in late 2006.

Other infrastructure is required to accommodate projected growth throughout Markham, including the Markham PD6 Reservoir and McCowan Road watermain. The Class EA for this project is complete and construction completion is expected in December 2005.

Servicing in PD7 will be provided through the extension of the Elgin Mills watermain from Leslie Street to Woodbine Avenue. This watermain was completed in 2004 as part of a prepaid development charge credit agreement between the Region and the West Cathedral Developer Group.

4.3.2 Wastewater Servicing

Interim sewage servicing capacity to the Cathedral Community will be provided through the existing 404 Trunk Sewer for up to 1,000 units. The completion of the 16th Avenue Trunk Sewer is required to address downstream capacity constraints for servicing beyond 1,000 units. The 16th Avenue Trunk Sewer will be extended in two phases. The Phase I extension from Ninth Line to Stonemason is complete. The Phase II extension from Stonemason to East of Woodbine Avenue is expected to be completed by 2007.

Servicing allocation would then be required by Markham from its total available capacity in accordance with Markham's servicing allocation policies as overall town capacity remains constrained until the completion of Southeast Collector Sewer and Duffin Creek WPCP.

The Town has allocated 300 units of capacity to West Cathedral at this time. It is important to note that the Town of Markham proposed at their February 15, 2005 Council meeting to allocate an additional 500 units to the Cathedral trustee from a total of 4,732 units for the entire Town when this additional assignment is available from the Region. This provides capacity for 800 of the approximately 3,000 units in the West Cathedral portion of the secondary plan area. Additional capacity to this area would need to be directed by Markham from the overall Town wide capacity availability. Details of supply availability within the Town is provided in a separate report considered today at the joint session of Regional Transportation and Works and Planning and Economic Development Committee entitled "Water and Wastewater Capacity and Servicing Assignment Protocol". Execution of a Development Charge Credit Agreement should not impede or circumvent the Town of Markham's own allocation policies and processes.

5. FINANCIAL IMPLICATIONS

The West Cathedral Developer Group has proposed to provide financing to advance the construction timing of the Woodbine Avenue By-pass.

Subject to receipt of all necessary planning approvals, the following are the principles of the prepaid development charge credit agreement between the Town of Markham, West Cathedral Developer Group and the Regional Municipality of York required to advance these works:

- The Developer Group will be responsible for providing the required funding to advance the construction of the Woodbine Avenue By-pass from Major Mackenzie Drive to the north limit of the Cathedral Secondary Plan, at an estimated cost,

- including land acquisition in accordance with Regional Policy, of \$14.3 million (Phase I & Phase II).
- The West Cathedral Developer Group will secure 100% of the estimated cost of the Woodbine Avenue Road By-pass, Phase 1 and 2 with the Town of Markham. Since all lands for the Woodbine By-pass Phase 1 and 2 are owned by the West Cathedral Developer Group, the Region will explore an alternative for securing and conveyance of the property for the entire By-pass Phase 1 and 2 to the Town of Markham prior to Draft Plan Approval.
 - The West Cathedral Developer Group shall finance 100% of the design, utility, permitting, approvals, construction and property acquisition costs required to complete the works.
 - The financing will be by way of Letter of Credit(s), in a format satisfactory to the Town of Markham Treasurer, provided in the following manner:
 - minimum 7% at the time of execution of the agreement to cover design and approval costs; and
 - 93% prior to awarding the contract for construction of the works.
 - The final 93% of the required funding will be adjusted up or down in accordance with the tendered price, and would be required by the Town prior to proceeding to Regional Council for approval of the award. The Developer Group undertakes to provide any additional funding within 15 days of a written request from the Town, and conversely, will be refunded any project savings upon project completion to the satisfaction of the Town. Such Letter of Credits are intended to be drawn upon during construction to pay contractor progress payments and other costs associated with the project.
 - Street lighting and sidewalks will be designed and constructed as part of the same construction contract and will be funded by the Town of Markham from their Area Specific Development Charges for the Cathedral Secondary Plan Area.

The following are general principles for recovery of DC Credits by the Developer Group:

- The Developer Group will be entitled to recover the growth component of the road widening, equal to 76.5% of the cost of the works or \$10.9 million, by way of credits against the road component of the Regional development charge at time of subdivision(s) registration.
- The Developer Group will be eligible to recover a portion of the non-growth component of the entire project costs subject to completion of the works to the satisfaction of the Commissioner of Transportation and Works, in accordance with Regional Policy, as the works are included in the Region's 10 Year Capital Plan.
- The Region will direct any future road development charges collected by the Region from non-participating developers within the benefiting area (east and west of Woodbine Avenue, east of Highway 404, north of Major Mackenzie Drive and south

- of 19th Avenue) to the West Cathedral Developer Group to reduce the outstanding road credit obligation.
- Regional Road Development Charges will be directed to a Trustee, who in turn will be responsible for administering the road credits to the individual land owners.
 - Upon full buildout of the Cathedral Community Area, should a shortfall in Road Development Charge Credits exist, Regional staff will report to Council to recommend a method in which the West Cathedral Developer Group will be reimbursed for the shortfall.
 - The Developer Group will agree to pay for the Region's legal costs (external or internal) to prepare the agreement.
 - The administration fee equal to 0.5% of the capital cost of the road works shall be payable to the Region at the time of execution of the agreement.

The following are general principles for the Development/Transportation Staging Plan for the Woodbine Avenue Road works:

- Woodbine Avenue By-pass right-of-way of 36 metres plus additional widening where required, for Phase 1 and Phase II and possible Phase III must be dedicated by the West Cathedral Developer Group to the Town of Markham.
- The participating landowners will provide land for a 20 metre right-of-way free of all cost and encumbrances. The Region is to compensate, by way of development charge credits, the developers group for the additional property required beyond the 20 metre dedication (i.e. 16 metres of right-of-way DC credit compensation), as the By-pass has a 36 metre right-of-way designation in accordance with Regional Policy.
- It is proposed that The Town of Markham will manage the detail design, property acquisition, approvals, tender, award, contract administration, maintenance and construction of Phases 1, and II and **possibly Phase III**. The design must be in conformance with York Region Road design standards and current quality assurance and quality control requirements. Provisions for Regional design sign offs and construction acceptance will be included.
- The West Cathedral Developer Group will be required to detail further the staging Plan as it relates to the interim arrangement/connection to the existing Woodbine Avenue until the By-pass has been constructed (i.e. the Old Woodbine Ave will function as the main north-south arterial road facility until such time as the entire By-pass has been completed). A detailed transportation/development staging plan will have to be undertaken by the developers group and approved by the Region and the Town of Markham.
- Old Woodbine Avenue will remain a Regional Road until the entire By-pass has been completed. Once Phase III has been completed, the Town of Markham will assume Old Woodbine Avenue, and York Region will assume the operation and maintenance of the By-pass.
- The Region will not compensate by way of DC Credits for works that are deemed to be "throw away" costs, in accordance with the Regional DC Credit policy (i.e. not in

- ultimate location). The Region will work with the Town and Developer Group in order to reduce throw away costs.
- Construction of the By-pass shall be fully integrated with development of the adjacent lands (i.e. grading, underground services, utilities, etc). Costs shall be appropriately apportioned between the development and the road works for all utilities and underground services.

6. LOCAL MUNICIPAL IMPACT

The advancement of the Woodbine Avenue By-pass road project will result in the advanced buildout of the plans of subdivision within the Cathedral Community Secondary Plan. The Town of Markham will manage the detail design, property acquisition, approvals, tender, award, contract administration, maintenance and construction of Phases 1, and II and **possibly Phase III**. It will be the responsibility of the Town of Markham to allocate water and sewage capacity to West Cathedral Community developments.

7. CONCLUSION

The Woodbine Avenue By-pass has been identified to resolve traffic issues in the vicinity of the Hamlet of Victoria Square. It is proposed that the Town of Markham construct, own and maintain the By-pass until Phase III has been completed. In order to advance the construction of the Woodbine Avenue By-pass road project to permit the buildout of the subdivision(s) in the Cathedral Community Secondary Plan Area, the developer group within the Cathedral Community has expressed an interest in entering into a prepaid development charge credit agreement. This report outlines the principles of the agreement, subject to Council authorization.

The Developer Group will be responsible for providing prepaid development charges and or securities for the total cost of the Woodbine Avenue By-pass Phases I and II, estimated to be \$14.3 million. The West Cathedral Developer Group will be entitled to recover the growth-related component of Woodbine Avenue By-pass road works, estimated at \$10.9 million by way of development charges credits. The Developer Group will be eligible to recover a portion of the non-growth component of the road works.

The Senior Management Group has reviewed this report.

(The attachment referred to in this clause is included with this report.)