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DEFERRAL OF REGIONAL DEVELOPMENT CHARGES FOR FAIRWOOD HOMES AND TORKES DEVELOPMENT INC. TOWN OF GEORGINA

The Finance and Administration Committee recommends the adoption of the recommendation contained in the following report dated June 11, 2012, from the Commissioner of Finance.

1. RECOMMENDATION

It is recommended that:

1. The Regional Chair and Regional Clerk be authorized to execute a development charge deferral agreement with 702153 Ontario Inc. o/a Fairwood Homes and Torkes Developments Inc. to defer the payment timing of the Regional development charges on a Council-approved affordable housing apartment building to be owned and operated by Housing York Inc.

2. PURPOSE

The purpose of this report is to obtain Council's approval to defer the collection of Regional development charges for a ninety-seven unit affordable housing apartment building to be constructed by 702153 Ontario Inc. o/a Fairwood Homes and Torkes Developments Inc. ("Fairwood Homes"). It is intended that, upon construction completion, the building will be owned and operated by Housing York Inc. (Housing York)

3. BACKGROUND

Council issued a RFP for affordable housing and Fairwood Homes was the successful proponent

In the fall of 2008, the Region received $53 million under the *Investing in Ontario Act, 2008* to fund regional infrastructure projects. Staff were directed to investigate options for using the funds to increase the supply of affordable housing within the Region. A Request for Proposal (RFP) was issued in July 2010 seeking proposals from the development industry to provide a site and to deliver a new affordable housing building to be owned and operated by Housing York.

The Region received submissions and Council authorized contract negotiations and value engineering with the successful proponent, Fairwood Homes. On March 22, 2012,

Council authorized the award of the contract to Fairwood Homes and Torkes Developments Inc. for a ninety-seven unit, six-storey, affordable rental housing building located at 17-19 The Queensway South in the Town of Georgina.

Fairwood Homes is obligated to pay regional development charges under the Development Charges Bylaw

The Region's Development Charge Bylaw No. 2012-36 (the "Bylaw") requires Fairwood Homes to pay Regional development charges at building permit issuance. The Bylaw and its associated policies do not waive or exempt the development charges for the construction of affordable housing units when they are being delivered by a third party. If the Region was constructing the affordable rental housing building, it would not be obligated to pay development charges.

In the absence of a deferral agreement, Fairwood Homes would be required to pay all the applicable development charges at building permit issuance.

4. ANALYSIS AND OPTIONS

Deferral of development charges is warranted because transfer of title to Housing York is expected upon completion of construction

In light of the fact that Housing York is expected to own and operate the affordable rental housing apartment upon completion of construction, it is not intended that development charges would be paid on this development. To ensure development charges are not payable, staff recommends that the Region enter into a development charge deferral agreement. Development charges would not be payable as long as the building was transferred to Housing York upon building completion. Should title not transfer to Housing York as expected and Fairwood Homes retains ownership, Fairwood would be required to pay the Regional Development Charges at that time. The Region will register a mortgage on title to the property in the amount of the applicable development charges so that the Region would be secured in the event that the sale of the property does not close as anticipated.

The deferral of the collection of Regional development charges will be for three years following the execution of the Deferral Agreement, or until such time as the building becomes the property of Housing York, whichever is earlier.

Link to Key Council-approved Plans

The deferral of Regional development charges would directly support the strategic objectives articulated in the Region's 2011 to 2015 Strategic Plan by supporting healthy communities and expanding housing choices through the creation of affordable housing units.

5. FINANCIAL IMPLICATIONS

No development charges are paid for Housing York projects

On June 18, 2012 the 2012 Development Charge Bylaw No. 2012-36 came into force. The applicable development charges are now based on apartment sizes as opposed to number of bedrooms. The structure includes seventy-seven units of less than 700 sq. ft and 20 units greater than 700 sq. ft. The estimated development charges that are to be deferred total $1,809,746.

Once the building is transferred to Housing York, regional development charges will not be payable.

6. LOCAL MUNICIPAL IMPACT

On April 23, 2012, at its Committee of the Whole meeting, the Town of Georgina approved the deferral of local development charges pertaining to the affordable housing (*Attachment 1*). The Town of Georgina has approved the deferral of the local development charges until such time as the new building is transferred to Housing York. Once the transfer happens, local development charges will not be payable. The deferral supports the Town's Keswick Secondary Plan policy to ensure an adequate supply of housing and encourage affordable housing.

7. CONCLUSION

It is recommended that the Region enter into an agreement with Fairwood Homes to defer Regional development charges for a ninety-seven unit affordable housing apartment building in the Town of Georgina.

For more information on this report, please contact Warren Marshall, Director, Controllership Office at Ext. 1601.

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

COUNCIL ATTACHMENT 1

THE CORPORATION OF THE TOWN OF GEORGINA

REPORT NO. PB-2012-0024

FOR CONSIDERATION OF
COMMITTEE OF THE WHOLE
OF APRIL 23, 2012

**SUBJECT: YORK REGION REQUEST FOR DEVELOPMENT CHARGE DEFERRAL AND/OR REDUCTION OF MUNICIPAL FEES/CHARGES
97 UNIT AFFORDABLE HOUSING PROJECT
15 & 17 THE QUEENSWAY SOUTH, KESWICK
FILE NOS.: 02.171 & 03.951**

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1. RECOMMENDATION:

A. THAT REPORT NO. PB-2012-0024 BE RECEIVED FOR INFORMATION.

B. THAT YORK REGION'S REQUEST TO PERMIT THE DEFERRAL OF LOCAL DEVELOPMENT CHARGES PERTAINING TO A 97 UNIT AFFORDABLE HOUSING PROJECT PROPOSED ON LANDS DESCRIBED AS PART OF LOT 13, CONC. 3(NG), BEING FURTHER DESCRIBED AS PARTS 1, 2, AND 3 ON DEPOSITED R. P. 65R-19679 AND ON LANDS DESCRIBED AS PART OF LOT 8 & LOTS 9, 10 AND 11, PLAN 225, BE APPROVED.

C. THAT THE APPROVAL IN B. ABOVE BE IMPLEMENTED BY A BY-LAW AUTHORIZING THE DEFERRAL AND FURTHER, THAT AN AGREEMENT BE REGISTERED ON TITLE THAT INCORPORATES THE TERMS AND CONDITIONS DESCRIBED IN SECTION 4.2 OF REPORT NO. PB-2012-0024 AND ANY OTHER REQUIREMENTS AS DEEMED NECESSARY BY THE DIRECTOR OF ADMINISTRATIVE SERVICES/TREASURER AND/OR THE TOWN SOLICITOR.

D. THAT THE MAYOR AND CLERK BE AUTHORIZED TO EXECUTE THE DEVELOPMENT CHARGE DEFERRAL AGREEMENT ON BEHALF OF THE CORPORATION OF THE TOWN OF GEORGINA.

E. THAT THE TOWN SOLICITOR BE DIRECTED TO PREPARE THE NECESSARY BY-LAW AND DEVELOPMENT CHARGE DEFERRAL

AGREEMENT FOR ADOPTION AND EXECUTION WITH THE RESPECTIVE PARTIES.

F. **THAT THE CLERK FORWARD A COPY OF REPORT NO. PB-2012-0024 TO MICHAEL BIGIONI, TOWN SOLICITOR, TO ADELINA URBANSKI, COMMISSIONER OF YORK REGION'S COMMUNITY AND HEALTH SERVICES DEPARTMENT AND TO TONY MAURO OF TORKES DEVELOPMENT INC.**

2. INTRODUCTION:

Attached as Schedule '1', is a letter to Mayor Grossi from Adelina Urbanski, Commissioner of Community and Health Services for York Region, requesting that the Town of Georgina give consideration to the deferral of local development charges and/or a reduction of other municipal fees and charges related to a 97 unit affordable housing project proposed on The Queensway South in the Uptown Keswick Business District. This report presents staff's comments and recommendations on the above noted request.

3. BACKGROUND:

On November 28, 2011, Council adopted the recommendation of Report No. PB-2011-0104 to approve revised Official Plan and Zoning By-law amendment applications to permit the development of a 97-unit affordable housing apartment building. The apartment building is intended to be owned and operated by York Region.

On February 13, 2012, Council adopted Official Plan Amendment No. 113 and passed Zoning By-law 500-2012-0004, and these documents are attached as Schedules '2' and '3' respectively.

Attached as Schedule '4', is the Region's Notice of Decision with respect to Official Plan Amendment No. 113. The appeal period on the Region's approval expired on April 13, 2012 and there were no appeals. There were also no appeals filed against the Town's zoning by-law amendment, so both the Official Plan and Zoning By-law Amendments are in force and effect.

On February 22, 2012, the current landowner/developer Torkes Developments Inc. filed a site plan application to the Town and staff is working diligently on processing/reviewing the submission as quickly as possible. Based on the progress to date, Staff are hoping to get the site plan application to a meeting of the Site Plan Review Committee sometime in early to mid-May, 2012.

4. REPORT:

As noted in the Region's letter, both the Region's and Town's Development Charges By-laws do not apply to lands that are owned by and used for the purposes of the Region or an area municipality. The pertinent sections from both Development Charges By-laws are attached as Schedule '5'. Thus, if the building were to be constructed and used on lands owned by the Region, development charges (DCs) would not be required. In this case, the Region has contracted a third party (Torkes Developments Inc.) to construct the building on lands Torkes currently owns and, on completion of the building, title of the property will be transferred to Housing York. The Region has advised that the contract with Torkes Development Inc. to construct the Project is around $20 million.

Both subsection 27(2) of the Development Charges Act, 1997 and subsection 11(3) of the Town's By-law No. 2011-0078 allow an agreement to be entered into for the deferral of development charges. The Region is seeking Council's approval to execute such an agreement, which would have the net result of exempting the Region from paying local development charges once the Region takes ownership of the property. Furthermore, it should be noted that this request would not address the applicable school board development charges. These would still be required at the building permit stage, unless the School Board provides some form of exemption as well.

For Councils' information, a preliminary calculation of the applicable development changes, as of April 4, 2012, is attached as Schedule '6'. These charges are as follows:

Town	-	$349,588.00
Region	-	$1,390,771.00
Education	-	$195,940.00
Total		$1,936,299.00

4.1 Assessment of Request

Recognizing the intent of both the Region and Town DC by-laws, the issue at hand is really one of the timing of land ownership by the Region. Furthermore, Housing policy 9.1.2.6 (iii) of the Keswick Secondary Plan states that the Town will ensure an adequate housing supply in Keswick by, among other things, *"encouraging the provision of affordable housing opportunities"*.

Considering that this Project will be owned and operated by the Region, and the positive impact it will have in the Uptown Keswick Business Area, staff consider the

Region's request to defer development charges to be appropriate. Staff, however, do not support any reduction of other development applications fees/costs. To the writer's knowledge, such requests have not been supported in the past, as the fees are needed to fund the Town's operating costs associated with reviewing development under Site Plan control and construction under the Building Code.

It should also be pointed out that pursuant to By-law No. 2001-0020 (PUT-1) the proposed development is required to pay a cash-in-lieu park levy. In this regard, on September 16, 2011, the now retired Brock McDonald of the Recreation, Parks and Culture Department provided comment on the proposed apartment building as follows: "No Objection. Previous Comments apply." These "previous comments" required the payment of a cash-in-lieu park levy under Condition 13 of Draft Plan of Condominium approval (19CDM-05G06), which is attached as Schedule '7'. Under Condition 13 b) which references Section 42(6) of the Planning Act, the value of the cash-in-lieu park levy would be based on the value of the land as of the day before the day the building permit is issued.

A review of a number of past Regional projects, including the expansions to the Sewage Treatment Plants in Keswick and Sutton, the Willow Beach Water Plant, the Keswick EMS facility and the police station on Baseline Rd., shows that there was no park levy required. This is understandable given the nature of the uses involved not directly affecting the need for additional parkland or recreational facilities. However, in this situation, the proposed residential apartment building will have a direct impact on the need/demand for recreation facilities/services and, thus it would not be appropriate to reduce or waive the park levy. In speaking with Robin McDougall, Director of Recreation and Culture, she concurs that the park levy should be paid. Furthermore, a full park levy was paid (approx. $84,000.00) with respect to the development of Keswick Gardens Senior's building on the Queensway N. In Keswick, also owned and operated by York Region.

4.2 Implementation

Should Council support this DC deferral request, a by-law would need to be adopted to authorize the deferral and, as noted earlier, an agreement between the Town, Torkes Developments Inc. (Fairwood Homes) and the Region is recommended to be executed and registered on title. This agreement would ensure that should land ownership not be transferred to the Region for any reason, that Torkes Development Inc. would be required to pay the local development charges (approx. $350,000).

Furthermore, staff recommend that the agreement also contain a provision that requires payment of the amount of the deferred development charges (plus an added charge equal to the accumulation of the annual Consumer Price Index) immediately upon any sale of the property by the Region to another person or company that is not a non-profit organization or other government or public sector agency. In discussing this provision with the Town Solicitor and Rebecca Mathewson, Director of Administrative Services/Treasurer, they believe it is appropriate to apply a sunset clause. In this regard, Ms. Mathewson is recommending a 20 year time frame, so that after this time period no development charges would be required to be paid if the property is sold. This makes sense as it would seem unreasonable to ask for the Region to pay development charges at such a late date, in view of the fact that the facility would presumably have operated as intended for these 20 years.

5. CONCLUSION

In conclusion, staff's recommendation is that Council support the Region's request to defer payment of local development charges and that the Town Solicitor be directed to prepare the required by-law and agreement for execution. Staff do not recommend the reduction of the payment of a cash-in-lieu park levy or other municipal fees/charges related to the construction of this project.

Prepared by:

Harold W. Lenters, M.Sc.Pl, MCIP, RPP
Director of Planning and Building

Recommended by:

Rebecca Mathewson, CGA
Director of Administrative Services/Treasurer

Approved by:

Winanne Grant, B.A., AMCT, CEMC
Chief Administrative Officer

HWL/pa
17 Apr 2012